



KOMISI PERLINDUNGAN  
ANAK INDONESIA

## INDEPENDENT REPORT UNIVERSAL PERIODIC REVIEW

### A. METHODOLOGY AND CONSULTATION PROCESS

1. This report is delivered by Indonesia Commission on Child Protection (KPAI), an Independent National Human Rights Institution which mandate is to increase the effectiveness of supervision on child rights implementation.
2. To conduct this UPR report, KPAI had consulted other NHRIs and integrated information from KPAI's partnership.
3. KPAI appreciates Foreign Ministry initiative to invite KPAI in a dialog on August 1<sup>st</sup>, 2016, and intensive communication on cases of abused children.

### B. HUMAN RIGHTS DEVELOPMENT AND IMPLEMENTATION OF UPR 2012 RECOMMENDATIONS

#### B1. Acceptance of International Norms

##### **Protokol Opsional Konvensi Hak Anak (108.1, 108.4)**

Indonesia had accept 2 Optional Protocols to the CRC. Development of communication technology and internet network had changed the pattern of communication into indirect interactive communication model, such as email, social media, private chat, etc. This modern phenomena evidently increasing child susceptability to be cybercrime victims, because child offenders also use this technology to gain victims, as well as child recruitments by terrorist network, or trafficking, prostitution and child pornography syndicate which operating online. For 2012 to 2016, Anti Terrorist National Body (BNPT) reported less than 10 children were indicated having connection with terrorist network, while KPAI recorded thousands of cases on online sale, prostitution and pornography of children.

Cooperation of government, law apparatus, mass media, and communities in preventing, reporting and handling child victim of cybercrime had been intensively started at some regions. Nevertheless, KPAI keeps pushing the increase of multi sector coordination, and synchronize at policy and implementation level so that every region can ensure the best protection for children.

## **B2. Constitutional and Legislative Framework (108.18, 108.75)**

Optional Protocols to the CRC was ratified as legal laws, which are :

- Law No. 9 Year 2012 of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
- UU No. 10 Year 2012 of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Child recruiting by terrorist still continued, also horizontal conflicts that happen among communities i.e. fight between ethnics which involve children, or fight between students using sharp tools. KPAI always reminds the State to protect children from terrorism and armed conflict in many regions. After 4 years to be ratified, in the middle of 2016 KPAI advocated BNPT to use child rights perspective for recruited children: children who follow terrorism ideology in fact are victims of wrong treatment of adults, they are not genuine criminal offender.

A long before Indonesia ratified OP CRC, State had compiled Law of Eradication of Trafficking Crime no. 21 Year 2007. But there are still many of children become victims of trafficking, prostitution and pornography. The State attention to child rehabilitation and restitution is still low. KPAI asks State to make priorities of: a) mechanism of handling child victims of violence at all government hospitals; b) mainstreaming child protection to law apparatus; c) rehabilitation and restitution for child victims, in order to ensure their growth and development can be normal and minimize the risk of becoming child offender when they are adults.

## **B3. Institutions and Policies (108.82)**

Street children phenomena is a chronic problems, among others are caused of poverty, charity mentality, family disharmony, and bad milieu that impact family bond's cut off. Behaviour of street user which like to help the poor inflict chance of income for street children, and cause family or parents to exploit their own child. There have been best practices in some regions such as local government policies that can reduce street children, but they don't impact at national level yet.

#### **B4. Human Rights Education and Training (108.37-44, 108.47-48)**

Introduction of child rights need to be done to all stakeholders, including to children as the subject. KPAI watch some government initiative of education program of child rights on some schools. But this effort does not yet intensively enough to impact child survival. This kind of program need to be increase and spread in order to reach all Indonesia children.

#### **B5. Prohibition of Slavery, Trafficking (108.76-81, 108.83)**

See Explanation 108.18, 108.75

#### **B6. Right to an Effective Remedy, Impunity (108.92-93, 109.3, 109.5)**

Juvenile Justice System Law No. 11 Year 2012 instructs to make technical regulation of independent supervision on child custody condition. This rule enables KPAI to make independent watch over child detention. Many of alleged perpetrator child experience violence and torture from law officers during arrested dan examined (44%), not accompanied by adults (15,7%), detained in police office (90%), detained for 7-15 hari (42%), dan detained with adults (73%). KPAI continue working to ensure that child detention always use the principle of restorative justice, and emphasize child rehabilitation, because they are in fact victims of wrong treatment of adults and environments, and they still have big chance to recover and grow as any other kid who has freedom.

#### **B7. Right to Health (108.121-122, 108.124)**

The obstacles in ensuring child health fulfillment these days is trading of fake vaccine, malpractice in some hospitals, and lack of coordination of health stakeholders in handling child health cases. Some of hospitals were founded not pro to breast milk. Child environment is still contaminated with unhealthy food and snack. KPAI advocate hospitals about child rights to health, and watch on healthy snack in school environment. At regulation level, KPAI pushes improvement of health and social security system, health facilities and medical personnel qualities.

Countermeasures of disaster does not have child protection mainstreaming yet. Food menu in refugee camps mostly only for adults. Refugees are placed based on family, one family takes one room, so that teenagers can obviously see sexual intercourse between adults. KPAI found sexual harassment on child in refugee camps, and also found child that suffer of sexual addict.

## **B8. Right to Education (108.125-133)**

Child violence occurs in education environment or school, mostly occurs because teachers still think that violence is part of discipline. KPAI faces major challenge in advocating the school of child rights, among others because lack of knowledge about violence forms in education environment. At regulation level, policy of ministry of education have not touch under level yet. KPAI pushes the increasing of education quality and human resources in education environment, multi sector cooperation, and child friendly school policy to become legal on president regulation. Child friendly school (Sekolah Ramah Anak) is a school that conciously and planned apply child protection principle in education management. SRA is a school model which creates secure, comfortable, clean, zero violence, and inclusive school so that education process can give the best result for students and environment.

## **B9. Gender-Based Violence**

See Comment 109.28

## **B10. Children: definition, general principles, protection (108.19, 108.62-62)**

See Comment 108.1, 108.92-93, 109.3, 109.5.

## **B11. Children: family environment and alternative care (109.28)**

LGBT dalam konteks Indonesia menjadi diskursus cukup hangat. Laporan Global Attitudes Project oleh Pew Research mengenai sikap masyarakat Indonesia terhadap homoseksualitas menunjukkan adanya penolakan terhadap homoseksualitas mencapai 93%, sementara hanya ada 3% yang bersikap menerima. Hasil riset tersebut semakin meneguhkan bahwa keterterimaan LGBT dalam konteks Indonesia sangat kecil. Secara normatif LGBT tidak diakomodasi dalam regulasi di Indonesia. Undang-Undang Perkawinan, Undang-Undang Perlindungan Anak, Undang-Undang Administrasi Kependudukan, Undang-Undanga Pornografi dan Undang-Undang Penyiaran tidak mengakomodasi LGBT. Bahkan Peraturan Pemerintah No. 54 Tahun 2007 tentang adopsi, secara tegas menetapkan bahwa orang tua yang mengadopsi tidak boleh berupa pasangan homoseksual.

Keluarga memiliki peran strategis dalam pengasuhan positif dan memberikan perlindungan anak dari perilaku sosial menyimpang. Beragam kasus prostitusi gay yang menjadikan anak sebagai korban akhir-akhir ini, tampaknya juga dipengaruhi oleh disfungsi pengasuhan keluarga. Konsekuensinya, pengasuhan keluarga penting menerapkan beberapa hal strategis yaitu keluarga berperan sebagai wadah internalisasi nilai-nilai unggul, pola pengasuhan berorientasi kepentingan terbaik bagi

anak, menerapkan kaidah perlindungan anak dalam pengasuhan, membangun relasi harmoni yang dilandasi kasih sayang.

## **B12. Juvenile Justice**

See Comment 108.92-93, 109.3, 109.5.

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i Indonesia Commission on Child Protection or Komisi Perlindungan Anak Indonesia (KPAI), a State Commission formed by Child Protection Law No. 35 Year 2014, is one of Indonesia National Human Rights Institutions besides Indonesian National Commission on Human Rights and National Commission on Violence Against Women. Mandate of KPAI is to increase the effectiveness of supervision on child rights implementation. To complete the mandate, KPAI has 7 (seven) duties, which are: a. supervise the implementation of child rights fulfillment and protection; b. give suggestions and policy recommendation of child rights implementation; c. collect data and information of child protection; d. receive and review public complaints about child rights violations; e. mediation of dispute about child rights violation; f. cooperate with public institutions in child protection aspect; g. report any alleged violations of the Child Protection Law to the authorities.