

## **Executive Summary**

### **Alternative Report on the Third and Fourth Periodic Report of the Government of Indonesia to the Committee on the Rights of the Child (Covering the Period From 1997 to 2012)**

#### **Submitted by National NGO Coalition on the Rights of the Child (CRC) Monitoring**

Responding Indonesia Country Report on October 2012 and based on Concluding Observations of The UN Committee on the Rights of the Child in 2014, National NGO Coalition on Monitoring the Rights of the Child provides concerning as follows:

#### **Cluster I: General Measures of Implementation**

NGO Coalition is highlighting the reservation issue that has not been completely withdrawn, and the necessity of upgrading the ratification status by legislation. In terms of legislation, The NGO Coalition appreciates the government's efforts that has ratified 2 (two) ILO conventions and 2 (two) Optional Protocols of the Convention on the Rights of the Child (CRC), however NGO Coalition still recommends government through CRC Committee to ratify Rome Statute on International Criminal Court as well as Convention on refugee status and operate the two optional protocols of CRC into National Law.

Furthermore, it needs internal (in country) mechanism to review and withdraw law and local regulations that are not in accordance with the provisions and principles of the CRC. Various national action plans for children need to be accompanied by a good implementation by provincial and district / city and coordination between government departments.

NGO Coalition regrets the inaccuracy of government report that states there have been National Commission for the Elimination of the Worst Forms of Child Labour, whereas the commission was never established. Furthermore, NGO Coaliton urges KPAI (Indonesian Child Protection Commission) to be given investigative authority.

Despite government has started to build a data system in the report but it is unfortunate that the collection of data and information in several departments having no relationships each other and not systematic. NGO Coalition also recommends Indonesian Government through Child Right Committee so disseminate the CRC and concluding observations equally, especially to children who need special protection and ensure the involvement of children representatives from different backgrounds and regions in the preparation of government report on the implementation of CRC.

#### **Cluster II: Definition of the Child**

In the Indonesian Constitution (UUD 1945 amendments), it is not regulated who is meant by a child, while Law No. 39/1999 on Human Rights Article 1, Section 5 states that child means every person under 18 (eighteen) years old and unmarried, including children who are still in the womb. Since there are still Law No. 1 /1974 on Marriage that regulates age allowed to marry at 16 years for woman and 19 years for man, so many children lose their rights as involved in early marriage. There is not a clear argument also why baby in the womb is called as a child. The next problem is the disharmonization among laws and or between law and regulations and among regulations in Indonesia. Even though the Child Protection Law regulates the child's age in accordance with CRC, but in practice there are many differences in the laws and regulations in Indonesia that set a limit for the child's age. For example, the age limit for sexual

intercourse consent, the Minimum Age to Work, as well as the minimum age to be responsible in the court, and the minimum age to consume alcohol.

NGO Coalition appreciates the government efforts to revise Law No. 3/1997 on the Juvenile Court and increase the age limit of child responsibility in law become 12 years in Law No. 11/ 2012 dated July 30, 2012, even though the new law will entry into force 2 years after signaturing.

### **III. General Principles**

NGO Coalition appreciates that some general principles have been incorporated into the Indonesian constitution (amendment result), but there is no recognition against the principle of respect to the view of the child as well as the principle of the best interest of the child. The Child Protection Law degrades the general principles by stating that the implementation of principle of respect to the view of the child must due to the principle of moral and convenience.

Coalition deplore that the Law No.1/1974 is still valid which by the Child Right Committee has called discriminatory restrictions in setting a minimum age for marriage (16 years for women and 19 years for men). Discriminatory practices still occur, especially to the children who need special protection.

### **Cluster IV: Civil Rights and Freedom**

NGO Coalition appreciates the government's action to sign Law no. 23/2006 regarding Population Administration, action taken by the Constitutional Court which cancel the compulsion of birth registration of children above one years through a court order, and the government of Indonesia steps that withdraw Law no. 62/1958 and replaced by Law no. 12/2006 regarding Indonesian Citizenship which has removed discrimination against children whose father is a foreigner. But unfortunately, there are still many administrative obstacles and expense charges faced by children in the birth registration.

NGO coalition regrets that children from particular religion or native ethnic group remain having undocumented birth. Similarly, children who born from invalid marriages, their birth are also not recorded or recorded by affixing only their mother's name.

Even though many positive steps have been made in order to prevent the emergence of violence, discrimination, harassment and mistreatment against children, there are still many violence against children in all settings in Indonesia especially religious and sexual based violence. Therefore the NGO Coalition urges the Indonesian government to ratify UN CRC optional protocol on communications procedure for children, establish a mechanism for systematic data collection on violence against children in various settings, taking systematic measures to end sexual and religious based violence against children, building a prevention mechanism, complaints, treatment of corporal punishment in education and institutional care and improving human resources, increasing infrastructure and budget for agencies that handling cases of violence that have been established.

### **Cluster V. Rights to Family Environment and Alternative Care**

NGO Coalition respects to government in signing Article 26 paragraph (1) Law No. 23/ 2002 and the emergence of the Regulation of Indonesian Social Minister No. 30/HUK/2011 regarding National Standard for Child Care (SNPA) for Child Welfare Agency. However, the government needs to have systems and strategies in doing technical assistance for SNPA implementation.

NGO coalition respects to government that guarantees the rights of the child to receive care from their own parents, and nurturing institution is the last option, as set out in article 14 of Law No.23/2002 on Child Protection. However, NGO Coalition concern on there are still a lot of policy and operational issues that must be resolved, including the absence of minimum standards of service and supervision for orphanage institution.

NGO coalition appreciates the good intentions of government to guarantee the rights of adopted children, as the embodiment of article 39 paragraph 1 of Law No. 23/2002 regarding Child Protection, but NGO Coalition regrets the absence of developed government regulations to ensure that the principles in Law No. 23/2002 be translated into a operational policy to guide the services provided for children.

#### **Cluster VI: Rights to Basic Health and Welfare**

NGO Coalition welcomes for the legalization of Convention on the Rights of Persons with Disabilities by government through Law No.19/ 2011 which are more human rights-based. Unfortunately, there is not yet available accurate and comprehensive data about the characteristics of life and livelihood of persons with disabilities.

NGO Coalition regrets that there are no sufficient effort from government untills 2007 to provide health facilities for the disable person. Just in 2009 government signed Law No. 36/2009 regarding Health which include to regulate the government's obligation for the availability of health care facilities and facilitate disabled although there is still no operational rules and guideline. NGO coalition recommends child rights committee to ensure the government of Indonesia to be more serious with regard to equal employment opportunities for disable person.

NGO Coalition concerns on the high Infant Mortality Rate (IMR), the minimum number of immunization coverage, although on the other hand a decline in the maternal mortality rate (MMR). NGO Coalition appreciates the efforts of the government in reducing disease and malnutrition. However, it still needs to improve skills of health workers, the construction of infrastructure and supporting health facilities.

NGO Coalition regrets although the government has signed a Presidential Decree no.75 in 2006 regarding the National AIDS Commission but the number of AIDS cases in Indonesia continues increasing from 2000 to June 2009, as reported by AIDS Surveillance Indonesian Ministry of Health 1987 - June 2009. No serious efforts from the government in the prevention and treatment of children infected by HIV as revealed by the consultation of children with HIV/ AIDS.

#### **Cluster VII: Rights to Education, Leisure and Cultural Activities**

NGO Coalition appreciates the Indonesian Government that has included child right for education in the amendment of 1945 State Constitution and Law No. 23/ 2002 on Child Protection, ratification the Covenant of Economic, Social and Cultural in 2005, and enacted Law No. 20/ 2003 on National Education System. However, the Coalition urges the Indonesian Government to review 1945 State Constitution and Law of National Education System to ensure that the right for education is the right of every person, not just the rights of Indonesian citizens. NGO Coalition also calls Indonesian government to immediately formulate policies that ensure education in Indonesia meet human rights standards and Child Rights.

NGO Coalition recommends The Indonesian Government to review the curriculum of human rights and child right in school. The Indonesian government should implement a systematic education method based

on child rights. Similarly, Government should develops the learning environment in schools and policy of violence prevention in school and implement them seriously.

### **Cluster VIII: Special Protection Measures**

The Coalition insists the Indonesian Government to implement their obligations literally to respect, protect and fulfill the child rights in refugee camps. The efforts must also be accompanied by attention to the child's opinion (child participation) as an integral part of the overall program.

Indonesia's national policy ensure that rights of the child are not involved in armed conflict, but accurate information indicates the persistence of children involvement in the various events of the conflict in Aceh, Papua, Maluku, North Maluku, West Kalimantan and Central Sulawesi, although the government said it has not had enough evidence.

NGO Coalition asks the Committee to urge the government of Indonesia to strengthen and enforce the provisions of article 37 (a) that no child will lose their liberty unlawfully and arbitrarily. arrest, detention or punishment of children will be done as a last alternative and for the shortest period. Government of Indonesia also has to follow up the violence against children by law enforcement officers in handling children who conflict with the law and bring the perpetrator into legal process.

Coalition also recommends so that the Indonesian government develop prevention strategy so that children do not enter the hazardous working environment, strictly punish the perpetrators who exploit children economically, that degrades the dignity of the child.

Coalition recommends that the government withdraw or revise Local Regulation in various parts of Indonesia, especially in relation with street children, removing violent approach to handle street children.

Coalition recommends that preventive steps are developed effectively by providing education about the dangerous of drugs, especially to children from elementary school (SD) up to senior high school (SMA), provide rehabilitation facilities for children who are victims of drugs with management that holding the principles of child rights , as well as providing severe penalties for anyone who lured children to consume drugs.

Coalition recommends the Indonesian government needs to prove that the victims of sexual exploitation and violence victims are not criminals. For that purpose, the government should repeal all local regulations which criminalizing children who are victims of sexual exploitation and develop laws that criminalize users of the prostituted girls.

Coalition recommends the Government should amend the Law Number 21/ 2007 on the Elimination of Criminal Offense of Human Trafficking in particular to give a definition of child trafficking. The Indonesian government must reverse the paradigm of looking children who are victims of child trafficking victims as criminals become a victim, develop redress mechanism of children who falsified his identity and including by penalizing the perpetrators who falsify the identity of the victims and begin to identify potential parties that carry out child trafficking.