

**Alternative Report**

**Following The 3<sup>rd</sup> - 4<sup>th</sup> Periodic Report from the Government of  
Indonesia on the Implementation of The Convention on the  
Rights of the Child**

**Submitted by**

**Good Neighbors Indonesia**

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## Foreword

The alternative report aims to provide additional information to the UN Committee on Rights of the Child in order to examine the 3<sup>rd</sup> and 4<sup>th</sup> periodic reports of the Government of Indonesia during the period of 2004 to 2007. The information used in this report includes a review of the period 2004-2013. The main source of this report is based on the Good Neighbors Indonesia's experiences in 13 districts /cities in Indonesia.

The report highlights two clusters in the Convention. First is the cluster VI of the Convention: Basic Health and Welfare. The second is the VII cluster of Convention: Education, Leisure and Cultural Activities.

## Good Neighbors Indonesia

Good Neighbors Indonesia (GN Indonesia)<sup>1</sup> is an organization which is affiliated with the 'Good Neighbors International' (GN International) as a non-governmental organization for the humanitarian and community development and have the title of 'General Consultative Status' in the Economic and Social Council of the United Nations (UN ECOSOC). Good Neighbors was established in Seoul, South Korea, in 1991. GN International has worked in 33 countries and supported about 17 million people, including 9.6 million of children. In Indonesia, Good Neighbors Indonesia has facilitated 12 thousand children and is committed to continue working in the humanitarian field by promoting the rights of children.

GN Indonesia has implemented the rights based approach in working for children. The programs, as a result, focus on rights to education (Article 28 of CRC), violence prevention (Article 19 of CRC), aim of education (Article 29 of CRC), and health and health services (Article 24 of CRC). To reach the goal the program sustainability, GN Indonesia also empowers all stakeholders as community development such family, neighbor and other community groups to support and participate in the programs.<sup>2</sup>

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<sup>1</sup> Good Neighbors Indonesia became a national NGO known as Yayasan Gugah Nurani Indonesia.

<sup>2</sup> Although the in the facts work of GN Indonesia is for the prevention of violence, however in preparing this alternative report limits itself to the clusters VI and VII of the Convention).

GN Indonesia currently has 13 areas for Community Empowerment (Community Development Project-CDP) throughout Indonesia, including West Aceh district, Nanggroe Aceh Darussalam province; Medan Belawan city, North Sumatera province; Deli Serdang district, North Sumatera province; Padang city, West Sumatera province; North Jakarta city, Jakarta Capital City; East Jakarta city, Jakarta Capital City; Central Jakarta city, Jakarta Capital City; Sukabumi district, West Java province; Bekasi district, West Java province; Kulon Progo district, Special Region of Yogyakarta; Central Lombok district, West Nusa Tenggara province; Bogor district, West Java province; Surabaya city, East Java province.



Picture1. Map of Project Sites of GN Indonesia

## **The meaning of this alternative report for GN Indonesia**

GN Indonesia recognized that the National NGO Coalition of Child Rights Monitoring Indonesia submitted an alternative report to the UN Committee on the Rights of the Child; however, due to the insufficient time, GN Indonesia was unable to join the Coalition.

The objective of this writing is to provide a support to the Government of Indonesia in order to strengthen the implementation of the Convention on the Rights of the Child in Indonesia. In the near future, GN Indonesia wishes the programs which have been conducted in Indonesia can be incorporated into the government programs. Additionally, GN Indonesia would like to share the international advocacy measure as writing the alternative report to Good Neighbors International in other Field Countries to globally enhance implementations of Convention on Right of the Child.

## **Alternative Report Writing Procedure**

The alternative report preparation process is based on several stages as following:

1. Reviewing the reports of the Government of Indonesia, which is on the list that will be examined by the UN Committee on the Rights of the Child;
2. Observing 'Concluding Observation' of the UN Committee on the Rights of the Child related to the Indonesian government's report for the period [CRC/C/Add.223 dated 26 February 2004];
3. Conducting a legal review on the Act at the national and sub-national (provincial and district) associated with cluster VI and VII of the Convention;
4. Carrying out the GN Indonesia's experiences in 13 regions in Indonesia since 2005;
5. Conducting a quick survey in 10 Indonesian territories by GN Indonesia. The survey was employed from 22nd-26th of July 2013 in 10 GN Indonesia's project sites. Those sites were West Aceh district in Nanggroe Aceh Darussalam province, Medan Belawan city in North Sumatera province, Deli Serdang district in North Sumatera province, Padang city in West Sumatera province, North Jakarta city in Jakarta Capital City, East Jakarta city in Jakarta Capital City, Central Jakarta city in Jakarta Capital City, Kulon Progo district in Special Region of Yogyakarta, Central Lombok district in West Nusa Tenggara province and Bogor district in West Java province.

## Cluster VI of the Convention: Basic Health and Welfare

1. GN Indonesia noticed that during the report period (from 2004 to 2013), the State Party in National level has adopted three laws and has ratified the International Convention according to cluster VI of the Convention:
  - a) *Undang Undang Republik Indonesia Nomor 36 Tahun 2009 tentang Kesehatan*: Law Number 36 of 2009 regarding Health (hereinafter: UU No. 36/2009);
  - b) *Undang Undang Republik Indonesia Nomor 40 Tahun 2004 tentang Sistem Jaminan Sosial Nasional*: Law Number 40 of 2004 regarding National Social Security System (hereinafter: UU No. 40/2004);
  - c) *Undang Undang Republik Indonesia Nomor 24 Tahun 2011 tentang Badan Penyelenggara Jaminan Sosial*: Law Number 24 of 2011 regarding Social Security Agency (hereinafter: UU No. 24/2011);
  - d) *Undang Undang Republik Indonesia Nomor 19 Tahun 2011 tentang Ratifikasi Konvensi Mengenai Hak-Hak Penyandang Disabilitas*: Law Number 19 of 2011 regarding Ratification of the Convention on the Rights of Persons with Disabilities (hereinafter: UU No. 19/2011).
2. However, GN Indonesia observed that:
  - a. UU No. 36/2009 failed to elaborate the provisions of Article 24 from the Convention;
  - b. UU No. 40/2004 and UU No. 24/2011 were not fully complied with the provisions of Article 26 from the Convention;
  - c. UU No. 19/2011 was not operationally translated to guarantee the provisions of Article 23 from the Convention;
3. As a consequence, despite the fact that government's measures have brought significant changes towards health insurance and health care to citizens; however, it was not able to fully assure the implementation of Cluster VI of the Convention.

### Children with disabilities

4. In the implementation, various facts illustrated the failures of provision of Article 23 of the Convention is shown in the following cases:

- a) GN Indonesia noted that a child in the GN Indonesia project site, Medan Belawan in North Sumatera province, dropped out from a school because of mental condition. The process of dropping out was approved by the school authority. The parents of the child were given a statement letter forcing the child to leave the school and find another. Based on the recognition of the school, the decision to expel the child is based on the teacher's judgment that the child lives with mental condition. The school claimed that they did not have a special rule which regulated children with disability. This situation showed that the Indonesian government has not fully assured the implementation of the provisions of Article 23(1) of the Convention.
- b) Moreover, the inability to provide security for children with disability to guarantee their rights of accessibility towards Education still existed in Indonesia. In macro-level, according to Irwanto's research paper, there were only 5% of 295,763 children with disability who were able to access education from 2007 to 2008. Meanwhile, in 2005, 93% of children without disability in Indonesia could access elementary school and 65.7% could access junior high school. This fact suggests that the Government of Indonesia did not fully implement the provision of Article 23(3) of the Convention.
- c) Number of children with disability in Indonesia failed to be calculated precisely and recorded because there was no disaggregated data and its database was not updated.
- d) According to provision of Article 23 of the Convention, facts above showed that implementation in Indonesia have not been completed.

5. **Regarding to the issues of children with disabilities:**

**GN Indonesia argues that the government measures to protect and fulfill to rights of children with disabilities need to be improved. As a result, brief description above illustrated that children with disabilities in Indonesia are abandoned. GN Indonesia, therefore, strongly demands to the Committee on the Rights of Child to urge the Government of Indonesia:**

- a) **To conform of Indonesian's laws, concerning on children with disabilities, in order to conduct legal compliance with the Convention on the Rights of Persons with Disabilities,**

- b) **To improve and update database about children with disabilities in Indonesia, regarding children with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others,**
- c) **To adopt special measures to children with disabilities with the purpose of guarantee equal accessibility to receive education, training, health care service, rehabilitation service, preparation for employment and recreation opportunity in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development based on disaggregated and updated database.**

### **Health and health services, and welfare**

- 6. In a mean time, the facts described the insufficient implementation of provision of Article 24 of the Convention showed in cases below.
  - a) A child in the GN Indonesia project site, (Age 11) in Medan Belawan, was rejected to receive an emergency health service by a hospital officer because the child's family was not able to afford medical cost. This situation showed that the health service provider did not apply provisions to guarantee that every child have the right of highest health insurance.
  - b) In Blitar, 2011, a 1.5 year- old- child was not given an emergency medical treatment by a local hospital because the child's insurance was issued in a different region (Palu in Sulawesi Island). This problem emerged after the presence of the Act No. 32 of 2004 regarding Regional Law that gives authority to local government to manage their autonomy including matters of public health social security in the region. The regional health care insurance has an impact on an impediment in accessing health services in one region to another. This situation contradicts the terms of Article 24(1) which guarantees that no children will be deprived obtaining health care services. GN Indonesia found that there were three cases of refusal of healthcare service among 34 provinces.
  - c) GN Indonesia monitored the source of clean water was not accessible for children. This problem resulted from the privatization of water management caused by

decentralization and autonomy. The bottled water management in Cibilik Village, Sukabumi, West Java impacted to the accessibility of drinking water for villagers. In addition, water management provided by Regional Drinking Water Company (PDAM) was not fully accessible for children to have drinking water. According to GN Indonesia survey, 31% of villagers were not able to access improved water, especially children. This fact demonstrates that provision of Article 24(c) has not been successfully enjoyed by children in Indonesia.



Picture 2: A boy was taking a bath in the river, Medan Belawan. 2012

- d) GN Indonesia noted that the government's effort in providing basic information in healthcare toward adolescent and parents was insufficient. This situation emerged from the numbers health workers and health facilities did not meet the quality and demand. In Mertak village, Lombok, West Nusa Tenggara, with 10.137 citizens, there were two Community Health Centers (Pustu) and 13 of Maternal and Child Care Centers (Posyandu). Availability of medical worker was only two nurses and a village midwife. Meanwhile, a quick survey conducted by GN Indonesia describes that 53% of adolescents never had the opportunity to obtain an adequate knowledge about HIV/AIDS from the local community health center; 61% of adolescents never received the necessary information about infectious sexual disease; 67% of adolescents never received information about health on reproduction; 20.5% of parents never gained information on nutrition from regional health service center; 14.9% of parents never received knowledge on breast

feeding (ASI). This situation shows that provisions of Article 24 (2(e)) is failed to be implemented thoroughly toward children and parents.

7. Furthermore, the fact that shows that the State Party did not comply the provisions of Article 26 as followings:
  - a) Social security is not recognized as a right of every child in Indonesia.
  - b) The mechanism of social security regulated in Law Number 40 of 2004 regarding National Social Security System shows that only child with family/parents who has an access to social security program. However, for children who lose their family/parents because of disaster and/or street children in urban area and/or children of poor family who are not registered as citizens of Indonesia will not be able to enjoy the benefit of social security.
  - c) The mechanism of social security with family-based approach has not guaranteed the rights of children to social security.
  - d) This affects a case of a child in the GN Indonesia project site:

*There was a girl who was given by her biological parents to her relative. A girl's foster family divorced, as a result the child was abandoned. Then, the girl was given to her foster mother's relative. After her foster family died, the girl's last foster parent gave the child back to her biological parents. Her biological father finally who had re-married and addicted to drug took care of her. He did not give an attention to the daughter. The girl, thus, was not received a basic education and basic needs.*

8. In accordance with the case, GN Indonesia suggests that UN Committee on the Rights of the Child has to give a serious attention and recommendations regarding the implementation of the provision of Article 26 in Indonesia.
9. **Regarding to the issues of health and health services, and welfare:**  
**GN Indonesia seriously concerns on Indonesian children situation. GN Indonesia comes with opinion that the issues are a crucial problem and it needs to be resolved as soon as possible. We, hereby, call to the Committee to take recommendation to the Government of Indonesia:**

- a) **To amendment of UU No. 40/2004 in order to ensure of a child rights in social security to be recognized in national law and every child has benefit from full realization of social security program,**
- b) **To establish a mechanism which guarantees that a child regional insurance is accessible in all health services throughout Indonesia,**
- c) **To increase number of medical worker and improve health facility in rural or remote area. There are necessary to develop capacity of medical worker through regular training in order to enhance sensitivity in rights-based approach,**
- d) **To ensure and implement rights of primary health care for children, particularly clean drinking water in urban and rural area.**

## **Cluster VI of Convention: Education, Leisure, and Cultural Activities**

10. According to GN Indonesia's analysis, during the period from 2004 to 2013, the State Party had adopted two laws and one Constitutional Court's Decision on the national level related to cluster VII of the convention as following laws and Constitutional Court's Decision:

- a) Undang Undang Republik Indonesia Nomor 14 Tahun 2005 tentang Guru dan Dosen: The Laws of Republic of Indonesia Number 14 of 2005 regarding Teachers and University Teachers (hereinafter: UU No. 14/2005).
- b) Undang Undang Republik Indonesia Nomor 9 Tahun 2009 tentang Badan Hukum Pendidikan: The Laws of Republic of Indonesia Number 9 of 2002 regarding education's body of law (hereinafter: UU No. 9/2009).
- c) Mahkamah Konstitusi Republik Indonesia Risalah Sidang Perkara Nomor 24/PUU-V/2007 Perihal Pengujian Undang-Undang Republik Indonesia Nomor 20 Tahun 2003 Tentang Sistem Pendidikan Nasional Khusus Pasal 49 Ayat (1) Dan Undang-Undang Nomor 18 Tahun 2006 Tentang APBN Tahun Anggaran 2007 Terhadap Undang-Undang Dasar 1945: Constitutional Court of Republic of Indonesia on case Number 24/PUU-V/2007 on the trial of article 49(1) Indonesia's Law Number 20 of 2003 regarding National Education System and Laws

Number 18 of 2006 regarding The State Revenues and Expenditures Budget on 2007 (State Budget on 2007) towards the 1945 Constitution of the Republic of Indonesia (hereinafter: *Putusan Mahkamah Konstitusi No. 24/PUU-V/2007*)

11. Furthermore, GN Indonesia noted several relevant regional regulations which had already adopted on the regional and provincial level.
  - a) Qanun Aceh Nomor 5 Tahun 2008 tentang Penyelenggaraan Pendidikan: Regional Regulation of Aceh Number 5 of 2008 regarding the Implementation of Education (hereinafter: *Qanun NAD No.5/2008*).
12. As previously mentioned, GN Indonesia observed that the whole accomplishments of the Government of Indonesia did not fully succeed in a significant progress to promote the implementation of provision Article 28 of the CRC. GN Indonesia's conclusions on the legislative effort and Constitutional Court Decision which affected on the jurisdiction are below:
  - a) Both UU No. 14/2005 and UU No. 9/2009 did not show clearly steps of promoting Article 28 of the CRC.
  - b) *Putusan Mahkamah Konstitusi No. 24/PUU-V/2007* has been decreasing the guarantee towards Article 28(1), point of the CRC.
  - c) *Qanun NAD No.5/2008* did not fit completely with the provision in Article 28(1) of the CRC.
  - d) As a result, a factual implementation in Indonesia is still not fully achieved as guaranteed in the Article 28 of the CRC.

### **Universal and free primary education**

13. The implementation of article 28 of the CRC is illustrated from the descriptions below:
  - a) Not every child in Indonesia can access to free education. In a relation with this issue, Indonesian Constitution has guaranteed that 20% of the State Revenues and Expenditures Budget (State Budget) was allocated for education. From 2008 until 2012, it was accomplished according to what is written in the Law of The State Revenues and Expenditures Budget. Despite this fact, this budget was not allocated for children's education in Indonesia. The effect of *Putusan Mahkamah Konstitusi*

No. 24/PUU-V/2007, which declared that 20% for the budget was meant for teachers' salary.

- b) As an implication of this, universal and free primary education is not entirely achieved. Although, in some elementary schools and junior high schools had no school tuition fee but according cases in State Junior High School (SMPN) 15 Padang and State Junior High School (SMPN) 4 Batang Anai, West Sumatera, children were still obliged to pay for uniforms and books. Similarly eight cases also happened in GN Indonesia's project sites (8 regencies). This fact shows that the provision of Article 28(1) is not implemented completely in Indonesia.
- c) In order to enhance this case, the Government of Indonesia created programs called School Operational Aid (BOS; Bantuan Operasional Sekolah) and Aid for Poor Student (BSM; Bantuan Siswa Miskin). Nonetheless, GN Indonesia suggests that those efforts are not equally distributed for every child in every part of Indonesia. Considering the fact that there are three forms of education (jalur pendidikan) in Indonesia: formal, non-formal, and informal. In this case, BOS and BSM are only applicable for formal system of education. Meanwhile, the children who only have the opportunity to undergo informal and non-formal education do not enjoy the benefit of BOS and BSM.
- d) GN Indonesia noticed the fact that the Government of Indonesia did not possess any significant progress in running the principle of equal opportunities to ensure compulsory education for Indonesia's children. One of the causes of this discrepancy is the fact that the regional laws on education, both in provincial and regional levels, are not complied with Article 28.
- e) As a result, the children who faced early pregnancy in Cileuksa (Bogor), Meulaboh (Aceh), Tanjung Jabung Timur (Jambi), and East Java were not allowed to continue study in school. There are still many children who have faced difficulties in accessing education, for instance, children in conflict with the law and children in remote areas.

14. **With respect to children rights of universal and free education:**

**GN Indonesia believes that implementation on the issue conducted by the Government of Indonesia still have constraints. To improve the situation, GN Indonesia strongly**

recommends the Committee to urge the Government of Indonesia to take several measures:

- a) To take a legislative measure for amendment of (*Undang-Undang Republik Indonesia Nomor 20 Tahun 2003 Tentang Sistem Pendidikan Nasional*) the Law No. 20 of 2003 regarding National Educational system,
- b) To take progressively measures in order to expel of teacher's salary from 20% of State Budget and Regional Budget allocated to education,
- c) To improve financial aid for education approach, which the beneficiaries of financial aid are not based on children in formal education (school). However, an approach must be directed to all children in Indonesia, whether in formal, non-formal and informal forms of education,
- d) To review the provincial laws in Indonesia, concerning to the principle of rights on equal opportunities to access education.

### **Violence in the Schools including Corporal Punishment**

15. Even though the State Party already tried to prevent and reduce corporal punishment and violence in schools, the measures did not adequately to ensure the implementation of Article 28 (2) of the CRC. Below are the facts that captured by GN Indonesia:

- a) In reality, according to GN Indonesia's survey in 2013 (in 8 site projects), 53% teachers were not aware of the concept of child's right based on the CRC. However, the teachers who claimed that they were aware of child's right did not have the same understanding about the child's rights in the CRC. In the same survey, it reveals that every year 33% of teachers never received training from government's organization (dinas) or Department of Education and 47% of teachers only underwent training program for less than 3 times. Meanwhile, training and workshop were mainly designed for school administration and curriculum department. 88% of teachers (Counselor and guidance teacher, homeroom teacher, subject teacher) committed the corporal punishment. Moreover, 89% of teachers considered that punishment was a part of discipline that needed to be established in school. This fact shows that the State Party's effort to guarantee the provision of Article 28 (2) of the CRC was inadequately implemented.

- b) GN Indonesia considers that the effort to prevent violence towards children in school is not fully implemented. This fact can be seen from the survey which shows that 71% of the students, they claimed that they were victims of physical violence in school. 54% of the violence was perpetrated by their teachers, while 41% of the violence was conducted by fellow students. The forms of physical violence were hitting (28%), pinching (28%) and ear-pulling (22%).

16. **Regarding to the issues on violence in the schools including corporal punishment:**

**GN Indonesia comes with argument that the prevention measures are not seriously employed by the Government of Indonesia. According to the situation, GN Indonesia calls the Committee to give special attention and adequate recommendation to the Government of Indonesia at least including on the measures below:**

- a) **To take legislative measure in national level with the purpose to criminalize the forms of corporal punishment that conducted by teacher or guardian in school,**
- b) **To enhance the stakeholder's capacity, including teacher and guardian in school through regular training concerning on violence and corporal punishment prevention and case handling. If there necessary, furthermore, monitoring body to control violence and corporal punishment also need to be established.**