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Alternative Report of INFID to the United Nations Committee on Economic, Social and Cultural Rights
In relation to the Initial Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights by Indonesia

Submitted on the Occasion of the 52nd Session of Committee on Economic, Social and Cultural Rights
Geneva, 28 April – 23 May 2014
Palais Wilson, Ground floor - Conference Room

I. INTRODUCTION

1. This alternative report is submitted by INFID (International NGO Forum on Indonesian Development) an Indonesian NGO in Special Consultative Status with the Economic and Social Council of the United Nations. However, the contents of the report are the contribution of the partner organizations of INFID working on the economic, social and cultural rights in the grassroots level, namely The Wahid Institute, *LBH Universalia*, *Koalisi Perempuan Indonesia (KPI)*, *Perkumpulan HUMA*, *Cakrawala Timur*, *Koalisi NGO Aceh*, *Jaringan Advokasi Tambang (JATAM)*, *Migrant Care*, *Lembaga Penelitian Psikologi UI*, *IKOHI*, *Institut Studi Arus Informasi (ISAI)*, *Kelompok Studi dan Pengembangan Prakarsa Masyarakat and Perkumpulan Prakarsa*.
2. Series of meetings and informal consultations in the national level had been conducted in the process of writing this alternative report involving the above mentioned NGO partners. It started with the national consultation in the National Conference of INFID in Jakarta on November 26-27, 2013 attended by 150 persons from all over Indonesia. Then on 23rd January 2014 INFID carried out a Focused Group Discussion (FGD) in Jakarta for concretize the idea of submitting an alternative report to the UN Committee of Economic, Social and Cultural Rights in April 2014. The drafting process was done by a small team from INFID and the partners to later be brought and discussed in a Peer Review Workshop on 25th February 2014 in Jakarta. The report was then finalized the team in INFID from 10th to 13th March, 2014.
3. This alternative report was structured and written based on the List of Issue issued by the Committee on Economic, Social and Cultural Rights of the United Nations on December 6, 2013.
4. INFID draws the attention of the ESCR Committee on the non-fulfillment and violation of Economic, Social and Cultural Rights to two communities of religious minority, namely the Shia or Shiite Community in Sampang, Madura, East Java and

the Ahmadiyah Community in Lombok, West Nusa Tenggara (NTB). Report on this matter will be presented in an Annex, but composes an integral part of this alternative report.

II. ISSUES RELATED TO THE OF THE COVENANT (ICESCR)

2. Article 1 paragraph 2 – Free disposal of natural wealth and

Please provide information on the framework for the protection of the right of indigenous populations, including Masyarakat Adat, to their customary lands as well as the process through which their customary lands and forests are officially recognized. Please also provide information on concrete measures taken by the State party to address the increasing incidence of land grabbing, as well as examples of cases where such measures have been effective at preventing land grabbing.

5. The existence of indigenous people in Indonesia is recognized and approved by Indonesia's constitution and some regulations such as Article 18B paragraph (2), Article 281 paragraph (3), Article 32 paragraph (1) and (2) of the Constitution 1945, the Decree of the People's Consultative Assembly (TAP MPR) No. IX year 2001 concerning the Agrarian Reform and the Natural Resources Management and the Law No. 5 year 1960 on The Fundamental Agrarian Law. But those regulations don't give enough legal protection for indigenous people especially in protecting their ownership and management of natural resources.
6. Moreover, there is no law in Indonesia that specifically regulates the rights of indigenous people. As a result, there happen various conflicts when the existence of indigenous people is threatened by the state's act that accommodates land concession, mining, forestry, and plantations to giant companies.

7. Legal protection for indigenous people's land and forest is vulnerable. The deprivation of indigenous people's land is supported by many regulations such as article 1 number 6 Law no. 41 year 1999 about Forestry. That regulation states that the forest of indigenous people becomes state's forest. As a result, the deprivation of indigenous people's land can happen massively, extensively, and for a long time. According to the data from HuMa, in 2012 there were 315 units of indigenous people that became a victim of those acts.

8. On May 16, 2013 the Constitutional Court issued the Decision No. 35/2012 which states that Article 1 point 6 of Forestry 1999 contradicted to the Constitution. Which means that the indigenous forest existence has been recognized normatively. This ruling revise the state formation of the indigenous forests that occur over decades as it is stated above. But the decree of MK 35 is still limited normatively. Many forest officials and rangers are not yet obey the decree, as it happened in the Bukit Barisan Selatan National Park (BBSNP) in Bengkulu from 21-22 December 2013.

9. The state's modus which confiscated the indigenous people's rights over their sources are generally the same, namely to issue a policy that was arbitrary, not transparent and participatory, both by the government and the local government where the indigenous people live. Government through the Minister of Forestry issued a policy that indicated certain areas as the private domain of the country. Private domain of the country is "forest" that refers to the designated areas that determined as the forest land. Government through the Ministry of Forestry holds a monopolistic claim over forest areas. The indigenous peoples as those who are affected by the confiscation of their areas by the arbitrary designation, is not involved in the determination of the Ministry of Forestry forest version. Indigenous people have to obey the framework of forest area according to the conception of the state. In addition to not being involved in the determination of the forest areas, indigenous people's rights to land and sources are not fulfilled with FPIC process by the state when determining the district boundaries and rules management.

10. According to Article 15 paragraph (1) of Law no. 41 of 1999 of Forestry, the Forest Area Conservation has four stages, include: designation, boundary marking, mapping and determination of forest areas. After going through the four stages a region declared legally robust. However, according to a report released by the Ministry of Forestry Planning Agency in 2012, stated that only 11% of the forest area that newly defined. Many things happen in practice, a new area designated as forest area that been unilaterally considered legally valid by the local forestry department officials, which in turn lead to conflicts and led to the confiscation of the indigenous people's rights.
11. In general the indigenous people's land cases always in contact (face) with the forest policy. Soils status are generally stated as indigoes people's land and the customary owned by law, claimed by the state (government) as the state's forest area/land and then handed over to employers (capital/ investor) becomes logging concessions / IT and HGU . In this case the government always shielded by the Law 41/1999 on Forestry and the Minister of Forestry Decree 44/2005 on the appointment of Forest Areas in North Sumatra .
12. In general, we conclude that the state (in this case the government) have always argued that the existence of indigenous peoples need to be verified and confirmed by the Regulation, but until now there has been no good intention of the government to publish the regulation.
13. Public's complaints to the government and the police regarding the company's actions, never seriously processed by the police and government. But the company's complaints has always processed and followed by the arrest and detention of indigenous people who fight for their rights.

Recommendation:

- Government should make law and regulation that approves and protects the existence and rights of indigenous people.

- Government should stop the criminalization of indigenous people.

Please indicate how the principle of free and prior informed (FPIC) consent is guaranteed in law and in practice in decisions on and the implementation of development and extractive projects affecting communities.

14. The free and prior informed consent (FPIC) is not explicitly stated in a special legislation. FPIC elements scattered in various laws and regulations and make thematic and spatial principles seem deliberately not reinforced by law to be implemented.
15. Law no. 14 of 2008 on Public Information, for example, set the definition, public information manager at the same time how to process it. This law considers public information is part of the state the right color. However, this law puts society as informations scavengers cause of the positioning of the public informations as an item that should be sought or obtained. FPIC concept of people being seated as a subject recipient of information about a project.
16. There is almost no robust laws rules that ensure public decision to reject the presence of an extractive project after being given the consideration of environmental impact assessment. In Article 9, verse (4) of Government Regulation No. 27 of 2012 stated that public only entitled to give advice, opinions and responses to the Project Proponent activity plan. The mention of the word "entitled" in these regulations does not have a strong legal force because it is optional. Those regulations are not guarantee when the affected community rejected the project implementation plan.
17. The fact that often occurs is the rejection from the society of the presence of the project that is considered as incitement or protest to reject the presence of investment in the local area. For example, a legal assistant who is also a lecturer of Tadulako University, Palu, named Jamlis Lahandu detained by officers and brought to the court after giving an explanation to the public about the positive-

negative impact of the presence of gold mining company PT Cahaya Manunggal Abadi (CMA) in Donggala . The company's business permit exploration of the regents through Decree No. SK 188.45/0288/DESDM/2010 and reinforced through forest use permit by the Ministry of Forestry. 131/Menhut-II/2011, without the consent of the people. In denial protest of the presence of PT. CMA, officers responded repressive that occurs four peoples were shot and one person died.

Recommendation:

The government and the company should respect and implement the principles of FPIC.

Article 2 paragraph 1 – Maximum Available Resources

Please explain how the State party's planning and budgeting process takes account of the disadvantage of some provinces and groups in the enjoyment of economic, social and cultural rights.

Gender Balance in Planning and Budgeting Processes

18. In order to minimize the gap between men and women President Abdurrahman Wahid issued a Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development. This directive requires all ministries/agencies and local governments to implement gender mainstreaming (PUG). Another effort is by putting the PUG as a foundation on the implementation of the basic building in the Law No. 17 Year 2007 on National Long-Term Development Plan (RPJPN) from 2005 to 2025 and being adopted as the principle of good governance in the National Medium Term Development Plan (RPJMN) 2004-2009.

19. One of the way to implement the principle of gender equality in the implementation of development is by applying the quota of at least 30 % quota for women in the decision making process starting from the village level, district and city level. However, this effort has yet to positively impact the lives of people,

especially women. So far there are still many development programs, especially at the village level has not prioritized the development of infrastructure that can support the activities and access of women to obtain affordable public services and quality, such as access to health centers, markets, and schools .

20. In average, 60% of budget allocation is absorb more on expenditure of the local government officials rather than financing the construction and improvement of infrastructure that could support the welfare of society. Besides the implementation of a quota of at least 30 % participation of women in the village planning and development forum (MusrebangDes) is still merely a quantitatively contribution. Even if women are present in the meeting they just do the technical roles that are not directly involved in substance to provide input based on experiences and needs of women.
21. The role and participation of women in the planning and budgeting process that does not complemented with the quality will ot really bring about positive improvement on the condition of women. As an example is the Maternal Mortality Rate (AKI) which is steadily increasing, especially in rural areas in year 2013. The Ministry of Health issued a report that the AKI in Indonesia has increased from 288 per 100.000 live births in 2010 to 359 per 100,000 live births.
22. In the context of planning and budgeting in the local government level, in general, the Government still has not given serious attention to the remote areas or vulnerable or marginalized groups. For example, in the province of North Sumatra, the government's policy on budget allocations for farmers, indigenous peoples, women and children, particularly in the fulfillment of economic, social and cultural rights (ESCR) is still lame and has not undergone significant changes. Based on the analysis of the budget in two districts in North Sumatera (North Tapanuli and Naidoo) in 2010 and 2011, the balance between the regular expenditure and direct expenditure is very contrast (70% to 30%), whereas in 2012 the balance is 60% to 40%. Although it appears to be increasing, but the concern of the government to farmers is still very low (only 5%). While the

budget allocation for the health sector and education slightly bigger. The following table shows the percentage of budget allocation for agriculture, health and education in 2012.

No	Agriculture	Health	Education
Tapanuli Utara	5% (Rp. 35.387.465.683 of the total of Rp. 703.079.867.678)	11% or Rp.78.169.923.19 2 Of the total of Rp. 703.079.867.678)	45% or Rp.313.277.722.967,38 Of the total of Rp. 703.079.867.678)
Samosir	5% or Rp.22.127.318.781	10% Rp.39.942.407.39 6	or 38% Rp.166.957.499.053

23. Similarly, the implementation of the spending of the budget is also off the target. In the agricultural sector, there are still many beneficiaries of groups of farmers because they are close to the government officials. In fact, there era also many agricultural equipment bought from the state budget but owned by the officers of the groups.

24. In the health sector, although the budget allocation reaches 10% of the total budget, but health services in the villages is not maximized. Almost in all the villages, health facilities are already available, but the service is still very poor from the expectation. Misuse and corruption is other case. As an example, the government provides free labor addistance (Jampersal), but the women who deliver babies wtill being asked to pay. The same thing happened in Integrated Health Post (Posyandu), where in some places the people are still have to pay Rp. 3,000 to Rp. 10,000, where it supposed to be free. This information is revealed in

the discussions with target groups and observations in the village by one of the local NGO from North Sumatera.

25. In the education sector, the budget allocation exceeds 20%, but not necessarily the quality of education is better. Despite there is a 12 years of free tuition for basic education, it does not mean that education is free of charge. There are many textbooks should be bought by the parents, because the book funded by the School Operational Assistance (BOS), is not sufficient for all students. In addition there are many school facilities which are are inadequate.
26. Throughout the year of 2013, in the North Tapanuli budget, the proportion of agriculture, education and health is not significantly increased. Particularly in the field of agriculture, the budget allocation was still in the range of 5.5% or about Rp. 45,589,019,664 of the total budget of Rp. 826,403,422,273. This includes the expenditure of personnel by Rp.14 billion, or about 32 % of the total budget which should be allocated to the agricultural sector. The budget allocation also includes the cost of office expenses, development of human resources, improvement of facilities and infrastructure apparatus and reporting which account for about 7% of the agricultural budget, or around Rp. 3.5 billion. With this, the budget for agricultural in 2013 that can be felt by farmers are only about Rp. 28 billion.
27. In the education sector, the budget allocation reaches 47%, or about Rp. 309,200,971,616. The budget for teachers' salaries about 80% and 20% is for direct budget for the education sector. This refers to the Law No.20 of 2003 on National Education System in which budget for education in addition to the salary of teachers and other costs are to be allocated at the minimum of 20% of the budget.
28. While the budget allocation for the health sector, only around 10% of total regional expenditure. This is not in line with the mandate of Law. 36 Year 2009 on Health, in particular Article 171 paragraph 2, that the local government health

budget should be allocated at the minimum of 10% of the budget excluding salaries. While in North Tapanuli, health budget is only around 10%, including employee salaries.

29. Through a health insurance program, health insurance as well as Jampersal, still can not assure the public, especially for those who are less fortunate due to programs that are not targeted. In some villages which are located far from the central government, the availability of health facilities and skilled medical personnel is still very minimal. Likewise with the Regional General Hospital (Hospital), which has yet adequate facilities, such as minimum capacity of medical personnel and other specialist doctors. Public complaints about the poor quality of public service is still rarely heard due to lack of dedication of nurses and physicians in dealing with patients, such as the slow and careless handling and often discriminatory, especially for patients who are less fortunate.

30. The data and general observation that we have suggests that the gap in the budget in the local area for the different sectors is responded by the local government officials who say that it is not the authority, but the authority of the central government. The local government always argues that they have very limited budget availability. In general, the government has always argued that the capacity of the resources, including financial resources is very limited.

Article 2 paragraph 2 - Non-discrimination

Please indicate to what extent the State party's legislation is effective in enabling the implementation of the provisions on non-discrimination contained in the Constitution and the Covenant, including by prohibiting discrimination in the exercise of all economic, social and cultural rights on all grounds, and providing for sanctions, remedies, and the application of special measures.

A. Discrimination against Religious Minority, the Shia or Shiite and Ahmadiyah Community.

31. See the Annex

B. Discrimination in the field of economic, social and cultural rights against the transgender

32. Through the Law No. 39/1999 on Human Rights. Article 3 paragraph (3) states, "Every person is entitled of human rights protection and basic human freedoms, without discrimination" and Article 5, paragraph (3) states, "Any person, including vulnerable groups are entitled to be treated and protected respectively especially on their particularity." Transsexual or transgender people should get the same assurance and equal with the other communities, but this basic policy has not been fully decreasing the discrimination and restrictions on economic, social and cultural rights for transgender in Indonesia.

33. According to data from the Directorate General of Population Administration of the Ministry of Internal Affairs, the number transgender in Indonesia in 2005 reached 400 thousand people. While in 2008 the Srikandi Sejati Foundation recorded there are 6 million transgender in Indonesia.

34. Some of the problems that often occurred by transgender in Indonesia is the difficulty to obtain the Identity Card due to differences in the appearance that the population recorder officers thought they can not be categorized according to the type male and female. Not having the citizen's identity becomes very fundamental that gives quite large impact for the transsexual / transgender in order to obtain economic, social and cultural rights, such as the difficulty to obtain further education, the difficulty to have an account in a bank, so they are also difficult to access business credits and public services.

35. Transgender groups are limited in accessing employment, especially in the formal sector. Due to the perspective and understanding that is still very discriminative and biased against transgender people. The majority of transgender in Indonesia work in the informal sector, such as working in a beauty salon, street singing and hawkers selling. Most of them also work as a sex worker which is often experienced the violence from the public and the security forces.
36. Several organizations and non-governmental organizations finally perform some strengthening programs for transgender people by giving them skills such as life skills, sewing skills, cooking and cosmetology. In addition empowerment also done by providing small capital loans and various understanding of the health and rights of citizenship that is expected to support them to sustain their lives and the economy. The Ministry of Social also has a real assistance programs for groups of transvestites/ transgender but the program still get an evaluation in terms of access that can not be reached by transgender groups, and the concept of sustainability and accessibility.

Recommendation:

- a. It's crucial for government to approve and recognize the transgender group in regulation.
- b. Government should have commitment to protect transgender group from economic, social, and cultural discrimination.

Article 3 - Equal rights of men and women

Please indicate whether the State party has adopted gender equality legislation and the progress achieved in the enforcement of such legislation. Please also provide information on measures taken to overcome stereotypes that continue to negatively affect the equal enjoyment of economic, social and cultural rights by men and women.

37. In the Year 2012 for the inputs from civil society and academic community, the Indonesian parliament inserted the Draft Law on Gender Equality (Gender

Equality Bill) in the priority list of the National Legislation Program (Prolegnas). In the beginning of the process, the parliament opened space for pros and cons. But later, the Islamic fundamentalist groups, the Indonesian Council of Ulama (MUI) and some Islamic parties in parliament strongly oppose this bill for assuming that gender equality issues will result in equivalent roles of men and women in the family both in terms of responsibilities and rights within the family that result in failure validity of Islamic law in Indonesia. The parliament actually has opened the space for civil society to provide input on the substance of the bill either for those who are pro and cons. In the later process, the draft prepared by the Parliament (as of February 2013) is gender neutral, in which the gender terminology in the draft bill is based solely on sex differences in men and women.

38. In addition, the substance of the bill does not use the principles of human rights, and the application of the principles of CEDAW that Indonesia already ratified. The bill is more concerned about the implementation of gender mainstreaming as a strategy of national development strategies, rather than guaranteeing the women's rights in a comprehensive manner and state obligations to fulfill these rights. The bill does not in an independent complaints mechanism in the event of violations of women's rights. In addition there are no specific rules regarding the protection of minorities and marginalized groups and temporary special measures as a duty of the state to accelerate substantive equality.

39. Up until today, the drafting process has stopped and even threatened to be abolished from the list, because this bill still faces challenges from lawmakers who think that this bill is not a priority at the moment.

5. Article 6 - The right to work

Please provide information on concrete policies and programmes implemented by the State party to create jobs, including targeted employment programmes to promote employment among disadvantaged persons and groups such as women, especially women in rural areas, young persons, older persons, and persons with disabilities. Please also provide information on the impact of these policies and programmes on employment opportunities.

The Feminisation of Poverty towards the Feminization of Migrant Workers

40. The Labor migration in Indonesia has had a long historical even before the establishment of the Republic of Indonesia. Traces can be seen or even still going on in term of ethnic distribution in Sumatra, Java, Madura, Kalimantan, Sulawesi and islands of Nusa Tenggara (West and East Nusa Tenggara) to the area of Malaysia (Peninsula and East), Singapore and even extends to the Middle East. Colonial policy of mobilizing the workers out of the village of his birth also occurred, from Java to Sumatra even to Vietnam, New Caledonia and Suriname.
41. The new model of labor migration that occurred in the early period of the New Order is more directed to the provision of the needs of the cheap labour of international labor market as well as the safety valve of rural labor defeminisasi when the green revolution (the use of agricultural technology) become an engine of agricultural development. The new pattern is often called the feminization of migrant workers .
42. This is why the beginning of Indonesian labor migration was of "woman faced". Moreover, based upon the construction of the patriarchal structure of the country there are an abundance of women's labor-force singled out by the agricultural sector to be offered to the international labor market at a low price without conditions. In competition with other countries for migrant workers such as Philippines, India and Sri Lanka, the Indonesian government offers comparative advantages of Indonesian migrant workers: women, submissive, low wages, not much protest and do not need protection mechanisms. And that "comparative advantage " is now the time bomb.
43. Although the labor migration of Indonesian is of women faced, but the policies are made very gender blind. Various policies that have been created even further strengthening the patriarchal construction of the employment policies of

Indonesia. Most of the cases experienced by women migrant workers are cases of gender based violence. Unfortunately, until now the policy on the placement of migrant workers is more giving burden on women rather than liberating them.

44. In terms of governance, the policy on the placement of migrant workers as well as the centralized character also ignores the role of local governments, local communities and migrant workers and their families. It is ironic that 99% of migrant workers came from areas outside Jakarta, but 80 % of the processing of documents ranging from preparation, health testing and training are held in Jakarta. This situation produces longer chains of bureaucracy, too costly as well as creates exploitation and communication barriers. The involvement of private parties in almost the entire cycle of migration preparation process also resulted in a profit-making process by private sector, but not comparable to the quality of services provided .

Article 7 - The right to just and favourable conditions of work

Please provide information on the enforcement of law 13 of 2003 on the protection against sexual harassment, including on the mechanisms of complaints, the number of registered cases and complaints, sanctions imposed, and compensations paid to victims.

45. Most of Indonesian labors, particularly labor in factory, are women. Thousands of garment, textile, shoes and cigarettes factories prefer to hire women workers because they are more thorough and can be paid with lower wage.

46. From total population of 112 millions labor force in Indonesia (Central Statistical Bureau of Indonesia in 2012) nowadays there are about 43 millions female workers to help the economic growth in Indonesia, which means, the amount of women workers are almost as many as men workers.¹

¹ <http://female.kompas.com/read/2013/05/06/10164817/jangan.takut.berhenti.bekerja>

47. One of many problems often experienced by women workers are violence and sexual harassment in their working place. National Commission on Violence Against Women (Komnas Perempuan) in January 2013 has found 216,156 cases of sexual violence in work places. Of that number, 2,521 cases were experienced by women workers. The number is based on the reported cases.
48. For an example in April 2013, a woman worker in Semarang reported a sexual harassment case committed by the head of production of a factory in Semarang. Their efforts to file the cases are denied. According to the victims that abuse has been going on for years. Most of them had reported that to the directors of the company. But it didn't solve the problems. The labors finally chose to bring the case to the local parliament.
49. The sexual violence that often happens to female workers have many kinds of modus operandi, from physical attraction led to sexual conduct (kissing, pinching, slapping, etc.), verbal abuse (body language led to sexual conduct), written abuse or pornography, and psychology abuse like continually unwanted stimulus of sexual intercourse.
50. The exact amount of data of the sexual abuse cases in work places are hard to be revealed. Female workers which are actually victims of sexual abuse rarely report that to the management of the company. They don't recognize that sexual abuse is one form of violence to women's rights. Female workers which are victims of sexual abuse usually feel ashamed, insulted, and afraid that if she reports then many kinds of intimidation will come, even a threat to dismissal.

Please indicate the steps taken towards the adoption of a law on the protection of domestic workers. Please also provide information on protections afforded to them, and mechanisms of remedies available for victims of exploitation and abuse by employers.

51. The International Labor Organization estimates the amount of domestic workers in Indonesia in the last two years have increased sharply, along with the improvement of economy and middle class condition. Even so, the Law No. 13 year 2003 on Labour does not include domestic workers as part of workers, so domestic workers are vulnerable to exploitation, overtime, unpaid wage, privately caged, physical and sexual abuse, and trafficking.
52. Considering the above problems the civil society organizations push the Parliament to adopt a national policy to protect domestic workers from those situations. In 2010, the parliament finally put the Draft Law on Domestic Workers to the national legislation program which is deliberated by Commission IX of the Parliament. The progress is not working well. The Members of Parliament said that the current study on domestic workers in Indonesia still can not signify the urgency of enacting such law, because we cannot standardize the type of domestic workers and that there are still many household having children as domestic workers.
53. The Network for the Descent Domestic Workers (Jala PRT) also says almost all domestic workers in Indonesia don't have health insurance or work insurance. Until today, the draft laws on domestic workers has not finished yet adopted into a law.

Recommendation:

The government of Indonesia has to proceed and legalize the draft laws on domestic workers to give recognition and protects the Indonesian domestic workers.

Article 8 – Trade union rights

Please provide information on measures taken to guarantee the right to strike for civil servants. Please also clarify the circumstances under which participation in strikes is criminalized and carries sanctions involving compulsory labour.

Please provide information on measures taken to combat unfair dismissal and violence based on trade union affiliation and activity in spite the existing legal provisions.

The case of Ms. Luviana

54. The space to form a union actually has been regulated and legalized in Law No 13/2003 on Workers, as a part of the workers' rights, but not all companies and industries in Indonesia apply and respect the freedom to form such association.

55. One of the cases that happened in 2012 is the dismissal of a female journalist named Luviana (the assistant producer in Metro TV) who was finally dismissed by Metro TV because she was accused that she formed a union and organized the co workers to demand for the facilities improvement and the wage increase in the company. The the dismissal was done on June 31st 2012 without the dismissed media worker being given salary and separation payment.

56. Until now, Luviana's dismissal is still unsolved. In 2013, Luviana brought the case to Commission IX of the Parliament dealing with labour issues. The Parliament in the deliberation agreed to have the case brought and resolved by the Minister of Labour and Transmigration.

Article 9 - The right to social security

57. The social insurance or protection have been part of the State's main goal, which is is stated in the preamble of the Constitution 1945. The social insurance or protection is also strengthened and included in the Long Term National Development Plan 2005-2025 and incorporated as well in some related laws, like on health, education, employment, etc.

58. Over the last 5 years, the issue of social security has been the policy of the government; social security, social assistance and so on. In that period, the government has launched a variety of programs such as JAMKESMAS, PKH, PNPM, BOS, fertilizer subsidies and some others. Currently, the President and the Parliament had passed a law on Social Security (BPJS) which targets that in 2014 Indonesia will have a universal health insurance (for all) and in 2019 will have a guaranteed pension for all.
59. Nevertheless, the government's approach can still be seen as to be half-hearted. Or in social policy lexicon referred to as residual/selective approach. This is evident from the PKH program that is still in a trial, JAMKESNAS funds are still minimal, and so on. In the academic discourse, it seems the government is still being held hostage between efficiency (the next fiscal implications) versus fairness (legitimacy of government and democracy) and still trying to find the optimum point/Pareto optimum.
60. That approach needs to be changed so that policies and programs to be more inclusive, have a great value and benefits, implemented impartially or not discriminatory. Poverty, income inequality and lack of health insurance and retirement security should be an important concern.
61. The effort to eradicate poverty by some social assistance programs such as Rice for the Poor (Raskin), *Program Keluarga Harapan*, financial assistance of *Kelompok Usaha Bersama* (Kube) or *Kredit Usaha Rakyat* (KUR), can not stop the increasing population of the poor due to the liberalization policy on trade. Such policy causes the increase of the price of the basic needs, when the daily wage of these people can not afford it. The low capacity of people's capability to buy these needs causes the population, especially women and children face problem of malnutrition, the decrease of health degree and vulnerable to practices of exploitation.

62. The number of poor population that have never decreased significantly, will keep even increasing due to the increase of the price of fuel. At least half a million people will be categorized as poor when previously they were not. To overcome this, the government issued a “fire fighting” policy by providing cash under the program of temporary direct assistance for the poor (BLSM) and education assistance for the poor (BSMP).
63. The health assistance for the poor such as JAMKESNAS/Jamkesda and Jampersal can not reduce the maternal mortality rate (MMR), which according to the data of the Ministry of Health is even increasing in the mid year last year from 288 per life birth to 359. This figure is far below the indicator set by Indonesia in the MDGs which is only 102 in 2015.
64. Provision JAMKESMAS and Jampersal to the community are not supported by government in the efforts to revitalize the capability and adequacy of facilities at the Regional Hospital and health centers in rural areas, and it lacks of infrastructure. The user of Jampersal can only be served at health centers or district hospitals which are often having minimal health workers and medical equipment support.
65. Moreover, the implementation of Jampersal is not strengthened by the cultural belief in families and the society that the process of pregnancy and giving birth are the most crucial processes; the healthiness of the mother during pregnancy, regular pregnancy check-ups, until the times of the labor. A number of the data has shown that the increase of of maternal mortality rate (MMR), in fact, happens in health centers such as clinics, due to inaccessible roads, lack of health workers, the unavailability of blood banks and the lack of medical tools.
66. In an effort to maintain a decent education for children and communities also help people get education funding from the government. The aid assortment, such as School Operational Assistance (BOS). Some assistance is given each semester and some are given once a month. However this assistance is still hampered by

the financial aid beyond formal education. Costs for uniforms, books, transportation and activities outside of school fees is much bigger and ultimately poor masyarakat still not able to finance their children's education.

67. The concern is the impact of it all; the family had to give up her child does not continue education in order to help the family economy. Traditional families in Indonesia that subordinate women, resulting in girls lost educational opportunities. The low educational background leads the girls into the worst work fields such being the child domestic workers, migrant workers, or forced to marry in childhood.

68. The National Team for the Acceleration of Poverty Eradication (TNP2K) states that during the year 2013 about 26,2 per cent of Indonesian citizens are being recorded and get social assistance programs, in an effort to accelerate poverty reduction. But the Indonesian Women's Coalition research in 3 areas; East Java, Bengkulu and Jambi show that the social assistance programs are not sufficiently able and accurate to resolve the problem of poverty.

69. In the Raskin (Rice for the Poor) program alone, for example, the problems found that the data of the poor population are inaccurate, resulting in one of the target receiver Raskin, the poorest people, are not able to pay the price of rice Rp 1.600/kg in packs of 15 kg, so that the Raskin was then bought by the relatively wealthy family, and the poor can get only 3-5 kg.

70. The far distance makes sales of Raskin is done every three months, and the poor quality of rice sold are not really good to eat. Then the poor women burdened with additional costs for labor and "polish" rice, in order for the rice to be eatable.

" sometimes we were no longer able to eat rice Raskin , may be I sound arrogant, but really the Raskin condition we received is really not feasible, even for animal food .. "

71. Allotment of social assistance which does not reach the right target sometimes actually causes conflict in society. The experiences of the Indonesian Women's Coalition on Women Hall suggests that if assistance is not well targeted social cause of public anger, and even some cases of house burning occurs because of public discontent to the village chiefs.

Please provide information, including statistical data, on the present coverage of the health insurance, disaggregated by the groups referred to in paragraph 103 of the State report.

72. Referring to Law No. 40/2004 on Social Security, the social insurance program covers 5 areas: (i) health insurance, (ii) accident insurance, (iii) pension guarantees, (iv) pension and death benefits. While Law 24/2011 on BPJS mandates the establishment of two social security implementing agencies: (i) Health BPJS that will handle health insurance, and (ii) BPJS that will handle the work accident insurance, pension, pension and death benefits. During its development, PT Askes, which has been handling health insurance for civil servants, the military and police, will be transformed into BPJS the Health and Social Security transformed into BPJS.

73. The service coverage (coverage) is different with the implementation models of JAMKESNAS (Public Health Insurance) which is run by the Ministry of Health. If the social insurance model of health insurance coverage to all residents (universal coverage), then JAMKESNAS only intended for the poor (targeting coverage). In Jamsostek schemes, financing health insurance is from contributions / dues participants. There are two schemes of social insurance dues this style: for people who are not economically disadvantaged (poor) dues will be paid by the government and that are economically going to pay themselves. Cooperativeness principle is well upheld in the implementation of social security.

74. Health insurance within the framework of social security is a program that provides comprehensive health insurance for every citizen in Indonesia in order to live healthy, productively, and with prosperity. This is the most universal approach to distinguish between social security style health insurance with health care programs ever. With a universal approach, it is expected to realize; (i) all residents have health insurance and there will be no existence of cases rejected by the population because the hospital did not have the money to pay for medical expenses, (ii) eliminate the stigma of being citizens "second class" to the people who get health insurance because it is identical with the poor, (iii) the fulfillment of the basic rights of citizens health.

75. In Article 60 of Law 24/2011 on BPJS asserted that "BPJS Health began to carry our health insurance program on January 1, 2014" and "since the operation of the BPJS Health, the Ministry of Health will no longer hold public health insurance program". However, in reality, the Ministry of Health is still a half-half in running the the mandate of the National Social Security (SJSN) and BPJS.

76. There are some regulations issued by the Ministry of Health that facilitate the implementation, among others: (i) Ministry of Health Regulation No. 71 Year 2013 on the Ministry of Health on the National Health Insurance, (ii) Ministry of Health Decree No. 326/Menkes/SK/IX/2013 on the Preparation of the Implementation of the National Health Insurance activities, (iii) Circular No. HK/Menkes/32/I/2014 on Implementation of Health Care for Participants BPJS Health on the First Level health facilities and health facilities in the Advanced Level on the implementation of Health Insurance Program.

77. In fact, Article 57 of Law on BPJS says that the authority of the Ministry of Health in carrying out the implementation of the operational activities of public health insurance programs is only until the implementation of BPJS Health. With the JKN started the operation on January 1, 2014 by the Ministry of Health, the Health

BPJS relation is just as a partner. This is evident from the Ministry of Health insistence in using the INA - CBGs tariff system so that there are few health facilities and drugs which may not be covered. This means, JKN is not much different from the Community Health Insurance (Jamkesmas) because they are managed by the Ministry of Health and the Department of Health in the region. It is certainly not in line with the mandate of the Social Security Law (SJSN) and the Law on BPJS that the Ministry of Health should only be the regulator and not the implementator of the health care.

78. With the enactment of Social Security Law (SJSN) and the Law on BPJS, the implementation of universal health care is expected to be strengthened. Thus, poor informal workers who previously did not have health care *ala* JAMKESNAS will get social security. However, the implementation of the BPJS on Health and BPJS on Labour are still in the initial stage, thus can not answer all the expectation.

79. The condition is now getting worse, because in 2014 the government only targets that recipient of the dues (PBI) participants as much as 86.4 million people. This will further minimize the chances of poor informal workers to participate in the health insurance of PBI participants. This figure is an extension of the recipient JAMKESNAS in 2010 numbering 76.4 million which consists of: (i) 60.4 million people are poor, (ii) 2.6 million people in prisons, orphanage and homeless, (iii) 13.4 million poor people who are not included in the quota free medical treatment. Meanwhile, the number of PBI participants is used as a reference by Commission IX of the Parliament is the data from the PPLS (Documenting the Social Protection Program) of the Central Bureau of Statistics issued by the office of TNP2K (National Team for Accelerating Poverty Reduction). The data of PPLS (2011) states that the lowest social level or the poor who may be participants of PBI was 96.7 million people. There is significant number of differences in the number of participants of PBI. This will certainly affect informal workers into the social security as a whole. The data of Informal Economy Study/IES, said that in

the year 2011/2012 there are approximately 31.2 million informal sector workers who will not receive healthcare in 2014.

80. Above conditions is aggravated by issuance of Presidential Decree No. 111 of 2013 on the Amendment of Presidential Decree No. 12 Year 2013 on Health Insurance in which in Article 4 states that the participants of the Non PBI Health Insurance are those who are not classified as poor or indigent and can not afford that consists of: (i) paid workers and their members of family, (ii) workers do not receive wages and family members, and (iii) those who are not workers and family members. Those categorized as workers not receiving wage are earners working outside employment or self-employment (informal workers) and investors, employers, pensioners, veterans and others. However, if the investor is equated with informal workers or employers, such approach is not fair, because many self-employed persons who are poor and can not afford economically.

81. As a whole (both PBI and non - PBI) government targets that the recipient of BPJS Health in 2014 will reach the amount of 121.6 million people. If there is no hard work, willingness and technical regulation changes which reflect the spirit of the Social Security Network (SJSN) the universal coverage would be difficult to achieve by 2019 .

Recommendation

1) Conduct a review of the program JKN by reviewing the entire product of regulations issued by the Ministry of Health relating to the implementation of JKN. The reason is that there are many indications that JKN is a health insurance program that is not in harmony with the spirit of the SJSN and the BPJS. The first step can be done by reviewing: (i) Ministry of Health Regulation No. 71 Year 2013 on the Ministry of Health on the National Health Insurance, (ii) Ministry of Health Decree No 326/Menkes/SK/IX/2013 (JKN), (iii) Circular No. HK/Menkes/32/I/2014 on Implementation of Health Care for Participants

BPJS Health in First Level and Advanced Level health facilities in the Implementation of Health Insurance Program.

2) Immediately prepare technical regulations in the framework of the implementation of the National Social Security System (SJSN) that ensure that the poor and informal workers be able to get insured as the participants of PBI. This can happen if there is serious and continuous data collection on the informal sector worker. In addition, the steps to formalize the self-employed also need to be done. The first step can be done by reviewing the Presidential Decree No. 111 of 2013 on the Amendment of Presidential Decree No. 12 Year 2013 on Health Security and Permenakertrans No 24/MEN/VII/2006 on the Program Guidelines on the Implementation of Manual Workers in Social Security and for Workers who Work Outside Employment Relations.

3) Provide support to BPJS Health to immediately take over the operation of the entire health care programs. Then, encourage the Ministry of Health to focus on regulatory functions and no longer be the institution that organizes health services directly.

4) Providing support to initiate arrangements BPJS that informal workers or self-employed could have access and equal opportunity in social health services and employment program.

Article 10 - Protection of the family, mothers and children

Please provide information on the enforcement of relevant laws prohibiting child labour and on the impact of the implementation of the National Action Plan for the Elimination of the Worst Forms of Child Labour.

82. Reported in the Annex, in the context of Religious Minority

Article 11 - The right to an adequate standard of living

- 1. Please provide information on the measures taken to improve disadvantaged and vulnerable groups' resilience and preparedness to natural disasters, as well as on their impact on the mitigation of the effect of natural disasters on the Covenant rights.*
- 2. Please provide information on the measures taken to ensure the availability of affordable food, in particular staple food, and to prevent speculative actions which is one of the drivers of food price hikes.*
- 3. Please provide information on the impact of measures taken by the State party to ensure access to improved sanitation, particularly in rural areas, and to eliminate the practice of open defecation.*

83. To be reported in the Annex in relation to Religious Minority.

Article 12 - The right to physical and mental health

Please provide information on the impact of measures taken to improve access to and the quality of sexual and reproductive health services and maternal health services, in particular in rural and remote areas.

84. After the ratification of the International Covenant on Economic, Social and Cultural Rights in October 2005 into Law No. 11 year 2005, the government then adopted supporting laws. Particularly in relation to Article 12 of the Law No. 11/2005 which states on the rights to have high standard physical and mental healthqualified, in four years time the government adopted laws related to health which include: Law No. 11 year 2009 on Social Welfare, Law No. 25 year 2009 on Public Service, Law No. 35 year 2009 on Drugs, Law No. 36 year 2009 on Health, Law No. 44 year 2009 on Hospital, and Law No. 52 year 2009 on Development of Population and Development of Family.

85. Facts on the ground and showed a surprising fact that the law could not provide health insurance to the community as a whole. Issues which negate human rights

occurred in Bandar Lampung, the Province of Lampung, where an elderly patient on his own was dumped after being hospitalized a few days by doctor A Dadi Tjokrodipo. Mbah Edi (Edi Supaman Sariun, 75 years old) was found at a substation in the village of Sukadanaham, Tanjung Karang Barat (20/01/14), in a very weak condition and was unable to talk. There were still some traces of the infusion needle puncture on his arm and his legs were still tangled with white bandages. Two days later Mbah Edi passed away. The involvement of seven employees of hospitals using ambulances in performing the patient dumping is a terrible violation on human rights and criminal act. Not only the hospitals should be blamed for in this case, but the local government of Lampung should also be responsible in accordance with the mandate of the Law. 11/2005 on Economic, Social and Cultural Rights, which obligates the government to provide health care as people deserve it.

86. Ideally, the implementation of some of these laws should now be able to improve the health of society equally, fairly and thoroughly. However, if it is associated with the presence of rural and remote areas in Indonesia, to which extent is the effectiveness of the implementation of the laws and rules of the underlying support (Ministry of Health Regulation, Governor Regulation, Mayor Regulation, etc). Can the rules ensure an improvement of access and quality of health services as a whole?

Please provide information on the impact of measures taken to improve access to and the quality of sexual and reproductive health services and maternal health services, in particular in rural and remote areas.

87. Law no. 36 Year 2009 on Health Article 14 mandates, "The government is responsible to plan, organize, develop, and oversee the implementation of the health support as a whole and affordable for the society." How is the implementation of the mandate of the legislation by the central government and local government? Three years earlier, the Minister of Health has made a strategic

plan for health care support in rural and remote areas through the verdict of Minister of Health of the Republic of Indonesia Number: 331/MENKES/SK/V/2006 on Ministry of Health Strategic Plan 2005-2009, as well as seven (7) excellent activities from the Ministry of Health in 2011 about partisanship in remote areas, borders and islands.

88. The improvement in access to health services in the community can be measured if the health care facility is easily accessible by the public. Have facilities in the form of hospitals, public health centers (PHC) and health care workers (doctors and nurses) been evenly dispersed so far to the rural and remote areas? The disparity ratio of hospitals and health centers in remote areas to urban areas is very high. Many hospitals are concentrated in urban areas. According to the Minister of Health of the Republic of Indonesia, Nafsiah Mboi, many hospitals in remote areas, borders and island areas are shortage of bed and health workers. There are even complains from several districts about the lack of specialists in the region, such as in the province of Gorontalo.

89. The shortage of health workers and the absence or incompleteness of hospital and health center facilities available in remote, border and island areas are the issues and information that are repeatedly reported from year to year. How are the results of the strategic plan which has always been constructed by the Ministry of Health? To which extent have the results been achieved, especially for remote, border and island areas? There is a four-year strategic plan (2005-2009) by Kepmenkes No: 331/MENKES/SK/V/2006 equipped with seven (7) featured activities the Ministry of Health in 2011.

90. In addition, there are 6 (six) strategies set by the Ministry of Health (2010): 1) Mobilization and empowerment of the communities in remote, border and island areas (RBIA), 2) Improvement of public access in RBIA to quality health care, 3) Improvement of health care financing in RBIA, 4) Improvement of Health human resource development in RBIA, 5) Improvement of the availability of drugs, supplies and strategies, 6) Improvement of Health Center in RBIA management,

including surveillance, monitoring and evaluation, and the Health Information System.

91. One of the results of these strategic plans is the failure in lowering the Maternal Mortality Rate (MMR). The results of 2012 Indonesia Demographic and Health Survey (IDHS), which was conducted by the Ministry of Health, BKKBN and BPS, show MMR results of 359 per 100,000 live births. It can be interpreted from the significance of these figures that within an hour, three to four Indonesian mothers died in childbirth. There are 72 to 96 maternal deaths in a day, 2160 to 5760 maternal deaths in a month and 25,000 to 34,560 mothers died giving birth in a year. The increase in maternal mortality reached about more than 63% compared to MMR in 2007, which reached 228 per 100,000 live births, making the plans to achieve the MDGs by 2015 (102 per 100,000 live births) is clearly impossible.

92. The availability of health care facilities and infrastructure public health center in remote, border and island areas needs to be realized not only limited to the strategic plan. The national appliance of the pattern of minimum service standards (MSS) for health services, in order to avoid disparity. Special incentives through activities that put into special administration tasks regardless of the status and the origins of the health workers. The increasing of competence health workers in remote, border and island area. And the fulfillment of the availability of transport for referral in remote, border and island areas are adapted to the topography.²

Please indicate whether the State party has adopted a human rights approach to its drug policy, including prevention and treatment.

² <http://ejournal.litbang.depkes.go.id/index.php/hsr/article/view/3299>, Review on the Policy on Health Service in Remote and Border Areas.

93. People with HIV and AIDS (PLWHA) in Indonesia have not fully get the assurance protection in economic, social and cultural. This is due to the strong assumption that HIV-AIDS is a disease caused by immoral behaviour. Recent data that reported by HIV-AIDS Prevention Commission surge of HIV AIDS prevalence rate is quite high in Indonesia. Groups of women pair of PLWHA ranks high enough from the groups that had been considered vulnerable; hypodermic needle user groups, sex workers, their risky sexual behaviours such as men who have sex with men, transgender and others. Plus the group of HIV-AIDS prevalence that also have a quite large numbers is a group of migrant workers.
94. PLHIV in Indonesia is still experiencing discrimination in the public, the policy of mandatory tests imposed on firms to restrict employment of PLHIV. On the other hand they are also still experiencing distinction or discrimination when accessing health services and public services. Policies regarding the protection of people living with HIV are not yet realized in a specific policy or regulation in Indonesia. HIV AIDS in Indonesia is still categorized as a group of infectious diseases that are not enough to encourage the government and all parties to make efforts to strategically reduce the prevalence of HIV-AIDS. The policy that does not puts HIV AIDS as an epidemic-based on social problems that also resulted in a lack of public education about HIV AIDS right. The increased of the HIV-AIDS numbers in Indonesia shows that HIV is not just a problem of disease in medical term. It requires understanding from the point of views of social, gender and human rights.
95. Data on how many HIV-infected children in Indonesia is not obtained with certainty. Between state and non- governmental organizations often have different versions of the data. However, based on estimates of the United Nations AIDS Issues (UNAIDS) in 2005 an estimated 3,000 babies are born with HIV each year in Indonesia.
96. According to data from the Ministry of Health (MOH) last (December 2009) , there were 1,280 children aged 0-18 years were living with HIV / AIDS . Given the

estimated number of people living with HIV (296,000), there may be more than 500,000 people affected by HIV/AIDS. While the Ministry of Health informed until Sep 30, 2010, as cited <http://rubah.info>, the percentage of cumulative AIDS cases by age group for less than 1 year of age as much as 1 percent, age 1-4 years as much as 1, 2 percent, and the age of 5 -14 years of 0.7 percent. While 15-19 year olds by 2.9 percent.

97. Although the number of HIV-infected children increased, but not by the quality and quantity of health services to children. Some rare cases ARVs in various regions show the state is not prepared in anticipation of the HIV epidemic, especially children.

98. Some children who require antiretroviral medication was prescribed at a dose of uncertainty, calculated from adult doses. In practice the provision of ARVs to children given the drug for adults in the form of a powder that is tailored to the child's dose. Health Ministry also said that funds for ARVs specifically for children have been allocated, although the new Health Department will distribute ARVs children if there is a request from the Hospital, so not all families or parents can access ARV child, even if there are very expensive.

99. Another problem is the need for doctors or medical personnel who understand the problem of HIV - AIDS and children are also very limited. The distribution of physicians is not sufficient for the examination and to obtain public services, especially for people living with HIV who do not live in big cities. According to the UNGASS forum Jakarta only 13 Referral Hospitals can handle the problem of HIV AIDS.³

³ The rights of the children with HIV/AIDS still can not be fulfilled by the government— Indepth Report UNGASS Forum 2012

Articles 13 and 14 - The right to education

100. Based on data from the Central Statistics Bureau (BPS), in 2012 the population in Indonesia is about 6.3 million illiterate. This amount is still considered a serious amount, because the government has run a variety of programs right improvement of education in Indonesia. The level of illiteracy among women is higher than men – of 92 percent of Indonesia's literacy, 63 percent of which was in fact illiterate women, the number of illiterate women about 6.3 million people, about 70 percent of them aged over 45 years. The number of illiterate men as much as 3.4 million people. The total number of 9.7 million illiterate people, or 5.97 percent of the total population of Indonesia. In primary and secondary schools, 48 percent of students are women. At the level of higher education (universities, both public and private) female students accounted for 47.6 percent of all students in Indonesia.⁴

101. Some areas which are the disparity of women and men in illiteracy case is high is the eastern region of Indonesia, such as East Nusa Tenggara, Papua, West Papua, and West Nusa Tenggara portion. If in a family there are two or three children were at school, then the parents can not afford, the girls usually drop out of school. Family's decision to stop girls going to school is still based on the culture of gender bias in Indonesian society, that women do not need high school, because later on women task will be more concerned in the domestic sector.

102. Several civil society organizations and women's organizations also perform some alternative efforts to help women and girls of gaining education and knowledge, especially from the poor and marginalized. Indonesian Women's Coalition gives educations to rural women through awareness education rights and political rights of women. Since 1999 until now there are about 668 villages that have their own women's hall in order to carry out the education, started from how women can realize their basic rights to motivate them to get the

⁴ Policy Paper: Women Participation in Politics and Government. 2010 - UNDP

capacity of helping their family economy. Moreover Women's Ship also undertake educational efforts of women through women's group Ciliwung which is consisted by women such as laundry workers, scavengers, a housewife who had been experiencing economic problems. Besides the formal education, the education which is also given to them is the education about reproductive health rights and women's rights. Other organizations such as Pekka (Association of Women Head of Households) also do special education for heads of households women.

103. Several government programs have been conducted for the alleviation of illiteracy, such as programs that is prioritized the ABC package to the poor, but this program is not completely accessible to the public yet, especially women and girls. While the allocation of education budget state also can not support the effort to eradicate illiteracy in Indonesia, besides several natural disasters and social catastrophic events (unrest/conflict of religion and belief) also has implications for the sustainability of the children to continue their education.

**ANNEX to the Alternative Report
Violations of Economic, Social and Cultural Rights against Religious Minority;
Ahmadiyah and Shia or Shiite Community**

The Cases	Ahmadiyah Community in Lombok, West Nusa Tenggara (NTB)	Shia or Shiite Community in Sampang, Madura, East Java
Background and Context of the Case	<ol style="list-style-type: none"> 1. Ahmadiyah present in Indonesia since 1925 . Minister of Religious Affairs Suryadarma Ali estimates the number of followers of Ahmadiyah are about 80 thousand people . The truth is more than half a million people . 2. In 1953, the Indonesian Ahmadiyah Congregation (JAI) obtained legal status from the Minister of Justice No. JA/5/23/13 dated March 13, 1953 and was listed in the Official Gazette of Republic No 26 on March 31, 1953 . This is reinforced by the Indonesian Ministry of Religious Affairs Statement , dated May 11, 1968 . The statement explained that the right to life of the entire organization Religions AD / ART was already approved Legal Entity Ministry of Justice. 3. In Lombok , JAI has existed since 1952. Until now, members of JAI in NTB are estimated more than 2,500 people. 4. The attack on the 	<ol style="list-style-type: none"> 1. Shia Islam came to Madura Island, especially in Sampang District, since the 1980s. It was a local cleric Kiai Makmun who introduced Shia teachings in the District. After his decease, his son Kiai Tajul Muluk continued the teachings. 2. For more than two decades, there was not any problem between the new minority Shia Muslims and the majority Sunni Muslims. 3. Following the repeated attack since 2006, there are at least 190 Shia followers, including 69 women and 61 children, who were forced to take refuge with minimum facilities at the Sports Center. Material damages cost more than 5.8 billion rupiah. 4. During the period of Shia dislocation at the Sports Center, instead of enforcing the justice for the victims by repatriating them to their homes, the authority and local clerics even intimidated the Shia refugees for conversion to Sunni by cutting aid, food,

	<p>Ahmadiyah community in Lombok happened in 1998. Greater attack occurred in 2002 . The attack occurred during a five - six consecutive days . Ahmadiyah houses were vandalized and burned.</p> <p>5. In 2001, the attack on the village of Bayan Sambielen District of East Lombok killed Papuq Hasan, the Ahmadiyah community member. As a result of this attack , 22 homes destroyed , 80 people displaced , 24.1 acres of land abandoned .</p> <p>6. Attack for several days also re-occurring from 9 to 14 September 2002. The attack occurred in Pancor, East Lombok. More than 81 homes were destroyed and burned , two mosques vandalized and burned , 383 people displaced . Their land area of 14.8 acres abandoned.</p> <p>7. The attacks also occurred in 2003 , 2006, 2010, 2011 . As a result of the barrage about 123 homes were damaged, 739 people were expelled from their villages. Not to mention the prolonged trauma .</p> <p>8. Since February 4, 2006 until now most of them</p>	<p>and water supply.</p> <p>5. In regards to the problem, in July 2013, President Susilo Bambang Yudhoyono had a meeting with Ahlul Bait Indonesia, Shia representative organization in Indonesia, at the President's residence in Cikeas, Bogor. Coordinating Minister for Legal, Political and Security Affairs Djoko Suyanto and State Secretary Sudi Silalahi also attended the meeting.</p> <p>6. In the meeting, President Yudhoyono made three main promises: to be in charge directly to solve the problem; to immediately facilitate the reconciliation and repatriate Shia Muslims to their homes and land without any conditions; to rebuild Shia neighborhood that was affected by the August 2012 attack.</p> <p>7. Instead of executing President's promises to Shia Muslims, the Minister of religious affairs and Suryadharma Ali and the Chief of the Reconciliation Team Abdul A'la run against that promises. On 10 November 2013, they tried to relocate the Shia refugees at Jemundo Apartment in Sidoarjo to the more security restricted compound at Sukolilo Hajj Apartment in Surabaya. The relocation</p>
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	<p>are now in refugees camp in Transito Dormitory in Transmigration Road, Majeluk village of West Nusa Tenggara. During their stay there, they experienced 13 mass riotings.</p> <p>9. Currently they are living in refugee camps as many as 33 families. In total 121 people; 58 men, 54 women. The concentration of the other refugee camps is located in the former hospital Praya, Central Lombok. Their conditions are not much different from the existing Ahmadi refugees in Transito – Mataram, NTB.</p>	<p>failed as Shia refugees firmly rejected the option although the government sent dozens of police and military officers to the apartment.</p> <p>8. The Ministry said that the relocation to Sukolilo was necessary as a stage to prepare Shia Muslims so they can adapt to live with the majority Sunnis. Term “Adaption” or sometimes “enlightenment” was used by the Ministry to say “conversion” to Sunni Islam. The Ministry believes that converting Shia Muslims to Sunni, even with force, would be the best way to prevent future conflict in the villages.</p> <p>9. But that is not the fact on the ground. At grassroots level, Sunni Muslims in the villages genuinely initiated peace with Shia Muslim in exile. On Monday 23 September 2013, Sunni villagers signed peace treaty with Shia Muslims. The peace treaty was purely an initiative from Sampang villagers without any coercion. They call the peace treaty A People Charter for Peace (“Piagam Perdamaian Rakyat”). This is indeed a social capital that has been denied by the authority.</p> <p>10. Shia Muslims of Sampang,</p>
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		<p>Madura, East Java, Indonesia, now has been internally displaced for more than a year. For more than nine years, they were targeted by prejudice, intolerance, hate speeches, physical attacks continuously (on 29 December 2011 and 26 August 2012) and forcibly displaced from their houses.</p>
<p>Article 2 paragraph 2 - Non-discrimination</p>	<p>Besides the many law and regulations guaranteeing the principle of non-discrimination, we found that in the case of religious minority, there are still discriminatory regulations. Some of them are:</p> <ol style="list-style-type: none"> 1. The Decree of the President of the Republic of Indonesia No. 1/PNPS 1965 on the Prevention of Abuse and/or Blasphemy. 2. Joint Decree of the Minister of Religious Affairs, the Attorney General, and Minister of Interior of the Republic of Indonesia No. 3 Year 2008, No: KEP 033/A/JA/6/2008, No. 199 of 2008 on Warning and Command to Followers, Members, and /or Board Member Ahmadiyah Indonesia (JAI) and Public Citizen. 3. The Governor of NTB makes policy briefing and direction for the population referred to as 	<ol style="list-style-type: none"> 1. Since the arson case and the expulsion of Muslims Shia of Sampang on December 29, 2011 and the second case on August 26, 2012 which caused the burning of 49 houses, murder of 1 Shias, 7 people were seriously injured, and led to the evacuation and expulsion of some 300 residents for 18 months until today. 2. Some acts of discrimination are produced and sponsored by local government, especially by the Sampang

	<p>Ahmadis. Briefing was conducted from July to December 2011. In the month of Ramadan, the briefing program was stopped. About 25 people made visit to have dialogues with Ahmadiyah in Transito. They consist of religious leaders, representatives of the Indonesian Council of Ulama (MUI), Nahdlatul Ulama, Nahdlatul Wathan, and boarding school leaders, community leaders of Sasak, academia, and government. Follow-up activity so far has not been felt.</p> <p>4. The NTB provincial government issued a numbered 451/726/Adm.Kesra. The letter was signed by the Regional Secretary Muhammad Nur, dated July 30, 2013. The content is associated with policies against the Ahmadiyya in Transito Dormitory. The letters was made in response to the field visits of the Commission on Human Rights (Komnas HAM) on July 11, 2013. Most of the letters contain discriminatory and disproportionate policies, namely:</p> <p>a. Socialization of the 3 Joint Decision Letter in 2008 for the</p>	<p>former Regent Noer Tjahja named as follows :</p> <p>1.The Shiites had been expelled from their homes in the village of Karanggayam Bluuran, District Omben, Sampang. They lose access to land, production land and shelter for 18 months starting from the second displacement occurred in 26 August 2012 until now.</p> <p>2.Shia families and children who attend public elementary school in the village of Karanggayam Bluuran are under pressure and ridiculed by friends and parents so that they cannot stand</p>
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	<p>improvement and adherent of Indonesian Ahmadiyah followers.</p> <p>b. Fostering the Ahmadis especially those in Transito Dormitory in order to return to the correct path in accordance with Islamic teaching, in accordance with the guidance of the Qur'an and the Sunnah of the Prophet Muhammad.</p> <p>c. To coordinate the religious teaching and improvement of the economic well-being through productive collaboration with Islamic community organizations, Tuan Guru, Head of Boarding Schools and related institutions.</p> <p>d. Provide opportunities throughout the Ahmadiyah members to receive education on the type and level of education in accordance with the mandate</p>	<p>to go to school.</p> <p>3. Shiah in villages and refugee camps have been socially ostracized and increasingly isolated in the refugee camp caused by slander and provocation on their belief by elites who impose the existence of so-called conversion or rehabilitation of faith. Even losing the opportunity to visit relatives in the village although they are trying to visit just for the sick and the elderly and traditional religious visit to the tombs.</p> <p>4. Some Shiite displaced persons who return home</p>
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	<p>of the State Constitution of 1945.</p> <p>e. The local Office of Population and Civil Affairs provide the opportunity to all Ahmadiyah members to have identity cards (KTP) and birth certificate for records which should mention Islam as their religion.</p> <p>f. Give full political rights in the General Election Governor and Deputy Governor of West Nusa Tenggara in 2013.</p> <p>g. Provide opportunities for the Ahmadis who have sons and daughters to school at boarding schools in the island of Lombok with all costs borne by the provincial government.</p> <p>h. Provide protection and security guarantee as well as health insurance for the entire Ahmadiyah Muslim pilgrims back to the right path of Islam.</p> <p>i. Facilitate periodic</p>	<p>are always picked up and driven out by village officials and local police by reason of unsafe conditions and not be back before repentance.</p> <p>5. However, in many instances, people in the village that originally ingested provocation and slander against their fellow Shia Muslims brothers, slowly realized that they had been manipulated. Residents in the village began to get bored with the conflict and accept each other's presence. But the attitude of Sampang Regent, local police and a handful of elite Kyai</p>
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	meeting of the Forum for the Harmony of Religious Followers (FKUB) in West Nusa Tenggara Province to have dialogues with the Ahmadis to go back to the correct path of Islam.	impose the sentiment that the place is not conducive and safe until the Shia refugees repent their belief.
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<p>Article 6; The right to work</p>	<p>Because of not having ID cards, the Ahmadis are accused as heretical groups. The Ahmadis in refugee camps cannot work as formal workers. They are mostly motorcycle taxi drivers, farm workers, vegetable vendors, and other informal jobs.⁵</p>	<p>1. Shia Muslims who work as farm laborers and domestic workers whose numbers are around 64 people since the first cases of arson and expulsion on December 29, 2011 have been fired from their job for refusing to convert back to a Sunni.</p> <p>2. Shia displaced persons during 10 months in sport hall (GOR) of Sampang and 8 months in Flat (Rusunawa) of Puspa Agro Sidoarjo Jemundo do not have access to go back home to take care of their farm, or work to be able to support their children who mostly studied at boarding school outside the city or the public.</p>
<p>Article 1 - The right to an adequate standard of living</p>	<p>A total of 33 Ahmadiyah families now live in the Transito dorm room measuring 2 x 3 , 3 x 3 and 4 x 4 meters, adjusted to the number of family members. Partitioned spaces are made of fabric, used sacks, plastic scrap ad, or billboard campaign.⁶</p> <p>As a result of not having ID cards and live as refugees, Ahmadis gets harder and excluded from government</p>	<p>The living condition of the Shia Muslim people is very bad in general term. There are only 3 available public toilets for 300 persons. As in Sport Hall (GOR) of Sampang, they sleep on the ground floor mat. There is no privacy for married couples. Refugees are only supplied with foodstuffs and had to cook their own food for their needs. In the Flat (Rusunawa) in Sidoarjo, the conditions improved slightly because each</p>

⁵ Ir. Jauzi Jafar, Regional Leader of Jemaat Ahmadiyah NTB, "Information and Data of the Ahmadis Displaces Persons in Transito Mataram," Mataram, 2 February 2014.

⁶ Ir. Jauzi Jafar, Regional Leader of Jemaat Ahmadiyah NTB, "Information and Data of the Ahmadis Displaced Persons in Transito Mataram," Mataram, 2 February 2014.

	<p>services such as Family ID Card , Marriage Certificate , Community Health Insurance (Assurance), direct cash assistance (BLSM), Rice for the Poor (Raskin), a fuel conversion program, and other public services .</p> <p>Throughout the 7 years (or 8 years by march 2014) living in refugee camps, they do not get adequate food and health services. For 2 - 3 months in 2006, they had received social assistance and health. On 15 September 2013, after re-visited, the Ministry of Social Affairs provided assistance to the displaces persons: half ton of rice, 15 boxes of instant noodles, 39 pieces of panic, 39 pieces of <i>sigon, sutil</i>, basket, plate, spoon, a large bowl and other kitchen utensils.⁷</p> <p>The Ahmadiyah followers also got difficult access to adequate health care. They are categorized as general patients because they cannot obtain administrative requirements. With this, their health costs are quite expensive, because even for everyday meals alone is difficult.</p> <p>Because of this, they did not go to health centers or</p>	<p>household get their rooms and there is a kitchen for run by volunteer group (Tagana). However they only provide rice and eggs or <i>tempe</i> slices with crackers.</p>
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⁷ Ir. Jauzi Jafar, Regional Lester of Jemaat Ahmadiyah NTB, "Information and Data of Ahmadis Displaced Persons in Transito Mataram," ...

	<p>hospitals. There was a person who was forced to seek treatment for blood cleansing. But because he cannot afford to pay the cost, the patient is then discharged. There was an Ahmadi who died in the evacuation because they cannot afford medical treatment.⁸ Another problem is that there is a prolonged trauma to the level of depression so that he was treated in pediatric hospital.</p>	
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⁸ Nasiruddin Ahmadi, leader of Ahmadiyah NTB, "Response of the members of Islam Ahmadiyah ..."

<p>Article 9; The rights to social security</p>		<ol style="list-style-type: none"> 1. The 500 Shiite Muslim from Sampang in refugee camps have never had access to health insurance, education or other services. They live in conditions of isolation and often experience bullying from Sampang government officials who consider that they enjoy living in refugee camps and that their beliefs are often blamed as the source of the problem. 2. Many of them suffer respiratory and skin problem and even diabetes because sanitation is poor during the evacuation and that the supply of food is not sensitive to age and gender. When getting ill, the, refugees are treated by co-victims and not necessarily served by the government unless it is very urgent.
<p>Article 10 - Protection of the family, mothers and children</p>		

<p>Articles 13 and 14 - The right to education</p>	<ol style="list-style-type: none"> 1. Currently the number of children in the refugee camp are as follows⁹: <ul style="list-style-type: none"> • Elementary School 25 • Junior High School 18 • High School 4 • Higher Education 9 2. Most of them are at the compulsory education age and are used to go to school. There are still four children ages Kindergarten (TK) level who cannot attend school. The reason the school, they did not have a birth certificate. 3. After being rejected, two refugee children go to school in the Elementary School. The reason is the same, administrative reasons. 4. In the early days of staying in refugee camps, some children do not attend school due to money constraints. There are also schools that apply the policies Koran reading test to a number of children, and that the Ahmadi children pass. Now this policy is removed. 	<ol style="list-style-type: none"> 1. The Shias in the villages of Buluran and Karanggayam, Omben, Sampang and on the refugee camps have been deprived of the opportunity and access to education. All the needs for education of children of the victims of violence should be financed by their own parents who are also economically powerless. 2. Students who wish to go to boarding school have been prevented from going by the elite because of fear of they being intolerant clerics who would propagate Shiism.
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⁹ Ir. Jauzi Jafar, Regional Leader of Jemaat Ahmadiyah NTB, "Information and Data of Ahmadis Displaced Persons in Transito Mataram," ...

	Currently, there are 20 children who do not have birth certificates because their parents do not have a marriage certificate. ¹⁰	
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¹⁰ Ir. Jauzi Jafar, Regional Lesder of Jemaat Ahmadiyah NTB, "Information and Data of Ahmadis Displaced Persons in Transito Mataram," ...

<p>The Loss</p>		<ol style="list-style-type: none"> 1. Since the arson, assault and displacement of the Sampang I case (29 December 2011) and Sampang II case (26 August 2012), the Shia Muslims suffered immaterial and material loss. 2. Since the first case there is no restitution and repatriation program by the State until the second case occurred. 3. The Sampang I & II attacks have destroyed and burn down the Shia community in the village of Karang Gayam and Blu'uran Sampang I 49 spots. <p>The loss in number:</p> <ol style="list-style-type: none"> 1. The amount of material loss of Sampang I case worth Rp 600 million. The amount of material loss in the second Sampang case worth Rp 1.3 billion (data February 27, 2012). By 2014 the data of loss will definitely be bigger. 2. Material losses: home, prayer rooms, kitchens, stables, livestock, productive plants, etc. Properties that do not burnt totaled 32 points. 3. There are approximately 150 people who were not evacuated and accommodated by the residents. 4. Children experiencing discrimination when going the school since Sampang
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		<p>I and many end up not going to school.</p> <p>5. Workers laid off because of refusing the conversion.</p> <p>On Status of Citizenship</p> <ol style="list-style-type: none"> 1. Before the Sampang Case I & II the services for administration needs have been poor in District Omben, Sampang. 2. The majority of Shia Muslims get difficulties in getting back their ID, Family ID, Marriage Certificate, Deed of Land, etc. 3. The origin and status of land ownership is not clear. Only marked with Petok C and D. 4. The government requires land certificate if you want to claim the compensation. 5. Need affirmative action of government and legal affairs and citizenship matters.
Recommendation		<p>The Indonesian government must take immediate steps to ensure the safe, voluntary and dignified return of a Shi'a community from Sampang, Madura Island, back to their homes. The continued displacement of the community – one year after a deadly attack against them – calls in to question government commitments to resolve their situation.</p>

