

INDONESIA'S CIVIL SOCIETY RESPONSES ON THE LIST OF ISSUES

**IN RELATION TO THE INITIAL REPORT OF INDONESIA TO THE
COMMITTEE OF ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

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Submitted by:

**Indonesian Civil Society Network on Economic, Social
and Cultural Rights Advocacy**

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I. INTRODUCTION

1. This report was drafted with regards of response of the List of Issues resulted in the 52nd Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights.

2. This report prepared by Indonesian Civil Society Network on Economic, Social and Cultural Rights Advocacy coordinated by Human Rights Working Group (HRWG), consist of: Indonesian Women's Coalition For Justice and Democracy (KPI); CEDAW Working Group Initiative (CWGI) Indonesia; Institute for Ecosoc Rights (IER); Trade Union Rights Center (TURC) Indonesia; Indonesian Conference on Religion and Peace (ICRP); Aliansi Masyarakat Adat Indonesia (AMAN); Jakarta Legal Aid Institute (LBH Jakarta); International NGO Forum on Indonesian Development (INFID); Institute for Policy Research and Advocacy (Lembaga Studi dan Advokasi Masyarakat) ELSAM; Kalyanamitra; Perkumpulan Lingkar Yogyakarta; Wahana Lingkungan Hidup (Walhi) Jakarta; Sekretariat Walhi Nasional; LBH ASPEK Indonesia; Indonesian Positive Women's Network (IPPI) Indonesia; National Network for Domestic Workers Advocacy (JALA PRT); Arus Pelangi; Mining Advocacy Network (JATAM) Indonesia; Fransiscan International; Sentra Advokasi Perempuan, Difabel dan Anak (SAPDA) Yogyakarta; INPROSULA Yogyakarta; Lembaga Studi dan Pengembangan Perempuan dan Anak (LSPPA); Green Map Yogyakarta; Sarang Lidi; Perkumpulan IDEA; Sahabat Perempuan; Humanitarian Forum Indonesia; MADYA Yogyakarta; NARASITA; DIAN/Interfidei; WALHI Yogyakarta; Institute for Research and Empowerment (IRE) Yogyakarta; Rifka Annisa; Institute Perempuan; Forum LSM Yogyakarta; Forum PRB Yogyakarta; Solidaritas Buruh Yogyakarta; Yayasan Annisa Swasti (YASANTI); Rumpun Tjoet Nyak Dien; LBH Apik Yogyakarta; Setara Institute; The Wahid Institute; Yayasan Kesehatan Perempuan; Desantara; Koalisi Rakyat untuk Hak atas Air (KRUHA); Solidaritas Perempuan; Mitra Perempuan; Institute Kapal Perempuan; Perkumpulan untuk Pembaruan Hukum Berbasis Masyarakat dan Ekologis (HuMA); KIARA; YEU Yogyakarta; Perhimpunan Keluarga Berencana Indonesia (PKBI), Serikat PRT; World Resources Institute (WRI); Muhammadiyah Disaster Management Center (MDMC); Indonesian Corruption Watch (IWC); Rindang Banua, Persaudaraan Korban Napza Indonesia (Brotherhood of Indonesia Drug Victims), PKNI; CIQAL (Center for Improving Qualified in Life of People with Disabilities).¹

3. This report was prepared by a series of process at the national level, namely:
- a. Workshop on Alternative Report to ESCR organized by TURC, Indonesian Women's Coalition and The Institute for Ecosoc Rights on 11 – 12 Desember 2013 in Jakarta attended by more-less 30 civil society organizations.

¹ Short profile of organizations as attached.

- b. Advanced meeting regarding alternative report writing held by Jakarta Legal Aid Institute on 13 Desember 2013.
 - c. Yogyakarta regional meeting on 18 Desember 2013 initiated by Indonesian Women's Coalition at Rifka Annisa's Office, which attended by 20 civil society organizations of Yogyakarta.
 - d. A follow-up meeting at HRWG office on 17 Januari 2014, which participated by 20 civil society organizations in Jakarta and through video conference by Skype of participants from outside of Jakarta.
 - e. The alternative reports were compiled and finished by HRWG as temporary Secretariat of the Coalition/Network. The refined report then was sent back to the engaged institutions for final checking and addition of information.
 - f. Finalization of draft meeting and rechecking data has done in HRWG on 12th March 2014. This draft was enhanced to be sent to the CESCR.
4. Another report for certain issues is reported separately by International NGO Forum on Indonesian Development (INFID) and its network.

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

Issue 1: Please provide information on cases in which the Covenant has been invoked in and applied by courts.

5. So far, no court verdicts have refers to the ICESCR Convention, either in courts or within the process of judicial review in the Constitutional Court.² There are numbers of positive decisions that in accordance with the Convention, such as the verdict of the Constitutional Court regarding the Law on Plantations. However, it did not quote the ICSECR. In addition to that, indeed so far, law apparatus in Indonesia have a little knowledge about the international conventions, such as CEDAW which had been started in 1984 as the national law most of them do not know the existence of this law, including also the conventions have been ratified by Indonesia government.

Recommendation

- 1) Encouraging the judiciaries - both General Courts (under Supreme Court) and the Constitutional Court - to use the ICSECR Convention that has been ratified by law No. 11 of 2005 as a reference for their verdicts.

² For instance, on 16th May 2013, Constitutional Court of Indonesia, through the Constitutional Court Ruling No. 35/PUU – X/2012

Issue 2: Please inform the Committee of mechanisms in place to ensure that laws and regulations in force in the State party, including bylaws adopted by local governments as well as customary and religious laws in force in the State party are consistent with the provisions of the Covenant

6. Indonesia's economic and political policies are based on three main components; mining, plantation and consumption. Those three sectors become reference for the State in issuing economic policies.¹ It is effecting to the lack of State's attention over economic, social and cultural rights; it even leads to a form of neglect.² The implementation of the Convention on Economic, Social and Cultural Rights is constrained by State' policy direction that greatly emphasis on income from those sectors. There is no priority to fulfill the obligations mandated by the Convention.

7. Mining and palm oil plantations has forcibly taken people's lands, damaged the environment with less water resources and which increased it's vulnerability to disasters, augmented conflicts, worsened quality of life and violated the rights of citizens around mining and plantation area. Economic growth that based on consumption sector also has an impact on economic development, which polarized to the cities and forsaking rural and agricultural areas. The fundamental rights of citizens in rural areas and those who work in agricultural sector tend to be neglected. Aside from that, to elevate the growth in consumption aspect the government has been consistently build malls/shopping centers, which only accessible for traders with enormous capital and displaced spaces of small traders and traditional traders.

8. Primary policies made by the Government to improve economic and social conditions of communities are the National Medium-Term Development Plan (RPJMN) and Regional Medium-Term Development Plan (RPJMD). In practice, these policies are simply unrealizable documents. Generally, the realization of policies has not appeared on the field yet. The RPJMN/RPJMD is not even linear to the direction of State policy that prioritizes sources of income from mining, forestry, and consumption. The situation also leads to "enlarge probabilities of human rights violation".³

9. Disharmony between various laws/local regulations and Human Rights principles still occurs. Whereas, the Constitution and a number of Laws regarding ratification of international Human Rights Conventions, including the ICESCR and 2011-2014 National Human Rights Action Plan oblige the Governments to harmonize and evaluate legislations in order to comply with the principles of international human rights.

Local Regulation

10. In the context of harmonizing regulations in the local level, the Indonesia Government has set down policies, comprising: (1) the Regulation of the Minister of Home Affairs Nr. 67 of 2011 regarding the Amendment of the Regulation of the Minister of Home Affairs Nr. 15 of 2008 on the Implementation of Gender Mainstreaming Guidelines in the Regions; and (2) Joint Decree of the Minister of Justice and Human Rights and the Minister of Home Affairs Nr. 20 of 2012 and Nr. 77 of

2012 on the Parameters of Human Rights in the Establishment of Legal Products of the Region. These rules are intended as legal basis and guidelines for harmonization of regional regulations accommodating human rights principles. However, the Government has not scrutinized local policies thoroughly,³ in fact there has not any local rule been annulled as a consequence of conflicting the principles of Conventions (especially the local regulations which against the 1945 Constitution like the local regulation based on syariah law (Islamic law) except the regulation about tax and retribution that's not comply with the central government policies.

11. The number of local regulations or *perda* that against Constitution and discriminatory towards women till March 2014 are 342. The trend back to 3 years has been increased even double in numbers. According to the Chair of Anti Violence Against Women National Commission, Ms. Yuniyanti Chuzaifah – most of the local regulations regulated the obligation of dress code and night hour for women. Indeed this is the women domestication and limitation of women freedom to express and movement through the regulation. Five areas where the discriminatory local regulations have been passed in the big numbers are West Java, West Sumatera, South Sulawesi, South Kalimantan and East Java.⁴ In 2011, Head of District in Aceh Barat said that women who wear the mini skirt were valid to be raped! And in 2013 the municipality government of Lhoksumawe Aceh also forbids women to sit astride in the motorcycle.

12. In the case of local regulations on Prohibition of Women to Appear in Public at Night in several regencies/cities,⁵ in reality thus hinder women to work, especially at nighttime on the night shift of work. Likewise, local regulation of Aceh in practice thus violates women and children's right to carry out their activities. In one case in Aceh, a 16-year-old girl (named **Putri Erlina**, on 3 September 2012) committed suicide because she had been accused as prostitute that violates local regulation by Sharia Police of Aceh while she hasn't.⁶

13. The other victim was **Lilis Mahmudah Lisdawati** in Tangerang. Lilis was a victim of false arrest and accused as prostitute. Lilis was married and her husband was a teacher. The impact of the allegation against Lilis along with media reports have made Lilis' husband to be forced to quit his job, because the school where he used to teach refused to be linked to appalling stigma imposed by the community, simply because one of its teacher's wife had been falsely accused as a slut. They also had to move residences for several times, because of the label as prostitute had been pinned on her. Lilis often got unfavorable treatments from her neighbors. As a result of these pressures, Lilis was experiencing psychological distress and repetitively ill, until she finally died in August 2008. Local regulations (Perda) also had claimed the life of **Fifi Aryani**. The event occurred on a night in May 2009, when a Municipality Police Unit (Satpol PP) was conducting a raid. Fifi was frightened and ran as fast as she could. Municipality Police Unit would not stop chasing her. At length she was desperate, recklessly; she jumped

³ The Ministry of Internal (Home) Affairs of the Republic of Indonesia is in charge of this task.

into Cisadane River avoiding Tangerang City Municipality Police raid. She was dead because of drowning into the river.

Recommendation

- 1) Encouraging the Government of Indonesia to implement policies and measures that have been formulated and planned for the harmonization of the laws & regulations and human rights principles to be in accordance with international human rights principles and the Constitution. In addition to that to ensure that Indonesia Government to repel the discriminatory local regulations that against the Consitution and human rights principle such as anti dicrimination and gender equality.
- 2) Ensuring that regional policies do not discriminate vulnerable groups such as women, children, minority religions/beliefs, LGBT, people with disability, and other vulnerable groups.

Issue 3: 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

Effective at preventing land grabbing (Cases of Batang and Cilacap Regency, Central Java)

14. One of the way to protect the citizen's rights of htier land and decreasing the numbers of land grabbing is with resolving the land dispute that happen. According to the study of ELSAM (2012) about the land dispute resettlement in Batang Regency and Cilacap Regency (Central Java), in the human rights perpective including the state obligation to fulfill the economic, social and cultural rights of it's citizens, in fact has non of it base to solve the land dispute. Out of thousands (structural) land disputes in Indonesia, a number of successfully concluded cases were only the disputes in Batang and Cilacap, Central Java. In Batang Regency, 3 of approximately 13 cases of dispute have been resolved. One of them was the dispute in Subah District with State Owned Forest Enterprise (Perum Perhutani) Forest Management Unit (KPH) of Kendal, over an object of dispute of 153.1 ha (378.32 ac) of land. In Cilacap Regency, out of 17 cases of dispute, a case that has been resolved is the dispute between farmers from five villages in Cipari District with PT Rumpun Sari Antan (PT RSA), a corporation owned by Family Foundation of Military Area Command IV Diponegoro (Yayasan Rumpun Kodam IV Diponegoro), with the object of dispute 267.9 ha (662 ac) of land.

15. The occurance of two land disputes cannot be set apart from the act of land grabbing that happened after the 1965-1966 tragedy.. The dispute has just recently resolved through mediation and negotiation after Indonesia is entering the reformation

era (after 1998). As a sign of concluded and successful mediation in Cilacap Regency, President Susilo Bambang Yudhoyono himself even bestowed symbolically the land certificates to farmers' representative on October 21, 2010 at the Bogor Presidential Palace.

16. Nevertheless, the successful of this mediation still leaves some problems. During resolution process on the case of land dispute in Subah (Batang Regency), at first some acts of violence against farmers have happened. However, after dispute resolutions hitherto there hasn't any advocacy or program from the Government to improve the welfare of farmers after land redistribution, nor the implementation of agrarian reform principle or State responsibility for Human Rights fulfillment, such as the right to decent and dignified life, stipulated within the resolution. In addition, the resolution process did not mention land grabbing in 1965-1966 incidents which had led to the transfer of control over land from farmers to the Government of Batang Regency, which then switched to Perhutani, which had been the root problem of land dispute.⁴

17. In case of land dispute settlement in Cipari (Cilacap Regency), the farmers eventually acquired the land; nevertheless there was an irony that some farmers subsequently lost their land after the agreement. In the resettlement of this controversy (on December 17, 2009 through a notary act on Waiver of State Land and the Payment of Indemnification Number 938), the disputed land shall be distributed to farmers (by distributing land certificates in position), but farmers have to pay indemnities of Rp 1,500 per square meter to PT RSA. The total amount owed by farmers to get the distributed land certificates was Rp 750,000, plus Rp 100,000 for Village administration fee.

18. Since farmers did not have the cash or savings to compensate for the land, finally, a number of farmers thus sold their allotted land to third parties. Therefore, farmers who originally worked on the disputed land, because of their poverty thus lose the land altogether. Such resolution did not likely respond to the root of problem, even though the parties accepted the settlement formula and there was legal certainty on land ownership after dispute resolution; for the reason that nearly 20% of farmers who received allocations then resell their land because they could not redeem their allocated land certificate.

19. In addition, the re-distribution of land after dispute did not targeted the right groups. In Cilacap, some citizens who did not need more land (such as the village officials or relatively rich/prospered villagers) thus inserted in the list of land recipients. This led to augmented amount of residents to receive allotments of land and caused the obtained area to be increasingly small, namely 500 square meters or 0.05 hectares per family. The swelling of number, allegedly, was result of land redistribution Committee's swindler. Initially, only approximately 1,500 farmers who fought for the land, but by the

⁴ The main reason of land disputes in Batang was the aftermath of 1965 incident, the Regency Government of Batang took away farm-land owned by citizens and then gave them to the State Owned Forest Enterprise (Perhutani).

time of land distribution, the beneficiaries swelled to more than 3 times as much as 5,141 families.

20. As in Batang, beside there is no effort of disclosing the truth on caused problems, after the resolution also there has not any advocacy or Government program for the enhancement of farmers' welfare in Cilacap.

Masyarakat Adat and Recognition

21. With the population of almost 250 million in 2013 and being the largest archipelagic country, Indonesia contains 18,306 islands in its territory.⁵ The issues affecting Indigenous Peoples in Indonesia, including impoverishment and land conflicts, arise from the non-recognition of their rights as indigenous peoples, land ownership, and their customary laws and systems by the government and in the national legislation.⁶ However, the Draft Act on the Recognition and Protection of the Rights of Indigenous Peoples yet needs to be significantly improved, to ensure comprehensive definition and recognition of the indigenous peoples.

22. Article 18B of the Indonesian Constitution stipulates the recognition and the respect of traditional communities along with their traditional customary rights. However, the State has the controlling power over the lands and natural resources, to be used for the benefit of peoples. There has been a lack of legal framework on how the recognition of the traditional customary rights is implemented. Several legal frameworks provide a further interpretation, such as the Basic Agrarian Law 1960 which explains different options of land tenure, which include the recognition the existence of collective rights based on custom (*hak ulayat*) but treats these rights as usufructs on state land that must give way to national development. According to the Forest Law 1999, all forests including their natural resources are under the State authority. There is no recognition of the ownership of customary forest of indigenous peoples. Article 67 of the law stipulates that the Indigenous Law Community shall be entitled to collect the forest product, manage the forest according to the prevailing indigenous law but not in contravention with the law (of the State) and it should be stipulated by a virtue of government regulation.

23. Since 2011, the Indonesian People's Representative Council is taking a consideration on the *bill on the Recognition and Protection of the Rights of Indigenous Peoples*. The adoption was supposed to take place in 2014 and due to the political

⁵ Data provided by National Institute of Aeronautics and Space, 2002. Currently, no official data is available on the exact numbers and population of indigenous peoples in the country, as neither indigenous nor ethnic identity has been included or considered in the national census. However, it is estimated that there are more than 1,000 ethnic or indigenous groups, speaking more than 800 different languages with their own distinctive and diverse cultures and traditions, making Indonesia one of the most multi-ethnic countries in the world. Within the territory, stretching from the tip of Sumatera Island to the western half of New Guinea Island, live various ethnic and sub-ethnic groups with their own cultures and traditions. The Indigenous World, *International Work Group for Indigenous Affairs*, 2006.

⁶ More information about masyarakat adat, see, *Alternative Report to the Indonesia State Report on the Implementation of ICESCR*, October 2013, para. 35 – 41, 141 – 142, and 187-191

climate toward parliamentarian and presidential election; the adoption of the bill seems not to be the priority of the parliament.⁷

24. On 16 May 2013, the Indonesian Constitutional Court adopted decision No. 35/PUU-X/2012 on the review of the Forestry Law No 41/1999.⁸ However, at the same year after the announcement of the Ruling Nr. 35/PUU-X/2012, despite the strong rejection from various parties, the Draft Law on Prevention and Eradication of Forest Destruction was enacted. The respective Law Nr. 18/2013 is a concern of civil society organizations, including AMAN as the indigenous people's organization in the country. A highly non-transparent and undemocratic process of drafting and enactment shows that the Law poses extreme dangers to indigenous peoples, especially those who lives and depend on forests. Weak and problematic definitions of some important substance in this Law are potentially criminalizing indigenous peoples and threaten their access to their ancestral forests. Six month after the enactment, the Law has been used as a legal basis to arrests 11 indigenous persons under the reason of "forest destruction".

Land grabbing and Indigenous peoples

25. According to *The Forest Dialogue* (2010), there is only 0.2 % of the forest estate has been allocated to communities. This means that the protection of the customary rights of the indigenous peoples over their customary land and forests is weakly protected, especially when the indigenous peoples are faced with the development projects which received the permits and supports from the government.⁸

26. Research by Institute for Ecosoc Rights (Indonesia) in Kabupaten Barito Timur, Katingan, and Kota Waringin Timur, Kalimantan Tengah on the *Impact of The Oil Palm Plantation toward People's Rights*, states that the oil palm plantation industry that operates within the area of the customary and the trans-migrant communities has not only violated the economic, social and cultural rights sustainability but also their civil rights. The expansion of the companies has violated the freedom of the local people to express themselves and to raise their opinions, has eliminated their sense of security for the presence of thugs whom the companies pay. The companies have caused social tension and increasing level of conflict within families, inter-individuals in the communities, between those who oppose the plantations and the government or the security officers. The communities are then divided into three conflicting parties of those who agree with the plantations, those who oppose and those indifferent. The companies have also made local people to endure discrimination, either pertaining to the land ownership or to having licenses to manage lands or to supposed equality in legal treatments. With such discrimination, local people's right to land is therefore not recognised because they fail to produce ownership evidences, while the companies are granted licenses to occupy hundreds of thousands or even millions of hectares of lands, and even the entitled lands owned by trans-migrants have also been taken over.

⁷ See, *Alternative Report to the Indonesia State Report*, October 2013, para. 4-5

⁸ *Alternative Report to the Indonesia State Report*, October 2013, para. 141.

27. There is no measure against the companies that have grabbed local people's lands while those who strive for defending their lands have been criminalised and sent to prisons. Local people's rights to take part in having necessary information and in taking public decisions as far as it relates to oil palm plantations that have shown serious impacts on people's lives has not summarily been respected. Human rights violation perpetrated by oil palm companies has been under way because the government has not observed its responsibility toward human rights conditions. The government has not carried out its obligations to protect people's rights from human rights violations by the companies. The government has also not accomplished its obligations to resolve the violations that have occurred and to take necessary steps to remediation for the victims.

28. There are some instances in several islands in Indonesia, where the use of indigenous lands and forests for development and extractive projects have caused conflicts between the indigenous community and the private companies. In the regent of Mandailing Natal, in the Province of North Sumatera, there has been a conflict between PT Sorikmas Mining, company that received the government exploitation permit for gold mining in 1998 with the indigenous Mandailing communities. In July 2010, there was a conflict between the company and the communities over the status of Bukit Sambung (*Sambung Hill*), which the communities claimed as their customary land and the overlap between the mining concession and the Batang Gadis National Park. The community rejected the mining operation of the company in the hill and requested the central government to spare the hill from the contract between the government and the company. Allegedly, the mining activities have caused environmental damage, especially the forest which previously was used as the source of the livelihood of the indigenous community in the region. The protests continued in May 2011 and in March 2012. The protesters were criminalized by the police with the accusation of disturbing the public order. This is an example of the weak legal protection of the right of indigenous community on their customary land and forest.

29. Another example is the ongoing implementation of *Merauke Integrated Food and Energy Estate* (known as MIFEE) in Merauke area, the Province of West Papua. Based on the interpretation of the article 18B of the Indonesian Constitution, the State exercises its power to use the "empty land" for "national development to produce fuel and food" and "for the benefit of the people". The MIFEE project should cover 1.2 million hectares, or over one quarter of Merauke's area to be used food, pulp and agro fuel production. This project was implemented, without the full consent of the affected communities, especially the Marind Anim-ha indigenous people (consisting various clans such as Baglagise, Basik-basik, Gebze, Kaize, Mahuze and Samkakai) that claimed the area as their customary land, as they have been using the forest in the area as their main source of livelihood since time immemorial, before the annexation of Papua to Indonesia. To date, there is no legal recognition of the customary land of the Marind upon the area.

30. In 2010, the Papuan Adat Council (*Dewan Adat Papua*) has rejected the project, considered the project as a threat to the indigenous community and announced that the

indigenous land was not for sale. The Adat Council received support from the Malind and a number of local and national NGOs. There has been numbers of dispute between the companies receiving permits from the government and the indigenous communities, such as between the Sangase villagers and Medco Company in 2010. The term of compensation of the using of land also caused intra-community conflict such the case in the area of Ulilin, Muting, Jagbob, Okaba and Malind District.⁹

31. The human rights, in particular economic, social and cultural rights, of indigenous peoples living on lands where there are mines are often violated. They are also victims of discrimination and marginalization on a daily basis. Other violations include forced displacement and relocation, deprivation and destruction of land resulting in limiting access to resources as primary means of survival and their adequate standard of living, disruption of culture and traditional livelihood, but also killings and injuries by gunshots, arbitrary arrests and persecutions. Those responsible of such violations have been identified as security forces representing governmental and mining companies' interests.

32. In December 2013, 265 houses and huts of Suku Anak Dalam (SAD) indigenous community in Padang Salak, Jambi province were destroyed by PT. Asiatic Persada, an oil palm plantation company, with assistance of the police, military and security guards. Five hundred people were forced to flee from the village, while another 18 people were arrested in this incident.

33. On 21-24 December 2013, members of the Semende Banding Agung indigenous community in Bengkulu province were forcibly evicted from their land. They inhabited a forest area that was claimed as a National Park. The Minister of Forestry, through the Office of Bukit Barisan Selatan National Park (TNBBS), forcefully evicted 380 families. For three days, the indigenous peoples were beaten, verbally abused and threatened with gunshot, and their possessions damaged and seized, and houses were burned down. Four people were arrested. As a result of this action 600 people are in danger of starvation and hundreds of children are at risk of losing their education. As of now, four people remain jailed in Kaur Resort Police. They are sentenced on the grounds of violating of Article 92 Paragraph (1) Letter (a) and Letter (b) of Law No. 18 Year 2013 on Prevention and Eradication of Forest Destruction.

34. Furthermore, since 2007, Aru Island, a small island located in Moluccas Province has been under threat of PT. Menara Group, a sugarcane parent company (consortium) comprising of 28 subsidiary companies. In 2012, the Regent of Aru Island issued a principle license, location license and recommendation as the business basis to PT Menara Group. Based on the license given to the company, the size of the land licensed for the sugarcane plantation is 484,493 hectares, or about three-quarters of the total width of Aru Island, and covers about 90 *Negeri* (villages). The remaining parts of the island, including corals and mangrove forest, are not suitable for settlements. To smoothen its operation, PT Menara Group recruited surveyors from several *Negeri* and was guarded by the Navy, which prompted intimidation on indigenous peoples.

35. Despite the existence of Laws and policies on indigenous peoples, inconsistency of the Laws as well as conditional wording “as long as ...” are some of the gaps identified as potential challenges to indigenous peoples in asserting their rights in the country. Another challenge is the sectoralism of the Laws, as there is no specific Law that comprehensively regulates indigenous people’s rights, which led to the massive violation on indigenous rights in the country. Further, the non-integration of the concept and values enshrined in the international human rights instruments and standard regarding indigenous peoples. Last but not least, there are several other terms used in laws or in general, many of which are “referring” to indigenous peoples in a vague, discriminatory or stereotyping manner.

Plantation Industries

36. In the Palm oil plantation industrial sector the Government has made and enacted several laws that are relevant, namely: 1) the law on plantation, 2) the law on forestry, 3) the law on Environmental protection and Sustainability. But the law is inadequate in terms of the recognition of the rights of citizens and local communities, including land rights, rights to utilize the forest, and the environment. The legislation does not expressly mandate the Government to manage the citizens and ensure that the region is not included in the given area of palm plantations on the Corporation.

37. The recognition of the rights of citizens and communities are also not accompanied by sanctions firmly against perpetrators who commit offences against the rights of citizens and communities. The Government also did not run the provisions that mandated in legislation in order to prevent the occurrence of human rights violations, namely: 1) makes estate planning-forestry-environmental guidelines in the expansion of palm plantation industry control; 2) make rules about the rights that protect the spatial and territorial governance community; and 3) apply fully the relevant rules permitting.

38. In this case, the Government did not protect citizens from human rights violations committed by third parties (the corporations), do not resolve the human rights abuses that occurred and/or seeking recovery for victims, though there have been many reports concerning violations of the rights of citizens and the community that made the company Palm. The Government also failed to supervise the company’s palm oil which is already in operation. The Government is likely to allow its own citizens and communities bear the entire impact of violations that arise due to the operation of palm oil plantations.

39. The legislation protects the interests of more Palm Oil plantation company and sacrificing the interests of citizens and communities. There are no sanctions against companies that violate the rights of citizens and communities. On the contrary, against citizens who were accused of “disrupting” the estate business could incur criminal sanctions and fines which are quite heavy (criminalized). As a result, citizens who fight for its rights could easily be criminalized.

40. Inadequate laws/rules opens up opportunities for the Corporation to carry out human rights violations, which are exacerbated by the conditions of the Government not

run fully the provisions of the law. This condition progressively opening opportunities human rights abuses by corporations. Results of a study of the Institute for Ecosoc Rights by 2013 about Industry Impact of Palm oil Plantations in Central Kalimantan to the condition of human rights shows that:

- a. Palm oil plantation industry which began operating in 1992 central Kalimantan is growing very rapidly and is likely to be without control, both by the Central Government or local governments. Every year an average of 65 349 hectares of forest in Central Kalimantan turned into palm oil plantations. The planting area of oil palm expansion carried out massively with converting the land of forest and agricultural land, including *tanah ulayat*⁹, indigenous people of arable land, and land Homesteader community effort. Uncontrolled licensing and the majority of oil companies operating without a valid permit to comply.¹ Citizens generally do not know and also not asked for approval.
- b. Palm oil plantation expansion directly impacts on the territory of Central Kalimantan is the loss of forests, *tanah ulayat*, marshland, fields, farms, and gardens residents who changed into a patterned palm monoculture plantations. Indigenous communities lose unalienated land rights/indigenous land for communal privately. Many residents also lost "property rights" fields and gardens. Even in certain villages, 75 percent of arable land loss, with an area reaching 40 to 74 percent of the total land area taken before seize by the oil companies.
- c. The rights of citizens to provide opinion and approval are not at all respected. The company took over the domination/land management with a variety of approaches, starting with subtle ways to violence (such as bribes, the destruction and burning of land, pay the thug, opposing one against the other, and prohibit citizens enter gardens). To speed up the process of expropriation of land, the company work on the lands, clearing or break used to be farm-land and the land of *tanah ulayat*. In this way the company got two advantages at once. Firstly, accelerating the takeover of the land. After their land cut down and destroyed, residents finally had to answer their land taken over the company. Secondly, accelerating the process of settlement and minimize the compensation money. By considering the land already marred and cut down, citizens ultimately chose to receive punitive damages are very low than not getting anything. If there are residents who demanded and protested against the actions of the company, the company is likely to do 'pressure' to stop the protest in various ways, such as opposing one against the other, using mercenaries, using forces using security forces and others. The pressure to make citizens fear and ultimately chose to

⁹ Collective ownership of costum land.

surrender and answer their land taken over their company rather than continue to deal with people telling the company.

- d. Affected communities from the presence of the palm oil plantation industry in no way get information related the presence and impact of palm oil plantations. The community does not get that information in their area of palm plantations will operate and that of gardens, fields, and their included in unalienated concession company Palm. What's worse, the public simply does not know the license of the company that includes Palm-held area how many acres, where its location, and where its boundaries. So if a company violates the limits permitted, people also do not know. Moreover, the company operates totally without supervision from the Government. Most of the new citizens know that they have operated in the area of oil companies after the *tanah ulayat*, forests, and land-land they believed runs out. Residents, who identified the village as part of the apparatus of groups that reject the presence of plantation villages, are not invited in the meeting and also got the barriers in obtaining administrative services because it is considered as a barrier to development. The right to participate is restricted.
- e. Economically, the oil companies have been displacing sources of livelihood of citizens and communities. The community originally living with dependent entirely on the forests, rivers, swamps, fields, and orchards are now more dependent on the market in fulfilling his life. The economic conditions of citizens declining revenue because of the slump, while expenses increased due to the growing number of needs that have to be bought from the market
- f. Palm oil Plantation industry which is capital intensive and also solid labor has opened job opportunities for the people of Central Kalimantan, and communities outside Central Kalimantan. However, the Corporation and its business run by palm oil plantations do not respect the rights of citizens on the job and also the rights of laborers are hired. The company tends to minimising their responsibility towards workers ' rights by applying loose working relationship system in the form of daily labor practices off and waging system based hard labor: low wages, long working hours/target system, the workload and the risk of high work without social security, and strict supervision
- g. In addition to taking land and community residents, palm oil plantation industry has also been damaging and worsen the quality of the environment, including water, air, and land or settlement's citizens. The expansion of palm oil industry has also been eliminating food sources which allow citizens consume food varied and fulfilling quality of nutritious food. The expansion of palm oil industry has

also been eliminating various ingredients for traditional medicines and healing health care.

- h. Palm oil Plantation industry which robs citizens and land-land soil *Tanah Ulayat* has threatened community food security and at the same time depriving citizens of the right to a decent livelihood. Oil companies make the presence of indigenous peoples and the depletion process undergoes a Homesteader, both material and cultural impoverishment. The community lost a variety of revenue sources and a lot of citizens who are now living wage laborers rely on palm oil plantations. Residents who used to live in relatively wealthy now is in decline in revenues due to economic pressures and increasing costs of living. Cultural impoverishment occurs when the residents who used to work freely in the fields and vineyards of myself now changed status into a palm plantation worker or “*jipen*” in the local language.
- i. The expansion of palm oil plantation industry had violated freedom of expression and citizens to assert an opinion, eliminating the sense of security of citizens due to the presence of the thugs who paid the company. The presence of oil companies increase tension/conflicts in the family, their citizens, and between citizens of Palm with Government counterinsurgency/security apparatus. Society divided into three groups: pro palm, palm counter group, and the group do not matter. The presence of oil companies also make citizens subjected to discrimination, either in terms of ownership and land management as well as in terms of treatment before the law. Citizens' rights over land are not recognized because there was no proof of ownership, while the company was given license to thousands and even millions of hectares. Even a certified land property of the Homesteader was also taken over. The company seized the lands of the residents left, while citizens who fight for their rights over the land, which deprived the company criminalized. The right of citizens to participate in getting information and related decision making in the presence of the oil companies seriously impacting on the lives of the community is absolutely not respected.

Recommendation

- 1) The Government of Indonesia should ensure the recognition of the customary land of the indigenous peoples through the adoption of the Bill on the Rights of Indigenous Peoples currently being considered by the parliament. The Bill should comply with the international human rights laws including the UN Declaration on the Rights of Indigenous Peoples.
- 2) The Government of Indonesia should take legislative measures to protect the rights of indigenous peoples to their customary lands and fully involve the IP on the

development and extractive projects which affect their customary lands through the implementation of Free, Prior and Informed Consent principles.

- 3) The Government of Indonesia should combat the discrimination against the Indigenous Peoples, especially by modifying existing legislation and practices which discriminate against and violate the rights of indigenous peoples, such as Investment Law No 25/2007 and Presidential Regulation 65/2006 on Land Acquisition.
- 4) The Government of Indonesia should uphold the principles enshrined in the UN Declaration on the rights of Indigenous Peoples and ensure the right of indigenous Papuans to the resources that are the sources of their livelihoods, including forests and land.

Issue 4: Please indicate how the principle of free and prior informed consent is guaranteed in law and in practice in decisions on and the implementation of development and extractive projects affecting communities

41. Law Nr. 4 of 2009 concerning Mineral and Coal Mining (Minerba) becomes the implementation basis of extractive industries in Indonesia. Although the Law stipulates that the establishment of mining area should be transparent, participatory, and responsible, yet the Government Regulation Nr. 22 of 2010 regarding Mining Area as a derivative of the Law on Mineral and Coal Mining (Minerba) does not regulate the involvement of community in establishing mining area at all. As a result, the people are not given a choice but to accept mine area establishment by the Government.

42. In practice, socialization process was committed by Government and/or the mining corporation after the establishment of mining business license areas has been decided. The socialization was performed by merely providing information concerning the presence of mining activities designated in the area, without asking for the opinion, permission or participation from the public and/or affected communities.

43. People who reject the presence of the mining industry are commonly criminalized (under Law on Mineral and Coal Mining Articles 162-163). People's unrecognized-right to decline and veto against the mine often triggers conflict and violence in mining sector.

Masyarakat Adat and Extractive industries

44. Extractive industries issue is one of the main issues that faced by the indigenous peoples in Indonesia. Mining activities carried out in the territories of indigenous peoples lead to the deprivation of indigenous peoples land, territories, and resources. Generally, under Indonesian laws and policies, millions of hectares of indigenous peoples land and forests have been taken by the government and declared as the state forests. The companies are legitimate to conduct their activities, run their projects on the indigenous territories without respecting the indigenous rights especially the right to Free, Prior, and Informed Consent of the indigenous peoples in that area.

45. In Nusa Tenggara Timur Province, the mining companies have been operating in some regency such as in Manggarai, Ngada, Sumbawa and Lembata. Most of them are extracting the manganese ores. In the sub-regency Reok, in the regency of Manggarai alone, the local government has issued 22 mining licenses covering 26.000 ha out of 59.000 hectares of the sub-regency.¹⁰ There is an allegation that the mining concession includes the protected forest which is also considered as customary forest. There is an allegation on no clarity on the mechanism of the issuance of the mining permit or on the amount of financial benefit for the regency. Similar problems related to mining concession are also found in other regencies such as in Manggarai Timur Regency. It is another example on how the principle of Free, Prior and Informed Consent is often either not being understood by the authority or being completely ignored. The affected communities are not involved in the decision making process. In some cases, those who reject mining might be criminalized, such as the case of *Serise* indigenous community in Manggarai Timur Regency. PT. Arumbai Manganbukti mining company was allegedly accused to be involved in the land grabbing of customary land (“*lingko*” in the local language) and the pollution of agricultural lands. The *Serise* accused this company of taking the *lingko* without permission from the community. In December 2010, led by *Serise* leader Mr. Siprianus Amon, the community filed a complaint with the police station in Manggarai against the company for land-grabbing. Instead of investigating the case, Mr. Amon and three other leaders were arrested, brought to the court, and sentenced to five months in jail.

46. There is no provision on indigenous peoples in the Law on Mineral and Coal Mining (4/2009), while in Indonesia there are massive mineral and coal mining projects take place in or near indigenous territories that have great negative impacts to various aspects of their life.

The Coastal Area

47. In June 2011 the Constitutional Court has revoked all policies concerning coastal concessions and required the presence of participation of coastal communities in the preparation of coastal resource management plan.¹⁰ Alas, in practice the Government over and over again did not involve the community in coastal concessions, although the ruling has been established.

Recommendation

- 1) The Government of Indonesia should implement the principle of Free, Prior and Informed Consent in a meaningful manner for the development and extractive projects, such as the MIFEE project Papua Province and Bintuni Bay project in West Papua Province, to comply with the UN Declaration on the Rights of Indigenous Peoples and the UN Guiding Principles on Business and Human Rights.

¹⁰ *Alternative Report to the Indonesia State Report*, October 2013, Para 10-11

- 2) Strongly important for the Government of Indonesia to consider the immediate enactment of the Draft Act on Recognition of the Rights of Indigenous Peoples (RUU PPHMA) to protect the Indigenous people's rights.

Issue 5: Please provide information on the existing regulatory framework and processes for ensuring that development and extractive projects bring tangible benefits to communities. Please also provide information on the process by which the State party responds to reports of human rights violations, loss of means of livelihood and environmental degradation caused by development and extractive projects. Please give concrete examples of cases where the State party has taken measures to ensure that affected communities receive reparations

48. The escalating projects of development and mining in Indonesia to date do not legate positive benefits for the people of Indonesia. The situation is characterized by conditions of society in the environs of mining areas in Indonesia that are still in economically and socially concerning situation. In this regard, the Government of Indonesia has not yet completely integrated UN General Principle on Business and Human Rights into business and development policies, including into extractive sectors. From 2009 to 2012, the Government of Indonesia has issued 10,677 mineral and coal mining permits (on the the average of 2,669 permits per year).

49. Exploitation of natural resources at oil and gas mining area thus did not prosper the population nearby. Study of the IRE Yogyakarta (2011) in Bojonegoro - East Java over surrounding area of Exxon Mobile operation, for example, found that more than 50 percent of the population is in poverty and more than 80 percent of the population surrounding oil industry area still live beneath the poverty line. Another example is in West Sumbawa Regency of West Nusa Tenggara in the environs of PT. Newmont operation, the number of poverty-stricken people all-around the mine is relatively high — approximately 53 percent.¹¹

50. On the other hand, programs of corporate social responsibility (CSR) that had been required through regulation of Law No. 40/2007 on Limited Liability Company have not run optimally. While actually, in chapter V, article 74 clearly states that a corporation running in the field of or related to natural resources is obliged to implement agendas relating to social and environmental responsibilities. Unfortunately, many CSR programs are trapped in nothing more than company image building, charity, and unsustainable. Ultimately, CSR programs are not optimal contributions of poverty alleviation efforts especially in the vicinity of mine area. Furthermore, the companies are not capable in integrating UNGP principles on Business and Human Rights into their internal policies and providing direct benefits to residents in the neighborhood of business activities.

51. The presence of mining industry is progressively proved in worsen the surrounding community's life quality. In Samarinda - East Kalimantan, for example, 71.2% of land are coal mine concessions. Flood disasters that regularly occur annually have been increasingly expanded. Number of flood spots in Samarinda from has

increased from 29 in 2013 to 35 in 2014. In 2011-2012, six persons were drowned in former mine hollows that had been left punctured and un-reclaimed. Moreover, the public health conditions that getting worse, 40% of Samarinda citizens have been imposed with acute respiratory infection as a result of frequent exposure to coal mining dusts. The usurpation of community's living space becomes root of poverty problem for population throughout mining area.

52. The government's efforts in responding to pollution and conflicts involving society have not run optimally. In the case of toxic waste in Buyat Bay as a result of PT Newmont Minahasa Raya's tailings, most Buyat villagers are forced to move to Duminanga village due to the unlivable condition of Buyat Bay. The Court has judged that PT NMR is not guilty for the pollution occurred in Buyat Bay.

53. Mining industries are closely linked to violence and human rights violations. On 18 January, 2014, for example, there were violent acts perpetrated by the police in responding to the rejection against mining by communities from two different locations. In Pohgading village, East Lombok Regency, three people got shot and seven others were detained while rallying to reject sand iron mining of PT Anugerah Mitra Perkasa. The clash was the fifth in the last two months. In Bangka Island, North Sulawesi, the villagers were intimidated at gunpoint by police who escort the boats transporting heavy equipments owned by PT. Mikro Metal Perdana, a sand iron mining company.

Recommendations

- 1) Government programs and CSR activities ideally should consider the aspects of sustainability and balance, as well as strengthen community's affluence, which particularly associated with acts of citizen empowerment.
- 2) The Government shall facilitate partnerships between corporation and civil society to ensure that CSR programs can answer community's problems and needs especially to overcome poverty.
- 3) The Government should socialize and making policy to follow up UNGP on Business and Human Rights, including creating mechanisms of monitoring, assessment and evaluation at regular basis.
- 4) The Government of Indonesia, in particular the Ministry of Forestry, the Ministry for Mining and the Ministry for Agriculture, as well as provincial and regency governments, should conduct, environmental and human rights impact assessment on development and extractive projects by involving the affected communities, especially the indigenous peoples, including to ensure women voices, interests, and meaningful participation of women.
- 5) The Government of Indonesia should review licenses that have already been issued to private enterprises which violate the human rights especially the right to information, the right to livelihood, the right to healthy environment, the right to food and the right to culture of the indigenous peoples, including women indigenous people, especially in the Papua and West Papua Provinces.

Issue 6: 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

54. Budgeting systems in Indonesia usually did not involve community participation, especially for the less fortunate people. In some areas, residents were only involved in development deliberations process (musrembang) at village level, and were not engaged in district, regency, and province levels. It causes budget system not aiming for the benefit of community, especially the less fortunate people. In the result of analysis made by FITRA in 2011 on Budgets, there were 124 areas (Regencies) that have 60 percent of its budget (Regional Revenue and Expenditure Budget) allocated to manpower expenditure. In 2012, there were 302 regions (Regencies) whose more than 60 percent of its budget was spent on manpower expenditure. Furthermore, there were 16 regencies whose 70 percent of their budget was spent on manpower expenditure.

55. It impacted on the low quality of public services, particularly for disadvantaged citizens. In health issues, for example, poor people find it increasingly difficult to access health care services. In 2013, Indonesia's National Committee on Child Protection (KPAI) recorded that at least eight impoverished babies died after had been denied from hospitals and hundreds of poor patients had been refused by hospitals.¹² Indonesian Corruption Watch (ICW) in 2010 found that 70 percent of 986 poverty-stricken patients who hold the health insurance card for the poor (Jamkesmas, Jamkesda, Gakin, and SKTM) at 19 hospitals in Jabodetabek (metropolitan areas of Jakarta, Bogor, Depok, Tangerang and Bekasi) have been in trouble of accessing healthcare services. In fact, in present year a hospital has dumped an elderly impoverished patient after they took care of him temporarily.¹³ Regional areas are in more horrible situation. Health care facilitation unit is existed but without medical personnel and medicine. In Papua, for example, in the period of April 6 to July 8, 2008, 147 people died due to diarrhea and vomiting in Nabire Regency of Papua. The central and regional Governments did not apply adequate actions in helping the victims.

56. As it stipulated in the 1945 Constitution article 27 and 34 that every citizen has a right to have a good livelihood and it guaranteed by the government, therefore the state has an obligation to guarantee its citizen to have a feasible livinghood. In terms of the enjoyment of social rights, the Ministry of Social Welfare has setting up the classificaiton of those who has social problems or *Penyandang Masalah Kesejahteraan Sosial* (PMKS – Person with Social Welfare Problems). There are 22 groups who is identified as the PMKS; (1) displaced toddlers, (2) displaced kids, (3) brats, (4) street urchins, (5) social economic vulnerable women, (6) victim of violence, (7) displaced elderly, (8) person with disability, (9) homeless, (10) beggars, (11) bummers, (12) ex-prisoners of detention center, (13) NAPZA mis-use drugs victims (*NAPZA: Drugs, Alcohol, Pyschotropic, and Other Addictive Him*), (14) impoverished family, (15) family with unadequate housing, (16) family with social psychological problems, (17) remote costum community, (18) natural disaster victims, (19) social calamity victims, (20) migrant workers with problems, (21) people with HIV/AIDS, (22) vulnarable family.

57. Based on this classification, each group will also be handled by other related ministries or state bodies and in depends to the region applied. There are many programs that planned by the state bodies in dealing with PMKS, and to do the programs every state body have to have the budget plan of each action. And it will take different action in every province in Indonesia. But unfortunately, there is a difficult access in regard to the budget transparency of the actions.

58. For instance, to minimize the number under classification of women with social economy vulnerability, through the form letter of East Java Governor Soekarwo Nr. 260/15612/031/2011 dated on 20th December 2011, instructed that all of the regency and city in East Java have to immediately close the localization of sex workers. Without any participation consultation with the related stakeholders including society and the workers themselves to discuss about future plans, some of the local/city government starts to raid and close the localization after the provincial policy released. After the raid, the sex workers are scattered to another point in town. According to the statement of Secretary of The Commission to the Prevention of HIV/AIDS West Java region Otto Bambang Wahyudi, in Blitar City there are at least 25 points of meeting point between the sex workers and the costumer compared with before there are only five point (in localization). This is effects to the increasing the number of sex workers to 40% and also the number of people with HIV/AIDS. Meanwhile, the budget planning by province government is unknown by the civil society.

59. As the policy of decentralization applied, the prevention of street children is also directly handled by the local/city government. Some of the province has no systematic program about prevention or empowering the street children. Even though the national scale program has been launched by the Ministry of Social Welfare on 2011, some provinces still facing problems especially with the number of street children with the criminal offense and street children who's mainly doesn't have birth certificate to be guaranteed by the government. As June 2013, there are 50 million out of 85 million children who doesn't have a birth certificate. For the children problems, there is no mechanism for the children to actively participate on the process of making policies that affected to their lives.

60. One of the issue regarding to the enjoyment of the cultural rights are the force eviction of the customary land belongs to the indigenous people or *masyarakat adat*. There are many plans and projects under the title of development which enacted by the government to force evict the *masyarakat adat* to leave their land. Recalling the decentralization policy as forementioned on the para. 40, the local government also has the authority to give the permission of natural resources exploration. This transfer of power from the central government to the local generates many implications. Instead of maintaining the natural resources from the exploitative exploration and protect its citizen from losing their property, the local governments are in a rush to issue the policy of land clearing. Conflict in Bima, West Nusa Tenggara, on December 2012 is one of the examples. The Regent Ferry Zulkarnaen has set the land of his people to the company PT. Sumber Mineral Nusantara which led the resentment and disappointment of the

people to their Regent. The regent still refuse to revoke the exploration permit until the people killed by the security force. Thus, instead of putting the people on the same table with a manner, the government uses its repressive force in dealing with the citizens.

61. Indonesia has many horizontal social conflicts, especially on a base of religious cause. In fact, there are two communities who are displaced for years because of the conflict. They are the internally displaced persons of Ahmadiyya in Lombok and Shiite in Sampang. They are outside of their property to escape the violence by the intolerance groups that will happen to them if they try to get back to their home. Unfortunately, the government do not continuing give them basic needs which mandated by the law. This vulnerable group could be included in the classification of 'violence victim' or 'social calamity'. But there is no action taken by the ministry to give them the rights their basic needs. Meanwhile, the local government which has the power of solving the social security in their region didn't have any intention to make adurable solution to these groups.

B. Article 2 paragraph 2 - Non-discrimination

Issue 7: 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

62. Neither serious nor comprehensive effort has been made by the Government of Indonesia through legislation to effectively guarantee non-discrimination principle contained in the Constitution and the Covenant. In contrast, a number of laws and regulations thus lead to a violation of rights and discriminate economic, cultural and social right of vulnerable groups, such as women,¹¹ indigenous people, LGBT, minority religion/faith, and people with disability. It is noticed in regional regulations in Aceh, MP3EI projects, marginalization of fisher people (especially women), and the discrimination against indigenous people (in Papua) or real life practice against minority religions/beliefs.

63. In the early year of 2012, Indonesia enacted the Law No. 2 Year 2012 on Land Acquisition for Development, as one of the important prerequisites to smoothen the process of land provision for development projects. This Law is in accordance with the Master plan for Acceleration and Expansion Indonesia Economic Development (MP3EI) 2011-2025 which was launched earlier last year by the President. While the existing policies mentioned, which are the Presidential Regulation No. 36 year 2005 and Presidential Regulation No. 65 year 2006 on Land Acquisition for Development for the

¹¹ See, Solidaritas Perempuan and HRWG, "Land Grabbing, Women and The Role of IFI in Indonesia". Alternative Report to the ICESCR 2013

Public Interest, had been rejected by most of the civil society as it was considered as an instrument of eviction of people's lands, and does not provides protection for the affected people, including women.

64. Indonesia has the Law Nr. 40 of 2008 on Anti-Discrimination of Race and Ethnic. Unfortunately, this law is only focusing on the discrimination based on race and ethnic, therefore the other groups is not admitted by the law, such as LGBT, religion/beliefs minority and political opinion.

Discrimination on a base of religious or belief cause

65. In many cases, the state is actively discriminated the religious minority. For instance, Law Nr. 23 of 2006 on Population Administration is still not accommodating the belief communities (traditional beliefs) in Indonesia as the religious institution. Therefore, they cannot possess ID Card, birth certificate, marriage certificate of family card. Consequently, they also cannot access other public services from the government.¹⁴

66. **Ahmadiyah:** There are several issues where religious minorities facing the economic, social and culture problems because of their religion or belief. Eviction and torture against Ahmadiyah members was started in 1999 with the burning of Ahmadiyah mosque in Bayan, Regency of West Lombok. One person passed away, one person was seriously injured by dagger. All Ahmadiyah residents were evicted from Bayan. In 2001, torture emerged in Pancor, East Lombok regency. For one week, house by house of Ahmadiyah was attacked and burned in Pancor. Ironically, the Government of East Lombok gave two options: they may stay in Pancor but have to apostatizing from Ahmadiyah or stay within Ahmadiyah and leave Pancor. All Ahmadiyah residents chose to leave Pancor. Initially they were accommodated in Transito; a Government's dormitory building in Mataram. Then some of them rent some houses, approximately 300 people. Some procured BTN houses (on hire purchase) in Ketapang.¹⁵

67. After MUI's Fatwa in 2005, attacks against JAI were escalating. JAI members who previously have lived in BTN houses in Ketapang, on 4th February 2006, had to refuge again to Transito dormitory. Approximately 136 families of 157 persons of Ahmadiyah congregation were evacuated to that building, after had been evicted from their homes in Ketapang Quarter, Gegerung village, Sub-district Lingsar, West Lombok. After 4 years, according to testimony of an Ahmadi who has been in refugee, 12 babies have been born already. In this building they used rag curtain, old banner and snatched sarong, arranged into booths of 3×3 meters. Inside, there are 6 bathrooms with not much water. To cook, the congregation built a kitchen with panels made of cement bags and wooden sticks and bamboos within reach right behind the building. During the time in Transito building, Ahmadiyah refugees was still charged with the electricity bill and water of Transito, therefore for the last six months they lived without electricity, because they cannot afford to pay the bills.¹⁶

68. Beside IDPs, some Ahmadiyah congregation once seeks for asylum to Australia Government, although the effort has not succeeded. 6 representatives of Ahmadiyah Mataram-Lombok congregation visited Consulate General of Australia in Denpasar,

Thursday (15th May 2008). They represented 195 Ahmadiyah congregations in Mataram-Lombok that consisted of 138 congregations who lived in the shelter of Transito Mataram and 57 congregations in Praya Hospital Central Lombok.¹⁷

69. The Ahmadiyya Jamaa of Indonesia (JAI) is one of the religious minority which their economic, social and culture rights are violated. In JAI Lombok chapter, is classified as the internally displaced persons and the victim of violence. They were force displaced for seven years since February 2006 until now. They were stay in the camp without any support from the government to fulfill their basic rights. Once they try to get back to their houses, the mob come again and broke down their houses that already re-build after the pervious attack. This is happen on 2010, when they has done many ways to urge their rights to get a feasible living in this country especially in their homeland. Who keep them to live in the evacuation is the Regent of Lombok him selves. He never shows an effort to release the evacuee to their own houses and keep them safe to live. Lately, the land that they leave was proposed with a low price below standard price of the land in the village. They also cannot get a decent job, primary education and basic health care because of the stigma embedded to them if they announce the place where they live 'temporarily'.

70. **Shiite:** After the second assault on August 2012, Shiite disciples were force evicted from their home in Sampang-Madura to Sampang Sports Arena, until now. One man killed, six people get serious injured on the attack and their houses were burnt. They also face criminalization of their leadership, Mr. Tajul Muluk. The verdict was to be arrest for four years since 13 April 2012, because he believes in Shiite. In the camps, they are having serious problems about their fulfillment of basic need. In some period, they got no food and fresh water and sanitation from the government for twice; in November 2012 and May 2013. They were force to move from Sampang Sports Arena to flats in Sidoarjo, which is three times more far from their home in Sampang village. They are still in the flats until now and several times they were asked by the Ministry of Religion if they want to go back to their home, they have to convert to be Sunni disciples and have to get 'manage' by the Ministry.

71. Above all, the main issue for them in terms of enjoyment of economic, social and culture rights is the aftermath of having the ID Card of citizen. In the ID Card there is a column of religion which has to be fulfilled by the citizen. Meanwhile, there is only six religions which admitted by the government according to the Law Nr. 1/1965/PNPS.¹² But for those have belief cannot put their belief in the ID Card, while the Ahmadiyya and Shiite is not acknowledge by the government as Islam. Therefore, is complicated and dilemmatic when they have to put another religion or not having any ID Card at all. To put strip the religion column on the ID Card is also become a problem of stigma. Not having an ID Card is also effected to other civil recording and other matters such as formal job, education, and health care. And if they don't have an ID Card, they cannot

¹² There are: Islam, Christian, Catholic, Hindu, Buddhist, Kong Hu Chu.

be guarantee by the government of several rights as the citizens. The people don't have a freedom to choose what they believe and guaranteed by the state at the same time.

72. The restriction against Ahmadiyya and Shiite Indonesia believers to practice their religion with accusing them of wrongful practices of Islam according to 'mainstream' understanding of Islam in Indonesia. Based on that accusation, they are evicted from their homes and lands. Moreover, their homes and mosques were severely destructed, burnt down, and the worst of all, some of them were murdered. Ironically, while they are force displaced, the government (through the Ministry of Religious Affair) requested a dialog with them with the intention to "cure and turn them to believe in the right Islam through the right direction". The question is which are the "right Islam" and the "right direction" to the right Islam? The one, who use violence and killed others or the one who opens to diversity and wants peace? Who deserves to be called being in "the right path of Islam"? Does being a minister of religion is justified the abovementioned act?

73. One other case is Protestant Church case; Gereja Kristen Indonesia (GKI) Taman Yasmin, Bogor (2002-now). The church disciples not allowed to practice in the church building by the Mayor even though they has a legal permit from the Supreme Court which allowed them build and use the church to practice and conduct their religious events. Until today, the local government and central government (the president) has not yet execute the Supreme Court's verdict, and the case remains unresolved.

Discrimination indigenous peoples

74. The Special Autonomy Law for Papua (Law Nr.21/2001) failed to bring meaningful progress for the indigenous Papuans. Poverty is still increasing. The budget for health and education for the indigenous Papuans have not been sufficiently prioritized. The government has planned to launch a new policy on *Special Autonomy Plus* for Papua in 2013. This plan is currently still being negotiated between the central government and the provincial governments of Papua.

75. In the name of development, the Government of Indonesia is still continuing the transfer of land ownership to private industrial enterprises such as mining companies, industrial timber companies, forest concession holders and other industries without obtaining any free, prior and informed consent from the affected community, including indigenous people.¹³

76. In 2010, the government of Indonesia set up an ambitious plan for the acceleration of development in the Papuan provinces through the establishment of the Special Unit for the Acceleration of Development in Papua and West Papua. This was an ad hoc policy to be implemented between 2010 and 2014. This program was supposed to accelerate the development of basic education and health services in isolated areas covering 18 districts in Papua and three districts in West Papua, through the Front Line Education and Health Care Services programs. There has been shortcoming in the

¹³ See, *Alternative Report to the Indonesia State Report*, October 2013, para. 35 – 41

implementation of this policy. One of the main reasons is due to the lack of provision for the participation of indigenous Papuans in the design and work of this unit limits its ability to benefit Papuans in practice.

77. According to the National Statistic Bureau of Indonesia, in 2013, the percentage of people living in poverty in the Province of West Papua is 36.89 % and in the province of Papua is 40.72%, while the national average is 14.4%.¹⁸ Both provinces were ranked as the last two among the 33 provinces in Indonesia. West Papua is ranked 29 of 33 provinces in Indonesia, while Papua province ranks the bottom in terms of the human development indicators.

78. The experience of various policy approaches to Papua has shown that shortsighted development programs that do not address the problem comprehensively create new problems because they do not involved as stakeholders, in particular the indigenous Papuans, in decision-making. Poor plan development that lacks participation from the local level will create new problems, while the people of Papua are mere spectators and are expected to follow the direction given by the national government without a say.¹⁹

Poverty of Fisher People and Their Family

79. Poverty among family of fishermen in Indonesia, especially the women, has increasingly aggravated by climate change, the presence of large reclamation activities in various areas, and the emergence of fishing corporations that thrust fishermen aside. Unfortunately none of Government effort seriously resolved this problem.¹⁴

Recommendation

- 1) Indonesia Government must solve the problem of Ahmadiyya in several areas in Indonesia including in Lombok Mataram and Shiite in Sampang Madura East Java who have been forced to move violently for several years from their own villages. Ahmadiyya and Shiite communities must get back their own property with dignity and the people around their areas must be educated not to use violence and punish by law if they attacked the Ahmadiyya and Shiite.
- 2) Education for religious leaders, teachers, women, youths, government officials, etc., is an important key: it manages differences/diversities, dialog¹⁵, human rights, civil rights and mindset of democracy.
- 3) A comprehensive study and thorough research has to be conducted in the field of demography change in the world—not only religion-related (intra and interreligion and beliefs) but also religion-politics-nation-state, and religion-economy/market-politics issues.

¹⁴ See, *Alternative Report to the Indonesia State Report*, October 2013, Para 23 – 33

¹⁵ For example, how to minimalise prejudices, stereotyping, stigmatizing? How to be open and honest for self criticism? How those differences can be a communal strength to bring life for all of us, and the life will bring us our future, a future for our children; a bright future, a healthy future, a humane future.

Issue 8: Please inform the Committee as to whether existing legislative provisions in the State party, including article 28H (2) of the Constitution on the right to facilitation and special treatment, may be invoked to claim reasonable accommodation for persons with disabilities, pending a revision of Law 4 of 1997

80. Indonesia has ratified the Convention on the Rights of Persons with Disabilities through the Law Nr. 11 of 2011. Unfortunately, a number of problems (especially discrimination) still stumble upon the disabled people. No serious attempt made by the Government to effectively eliminate discrimination, predominantly in daily life of women with disabilities. Up until now, by January 2014, the House of Representative has been postponing the revisions of Law regarding Rights of People with Disabilities, despite the fact that their term of duty is about to expire soon because of the election.²⁰

81. Within their family, women with disabilities often get lesser attention and assistance from family members, or less priority for them to access self-sufficiency. For example, a lot of women with disabilities feel inadequate to go out, or they believe that they may not have "normal" individual or person without disability as spouse/husband. They are anxious if they wouldn't be able to serve their husband. Sadder situation occurred in people with disabilities due to leprosy, due to the stigma that judged them as shunned, diseased and cursed people.

82. In professional world, persons with disability also experience marginalization, because their rights to get a job and a decent livelihood are hindered by their disability circumstances. They can only expect for (informal) jobs in the field of craftsmanship, like making handicrafts or other art items (paintings, etc.). There isn't any specific Government policy that required government institutions, enterprises or other institutions to employ the disabled without discrimination.²¹

83. Article 8 of Law Nr. 14 of 2005 on Teacher and Lecturer states that "Teachers must have academic qualification, competency, certificate of educators, physically and spiritually healthy, as well as have the ability to realize the goal of national education" which caused a woman in Bantul, Yogyakarta, to retire prematurely from her job as a teacher because she suffered paralysis due to spinal cord injury.

84. Article 5 of Law Nr. 11 of 2009 on Social Welfare has made the disabled persons categorized as social welfare problem subject (PMKS) and mandated them to the Social Ministry and Local Government Work Unit (SKPD) to take care of people with disabilities as part of the PMKS. This setting has ignored the fact that not all people with disabilities are PMKS, thus it worsens the society's view and mindset toward the people with disabilities.

85. Law Nr. 36 of 2009 on Health has perpetuated the stigma of people with disability through the term of "physically and spiritually healthy". Nearly all agencies and institutions in private sector, Government, judiciary, law enforcement agency, even state's human rights institutions require physical and mental healthiness from their

prospective workers. The same requirement applies on educational sector, such as the cancellation case of Decree for civil servants/PNS' promotion due to their disabilities. In addition, the selection of National Human Rights Commissioner by the House of Representatives also did not grant affirmation for person with physical disability, while people with psycho-social disability faced impediment by Selection Team with the use of psychological tests. In another case, a deaf transvestite in Yogyakarta, approximately 25 years old, was rejected from enrolling the Art Institute of Indonesia in Yogyakarta and Surakarta due to hearing-impaired condition.

86. Regulation of President of Republic of Indonesia Nr. 12 of 2013 states that people who receive national health assurance funding from the Government is impoverished person with permanent total disability; therefore (impoverished) people with partial disability are not entitled to a funding assurance from the Government.

87. People with disabilities still suffer discrimination in the selection process for the State Universities Enrolment Test (SNMPTN) in 2014. Executive Committee of 2014 SNMPTN stipulates that "*a prospective participant of 2014 SNMPTN is neither being blind, deaf, and mute, physically disabled, partially nor fully color blind*".¹⁶ The requirements of 2014 SNMPTN dash the hopes of the disabled group to become participant of SNMPTN, which inhibit their right to develop their interest, aptitude and talent in renowned state universities, as well as have impact on the future of their children and descendants.²² See the following table:

Examples of Study Program and Admittance Requirements

Study Program	Rejected Disabilities
Architecture (including Interior Design)	Blind, Deaf, Total Color Blind
Mathematic	Blind, Deaf, Mute, physical disability, total color blind
Medical faculty (including Dentistry)	Blind, Deaf, Mute, physical disability, partial color blind
Information System	Blind and Mute
Computer Engineering	Blind, Deaf, Total Color Blind
Environmental Engineering	Blind, Deaf, Total Color Blind
Bio-processing Technology	Blind, Deaf, Total Color Blind
Psychology	Blind, Deaf, Mute

Source: 2014 SNMPTN information: <https://web.snmptn.ac.id/ptn/31>

88. The Government of Indonesia stated that they have established minimum standard of integrated service, which is accessible, non-discriminatory, including in law enforcement; however in reality the application of physical accessibility has not provided convenience for disabled people, particularly for women and children. It is noticed at public service facilities such as schools, hospitals, police stations, courts and other public

¹⁶ See the statement here, <https://web.snmptn.ac.id/ptn/36>

services. In addition, non-physical accessibility such as information and access to services in all sectors has not yet provided convenience for people with disability.²³

Recommendation

Indonesia Government when building the public facilities including offices must be accessible to the diffable persons and women and children needs such as the room for breastfeed baby, separated toilets. It must be inclusive to all people. For the buildings already built, Indonesia Government must renovate to ensure the diffable persons needs tackle seriously and they are able to access easily.

Issue 9: Please indicate as to whether the State party has adopted plans for making public buildings, environment and services accessible to persons with disabilities, and provided for in several laws in force in the State party

89. Indonesia has had State institutions for the promotion of Human Rights and non-discrimination, but those institutions haven't fully facilitated people with disability, both in its physical building structure as well as its services. For example, The National Commission on Human Rights, the National Commission on Violence against Women, the National Commission on Child Protection, and the Ombudsman are simply not accessible for the disabled. Similar situation also occurs in almost all public service offices in Indonesia.

90. Regulation of National Police Chief (Perkap) No. 3 of 2008 on the Establishment of Special Service Area for women and children victims of crime and Procedures for Examination of Witnesses and/or Victims of Crime also have not yet managed the needs of women and children with disability, unless the provision of translators. For example, there is no obligation of an accessible shelter.

91. Related to the protection of women from violence as stated in point 41 of Government's report Law on Elimination of Domestic Violence have not yet accommodated women and girls with disability victims of violence. The case handlings are conventional. As a result, among other things: a woman with disability, because of her mental, intellectual or physical barriers cannot denounce violence that happened to her. Whereas, acts of physical, psychological, and sexual violence are all "based on complaint offence".

92. So far, the Government of Indonesia has not yet prepared a post trauma safe house/self-reliance preparation program for women with disability victims of violence who has no (safe) place to live.

C. Article 3 - Equal rights of men and women

Issue 10: 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.

93. National Legislation Program of 2009-2014 comprises raft Bill of Gender Equality and Justice (RUU KKG), and this Bill was one of discussion priorities every year at the Parliament Commission VIII (Religion, Women Empowerment and Child Protection). However, to date (January 2014), its position is still under internal discussion of Commission VIII in a long-drawn-out and ambiguous process. The Working Committee of the Bill on Gender Equality and Justice have been acted very carefully in formulating substance and in process of discussion, considering that in 2010 this Bill posed contradiction between the right wing groups (MIUMI, INSIST, and other Islamist groups) with feminine groups who uphold gender equality and justice.²⁴ Regarding its essence, Bill on Gender Equality and Justice is still far from the expected result, since it still regulates more on gender mainstreaming technicalities. Whereas, the Bill is projected to be a sort of "umbrella Law" against acts of discrimination and gender-based violence.

94. Yet many policies still discriminate women's economic rights, such as Act No. 1 of 1974, which stated that men are the head of the family. This impacted on women's rights in employment, such as in the case of company's granting of family benefits. In many cases, corporations do not provide allowances for female workers because they are not regarded as head of family. Even though in practice countless women are major breadwinner of the family. Related to this, there isn't any serious effort made by the Government/Parliament to revise the Marriage Law which acknowledges only man as the breadwinner or the head of family.

95. Article 1 of the Pornography Law Nr. 44 of 2008 defines pornography as anything violating the norms of decency. In addition to the restrictions noted above regarding the inappropriate application of this law to sexuality education and information, Pornography Law Nr. 44 of 2008 has been used to criminalize women and girls in a variety of circumstances because of wide interpretation of 'inappropriate'.

LGBT/SOGIE

96. Law on Anti-pornography categorizes lesbian and homosexual in sexual intercourse as deviant (article 4, paragraph 1-A and its description). All legal regulations in Indonesia related to economic, social and cultural rights do not recognize LGBT as a particular group. Instead, the Act on Anti-Pornography and other regulations declare LGBT as a perversion, which discriminate LGBT groups based on sexual orientation, gender identity, and gender expression. This kind of perception and point of view of the State causes discrimination against LGBT to grow stronger in almost all walks of life,

among other things: in economic, social and cultural life. Even the description in the Anti-pornography Act can be exploited as a justification for marginalizing LGBT groups beyond the realm of pornography. Upon the Instruction of the Ministry of Communication and Information, a number of Internet Service Providers have blocked websites that advancing LGBT rights by accusing the sites of containing pornography, even though the allegation is not true. The blocked websites are: www.iglhrc.org ilga.org and www.ourvoice.or.id which is the website belongs to the NGO which advocate the LGBT issue.

Indigenous women

97. The original intention of Pornography Law was to prevent violence against women and protect women from sexual exploitation. However, upon implementation, the law has been used to accuse women and girls who are perceived to have transgressed social mores related to sexuality, including erotic dancers and women and girls who have extra-marital sex.²⁵

98. A broad civil society coalition of 47 applicants including churches, women, and youth and legal aid organizations filed an application for a constitutional judicial review of Law Nr. 44 of 2008 on the basis that it has a weak legal foundation; a definition are vague and is a threat to women's civic and social freedoms. The application for judicial review was rejected in March 2010 because it was ruled that the law “upholds the moral character of the nation” and that individual rights can be overruled to “protect the community”.

Papuan Women

99. Indigenous women also often face double discrimination, where they are discriminated as indigenous and as women, especially regarding their meaningful participation in decision-making process.¹⁷

100. Despite the legal framework ensuring the rights of women in Indonesia, pervasive discrimination of Papuan women in their access to education and resources, as well as their ability to participate in political processes engenders serious concern. Papuan women are underrepresented in decision making roles, with an example being the underrepresentation of Papuan women in two provinces in Papua.²⁶ Although the government has issued various policies, as stated in the State Policy Guidelines from 1978 – 2004, such as the Gender Mainstreaming Strategy, which acts to create sustainable gender responsive strategies, Papuan women are at adverse risk for discrimination.

101. Papua Province experiences structural discrimination in relation to its systems of health and education. There are systemic forces working against the Papuan people in their ability to vocalize their complaints and contribute to dialogue that concerns their customary land. Papuans are the victims of racial discrimination within the State of Indonesia and are subjected to inequalities that plague their livelihood and lead to the

¹⁷ See, *Alternative Report to the Indonesia State Report*, October 2013, Para 47 – 48.

violation of their human rights.¹⁸ Papuan women experience discrimination and inequality in their daily lives and have a general fear of security forces, avoiding contact with them as far as possible.

102. Although special facilities designated for women have been established, such as the Integrated Service Center for the Empowerment of Women and Children, the Integrated Crisis Center, and Special Service Area, violence and discrimination are continued practices against Papuan women by security forces, including the police and military. Women activists in Papua claim security forces are willing to raise the level of violence and intimidation against them at a rate much higher than their male counterparts. Reprisals for women are claimed to be much more likely.²⁷ The actions carried out by security forces are in violation of Article 3 of the ICESCR.

103. Although the government established the Ministry of Women Empowerment in 2009 based on Presidential Regulation No. 47 of 2009, the effects of the agency have yet to become all inclusive. It appears many Papuan women exist beyond the capacity of the bureau. An example of discriminatory and patronizing practices against Papuan women is that of the plight of victims of rape. Papuan women in remote areas who are the victims of rape typically do not report these cases as crimes. Women who do report cases of violence or rape, in cities such as Jayapura, are usually sent away by police who are unwilling to start criminal proceedings (because it is the victims “personal” or “family matter”).

104. The continued conflict over natural resources and the huge influx of investors create a context of increased vulnerability for Papuan women. The New Order regime under President Soeharto (1966 – 1998) opened up opportunities for large scale exploitation of natural resources in Papua, with hundreds of new contract for mining, logging, palm oil plantation, oil and gas, as well as various other development projects. Various forms of violation against women have occurred in relation to mining, oil palm plantation, and other industries. Families lose their customary land rights and are displaced and unable to access to new employment opportunities as investor employ workers from outside Papua. Besides violation occurring in connection to palm oil plantations and other project involving land exploitation, Papuan women are exposed to other social problems. For instance, many women used to collect *sago* (starch extracted from certain types of palm trees – a major staple food) from their ancestral lands. Once there lands are converted to plantation, they will lose their occupation as well as their position in the society.

105. Women has been excluded from the decision making process regarding new development projects, despite the fact that they were used to holding important roles in the management of natural resources and the maintenance of sustainable livelihood to support their families.

106. Many cases of sexual violence related to plantations, mines and illegal smuggling of natural resources, such as timber, have also been register. According to our

¹⁸ These issues are elaborated on further in the following sections; Articles 11, 12, 13, and 15.

investigation, the reality of women living in the border of timer smuggling route was explained: “Wherever the smuggler tread, they leave behind a wake of violence and intimidation”. However, sexual slavery is not limited to smugglers. Prostitution is so common near logging camps in ESP and Sandaun that up to half of the women are believed to have had some personal experience of prostitution. It is common for loggers and other ‘white’ Indonesian men to go there to look for women and girls. Many times, these women disappeared for days at a time, and then come back bruised, raped and abused. Local women are often forcibly kidnapped from their villages and taken to the logging camps. They are then forced to perform sex acts on loggers and police, and sometimes to have to service the whole camps. As consequences, the women are putting themselves at risk of contracting sexual transmitted diseases, such as HIV/AIDS. The UN Office in Indonesia confirmed that the province of West Papua has the highest HIV in Indonesia, relative to the population, with HIV infection at 15 times Indonesia’s national average.

Mining: Women’s Health and Economic Impact

107. Indonesian Government’s policies that rest more on exploiting natural resources and capital strength have not provided concrete benefits for society, particularly to women. The extractive industries increasingly strengthen gender inequalities suffered by rural women. The destruction of natural resources has impacted on women’s life in various sectors, counting as well on food sovereignty.¹⁹

108. Discrimination against women also happens in employment. In many cases, company shall hire women amid requirements that these women should not become pregnant during the employment contract. These requirements are set out in the Employment Agreement between company and workers. As a result, owing to the need for finding a job, women must postpone pregnancy as long as the contract lasts. On the other hand, there isn’t any prohibition or attention from the Government in response to these requirements.

Recommendation

- 1) **SOGIE/LGBT:** Prioritize the review of all state policies (including local bylaws) that directly or indirectly criminalize and discriminate against LGBT people and harmonize national laws, policies and legal practices with the Yogyakarta Principles.
- 2) Indonesia Government must pass the law on Gender Equality to ensure the gender mainstreaming in the government offices has the strong basis for operational. Gender understood by many government apparatus as women only, in this context, Indonesia government needs to ensure that all public officials know the meaning of gender equality.

¹⁹ See, *Alternative Report to the Indonesia State Report*, October 2013, Para. 8 - 33

II. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT

D. Article 6 - The right to work

Issue 11: Please provide information on specialized services extended to unemployed persons to enable them to identify and find available employment. Please provide information on the effectiveness of these services, such as statistical data on the number of persons assisted and those who have secured an employment, disaggregated by year, by province, by sex, and by age group.

SOGIE/LGBT's Rights

109. On the field of non-discrimination, the State has so far drafted guidelines to encourage the companies and businesses to recruit disabled persons. The State has failed to tackle non-discrimination based on other criteria, such sexual orientation and gender identity/expression (SOGIE). There is an almost systematic pattern of discrimination against persons with a varying SOGIE. Transgender persons face continuously discrimination when applying for jobs in the formal sector; their job application is either turned down rightaway or they are forced to conform to their original assigned gender at birth. A research had been conducted to map the extent and depth of discrimination against transgender persons at workplace.²⁸ Lesbians, gays and bisexual have to refrain from any expression of their sexual orientation at workplace, less they can be subjected to reprimand, demotion, isolation or dismissal.

Recommendation

- 1) Ensure that Companies do not prohibit postponed pregnancy for women workers in Employment Agreement or in practices.
- 2) The State should adopt policies and laws that encourages and ensures employers in the formal and informal sectors to recruit people from minorities groups, including LGBT, based on their skills and knowledge instead of on their appearance and alleged believes.
- 3) Mainstreaming human rights & SOGIE within national institutions, in particular the Ministry of Justice and Human Rights, the Ministry of Education and Culture, the Ministry of the Interior, the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Housing, the Ministry of Manpower and Transmigration, the Ministry of Social Affairs, the Ministry of Women's Empowerment and Child Protection, the Ministry of Communications and Information Technology, the Ministry of Religious Affairs, the National Human Rights Commission, the National Commission on Violence against Women, the National Commission on Child Protection, the Ombudsman, the Indonesian Broadcasting Commission, the State Consumer Protection Board, the House of Representatives, the Supreme Court, the Constitutional Court, as well as within the private sector and media. This recommendation is addressed to the President of the Republic of Indonesia.

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

Issue 14: Please indicate the measures taken by the State party for the application of the principle of equal remuneration for work of equal value

Contract Workers and Outsourcing

110. System of Labor Market Flexibility in Indonesia has created practices of contract employment and outsourcing. The system of contract employment is even asserted in Article 64 of the Employment Law,²⁰ and Regulation of the Minister of Manpower and Transmigration Nr. 19 of 2012 on the Requirements of Subcontracting Partial Execution of Work to Other Enterprise.

111. AKATIGA research in 2009 on decent wages in textile and garment sector showed that the Regency's Minimum Wage Rate (UMK) only covered 62.4% of real costs; therefore contract labors/outsourcing employees who earn basic salary below the real UMK can only afford much lower expenses. It made contract labor and outsourcing worker could not have savings and life insurance when the contract period ends.

112. Research conducted by AKATIGA, Indonesia Federation of Metal Workers Union (FSPMI) and FES in 2010 showed that very sharp distinction in terms of wages appear among contract employees, outsourcing workers and jobholders. The absence of regulations that require corporations to provide various components of wage in addition to basic salary for their employees causes the standard wage to depend on each company's policy. Particularly, salary and wage components obtained by outsourcing worker are based on agreement between client enterprise and workforce supplier agency while the outsourcing worker does not have bargaining position on the wages. Contract workers and outsourcing employees also are not entitled to severance, sustainability of work, social security and right to freedom of association at their workplace.

113. Research of Institute for Ecosoc Rights on "Industrial Palm-oil Plantations in Central Kalimantan and Their Impacts on Human Rights in 2013" indicated that the Corporation of palm-oil plantations did not apply relevant employment conditions. Palm-oil plantation worker's salary is below the minimum wage rate set by the Government. Workers have worked for many years in daily freelance status (with no work contract, without any guarantee of workers' rights and social security).

114. Daily freelance system applied in industrial palm oil plantations causes workers to face adverse conditions without protection from the State due to the isolated location of plantation sites. Workers can be easily laid off, they receive low wages, heavy workloads and high labor risk without any guarantee of occupational and health insurance, without the right to a time-off or holiday; because a workers' absence or time-off means no wage. Concerning the right to menstruation and maternity leaves for

²⁰ Article 64 of LAW No. 13 of 2003 on Labor states: "the company can submit partial execution of work to other company through work package agreement or provision of workers/laborers service, which is made in writing."

women, daily freelance laborer doesn't entitle to it as set forth in the Law. The company allows daily laborers not to work for a day during menstruation period and 40 days during pregnancy (as of 20 days before giving birth and 20 days after birth), but they shall not get paid.

115. Daily freelance labors also suffer discriminatory acts from the Palm-oil company. Daily freelance workers do the same job, work the same operational hours, undergo the same work term and face the same working conditions in comparison to permanent daily workers, but getting different treatment from the company. The daily freelance labor does not get the same rights as permanent daily labor, including the right to a break and a leave, as well as to social security. The majority of palm plantations workers have been working for years, but their status remain as freelance daily laborers, which denied many of their rights as workers.

Minimum Wages and Working Conditions

116. The rights to Fair and Advantageous Working Conditions are clearly guaranteed by the Constitution, article 27 (2) and Article 28-D (2) of the 1945 Constitution of the Republic of Indonesia. However, by reason of maintaining the investment climate, regulations restrict or suppress worker from having a decent living condition. Minimum wage rate embraced in Indonesia only applies to workers who have worked more than 1 (one) year²¹ and it is implemented by nearly all companies in various sectors in Indonesia.

117. In practice, the guarantee of minimum wage for workers (later than 1 year of employment) is not yet implemented to its full potential, due to various obstacles, *inter alia*:

- a. Since minimum wage relies on on the settings made through agreement between the workers/unions and employers, this mechanism also greatly depends on the strength of unions in the company.
- b. Because industrialist applies wages review on a regular basis regarding company's capability and productivity, this mechanism also is subject to Union's power in a company. While up to this point the unionized workers are comparatively small in number.
- c. Wage-setting mechanism for workers who obtain more than 1 year working term can also be conducted by constructing wage scale and structure. In practice, this mechanism greatly depends on employers' activeness to implement it, while the Decision of Minister of Manpower and Transmigration No. 49 of 2004 does not govern Monitoring and Sanctions, which cannot force this mechanism to become a coercion and is very rarely applied by employers.

²¹ Article 8 Regulations the Minister of Manpower and Transmigration No. 13 of 2012 regarding Components and Implementation Stages of Decent Living Attainment and article 15, paragraph (2) of the Regulation of the Minister of Manpower and Transmigration No. 7 of 2013 about Minimum Wage Rate.

Issue 15: Please provide information on the measures taken to monitor working conditions in plantations, in the fishery industry and in gold and coal mines, including with regard to the safety and health of workers. Please inform the Committee as to how relevant regulations, such as those on the Threshold Limit Value (TLV) for physical agents and chemical substances at the work place, have been brought in conformity with international standards.

Safety and Health Conditions of Work

118. Based on Regulation of the Minister of Manpower and Transmigration Nr. 5 of 1996, Safety and Health Management System (SMK3) is a standardization of Occupational Health and Safety (K3) system of protection that must be integrated with company's management to ensure K3 protection in production activity. Article 3 of Regulation of the Minister of Manpower and Transmigration Nr. 5 of 1996 establishes that SMK3 is mandatory in every company that employs 100 or more workers, and/or whose production process contained potential threats against K3, due to characteristics of the production process or materials in use.

119. Section 87 of the Law on Manpower reiterates the Regulations of the Minister of Manpower Nr. 5 of 1996 and adopts company's legal obligations to provide and implement SMK3 with requirements referred in the legislation. Act Nr. 1/1970 on the Work Safety regulates company's obligation through the 'caretaker' to assure health and safety of workers throughout occupational undertakings.

120. Safety and Health Supervising Committee (P2K3) was formed by the Minister of Manpower with the aim of developing cooperation, mutual understanding and effective participation of employers and workers in workplaces to mutually carry out tasks and obligations in safety and occupational health (K3) system in order to expedite production venture. Hopefully the cooperation between employers and labors or workers in creating a healthy and safe work environment through P2K3 shall be accomplished.

121. The Government of Indonesia has made supervising work unit upon labor conditions through specific areas/parts that placed under the Ministry of Manpower and Regional Manpower Department, including the conditions of labors in plantations, minings, and others. But in reality, the Government did not exercise the supervision function to its full potential, either at central or regional level. It also spawned a number of violations in the workplace and unfulfilled rights for workers as guaranteed in the Convention. The supervision was performed by the Government only through reports submitted in writing by the company. Even the reports were applied by only a small number of companies.

122. Research by Institute for Ecosoc Rights on palm plantation laborers in 2013 also reflected these conditions. Labor was recruited from poor areas, such as NTT, whose residents and Government are poorly informed on relevant working conditions in the plantations. Arriving at the plantations site, they face poor working conditions, underpaid wages, no social security, without job status and no definite rights. They must work within the target system and deal with heavy workload without the fulfillment of

sufficient food and shelter. They work in isolated area without communication with outside parties and with no guaranteed protection from the Government. In the end they are forced to work in the plantations as there is no other option for them. They've already come to plantations and it is not possible for them to return home anymore owing to the costs.

123. Study results also show that the Government claimed to be unable to execute monitoring upon plantation labors' working conditions due to human resources and budget problem. The available human resource and budget have not allowed the Government to conduct monitoring over labors' working conditions and plantations' obligation to implement the provisions related to employment. Furthermore, the plantation sites are isolated estates and cannot be easily reached.

Palm-oil Plantation Workers

124. Research conducted by Institute for Ecosoc Rights 2013 shows that Palm oil plantations' laborers are working with high risk, without protection of the occupational health and safety. The company does not provide reproductive rights protection for female workers. As a result of poor working conditions, a lot of plantation labors are ill, suffer work accident, and died. Any labor that suffers a work accident has to finance his/her own medical expense and treatment, since a labor's status is not permanent jobholder, but rather a freelance worker, which is not entitled to social security.

125. Food, shelter, clean water, and sanitation are not heeded, therefore labors particularly vulnerable to sickness as a result of eating food that does not meet the nutritional needs, drinking water from chemically contaminated sources, and living in place that does not meet health requirements. Plantation workers mostly live in the middle of the palm plantations without any adequate assurance to meet the needs of adequate food, clean water and sanitation, and decent place to live. Results of the study indicate that many workers suffer pain due to a high workload, without being accompanied by a proper food intake. There's even a laborer died of TBC.

126. Female labors working in palm plantations are estimated around 30 percent. Most of them perform health risking tasks because they come into contact with chemicals, i.e. spraying pesticides and fertilizers. Female workers who are in 3 to 9 months of pregnancy or who have not reach 20 days before its due still actively work on the plantations. The company does not have any policy on special protection for laborers that working in pregnant condition. The pregnant labors keep fertilizing and spraying pesticides without special protection.

127. Workers do not get adequate information/explanations of risks that related with occupational health and safety and efforts that should be made to avoid the risks of sickness and work accident. Labors work without using protective equipment, such as boots, gloves, masks, helmets, uniforms, etc. Health and safety equipment was given only once when a new worker began to work. If the equipment is damaged or inadequate, then labor must provide his/her own occupational health and safety tools. Companies ignore the fact that palm-oil plantation workers are vulnerable to risks of sickness and

accident, such as blindness due to plantation debris, bitten by snakes, attacked by wasps, wounded by work tools, and crushed to death by palm trees.

Threshold

128. Regulation of the Ministry of Manpower and Transmigration number PER.13/MEN/X/2011 of 2011 on Threshold Values (NAB) of Physical and Chemical Factors in Workplace. Decision of Ministry of Manpower and Transmigration (KEMENAKERTRANS) number: KEP-51/MEN/1999 on Threshold Values of Physical Factors in Workplace, including the thresholds of vibration, noise, work climate and lighting. But in many cases, especially of the workers who's far from public access, such as plantation labor and domestic workers, this policy is not we implemented especially for the supervision and ensure the company/labor users to follow the threshold regulation.

Issue 16: 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

Sexual Violence

129. The Manpower Ministry has issued the "Guidelines on the Prevention of Sexual Harassment in the Workplace" and gave the freedom for workers with options to complain a sexual harassment case through formal or informal procedures. These guidelines also set about the sanctions that should be given to perpetrators. Above and beyond, the criminal code of Indonesia also prohibits sexual harassment.²⁹

130. Nevertheless, there are huge obstacles still faced by female workers victims of sexual harassment in the workplace in seeking legal protection, such as:

- a. Social behavior. There is a strong tendency to blame the women as the victim of sexual harrassment such as the way women dressed.
- b. Conditions of reporting/complaining area which is not women friendly, such as in police station, which usually does not provide comfortable situation for women to report cases of abuse.
- c. Sex is considered as taboo, so women may often find it difficult to provide detailed information about the situation they have faced. This condition was compounded increasingly by male officers/investigators who handle the case.

Recommendation

Implement Guidelines on the Prevention of Sexual Harassment in the Workplace and make monitoring implementation.

Issue 17: 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.

Domestic workers

131. There is a void of legal protection to fulfill the rights of domestic worker (PRT) as employee. The reality points out that human rights violation commonly happens on domestic workers that primarily are women and children. The dimensions of infringement are violation against child's rights and right to education, as well as various acts of violence. Domestic workers are also vulnerable to physical, psychological, economic and social violence.

132. By not acknowledging domestic worker (by law) as a work, Government have neglected the domestic job that become responsibility of the state, therefore the State failed to protect and guarantee the fulfillment of workers' rights, either as a domestic employees or migrant workers. The condition progressively allows more systematic space for torture, slavery, and violations against domestic worker's rights. The absence of the State function has resulted in the emergence of a horizontal conflict between citizens (who need and hire domestic workers) and domestic workers (who need justice and the protection of their rights' fulfillment).

133. Accession of 189 ILO Convention has not been done, although President Susilo Bambang Yudhoyono's had spoke in front of the 100th Session of ILC, June 14, 2011 confirmed that the Government of Indonesia shall support the Convention of Decent Work for Domestic Workers.

The Slowness of Legislation Process of the Draft Bill on Protection for Domestic Worker

134. Legislation of the Bill on Protection for Domestic Workers (RUU PPRT) has been running for 10 years. During Parliament and Government's second terms of duty the Bill on Protection for Domestic Workers has been proposed, nonetheless there has been resistance from the Parliament and Government to discuss the bill.

135. Civil society has been repeatedly urging the Government and Parliament to resolve the act/regulation, whether through audiences, hearings, statements, petitions, research recommendations, letters of protest and even rallies. For 10 years the Bill on Protection for Domestic Workers has been submitted since 2004 and just been input in Parliament's Program of National Legislation (Prolegnas) priority in 2010. This Draft has always been incorporated into Prolegnas of 2011, 2012 and 2013 subsequent to pressure from civil society and trade unions/workers. The emerging debate was very tough and shows the resistance of Parliament members, with numerous rejections on behalf of culture, etc.

136. The Bill started to be discussed by the House of Representatives in 2012, particularly by Commission IX throughout 2012 and 2013, comprising work visits for comparative study on Bill on PPRT to South Africa and Argentina on 27-31 August

2012 and public consultation in local areas on 27-28 February 2013. On 25th March 2013 the Commission IX of the Parliament finalized the Bill on PPRT to be submitted to Parliament's Legislation Drafting Agency (*Badan Legislasi, Baleg*) for harmonization.³⁰ The House of Representatives Commission IX and Legislation Drafting Agency held meetings to discuss the Bill on PPRT on 5th June 2013 and agreed to perform the synchronization discussion between Baleg and Commission IX on 17th June 2013.

137. However, until the 3rd Session of House of Representatives throughout 2013-2014, there has not any review on the Bill in the Legislation Drafting Agency. While the House of Representatives' Session time during 2009 to 2014 period will end in October 2014. Henceforward, it looks that the House of Representatives has no commitment to complete and adopted the Bill on PPRT, because supposedly Legislation Drafting Agency (Baleg) and House of Representatives Commission IX should have finished the deliberation, conducted synchronization and the House of Representatives can decide immediately the Bill as the Parliament's Initiative Bill to be discussed with the Government before the end of Government and Parliament's term of duty.

138. In substantive aspect, Bill on the Protection for Domestic Workers (RUU PPRT) also contains only 30% of the proposal from civil society, including the National Network for Domestic Workers Advocacy (JALA PRT), such as the weekly holiday, paid leave, rest, health and safety assurance, association, the minimum age limit of 18 years old and Child Domestic Worker abolition, as well as education and training of the curriculum, provision of facilities and budget as responsibility of the Government through the State Budget and Regional Budget.

139. Some crucial issues of decent work principles have not been contained in the Parliament's version of Bill on the Protection for Domestic Workers yet, i.e.:

- a. Entitlement to the minimum wage and waging mechanism,
- b. The right to a weekly holiday of at least 24 hours/week,
- c. Entitlement to annual leave,
- d. The right to menstruation leave,
- e. Right to pregnancy leave – maternity leave,
- f. Right to social security,
- g. The right to socialize, to association – assembly,
- h. The right to decent accommodation and food for live-in domestic worker,
- i. Right to holiday allowances,
- j. Minimum age limit for domestic worker is 18 years old,
- k. Written work contract,
- l. Limitation of maximum working hours of 40 hours per week, or 8 hours per day for 5 working days and 7 hours for 6 working days per week,
- m. Education and training as part of system protection,
- n. Completion of settlement,
- o. Elimination of service providers (service dealer/agent).

Here are the crucial issues' differences of between the Bill and the ideal of decent work situation for domestic worker:

Commission IX's version of Bill on the Protection for Domestic Workers (as of 25 March 2013) submitted to Legislation Drafting Agency of the House of Representatives	Main Ideas of Decent Working Condition for Domestic Workers
Employment agreement shall be in written or verbal. If the agreement is in verbal, therefore the employer should produce a certificate of employment. <i>However, in another article, it requires the employer to make a written agreement.</i>	Employment agreement should be in written
No minimum wages. Determination of wages is on the employer.	Wages should be adjusted to minimum wages rate of City/regency according to region. The minimum wage should be set annually and arranged by Wage Board.
The weekly holidays, annual paid leave, menstrual leave, maternity leave, childbirth leave are not stated expressly as the rights of domestic worker	Weekly holiday should be inserted in clause of domestic worker's right
Daily working hours: - Full-time: accumulation of 8 to 12 hours - Part-time: accumulation up to 6 hours	Daily working hours should be: a. 7 (seven) hours in 1 (one) day and 40 (forty) hours in 1 (one) week for 6 (six) working days in 1 (one) week; or b. 8 (eight) hours in 1 (one) day and 40 (forty) hours in 1 (one) week for 5 (five) working days in 1 (one) week.
<ol style="list-style-type: none"> 1. The minimum age limit for domestic worker is 18 (eighteen) years of age. 2. To enact minimum age limit of a domestic worker requires a transitional period. 3. The transition period for the age limit enforcement is 10 years. 	<ol style="list-style-type: none"> 1. The minimum age limit for domestic worker is 18 (eighteen) years of age. 2. To enact minimum age limit of a domestic worker requires a transitional period. 3. The enactment of transition period for gradual abolition of child domestic worker can be conducted in the company of improvement of educational programs for children, such as the existing 9-years compulsory education (which arrives at junior high school level or approximately 15 years of age), within the coming year the Government must oversee up to 12-years of compulsory education in order to

	have children to attain senior high school level or reach 18 years of age.
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The reality of domestic worker

140. Domestic workers often endure violation of rights, particularly regarding appropriate working conditions, decent wages and proper workload. This situation happens on both domestic workers in Indonesia and Indonesian household employees that work abroad as migrant labors.

141. The data collected from fact finding and research of various organizations or networks (such as Advocacy Research on Domestic Workers, JALA PRT and National Commission on Violence against Women in 2006 at 10 areas, and research and accompaniment by Rumpun Tjoet Njak Dien in 1994, and from 1998 to 2008), show that the majority of domestic workers who became victims are women (97%), 35% of them are girls under 18 years old, 54% of them are 18-50 years old and 11% of them are more than 50 years old. With educational background: people that attained Elementary School are 27%, junior high school 68%, and senior high school are 5%, which commonly come from rural and deprived urban areas.

142. From the accompaniment process and research, the work problems faced by the domestic workers in Indonesia are reflected here:

- a. There is no clear and feasible limit of workload: The assignment of all the workload, including tasks beyond the main duties, is given to domestic worker without any agreement and adjustment of wages.
- b. Long working hours: generally more than 14-16 hours per day until night and they must always be ready *on call*.
- c. There is no wage mechanism for domestic worker, and it causes the wage to be grossly underpaid (far below average) or even unpaid. The payment of worker's salaries are sometimes deferred or cut back arbitrarily, as some employers cutting down their employee's wage for the purposes of National Health Insurance Agency (BPJS). There is no definite raise.
- d. There is no right to annual leave, weekly holiday, menstruation leave, pregnancy leave or maternity leave.
- e. Domestic workers are not covered under social security mechanism (BPJS): or occupational health and safety insurance, retirement insurance, life insurance, and maternity insurance.
- f. Lacking or inadequate accommodation facilities; workers live in a joint room with ironing space and storage, without even a cupboard or bed, as well as with no security and personal comfort of privacy.
- g. Insufficient or inadequate eating facilities, indistinct dining hour, and even food that can cause discomfort in situation of different religion and belief.
- h. There is no protection of occupational health and safety, such as the use of in house chemical cleaners or instructions for safe work procedures.

This situation has caused many domestic workers to suffer fall from rooftop, get electrocuted when cleaning refrigerator and electric stove, scrub their hand skin due to the use of porcelain cleaners, be exposed to hot oil or gas stove explosion.

- i. Lack of or minimum of social-communication access that cause domestic workers to be restrained or kept away from social contact, whether from family, neighbor or community, which led to the lack of intervention and social control.
- j. No opportunity for self-development/self-actualization, by banning domestic worker to engage in various forms of self-development activities, covertly or overtly including in forms of education and training.
- k. No access or lack of access to or facilities of education and information for self development and empowerment.
- l. Workers endure psycho-social situation such as anxious feeling, scared of making a mistake, afraid of stating an opinion, expression, and consider themselves underestimated.
- m. There is no mechanism of dispute settling; therefore settlement was often spatially biased.
- n. There is no mechanism of supervision over work situation of domestic worker.
- o. Exploitation by domestic worker supplying agency or other party that deliberately trafficking workers.
- p. There isn't any standard of decent work situation. The situation is relatively dependent on the employer, so the domestic worker is vulnerable to exploitation and violence, physical, psychological and verbal abuse.

143. Moreover, in undeserved situation of work a child domestic worker will be more susceptible because of their age, physically and psychological they are not ready to work. In that kind of work situation, child domestic worker's growth and development shall be distressed. Even those who work within restricted access to education and self development can lose half of their future.

144. Data from various sources shows that throughout the year 2012-2013 there were 653 cases of violence recorded by advocacy institutions and broadcasting media or public. These cases might have not covered other hidden cases, given the situation of the worker that work internally and cannot be fully accessible.

**Numerous prominent cases of domestic worker - child domestic worker (2001-2015)
in Indonesia**

Name of Domestic Worker	Form of Abuse	Year	Region
Semisih	physical torture	2001	Yogyakarta
Sutini	physical torture	2002	Yogyakarta
Suningsih	Shot in the leg and lead to paralysis	2000	Karawang

Ponirah and Jumiati (coworker)	Both committed suicide by arson, because they could not stand being tortured		Jakarta
Utin	physical torture		
Haryanti	Victim of human trafficking and physical torture	2001-2002	
Awari, Zumrotun, Nurhayati	Severe injuries	2003	
Karsih	Severe injuries		
Maryati	Murdered		
Jumiah	Tortured	2004	
Sarinah			
Emi		2006	
Sunarsih	Died of torture		
Sisamah	physical torture	2001	Surabaya
Halimah	physical torture	2001	Surabaya
Ratih	physical torture	2002	Surabaya
Eci, Dwi, Linda (under same employer)	physical torture		Surabaya
N (<i>initial</i>)	Raped	2004	Solo
S (<i>initial</i>)	Raped and murdered	2004	Mataram
Kaminah (16 years old)	Torture that lead to fatal injury	2008	Tangerang
Hapsari	Tortured to death	2009	Bekasi West Java
Marlena	Torture	2011	Surabaya
14 domestic workers (5 of them are children) from NTT that work in a residence	Abandonment, human trafficking and unpaid wages	October 2012	Bogor, West Java
88 domestic workers (34 of them are children)	Captivated by workforce agent	October 2013	South Tangerang, Banten

145. In addition to those cases, approximately 37% of recorded domestic worker cases are unpaid wages. In some cases workers' wages are even being kept back from them for 3 months, 6 months, 1 year, 2 years and even up to 6 years overdue. Employers assured a domestic worker to put their wage in savings and promised to hand it over when they about to go home or finish their tenure with a pretense so that the money wouldn't be depleted. These patterns are often found in wage cases of domestic worker.

146. Based on Records of Cases collected by JALA PRT and members (*inter alia* Jakarta Legal Aid Institute, Apik Legal Aid Institute, Rumpun Tjoet Njak Dien, and Koalisi Perempuan Indonesia), the litigation effort of violence against domestic worker has not proceed fairly and comprehensively, as a result there won't be any punishment and deterrent effect for offenders.

147. In some recorded cases, insubstantial punishment for perpetrator was applied in the case of child domestic worker Sunarsih who had been persecuted to death. The case was adjudicated in South Surabaya State Court and High Court. Mrs. Ita, the perpetrator, was only charged with penalty of 2 years imprisonment, while she repeated the violence against different domestic workers. At least she was in 4 different cases (in 1999, 2001, 2004, and 2005). The same pattern of litigation effort happened in violence against domestic worker in Sunter, Jakarta, perpetrated by a married couple.

148. From the collected reports, 65% of legal processes were stopped at the level of police station. Such as case of torture against child domestic worker Rara (16 years old) perpetrated by a family in Slipi Housing Complex, Jakarta, in September 2011. The case stopped at West Jakarta Police Resort. The persecution of child domestic worker Serli (11 years old) by the family of a National Army personnel in East Bekasi, West Java, in November 2011; the case also ceased at East Bekasi Police Resort. No more progress on these cases.

149. There isn't any progress also on the case of illegal confinement of 15 domestic workers by the family of Brigadier General M.S., in Bogor, West Java, in February 2014, as well as the previous case occurred on September 30, 2012. On the first incidence (2012), investigation and lawsuit have been conducted by JALA PRT at Central Bogor Sub-precinct and Bogor City Precinct Police on October 3, 2012 and they asked the Police Precinct to take action. Instead, the Police did not grant access to the case and there has not transparency on the case. The illegal confinement (slavery) of 15 domestic workers was uncovered again because of the courage of Yuliana, a domestic worker, reporting her situation.

Recommendations

In the protection for domestic worker, we recommend that:

- a. House of Representatives and Government of the Republic of Indonesia should immediately discuss and ratify the Draft Bill on the Protection of Domestic Workers and authorize it as Law on Protection for Domestic Workers;
- b. House of Representatives and Government of the Republic of Indonesia must immediately ratify ILO Convention No. 189 on Decent Work of Domestic Worker.
- c. Minister of Manpower and Transmigration of the Republic of Indonesia must immediately take active measures for the deliberation and adoption of Draft Bill on Protection for Domestic Workers;
- d. Minister of Manpower and Transmigration of the Republic of Indonesia, along with Minister of Foreign Affairs, Minister of Women Empowerment and Child Protection, Minister of Law and Human Rights RI should take joint measures to

- push the House of Representatives for the Ratification of ILO Convention No. 189 on Decent Working for Domestic Workers;
- e. Integrating Human Rights principles in the regulation of domestic worker in Indonesia, including also Draft Bill on Domestic Worker presently under consideration, as well as UDHR, CEDAW, CRC, CMW, and ILO Convention No. 189.

F. Article 8 – Trade union rights

Issue 18: 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.

150. Even though Indonesia has ratified ILO's Convention Nr. 87 of 1948, which was then embodied in Law Nr. 21 of 2000 and Convention no. 98 of 1949 (through Law Nr. 18 of 1956), there are still many violations of the conventions and the law. For example, during the National Strike held on November 28-29, 2013, some laborers were assaulted by an unidentified group of people.

151. The incident injured 17 people (lightly and heavily wounded) who were attacked using knife-like weapons. The President of the Indonesian Trade Union Confederation (KSPI), Said Iqbal, strongly said that the puppet-masters of this act of violence and planned murder were the Police, local military command (Koramil), the local government, Regional Leaders Consultative Forum (*Musyawarah Pimpinan Daerah*), Indonesian Employers Association (Apindo), and Indonesian Waste Management Association (Aspelindo). The police, who were informed on the strike plan, ignored and were oblivious to this act of brutality, violence, and murder inflicted on the peacefully protesting laborers.

152. There are still many cases in which labor unions are silenced. One of such cases was experienced by 47 workers who joined the Leaders of Working Unit for the Union of Chemicals, Energy, and Mining Workers in the Indonesian Labor Union (*Pimpinan Unit Kerja Serikat Pekerja Kimia, Energi dan Pertambangan Serikat Pekerja Seluruh Indonesia*—PUK-SP KEP SPSI) Sinar Antjol Ltd., Tangerang, Jakarta. The management of Sinar Antjol Ltd. permanently discharged 47 workers who were activists because they went on strike as a result of the failure of the preliminary discussion.

153. On the field of teachers association, the Ministry of National Education insisted on revising the Government Regulation (PP) Nr. 74 of 2013 on Teacher. The revision was specifically in regard to Article 44 point 3 on the requirements of membership and management of the organization for teachers that were made similar to the requirements to establish a political party, and the only organization that can meet the requirements was the Indonesian Teachers Association (PGRI). The insistency in revising PP Nr. 74 of 2008 has the potentials to silence outspoken teachers through the limitations on their freedom of association.

Recommendation

Indonesia Government in this context the Police must be independent in the face of company and must ensure the right to unionise and express the worker's right peacefully and protect the labour from the parties who use violent means to threaten the labour rights.

Issue 19: 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

154. The criminal report on union busting in the case of permanent discharge of the management of labor union has not been seriously acknowledged by the law enforcement officers. This case happened to the management of FSPMI of Kawasaki Company in Jakarta. The management of the union was discharged as a result of distributing leaflets for their members. The management of FSPMI has reported this union busting as a criminal case to the Police, but the case was not processed by the Police.

G. Article 9 - The right to social security

Issue 20: Please provide information on steps taken to establish unemployment insurance

155. The right for social security was stipulated by Article 28 H (3) and Article 34 (2) in the 1945 Constitution, Law Nr. 40 of 2004 on the National Social Security System (SJSN) and Law Nr. 24 of 2011 on Social Security Management Agency (BPJS). The SJSN Law demanded social security for every Indonesian citizen which covers: 1) Health; 2) Work Accidents; 3) Death; 4) Old age; 5) Pension. This program is managed by the BPJS.²²

156. In 2011, the Government drafted the BPJS Law and this program came into force on January 1, 2014. Since 2004 to 2014, social security was provided by state owned enterprises, which only served public servants and did not cover the entire workforce in the formal and informal sector.

157. The issuance of Law Nr. 24 of 2011 ended this segregation because the existing providers were merged into BPJS which covered the entire workforce, including the formal and informal sector and those not affiliated with private or public institutions and covered health and labor security. The health protection came into force on January 1, 2014 and the labor protection will start in 2016.

²² Article 52 point 2 in the SJSN Law

158. The BPJS Health would cover three categories: 1) jobless individuals or individuals with informal jobs (who pays the premium); 2) workers and paid by the companies (3.5% paid by companies, 0.5% by the workers); 3) beneficiaries of premium subsidy (PBI), which consisted of poor people is funded by the State.

Health Social Security and Its Problems

159. Law Nr. 40 of 2004 on SJSN and Law Nr. 24 of 2011 on BPJS do not cover all of the diseases that should be covered by the program.

160. On September 2012, the Government decreed the premium for Health BPJS of 22,000 rupiah per person per month. Every BPJS participant has to pay the premium, except the poor people. However, on March 2013, the Finance Ministry reduced the premium to 15,500 rupiah due to the country's fiscal condition. The Indonesian Doctors Association has performed studies to determine the ideal premium based on PT Askes' experience and found that the premium for the first category should be 38,000 rupiah.³¹ This has resulted in the very small cost the State must pay, which consequently resulted in the poor quality of BPJS' service.

161. The lengthy service procedure, both when processing the PBJs card or in the hospital. In fact, many patients were rejected by the hospitals because they have not exchanged their old social security card into BPJS card.³² In addition, many hospitals rejected the BPJS program and refused to serve patients using this facility, especially those who were poor and less fortunate. This kind of practice was similar to the previous health security services for the poor (through the national health insurance scheme for the poor (Jamkesmas), the local government-funded health insurance scheme for the poor (Jamkesda), the welfare card (Gakin), and health care card (SKTM program), because 70% of users complained about the hospital service, such as administration, nurses, doctors, facilities, down payment, medicine, cost, and other hospital services.³³

162. The lack of facilities and infrastructure for the hospitals or clinics that provide BPJS services has forced sick patients in need of healthcare to go from one hospital to another to find a hospital with adequate facilities, or simply because the first hospital was full. In some cases, hospitals failed to provide timely service to dying patients who could have survived if they were treated. For example, a patient named Nur was forced by a hospital in Jambi to seek for blood before her operation the next day. Despite of her illness, she had to seek for blood and by the next day had only managed to find 2 out of the 3 blood sacs needed, which caused the operation to be postponed. The hospital and BPJS refused to care about the patients' need for blood.³⁴

163. The services have not covered certain groups, because the socialization of BPJS has not touched marginal groups like bums, sex workers, and transvestites. Even if they knew about the social security, they faced problems with their data. Many transvestites, sex workers, and street urchins did not have identification cards and permanent address. The lack of formal data will also threaten the followers of traditional religions in Indonesia, as most of them do not have formal ID Card.

164. Domestic workers and other informal workers should pay for their own social security premium, because they were put into the first category. In reality, most of the domestic workers and informal workers do not have sufficient income to pay the premium.

165. The lack of production for expensive medicines that are needed by the patients of chronic illnesses. These long term and life-saving medicines have to be imported; therefore, they are very expensive. Consequently, this type of medicine is not covered in the social security scheme and the poor people with the BPJS program were given medicine that was different from other patients.³⁵

166. The next problem is about the financing tariff for the “Indonesia Case Based Groups (INA-CBGs)”. The Health Minister Regulation Nr. 69 of 2013 stipulated that the tariff was determined by the Health Minister. There are several weak points in this regulation:

- a. There are many cases of patients rejected by health facilities, both hospitals and clinics, because the health facilities felt that they would suffer losses for receiving patients from BPJS Health because the financing tariff decreed by the Health Minister was considered to be inadequate and failed to consider the real cost that the hospital has to bear. In relation to the older person, one irony extreme case happened in Lampung where an old grandfather aged 75 years old under the name Suparman was discharged from the hospital RSUD Dr A. Dadi Tjokrodipo January 2014. This poor patient disposed in a shack on Jalan Radin Imba Kusuma, Sukadanaham, Bandar Lampung. Yet when discarded, this grandfather condition labeled as a lunatic was in a state of dying.²³ This case reveals that Indonesia government not really care the condition of the senior citizen and there is an assumption that the family will care the old people and if the case is the single person and they are neglected and will end at the road as the beggar, lonely and dying.
- b. Even though the patient was accepted by the hospital or clinic, if there was a discrepancy between the financing tariff decreed by the Government through the INA-CBGs system and the real cost paid by the hospital or clinic, the balance must be paid by the patient. As a result, many patients were required to pay for the medical services even though they have paid the BPJS premium.
- c. BPJS Health could not do anything to solve the problem of financing tariff to the healthcare providers, because as stipulated by the Health Minister Regulation no. 69 of 2013, the power to determine the tariff of financing the INA-CBGs system lies in the hand of the Health Minister.
- d. The PBI Funding for the poor people that reached nearly 20 trillion rupiah has not been entirely handed over by the Finance Ministry to the BPJS Health, which

²³ <http://www.tempo.co/read/news/2014/02/08/058552305/Wali-Kota-Copot-Direktur-RS-Pembuang-Pasien>

resulted in a delay of payments to the healthcare providers such as hospitals and clinics. The victims of this situation were the people who used the health security.

Recommendation

- 1) To ensure that the healthcare services through BPJS program could be enjoyed by every citizen, especially those who are poor and disadvantaged, without discrimination.
- 2) To improve the facilities and infrastructure of hospitals and people healthcare centers (Puskesmas), especially in remote rural areas.
- 3) To revise the Health Minister Regulation Nr. 69 of 2013 which stipulated the financing tariff for the INA-CBGs system, which include increasing the budget per person for healthcare services security.
- 4) To ensure marginal groups receive their rights for health services security regardless of their religion, ethnic group, wealth, job, gender, and sexual orientation

Issue 21: 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

167. So far, there have been no transparency and clarity for the public from the government of Indonesia in regard to the categorization of poor and disadvantaged people to receive health insurance, including the criteria and the designation. This was caused, among others, by the different data in various government institutions (ministries and other institutions) related to the amount of the PBI.

168. Data from the National Team for Alleviating Poverty (TNP2K) showed that the poor and disadvantaged people in Indonesia reached 96.7 million people, while the Statistics Bureau (BPS) data showed there are 100.8 million poor and disadvantaged people. This caused uncertainties whether beggars, street urchins, part-time teachers, workers with salaries below the minimum wage, etc are deserved to receive PBI.³⁶

169. As the BPJS Health came into effect on January 1, 2014, the Government Regulation (PP) Nr. 101 of 2012 about PBI in conjunction with the Presidential Decree no. 111 of 2013 stated that there were 86.4 million people who received PBI. However, this policy was considered to be a political decision without clear arguments, because if we referred to the TNP2K data there were still 10.3 million Indonesians that were entitled to be PBI participants. This figure would increase to an extra of 14.4 million people if we referred to the BPS data.

170. The government of Indonesia claimed to have the data of the poor and disadvantaged people who were participants of PBI by name and address; however, that data has never been shown to public or the House of Representatives despite the requests to show the data. In this case, the Government tends to put more weight to the political image compared to the real condition of the Indonesian people who deserved to become the participants of BPJS Health in the category of PBI.

- a. The designated PBI should be rechecked to confirm that they are indeed living below the poverty line, with a transparent mechanism.
- b. The amount of PBI should be increased, using the most accurate data as reference.
- c. The INA-CBGs system that has degraded the entire healthcare system should be changed into a “Fee for Service” system with a strict observation by the Health BPJS.

Issue 22: Please provide information on measures in place to give access to basic services and social protection to those working in the informal economy. Please also provide more information on the informal social insurance mentioned in paragraph 67 of the State report as well on measures taken to improve the number of informal workers (non-industrial relationship) participating in the State party's social safety programme, including the programme administered by PT Jamsostek.

Social protection for the poor and the marginalized and exposed by every day small scale disasters due to climate change

171. The community does not only face the risk of natural disasters but also disasters due to climate change and conflicts (because of social vulnerabilities). It may not take up headlines in the news but the intensities of such calamities tend to increase and cause significant loss for the people. Frequent flood and droughts take place in some areas in Indonesia affect the local food supply and it makes people poorer especially those living from the agriculture, fishery, livestock including small traders (vegetables vendors, street vendor). Mt Rokatenda eruption in Sikka East Nusa Tenggara, sectarian conflict in Sampang East Java, flood in Central Maluku and West Seram are examples how small scale disasters responses leave some remaining issues for the survivors due to weak risk governance and force them facing the risks without proper support from the government (The Survey of Views From The Front Line, 2013).

172. Such appropriate social protection providing livelihood assurance for people living in disaster prone areas vulnerable does not exist yet because they are assumed as less affecting, small impact or loss, and it turns that loss are only counted on or limited to numbers of casualties. This is a false picture because the impact on people livelihood is significant. Such things can be understood and correspond to relevant policies such as exempting or easing credit loan and administrative requirements for people with disabilitas, elderly and socially excluded people and people work in informal sectors living in disaster prone areas. It is however witnessed that in local level communities in some villages show strong local resiliences through local social protection such as disaster saving, food stock and simple saving and credit system in local neighbourhood like PKK, RT/RW, etc. Another problem is cash for work program for the survivors which is in reality changing social capital and social values in the community like gotong royong (working together).

Recommendation

- 1) Insurance scheme for the poor and the marginalized for transferring risks as well as for livelihood protection for the community living in disaster prone areas especially in the front of small scale but high intensity disasters.
- 2) Indicators: percentage of social protection schemes which is relevant for protecting the livelihood of the poor and the marginalized work in informal sectors and vulnerable towards the small scales disasters but frequently happen due to climate changes.

H. Article 10 - Protection of the family, mothers and children

Issue 24: 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

173. Even though the Government of Indonesia has created several policies, such as the Presidential Decree on the National Action Plan and the Ministerial Regulation on the eradication of child labor²⁴, those policies have not been effective and they have not have any significant impact due to weak supervision, coordination, and law enforcement. One of the findings of the study *Policy Implementation Elimination of the Worst Forms of Child Labor in Semarang* indicated that the main problem in the policy implementation was the lack of capacity and capability from the officers and the government, lack of coordination, weak sanctions for the perpetrators, and the existence of people who took advantage of this practice.³⁷

174. The lack of filtered or updated data from the Government related to the eradication of the worst forms of child labor (PBPTA), which resulted in problems in identifying the success of the program. In addition, the coordination between government institutions in tackling the child labor issue—which was supposed to be handled by the Ministry of Women Empowerment and Child Protection—was still not visible. Each ministry performed their main task and responsibility without clear coordination among them.

175. Each of the ministries has their own priority programs. KPPA has a Child Friendly City program which targeted 100 cities as a Child Friendly City in the near future. The Child Labor Withdrawal to support the family-based poverty alleviation program (PPA-PKH) has been implemented by the Ministry of Manpower and

²⁴ Among them are Home Minister Regulation no. 6/2009 Guide to the Formation of Regional Action Committee, the Establishment of Regional Plan of Action, and People Empowerment in Eradicating Forms of Worst Jobs for Children, the Decree of Manpower and Transmigration Minister no. KEP-235/MEN/2003, issued in 2003 about Types of Work that Harm Children's Health, Safety, or Morals, Presidential Decree no. 59, 2002 about the National Action Plan to Eradicate Worst Forms of Jobs for Children.

Transmigration since 2008; however, it has only managed to withdraw and return tens of thousands of child workers into school out of the millions of child workers.³⁸

Migrant Child Worker and Trafficking

176. In the labor migration sector, migrant workers who were sent abroad were mostly children (under 18 years). They were recruited by Migrant Worker Placement Companies (PJTKI) directly from the villages where the children came from. Those children were given falsified documents, which enabled them to be selected to work abroad, such as as their age become that 18 years old.

177. The majority of Indonesian migrant workers work as domestic workers which lack of protection. They have to work in a poor condition or in a situation that resembles slavery. Many migrant workers are being offered as sex workers. Law Nr. 39 of 2004 about Placement and Protection of Indonesian Workers Abroad has created the opportunity for human trafficking disguised as migrant workers, because the law was more focused on the business side of sending migrant workers abroad compared to the protection side.

178. The protection for migrant workers, including child workers, tends to be handed over to PJTKI, which have a business orientation. Law Nr. 39 of 2004 has not been revised, while the ratification of the Convention for Migrant Worker Protection has not made any positive impact for protection. The ratification was not followed by comprehensive steps, such as the creation of policies and infrastructure development, so that it was merely a normative accomplishment.

179. Indonesia also has the Law on Human Trafficking Eradication; however, this law has practically been ignored. The perpetrators of human trafficking have not been processed and punished based on that Law because the punishment for the perpetrators was considered too harsh. As a result, the PJTKI companies that committed human trafficking have only been punished with administrative sanctions such as warnings, suspensions, or license annulment. The PJTKI whose license was annulled can easily make a new company; therefore, human trafficking—especially child trafficking—continues.

180. The Government's failure in eradicating the worst child employment, especially in the migrant setting, can be seen in the following data: 1) Every year at least 450,000 people (70% are women and 60% did not follow the correct procedure) are sent abroad as migrant workers with minimum protection; 2) Every year at least 25,000 Indonesian migrant domestic workers suffer from human rights violations; 3) The continuous increase of migrant worker deaths abroad caused by violence (in 2001 there were 33 Indonesian migrant workers who died abroad, in 2002 there were 177 workers, in 2005-2006 there were 300 workers; in 2008 there were 513 migrant workers who died in Malaysia, and in 2009 there were more than 1,000 workers who died abroad).

Issue 25: 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

181. Out of 11 types of natural hazards (6401 times catastrophic incidents during 2004 – 2012) happened in Indonesia, 3 largest disasters that repeatedly occurred are the floods (2,610/40.77%), windstorms (14,970/23.39%) and landslides (1,228/19.18%). While unnatural disasters occurred in the period 2004 – 2012 comprised 5 types of hazards: transportation accidents, industrial accidents, terrorism and sabotage as well as conflict/social clash.

182. The high level of disaster that happened in Indonesia has encouraged the conception of Law Nr. 24 of 2007 on Disaster Relief and the National Disaster Management Agency. The Government has also been working to devise a National Disaster Management Plan (Renas PB),³⁹ Regional Disaster Management Plan and Regional Action Plan (RPB RAD), and Contingency Plans (RENKON) in every level; started from village to province level,⁴⁰ as well as the formation of Regional Disaster Management Agency (BPBD) at provincial level, in addition to Tough Village, Safe School and Disaster Quick Response, Mainstreaming Reduction of Disaster Risks in every school (Mainstreaming PRB) under construction, plus a number of other policies, both at central and regional levels. There have been efforts of involving civil society and private sector in handling the disaster, which fundamentally must continue.

183. On the other hand, existing policies were not executed well and optimally, so that the policies just stopped on paper; technical constraints still frequently appeared on the field that hinder the handling of disaster victims to the maximum.

184. School safety, including “school contingency planning” has not yet become part of education service standards in Indonesia, although normatively “school safety” should have become a part of disaster education plan in the regions. This Program strongly depends on the awareness of authorities and local level stakeholders. There isn't any agreed and formalized disaster educational contingency model in education sector, while in fact emergency response through mechanism of contingency planning (impending disaster, single hazard) will be the cornerstone of operational emergency response when a disaster occurs. It is also hindered by lack of training or community awareness advancement regarding emergency response, especially in the field of education.

185. One of the factors that caused the sluggish reaction was the lack of information and coordination between the national and regional BPBD, which caused a delay in BNPB's coordination with other institutions. In the last case (in January 2014) when most cities and regions in Indonesia were flooded, there were still many flood victims who were abandoned. For example, the flood in Indramayu-Cirebon-Subang happened for 4 days and disrupted the Northern Java Route (Pantura). There were 17 regencies in Indramayu that were flooded. Thousands of houses were inundated from 50 centimeters to 3 meters tall. Thousands of people were forced to evacuate to schools, which disrupted school activities. However, after 4 days the government and the local BPBD still have

not done any quick measures to help the victims. In some regency, evacuee did not receive any logistics help from the local government and BPBD.⁴¹

186. Women participation in meaningful way including women leadership has to be ensure in disaster risk reduction. As disaster management has been dominated by men, to ensure women needs, interests and voices must be eliminated through women empowerment and substantive participation and decrease the stereotype of femininity and masculinity in order both women and men can participate in meaningful way in humanitarian setting.

187. In the case of flood in Manado (January 2014), for instance, which was considered as the biggest disaster throughout 2013-2014,⁴² even though the Meteorology and Geophysics Agency (Government) regarded this disaster as an anomaly, there was an undeniable fact that the deforestation of forest and hills outside of the region has caused the river to rise and inundated the lowlands in the city.⁴³ On the other hand, the Government did not have any kind of disaster risk map in Manado even though flood has continued to be a threat to the region.⁴⁴

188. The Disaster and its Impact (on the Education of Children);

The Impact of Large Scale Disasters within the Last 7 Years

Disaster	Loss of life (deaths)	Material Loss
The earthquake and tsunami in Aceh and North Sumatra (December 2004)	165,708 souls	Rp. 4.45 trillion
The earthquake in Yogyakarta and Central Java on (May 2006)	5,667 souls	156,662 houses damaged and asset losses of Rp. 3.134 trillion
The earthquake and tsunami in Pangandaran (July 2006)	658 souls	Rp. 137.8 billion
Floods in Jakarta in February 2007		145.774 houses damaged and caused losses of Rp. 967 billion

Examples of disaster impact on Education

Yogyakarta earthquake (2006)		2900 school destroyed/severely damaged
Earthquake in Padang (2009)		1,606 classrooms (241 schools destroyed/damaged) and 60 students died at schools
The earthquake and Tsunami in Mentawai (2010)		7 schools damaged

189. In many instances, teaching and learning activities were interrupted and even stopped, because schools were damaged. In addition to the destruction of educational infrastructure, material losses also occurred with the shortfall of children's school supplies; as well as the emergence of additional costs to attend school elsewhere until the infrastructures are completely fixed.

190. Due to the eruption of Mount Merapi in 2010, 5 kindergartens and 6 Elementary Schools surrounding the mountain (Regency of Sleman and Yogyakarta) suffered extensive damage after stricken by pyroclastic clouds. Schools with light damage were also closed due to severely damaged or closed access to schools. This closure duration varied from days to months, with an average of 1-7 days. Noticing per region; in the region affected directly by eruptions 98.04% students could not go to school for 1-7 days and 1.96% stopped going for 8-15 days; in the region affected indirectly 83.88% pupils could not go to school for 1-7 days, and 12.73% (8-15 days), 3.08% (16-30 days) and the rest were more than 30 days.

191. In this case, there has been an contingency to education sector plan in implementing the emergency school in one week after the disaster, whether held by Government or non-government agencies. Schools around the evacuation points were required to accept displaced students and for those who evacuate from their homes in no more than a week, schools and classes were combined with nearby schools.

Damage to educational facilities as a result of natural disasters, 2005-2011

Natural Disaster 2005 - 2011		
NO	NATURAL DISASTER	EDUCATION FACILITY DAMAGE
1	Flood	4,327
2	Landslide	54
3	Landslide and flood	834
4	Tide/abrasion	10
5	Earthquake	19,438
6	Volcanic eruption	366
7	Earthquake and tsunami	14
8	Wind cyclone	357

192. Disaster management problems in the field of education:

- a. In relation to the impact of disaster on education, local governments were usually slow to instruct children victims' learning activities to the schools around the evacuation site. In the case of Merapi in 2010, for example, instructions were released at the evacuation site in one week. Displaced children must confront: (1) unavailable learning equipments, while the aid were largely consist of clothes and foods; (2) the difficulty to adapt to situation of a new school; (3) transportation from the barack or IDPs camps to their schools.

- b. In addition, disaster management has not become mandatory sector for local Government's affairs, nor as "alternative program", but only as "support program"; therefore BPBD was the Ministry and Local Government Work Unit (SKPD) that seemed to be "made"; hastily established (even forced to be established in order to access ready-to-wear fund of disaster emergency response), unequipped with adequate basic facilities, its positioned staff/officials were "exiled officials" (political opponents or different party constituents/those who had not supported the elected regent/mayor) and local civil servants who have insignificant skills.
- c. There have been attempts made by a number of NGOs/CSOs to help solve those problems by conducting accompaniment in the field of education for children at evacuation sites. The main obstacle appeared to be the absence of adequate place for children to perform teaching and learning activities. This condition was intensely felt at evacuation sites located in public places, such as stadium or sports ground.
- d. Another problem in addressing impact of disaster on child's education subject was the reconstruction of educational facilities (school buildings). Most schools had been destroyed or damaged by disaster, which have not been repaired when the children returned to their community. The central and local Governments' priorities were still fixed on the efforts to provide housing for residents, while school building construction became the subsequent priority. One of the case of how the local government irresponsible is the Karo District North Sumatera where the Sinabung volcano had erupted in 2010 and then in September 2013 and till now the volcano status is "watched" and there are 15.861 IDPs (4.999 families, F=6.342, M=6.151, senior citizens= 1.648, pregnant women=147, babies= 906 in 31 camps location)²⁵. But the BPPD is only formed last January 2014 and their operation is very new in March 2014 this situation is worsen due to the political crisis of the District Head was dismissed by the people, NGOs and local parliamentarian due to his working performance, adultery and corruption to sell the position in local bureaucracy.
- e. Some problems related to the quality of school buildings, inter alia: a) overlapping authority to renovate and rebuild damaged school buildings between local governments and National Ministries; b) there has not any (regular) periodic improvement program by provincial and local governments that capable of minimizing classrooms and schools' damage; c) indefinite province or regency/city's capability to renovate buildings and classrooms from elementary to senior high school; d) lack of (regular) funding sources from the province or regency/city that can be allocated to renovate and rebuild school buildings from the elementary senior high school level.
- f. Legislation and regulation in education matters have frequently unaligned; whereas issuance of derivative regulation was usually behind enactment schedule. In addition, convoluted bureaucracy and slowness have hampered the application of established nationwide standards.
- g. There were various forms of deviation from decentralized government. For example, the Head of Regency Education Department was appointed by Governor that might not have the background and expertise to work in educations. The planning and allocation of education fund in the region, even though the number was sufficient, would not be effective and efficient if designed by officials that did not have the satisfactory capacity. Inadequate capacity of regional officials still becomes obstacle

²⁵ Data on 18 March 2014 released by Karo Government

that has not only happened in education sector. In many cases of disasters happened, the Government has often been unprepared and sluggish in responding to disaster and to reduce the impact. This includes increasing the strength and preparedness of communities/groups—especially the vulnerable groups—to face disaster and to reduce the risk and impact of disaster.

193. As an effect of mining and plantation, the government's policies and programs, especially in regions with autonomy, has increased people's vulnerability to disasters through government policies that gave permission for the expansion without considering the impact those expansion would have on the environment, ethnic communities, and conflicts. The expansions of the mining and plantation industries have been done without control. The people, especially ethnic communities and other vulnerable groups, grew more vulnerable to disaster as a result of environmental destruction by the mining and plantation industry. After main islands have been divided for the mining and oil palm plantation industry, the plantation industry expanded to small islands that are vulnerable to disasters. Mining permits were even given in the protected forest and conservation areas. On the other hand, the Government has not anticipated disaster, such as drafting disaster risk maps.

Natural Disaster and Informal Workers

194. Small intensity of disasters which often happen on the daily living has generate material and immaterial damage which taking into account by the people. Seasonal flood and drought season which more often happen in some areas in Indonesia has threaten the food production and impoverish people who live from agriculture, farm, animal husbandry, including the small scale trader (vegetable traders, street vendors). Rokantenda mountain eruption, sectarian conflict in Sampang, flood in Central Maluku and Western Seram are some of the examples where natural disasters mitigation in the small scale could generate problems for the lower level economic condition (informal sector) because of the weaknesses of risk management in the area and force the survivor to face the risks without any sufficient support from the government (*Survey Result of Views From The Front Line, 2013*).

195. Social protection from the government for them is not yet available because of the assumption that social impact is not significant, even though it will effecting their daily living source. Meanwhile the government is making any special policy, such as debt write-off or debt relief and special requirement of the vulnerable groups including informal workers in the proneness area.

Recommendation

- 1) Providing insurance scheme (*transfer of risk*) to the informal workers of the poor and marginalized people who live in the proneness area.
- 2) Making policy to relief or write-off debts of the people in the proneness area when they have natural disaster.

- 3) Ensure the right of children to get a formal education in times of a disaster, including also coordination among stakeholders and overcome any obstacles they face to accessing education.

I. Article 11 – Livelihood

*Right to Housing*²⁶

196. The Government has also failed to fulfill their obligations in providing proper housing for their people. This failure was mainly triggered by the Government's lack of success in controlling and managing land ownership. The majority of land has been owned by corporates, and it has become more difficult for the Government to obtain the land to meet the housing needs of the poor. Moreover, most of the poor people work in the informal sector, which made it difficult for them to gain financing access from banks. The Government has failed to uphold the regulations that oblige developers to provide housing for the poor.

197. In addition, problems related to proper housing have also been experienced by the poor people in the cities. The amount of poor people in the cities have become one of the factors that caused the poor unable to get proper housing,⁴⁵ thus they are forced to live in the urban slum areas that are unsafe and in poor physical condition. Homeownership data showed that the percentage of people living in slum areas reached 15% of total population (2005). Other data showed that slum areas in 2004 reached 54,000 hectares and increased by 1.37% to reach 59,000 hectares in 2009.⁴⁶

198. The State not only has failed to provide adequate housing to vulnerable groups, it has also allowed open discrimination by neighborhoods towards vulnerable groups, such as persons with a variety of sexual orientation and/or gender identity/expression (SOGIE). The latest incident occurred in February 2013 when dozens of transgender persons were forcefully evicted from a poor neighborhood in West Jakarta municipality. The perpetrators were intolerant groups/persons who blamed the trans-persons for a recent fire in the neighborhood. The local administration and law enforcement did nothing to stop the eviction.⁴⁷

199. Banishments or evictions have been done without meaningful consultation with those that suffered the negative impact of such actions, without considering the vulnerable groups, without proper notice, without fair and just compensation, without alternative housing, and without effective remedy.⁴⁸

²⁶ See, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik: Mission to Indonesia (A/HRC/25/54/Add.1, 26 December 2013)

Recomendation

To ensure women can get their rights to own the house including land rights because due to patriarchal culture there are still big obstacle to women to inherit and having the land/house or properties in their own name

Issue 26: 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

200. Threats towards food security in Indonesia: a decrease in food production land due to the shift of land functions for non-food interests, natural disasters, the loss of local food resources potentials due to the increased amount of imported food, the decline in production due to the declining value of Rupiah against US Dollar, and the lack of incentives and protection for food producers.

Food Security and Farmers' Rights

201. The Government does not have a definite program to ensure the availability of food that is affordable, of good quality, and sustainable. Law Nr. 18 of 2012 on Food focused more on food security, i.e. how to ensure enough food is available for households without considering the source of the food. As a result, policies on food tend to depend on imports to meet domestic needs. The poor law enforcement and the likelihood of corruption by the government in Indonesia has made way for speculators who monopolize food imports and has full authority in determining food prices, which then caused high prices of imported food.

202. The Government of Indonesia's policy aimed at eliminating the role of farmers in food production and force farmers to leave their profession because food production will be shifted to corporate. This can be seen from the Program of Corporate-Based Food Production Expansion, Merauke Integrated Food and Energy Estate (MIFEE) in Papua, and Food Estate in Kalimantan. The Law of Farmers Protection and Empowerment Nr. 19 of 2013 is not sufficient to protect farmers' rights. Farmers do not have access to land, capital, farming production facilities, and government subsidies. The Government has not made extra efforts to prevent the shift of functions on the farming land into non-farming land or land acquisition by a third party.

203. The Government's efforts to correct the production system have eliminated people's (farmers') rights to produce their own food. The Government created corporate-based food production expansion, where big capital corporations were given special rights to control farming land. The land reform that the Government promised to happen was never implemented. Farmers have increasingly lost the production resources such as land, water, seeds, and production facilities. The government failed to control land ownership; as a result, around 56% of land is owned by a mere 0.2% of the population.

204. Law no. 41 of 2009 on the Protection of Sustainable Food Production Land has not been properly implemented, because the Government focused on pushing the development of plantation and mining sector, which were more profitable. The expansion of plantation and mining areas slowly displaced food production lands.

205. This condition has been made worse by Indonesia's vulnerability to disasters (floods, landslides, droughts, and many more), which caused planting or harvesting failures and disruptions in distribution lines. The Government has not taken any serious measures to overcome this.

206. The policy of poor people's rice (*beras miskin—raskin*), food imports, and mono-*agriculturalization* has encouraged people to shift their food consumption pattern to a rice-dominated pattern from previously more varied patterns. When the price of rice increased, access to food has dwindled, which caused the increasing amount of children who suffered from nutrient deficiency in Indonesia. The percentage of children suffering from chronic malnutrition (stunting) was still high, more than 35 percent.⁴⁹

Recommendations

- a. Increasing families' ability to own food assets through: acceleration of land reform equality, access to production facilities, management knowledge, capital access, social cooperation, and revitalization of the functions of physical and economic infrastructure.
- b. Increasing food productivity based on local food resources potentials, through: diversification of food products and intensification.
- c. Increasing food access through: increasing purchasing power, expansion of working field in the villages, the development of alternative economy efforts that are managed in the scale of households and communities, the development of food reserves for communities and villages.
- d. Strengthening food, economic, and social institutions: the development and strengthening of people's cooperatives, local-owned companies (BUMD), household food barns, community food barns, and village food barns.
- e. Diversification of food based on the potentials of local food resources.
- f. Preventing the imports of the type of food that can be produced by local people.
- g. The need to implement policies to protect food area and the incentives policy for food producers.

Issue 27: 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

Sanitation

207. The condition of sanitation in Indonesia is still alarming, especially in villages. Indonesia's population almost reached 250 million people; 100 million of which has no access to decent sanitation. The global data update in 2010 revealed that 63 million of

Indonesians still defecated in the river, creek, lake, sea, or land. The majority of these people live in the rural areas.

208. Data from Indonesian Statistics Bureau in 2011 showed that there were only 38.5% of people in villages with access to decent sanitation. According to the data from World Bank's Water and Sanitation Program (WSP), the access for sanitation in the rural areas of Indonesia has not increased significantly for the last 30 years. As a result, nearly 60% of the people in rural areas who do not have access to decent sanitary facilities also face a higher risk of health threat. Every year there are around 121,100 cases of diarrhea that killed more than 50,000 people due to bad sanitation. It is no wonder that the health cost per year due to bad sanitary condition reach around 139,000 Rupiah per person or 31 trillion Rupiah nationally.

209. The development of the potable water sector and the environmental improvements has not getting sufficient attention from the Government. This can be seen from the amount of state budget for sanitation that was very small at 200 Rupiah/person/year, while the minimum need for sanitation is 47,000 Rupiah/person/year.

210. In this context, Indonesia's impressive economic growth in recent years has not been matched by an increase in urban sanitation services. Less than five percent of the sludge collected from septic tanks is properly treated, and only about one percent of the wastewater generated by the population is treated, creating health and environmental concerns. Around 14 percent of urban dwellers still practice open defecation.⁵⁰

Water

211. Law Nr. 7/2004 on Water Resources guaranteed access to clean water for everyone has not been implemented optimally. Household access to clean water has become a crucial problem which has not been getting adequate attention from the Government. Data from the National Planning Agency (Bappenas) in 2010 showed that the percentage of household with sustainable access to potable water, both in rural or urban areas, only reached 47.71% of total households—far below the Millennium Development Goals (MDGs) target at 68.87% in 2015. This data also showed that currently there are more than half of Indonesia's population that have not had sufficient access to clean, potable water as part of basic life needs.⁵¹

212. One of the main factors that caused the lack of access to clean and potable water for daily needs was poverty. A study done by IRE (2012) on the underprivileged community in the rural areas of Kupang Regency, East Nusa Tenggara Province, for example, showed that access to clean water was very limited and depended on the springs that were owned communally. Meanwhile, many women in Batulayar Village in West Lombok have to walk tens of kilometers to obtain clean water. In that region, the lack of clean water has become one of the triggers of domestic violence, especially in poor families.

Recommendations

- a. The effort to provide clean water should not depend on the central government. The village has proven that they could provide clean water through the village-owned enterprise (BUMDes). The village's services could be cheaper, more efficient, and closer to the people.
- b. The local government can create a set of rules that support the availability of clean water, especially in the management of natural resources in the form of water. Geographically, the water springs are usually owned by several villages.
- c. In order to avoid conflict between villages, the local government should create regulations that could ensure water management could be optimized by every party and could be maintained sustainably.

J. Article 12 - The right to physical and mental health

Issue 28: 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

Sexual and reproductive health

213. The 2010 policy made by the Indonesian minister of health concerning female circumcision (Ministerial Health Decree Nr. 13636/MENKES/ PER/ XI/ 2010), runs counter to the government's steps to protect and fulfill sexual and reproductive health rights of women and girls. The policy legitimizes the practice of female circumcision and authorizes certain medical professionals, such as doctors, midwives and nurses, to perform it. The policy defines this practice as "the act of scratching the skin covering the front of the clitoris, without hurting the clitoris" (Article 1.1). The procedure includes "a scratch on the skin covering the front of clitoris (frenulum clitoris) using the head of a single use sterile needle" (Article 4.2 (g)). According to the policy, the act of female circumcision can only be conducted with the request and consent of the female circumcised, parents, and/or guardians (Article 3.3).

214. The 2010 policy on female circumcision has already revoked by the health minister on February 2013. But unfortunately, although the 2010 policy has invalid, the Indonesian government doesn't want to publicize it. There is a tendency that they don't want to develop new policy to ban any forms of female circumcision. The Indonesian government is likely prefer to make the new policy which still allow the practice of female circumcision in a way that is considered more secure and do not cause cuts on female genital.

215. Female circumcision constitutes a form of discrimination and violence against women should be eradicated. This action is an arbitrary action against the bodily integrity of women and also encourages discriminatory stereotypes about women's sexuality. The practice of female genital mutilation has potential to cause bleeding, pain, suffering, and loss of sexual enjoyment for women. Various practices of female

circumcision are also encouraged labeling (stereotyping) that discriminate on the sexuality of women. In terms of health of female genital mutilation in both children and adults are very dangerous for reproductive health of women and potentially eliminate the right to enjoy healthy sexual relationships and fun for women. In many cases of infections and abscesses on vital women's reproductive organs and will be easily exposed to sexually transmitted diseases which in turn harm the health of women in general.

216. Indonesia government to some extent interms of access and quality of sexual and reproductive rights already good, although in the perspective context is still a problem, such as in Yogyakarta Province there is a youth friendly health centre in Sleman District. They have joint cooperation with the university for the Conselor. But the perspective of the conselor is still conservative and give judgement to the youth.

217. In Indonesia, abortion is illegal and this push the girls, young women and women who have unwanted pregnancy go to the unsafe and expensive illegal abortion. For the girls who still in school age, being pregnant is a nightmare due to stigmatized and has to leave or move from their school. Their right to education is still is not protected and they got the blame due to their sexual behavior.

Women with HIV

218. Indonesia is one of the Asian countries that have a relatively fast growing HIV and AIDS epidemic. Indonesia's Ministry of Health reported prevalence of HIV amongst women increased significantly. In 2006 the reported number of AIDS case of women was 831 and on June 2013 the total number increased to 12.593.⁵² The Fact Sheet of National Commission of Women in 16 days of Violence against Women Campaign on 2012 said that women living with HIV often face forced sterilization.

219. When the Indonesian Positive Women's Network (IPPI) conducted sexual and reproductive health and rights SRHR training, they realized that many members of IPPI experienced violence. IPPI conducted a survey among 110 women living with HIV and 12 women affected by AIDS, in eight provinces (DKI Jakarta, Bandung, Banten, Surabaya, Yogyakarta, Medan, Bali, Nusa Tenggara Barat), the results showed that 25% of respondents experienced physical violence, 29% experienced sexual violence, 29% experienced economic discrimination as a result of living with HIV, and 14% had undergone sterilization.⁵³ Of the women surveyed, 77 were interviewed and of these, 71 had experienced some form of violence. Some examples of sexual violence included rape by law enforcement officers and forced anal sex. The testimony from the respondent states:

"I was sexually assaulted by a police officer when I was arrested and at the time I was very frightened. I had sexual intercourse with my arresting officer and I was given heroin by the police."

"While my husband was using drugs, I was forced to have sex for six hours and I was hemorrhaging while being beaten and pulling out my hair."

“He couldn't enter with his penis so instead, before he entered, he put the broom handle in my anus before he put his cock in, to tear me.”⁵⁴

220. For many women living with HIV across region, HIV is so much more than a health issue. Currently programming around HIV and violence is disconnected yet both simultaneously impact women living with HIV. Approaches to HIV and violence against women must be integrated in order to create comprehensive and sustainable services.

221. Many women living with HIV in Asia are not aware that they have rights let alone what those rights are. Because of the patriarchal culture, women who experience and survive violence are usually reluctant to report file such cases to the authorities.⁵⁵

Recommendation

- 1) Develop new policy to ban and criminalizing any forms of female circumcision with appropriate penalties prohibiting female circumcision, and ensure that they comply fully with the provisions that are contained in CEDAW.
- 2) Conduct public awareness-raising, education and campaigns to change the socio-cultural perceptions and beliefs associated with female circumcision and acknowledging female circumcision as a harmful practice and human rights violation

HIV/AIDS' recommendation

- 3) Penalize perpetrators of violence in line with laws and provide free and women friendly legal aid counsellor for the women with HIV.
- 4) Strengthen women's networks to train women living with HIV on understanding and claiming our sexual and reproductive health and rights.
- 5) Ensure training is delivered to service providers so that as women and girls living with HIV - we feel safe to access health care and report cases of violence to police.
- 6) Integrate policy and programming on HIV and violence against women.
- 7) Conduct further research into the links between HIV and violence in Asia and the Pacific to generate more data for successful advocacy and legal follow-up:
 - a) Systematic documentation of the extent of violence against women with HIV
 - b) Identification of the extent to which women with HIV understand violence against women.
 - c) Examination of the factors causing violence, including intimate partner violence.

Issue 29: Please provide information on the measures taken to ensure access to adequate mental health treatment and care

222. In cases of women with HIV positive /AIDS, the Government has not had nationally and regionally integrated policies and programs related to women with HIV positive's rights to obtain mental health treatment and care.

223. The State, through its Guidelines for the Classification and Diagnosis of Mental Disorders (PPDGJ-III), still considers and treats transgender persons as mentally ill. This has only reinforced the deep-seated bias and prejudice among the general public that transgender persons are sick, if not deviant. As long as the State maintains this categorization, transgender people continue to be harassed and mistreated.

Recommendation

- 1) Mainstreaming human rights and SOGIE within state institutions at the local level (including governors, regents, district leaders, and village heads), parliament, the Ministry of Justice and Human Rights, the Population and Civil Registration Department, and the Department of Manpower and Transmigration, as well as the private sector. This recommendation is addressed to the President of the Republic of Indonesia and the Ministry of the Interior.
- 2) Indonesia government has to ensure the right to education for the girls who are in the school with their pregnancy can still continue their education with dignity and respected.

Issue 30: Please indicate whether the State party has adopted a human rights approach to its drug policy, including prevention and treatment

224. UN 1961 Convention on Narcotics has been adopted by Indonesian Government as the basis of establishing the first Law of Narcotics Nr. 8 of 1976. Indonesia has also ratified the UN Convention on Narcotics and amend the Law on Narcotics on 1997 and Law Nr. 35 of 2009 on Narcotics which forced until now. The Law Nr. 35 of 2009 was made with the spirit of rehabilitation for the persons with narcotics. But there is no significant change or good practices in implementing the law; rehabilitation as the rights of accused.

225. Practice of arrest and detain the persons with narcotics is increasing. Mostly, the arrest is accused as a traders or ownerships. Number of cases verdicted to rehabilitation is still low. Likewise in the Medan District Court, in 2006-2012 there are 822 until 918 cases per year that only one case which verdicted to rehabilitation.

226. There are many human rights violation in the practice of criminal offense for the drug users, such as systematic violence conducted by the police officers toward the drug users including beating, touching the cigarette's fire to skin, electric and sexual violation. Other that, extortion and corruption is still bold in the criminal court in Indonesia which often ask for bribe in order to lighten the sentences.

227. Immurements the drug users are dissociate them from the health care services and addictive free relief. this condition is worsen by the circulation of illegal drugs inside the prison and minimum access of narcotics harm reduction which seriously affected to the spread of the HIV, Hepatitis B and C, Tuberculouse, etc. ²⁷

²⁷ Input from *Persaudaraan Korban Napza Indonesia* (Brotherhood of Indonesia Drug Victims, PKNI)

K. Article 13 – Right of Everyone to Education

Issue 31: Please provide information on the impact of measures taken by the State party to improve access to and the quality of education in rural and other disadvantaged areas

228. The Government's commitment on education is low, a fact which is reflected in the budget for education. In 2005-2008, the budget for education only reached 6-7.5% of the State Budget (including salary) and even though in 2009 the budget reached 20%, the majority of the budget was spent on salary instead of increasing the schools' quality and quantity in the form of infrastructure and facilities. The allocation of education budget in the provincial budget reached more than 20% of local budget (APBD), but only 3-7% allocated for education. The rest was spent on expenditures and salary.

229. UNESCO declared Indonesia's achievements in education as 'stagnant' on the score 0.934. This score indicated that there has not been any progress in Indonesia's education in the last several years. On the contrary, there has been a setback because Indonesia's ranking fell to 69 in 2011 from 64 in 2010. Indonesia's rank in the Education for All Development Index in 2011 fell to 69 from 65 out of 127 countries. One of the factors causing this decline was the amount of children who failed to finish their elementary education: as much as 527,850 students dropped out of elementary school every year.

230. The Ministry of Education and Culture reported that there were 465,000 elementary school dropouts in 2011, and there were 229,000 elementary school graduates who did not continue their education to middle school. There were complicated issues in the elementary school level, such as the lack of facilities and the low quality of elementary school teachers compared to kindergarten, middle school, high school, and vocational school teachers.

231. A study done by the Institute for Ecosoc Rights in Papua, East Nusa Tenggara, and Bali showed that the Government has failed in fulfilling their obligations to provide basic education for children, especially children living in remote areas. In Papua, it was still difficult for children to gain access to basic education. The insufficient school building was made worse by the lack of teachers, books, and other education facilities. In those remote areas, such as in Papua and East Nusa Tenggara, the private sector played a bigger role in education. Unfortunately, the Government discriminated these private schools and did not give sufficient support and attention to them. The lack of support from the Government and the restriction for private schools to receive assistance has made a lot of foundation/private schools in remote areas became neglected. As a result, children did not have any access to basic education.

232. What happened to basic education in Papua, especially in the remote areas, was a form of 'total discrimination' because nearly every element of education suffered from serious issues. This fact was reflected from the lack of adequate school buildings, the lack of teachers and books, the substandard welfare for teachers, the lack of capacity building

for teachers, the failure to implement the curriculum, the astronomical cost due to the distance in between community settlements, the inadequate performance of the local government to guarantee the quality of education and people's access to education, as well as the geographical remoteness which caused the low accessibility of public information.

SOGIE/LGBT

233. In 2012 UNESCO published a booklet “Education Sector Responses to Homophobic Bullying” where it stated that homophobic and transphobic bullying is widespread all over the world. Indonesia is no exception; a research conducted in three main cities in 2013 confirmed that 80% of the interviewed LGBT learners have experienced bullying in schools.⁵⁶ The State has not even acknowledged that bullying in schools is a problem, let alone acknowledging the physical and psychological damage it can inflict upon LGBT learners.

VIOLATION OF THE RIGHT TO EDUCATION FULFILLMENT

234. In the Preamble of the Constitution of the Indonesia Republic of 1945 paragraph IV stated that one of the purpose of the State of Indonesia is to enrich the knowledge of the life of the nation .

235. The State has the obligation to fulfill the right of every citizen to develop themselves by fulfilling their basic needs, to get an education and to benefit from science and technology, arts and culture, in order to improve the quality of life and for the welfare of mankind as stated in Article 28 paragraph C (1) of the 1945 Constitution.

236. On March 31, 2010 the Constitutional Court of the Republic of Indonesia has revoked Law Nr. 9 of 2009 on Educational Legal Entities (Law on BHP). One of the arguments that the BHP Law is the autonomy of education institution that makes it has the authority to seek their own funding to education. This is creating the potential to infringe the rights of citizens. This is more clearly shown in the Constitutional Court Decision Points 3:38 Constitutional Court Decision Nr. 11-14-21-126 and 136/PUU-VII/2009 page 391, which states "Managed funds independently and non-profit principle (see Article 4 paragraph (1) of the BHP Law)" does not automatically make affordable education for students, but the affordability is one of the problems of education in Indonesia.

237. Is a non-profit principle would lead to low- cost education still depends on a few things, which is: (a) the amount of costs to be borne by the education providers for the provision of education, including teacher salaries and administrative staff; (b) maintenance of educational facilities, and (c) the ability of BHP to get education funding from non- education efforts. Not many business opportunities that are open for BHP to obtain outside funding for education services which finally taking advantages directly from the learners. Business market competition is very tight, and if only there is a chance, just a small -scale enterprises that can be entered by BHP. For large -scale enterprises are capital-intensive and technology has owned by the big company.

238. BHP which is outside the big cities which has quite limited potential to get into the business market because it is limited in the area of business markets. Types of businesses which most likely to be chosen is an attempt to take advantage of the wealth from the assets of BHP which one of it is the facilities of the school or campus with the risk is to reduce the space of education facilities. In the absence of certainty the source of funding that can be obtained by a BHP, then it targeted the most vulnerable sectors; students, by creating a quotation with another name outside of school or college costs are ultimately directly or indirectly burden the students. Because the main capital of BHP is the teachers, then it is most likely to get funding source by multiplying the admission of students which in turn will reduce the quality of education if the addition is beyond the ability of the teachers.

239. After the BHP Law revoked, 17 July 2012 the governments re-establish the Law Nr. 12 of 2012 on Higher Education. The Higher Education Law regulates the establishment of a higher education legal entity that has the authority to seek funding itself (autonomous management of higher education).

240. Law Nr. 12 of 2012 on Higher Education is obviously going to put higher education institutions in the absence of certainty of funding sources. The autonomy of higher education in any form will release the higher education institutions to seek their own sources of funding and the hands-off state funding of higher education. This is clearly contrary to the State's obligation to realize the right to education that are "progressive realization" and violated the provisions of Article 13 paragraph (2)C of the Covenant on Economic, Social and Cultural Rights which Indonesia has ratified through Law Nr. 11 of 2005.

241. Article 64 and 65 of Law on Higher Education which explain the form of arrangements and governance of higher education autonomy which understate that it only be autonomous governance (limited to managerial only). While the academic autonomy of higher education is not considered at all.

242. That autonomy is indeed associated with autonomy of academic governance, but academic autonomy should come first than autonomy of governance. Experts stated, "If the governance autonomy precedence and placed on top of the autonomy of education and science, then it will become a law on corporate governance, but not on the governance of higher education as education, especially as scientific education."

243. This policy created the conditions in which autonomy of governance is more important than education. Institutions of higher education turned into a business organization that will benefit the business-oriented mindset. The main focus will turn to academics seeking funds to run the business continuity of higher education institutions, thus the quality of academic education will decrease.

244. Article 65 paragraph (4) of Law No. 12 of 2012 states that the government gave the assignment to the state university legal entity to perform the functions of higher education that is affordable by the community. But the state actually releases its obligation to fund higher education institution.

245. 263 . Autonomous management of higher education resulted in an institution of higher education revenues come largely from students or we are familiar with the Operational Costs of Education (BOP). One example is from year to year has increased acceptance of the University of Indonesia dominated by the revenue from the Students .

246. Data obtained from the University of Indonesia in 2008, the students occupy the portion of 48 % of total revenues of University of Indonesia. In 2009: 42%, 2010: 44%, 2011: 46 %, and having significant increase in 2012 is equal to 57%. The data proved that studentd are the largest source of funding of BHP, which ultimately directly or indirectly burden the students and the resulting higher cost of education and ultimately violate the rights of citizens to education.

Recommendation

- 1) SOGIE:
 - a. Mainstream SOGIE and human rights in the National Education Curriculum. This recommendation is addressed to the Ministry of Education and Culture.
 - b. Campaign against discrimination facing the LGBT community in local governments and among society at large.
- 2) Urge the government to immediately establish a regulation of education which benefit its citizen.
- 3) Revoke or amend every policies which not in line with the principle of progressive realization in the fulfillment of the rights of education as the state responsibility.

L. Article 15 - Cultural rights

Issue 32: Please provide information on the measures taken to protect the cultural heritage of ethnic and linguistic minorities and of indigenous populations in the State party, and to create favorable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs

247. The preservation of intangible and tangible heritage has not become a priority for the central or local governments. The national or local development policy has often ignored the preservation of cultural heritage, such as in the city of Yogyakarta where the development of hotels in the Cultural Preservation Area has been intense.⁵⁷ The development of hotels could potentially ruin existing buildings and cultural preservation areas that were established based on ministerial decrees in the national level, governor decrees in the provincial level, or the regent/mayor decrees in the regency/city level.

248. The similar things happened in Bandung, such as in the Dago area, which has the European/Indische architecture. In Surabaya, a synagogue (one of the two synagogues in Indonesia) was destroyed in 2013 to make way for a shopping/commercial area. Several artifacts were even stolen from the synagogue. The Kalisosok Prison (1913) and an old church were in a state of abandonment. Similar problems occur in almost every regency and city in Indonesia.

249. If we look at the socio-economic perspectives, the cultural preservation areas are mostly located in areas with underprivileged communities, such as temple sites or ruins of kingdoms that can be found in rural areas. Several examples are the Trowulan Cultural Preservation Area and Biting Cultural Preservation Area in Lumajang. The people's low income has been used to justify the destruction and theft of the artifacts in Trowulan or other sites in East Java.⁵⁸ On the other hand, the Government has not imposed any sanctions towards the violation of the law.

250. Culture was still seen as tertiary needs and has not become the primary needs in civic life. This happened due to the weak commitment of the central and local government in managing and preserving cultural heritage. Moreover, law enforcement and government regulation in conjunction with Law Nr. 11 of 2010 on Cultural Preservation has not been issued until now.

251. The Law that specified the details on intangible heritage management has not been issued in the last 20 years. It also happened in the local regulations in every region; there were only 5-10% of the regencies/cities in Indonesia that lay out regulations on cultural preservation. The remaining cities did not have regulations on cultural preservation. The central government has been very weak in this matter; they tend to disregard and did not encourage the issuance of local regulations. Governors, regents, and mayors in the regions have not realized the importance of regulations on preservation in their region.

252. The regions that already have local regulations and have stated several artifacts as preserved cultural heritage have not set up preservation actions. There were cases in which artifacts were being excavated illegally without proper supervision and there were several known illegal activities that were not prosecuted. For example, the illegal excavation of 4 (four) inscribed plates from the borders of Banyuwangi dan Jember, which was then sold to a dealer in Bali late October 2013. Another case was the theft of 87 golden artifacts, masterpiece of the Old Mataram Era of the 8th to 10th century and the era of Majapahit Kingdom stolen from Sonobudoyo Museum on August 11, 2010 which has not been found until now. The central government seemed to have washed their hands of the case and delegated the case to the local level, despite the fact that the cultural and historical value of the artifacts can be categorized as national treasure.

253. In September 11, 2013 another collection of gold artifacts was stolen from the National Museum in Jakarta. The case has not been solved until now—the perpetrators and the stolen collection have not been found. The modus operandi of both cases was similar: CCTV and the alarm system were switched off and nobody acknowledged the responsibility for the technological equipment that helped security measures. The sluggishness in solving cases and the ineffectiveness in looking after artifacts that were still buried underground, in the depths of the sea, as well as those that has already been stored in museums has become a serious issue in cultural heritage preservation in Indonesia.

Recommendations

- 1) The need to immediately discuss and draft the Law on Intangible Heritage Management as well as issue a Government Regulation to implement Law Nr. 11 of 2010 on Cultural Preservation that specified about tangible heritage preservation as well as encourage and assist the regions in issuing local regulations in every province, regency, and city.
- 2) The need for a rigorous and fair law enforcement efforts to the violators of the law on cultural heritage preservation, which include rewarding the people, experts, and stakeholders who actively participated in preservation efforts.
- 3) The establishment of Cultural Heritage Management Agency in the national level with a ministerial level position as well as in the regional level considering the cultural preservation work consisted of conceptual and technical work, policies, and the vast amount of heritage in Indonesia.
- 4) The importance of education and rising awareness in the young generation for the preservation of Indonesia's cultural heritage which would develop a sense of belonging to improve people's interest in cultural preservation.
- 5) Indonesia Government including the local government in all levels must ensure that the old buildings being preserved and renovated not demolished and it must be allocated in the national, provincial and district/municipality budget in adequate numbers.
- 6) To convince and develop responsible cooperation with the private sector through investment activities in the cultural sector is a very big opportunity in Indonesia, including coordinating the business sector to avoid ruining protected cultural heritage.

ANNEX I
ORGANIZATIONS' PROFILES AND WEBSITES
(Indonesian NGO Network for Economic, Social and Cultural Rights)

1. **CEDAW Working Group Indonesia (CWGI)**: A national networking form since 2006 and consist of some NGOs and local networks in 15 provinces. CWGI focus on monitoring of CEDAW implementation in Indonesia through capacity building on CEDAW for activists, writing NGO's report of CEDAW and also advocacy of Concluding Observation.
2. **CIQAL** (Center for Improving Qualified Activity in Live Of people with disabilities) is an organization that works for people with disabilities. CIQAL emphasizes its activities for improving the quality of human resources with disabilities so that they can obtain equal opportunity in social life. The **vision** of CIQAL is to be the center of information referral, study/research, and development of economic well-being of people with disabilities in the Yogyakarta Special Territory Province. Telp/fax: (0274) 7483185, 6415108 / 6415108. E-mail: ciqal2003@yahoo.com
3. **Forum Pengurangan Risiko Bencana Daerah Istimewa Yogyakarta** (Forum PRB DIY) merupakan wadah yang menyatukan organisasi pemangku kepentingan (multi stakeholders) DI.Yogyakarta yang bergerak dalam mendukung upaya pengurangan risiko bencana (PRB) di wilayah DI.Yogyakarta. Sebagai Platform Pengurangan Risiko Bencana di tingkat provinsi yang menyediakan mekanisme koordinasi untuk meningkatkan kolaborasi & koordinasi berbagai pemangku kepentingan dalam keberlanjutan aktivitas-aktivitas PRB melalui proses konsultatif dan partisipatif yang selaras dengan pelaksanaan kerangka kerja PRB sebagaimana ditetapkan kebijakan nasional. Forum PRB DIY memberikan kontribusi dalam pengurangan risiko bencana melalui advokasi, pengawasan, fasilitasi dan konsultasi yang memungkinkan terjadinya pengarusutamaan pengurangan risiko bencana bagi semua pemangku kepentingan menuju komunitas yang tanggap dan tahan bencana.
4. **Franciscans International (FI)**: is a faith-based International Non-Governmental Organization with General Consultative Status with Economic and Social Council of the United Nations. It was founded in 1982 to bring to the UN the concerns of the most vulnerable coming from different countries. FI works mainly with the UN Human Rights Council, Human Rights Treaty Bodies as well as the Security Council.
5. **Human Rights Working Group (HRWG)**, the Indonesia's NGO Coalition for International Human Rights Advocacy (HRWG) was established in 2003 by a the majority of NGOs working in different issues to elaborate advocacy works already in place with the aim of maximizing the goals and putting more pressures on the Indonesian government to execute its international and constitutional obligations of

human rights in the country. W: www.hrwg.org | E: hrwg@hrwg.org | T: @hrwg_indonesia.

6. **Humanitarian Forum Indonesia (HFI)** adalah jaringan antar agama dan non-denominasi, diprakasai oleh tujuh lembaga swadaya masyarakat, yaitu: Muhammadiyah Disaster Management Centre (MDMC), Yayasan Tanggul Bencana Indonesia, Yakkum Emergency Unit (Christian Foundation for the Peoples Welfare), Dompot Dhuafa (Donation for the Poor), Karina KWI (Under Indonesian Bishop Council), World Vision Indonesia and Perhimpunan Pemberdayaan dan Keberdayaan Masyarakat (Association of Community Empowerment). Dalam perkembangannya HFI hingga saat ini telah memiliki 12 anggota dengan penambahan saat berdiri yakni Habitat for Humanity, Church World Services dan PKPU, Forum PRB PGI dan Rebana Indonesia. Telephone/fax :+62 3928756/ +62 39837302, www.humanitarianforumindonesia.org.

7. **Indonesian Conference on Religion and Peace (ICRP)** is a nonprofit, nonsectarian, non-governmental and independent organization dedicated to advancing and promoting interfaith dialogues, democracy and peace in Indonesia. It was established by religious leaders from various religions and faiths in Indonesia. ICRP efforts to promote the dialogues for developing religious life which is democratic, humanistic and pluralistic.

8. **Indonesian Positive Women Network (IPPI)** is a national network of women living with HIV and affected, which was established on June 17, 2006 in Jakarta. This national network was pioneered by, of and for women living with HIV and affected. And also the application of the principle of Greater Involvement of PLHA (GIPA) especially women. Phone: +62-21 4712484. Fax: +62-21 4712484 | Email : ippi.indonesia@yahoo.com | Website : www.ippi.or.id

9. **Indonesian Women's Coalition For Justice and Democracy (Koalisi Perempuan Indonesia):** Indonesian Women Coalition for justice and Democracy has Characteristics as a women mass Organization and Individual membership based, has democratic decision-making mechanism and includes 18 women interest group. The Structure of organization Indonesian Women's Coalition is parallel to Government administrative structure (from Village to national level). Today, members of Indonesian Women's Coalition reached nearly 40 thousand women are in 14 provinces, 116 districts / cities and in 900 villages. www.koalisperempuan.or.id.

10. **Institute for ESC Rights (IER)** is a civil society organization (CSO) dedicated to the promotion of economic, social, cultural for marginalized groups and promote public accountability that affect the performance of the business lives of many people. 2004 IER began actively running educational programs and research related to the issues of economic, social, cultural marginalized groups. In addition to moving in the realm of human rights issues. Institute IER also directed to develop models of participatory action research, models and organizers of educational modules for grassroots communities. The study on problems of economic, social, cultural, performed by a real stand on the issue of marginal groups are vulnerable to human rights violations.

11. **Institute for Interfaith Dialogue in Indonesia** (Institute DIAN/Interfidei) was established on December 20, 1991 in Yogyakarta, Indonesia, notarized under document

no. 38 (de jure). It was publicly released as an institution (de facto) on August 10, 1992. The founders of the Institute are the late Dr. Th. Sumartana, the late Rev. Eka Darmaputera, Ph.D., Dr. Daniel Dhakidae, Zulkifly Lubis, and Dr. Djohan Effendi. Telp: +62-274-880149 Fax: +62-274-887864. Email: dianinterfidei@interfidei.or.id / dianinterfidei@yahoo.com. Website: www.interfidei.or.id

12. **Institute for Policy Research and Advocacy (ELSAM)** established in August 1993 in Jakarta, is a policy advocacy organization with limited association as its legal entity. To actively participate in the efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR), has become ELSAM's 'driving' objective. From the outset, ELSAM has committed itself to developing a democratic political order in Indonesia by empowering civil society through advocacy and promoting human rights. Tel: +62 21 7972662, 79192564 | Fax: +62 21 79192519 | E-mail: office@elsam.or.id | Web page: www.elsam.or.id

13. **Institute for Research and Empowerment (IRE)** is an independent, non-partisan and non-profit oriented organisation, based on an academic community in Yogyakarta. It focuses on developing and deepening democracy, governance and policy reform, community development and empowerment, poverty alleviation and village reform. IRE's vision is to become an organization which takes a role in developing the knowledge to influence the strategic policy toward the realization of the strong country and the independent local community. Email : office@ireyogya.org Website: www.ireyogya.org.

14. **International NGO Forum on Indonesian Development (INFID)**, established in 1985, is a non-governmental organization working in the field of research, study, and policy advocacy on development in Indonesia. Currently INFID has three programs namely human rights and democracy, inequality, and Post-MDGs Development Agenda.

15. **JATAM (Mining Advocacy Network)** is a network of non-governmental organizations (NGO) and community-based organizations (CBO) working on issues concerning human rights, gender, the environment, indigenous people and social justice in relation to the mining, oil, and gas industries. <http://www.jatam.org/>

16. **Kalyanamitra**: is independent non-governmental woman organization based in Jakarta, Indonesia, and established as a critical response to inequality and lack of gender sensitivity and awareness in the family, society and state. Kalyanamitra works to promote women's human rights and gender equality in Indonesia since 1985, through women's community development, dissemination of information and publications on women's issues, training, research, and policy advocacy.

17. **LBH Jakarta (Jakarta Legal Aid Institute)** was established of the idea addressed on the Indonesian Bar Association (PERADIN) 3rd congress in 1969. It was aimed to provide legal aid for the poor in defending their rights especially the poor which are victim of force eviction, marginalization, lay off and human rights violation in general. The decision on the establishment of The Jakarta Legal Aid Institute and The Public Defender Institute that came into force in October 28, 1970.

18. **National Network for Domestic Workers Advocacy (JALA PRT)** is network of local, national and international levels, some NGOs, women organizations, domestic workers union, trade unions and other institutions concern on domestic workers. Established on July 11-14, 2004 in Yogyakarta. To this day Jala PRT has 41 organizations as its members and 8 individual members. Most of them are women organizations, NGOS and domestic workers organizations from 16 cities in Indonesia cover 8 islands and 14 province: Medan – North Sumatera, Batam, Yogyakarta, Jakarta and Banten province, Bandung – West Java Semarang, Solo, – Central Java, Surabaya, Madura – East Java, Mataram West Nusa Tenggara, Flores and Kupang – East Nusa Tenggara, Pontianak - West Kalimantan, Samarinda – East Kalimantan, Makassar – South Sulawesi, Denpasar – Bali. <http://www.jalaprt.co/>

19. **Perkumpulan Lingkar** is a Yogyakarta-based non-profit organization focused on community development, community-based disaster risk management, climate change adaptation, and sustainable development. Currently, Lingkar actively facilitates local communities in developing and implementing DRR efforts; promotes basic right fulfillment in disaster context, especially for vulnerable and at-risk groups; and develops concepts-frameworks for school-based disaster risk reduction. Lingkar participates in various networks of disaster risk reduction, such as KPB/CDE (Konsorsium Pendidikan Bencana/Consortium of Disaster Education), and DRR platforms in Special Region Yogyakarta and Central Java Province.

20. **Setara Institute** for Democracy and Peace is an individual-based association dedicated to achieve the vision of which everyone is treated equally by respecting diversity, preceding solidarity, and treating human as a noble individual. SETARA Institute have missions, are: Promoting pluralism, humanitarianism, democracy and human rights; Executing study and advocacy in public policies on pluralism, humanitarianism, democracy and human rights; Smoothing the dialog in conflict settlement, and; Executing public education.

21. **The IDEA Association** was established as part of efforts to encourage the institutionalization of political mechanisms and public policies that respect human rights, particularly economic, social, and cultural (ECOSOC) rights. IDEA as a non-governmental organization decided to become a part of social transformation in Indonesia. IDEA focuses its energy on popular education and advocacy on budget policy at the national and regional level. Budget policy is the one of concrete state policy in respect, protect, and fulfill the human rights. The budget policy became a strategic instrument regarding human rights fulfillment. Thus, the budget policy became a strategic instrument to fulfill the basic rights of citizens.

22. **The WAHID Institute** was established with its launching on September 7, 2004, in Jakarta. The WAHID Institute emerged with the dedication to realize the intellectual commitment of KH Abdurrahman Wahid (Gus Dur) in advancing the development of both Indonesian as well as Islamic society, improving the welfare of lower class of the society, building democracy and fundamental justice, and expanding peace and non-violence throughout the world. The WAHID Institute organizes education events for youth, capacity buildings for Muslim clerics to generate cross-

religions, cross-cultural, and cross-ethnics dialogues, monitoring for religious Issues, and assists and promotes them to actively participate in the process of building economic welfare and justice and good governance. www.wahidinstitute.org

23. **Trade Union Rights Centre (TURC)** is a labour service NGOs (Non-Governmental Organization) that focus on an information center of strengthening the trade union movement in Indonesia. TURC established in 2003, initiated by some labor activist were previously active in the Jakarta Legal Aid Institute. The idea of the founders, TURC become a legal aid and special education for the sake of union activists sthrengthening labor unions. TURC aims to help unions / labor unions in Indonesia to increase their capacity for conducting advocacy (legal aid specifically for case workers and trade unions), research / labor related research, and education on labor laws to strengthen unions and the labor movement.

24. **Aliansi Masyarakat Adat Nusantara (AMAN)**: <http://www.aman.or.id/>

25. **Arus Pelangi**: <http://aruspelangi.org/>

26. **ASPEK Indonesia**: <http://aspekindonesia.wordpress.com/>

27. **Desantara Foundation**: www.desantara.or.id

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29. **Green Map Yogyakarta**: <http://greenmap.or.id/> | Email: petahijau@greenmap.or.id

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31. **Indonesian Corruption Watch (IWC)**: www.antikorupsi.org

32. **Institute Mitra Perempuan**: perempuan.or.id/ | Email: mitra@perempuan.or.id

33. **KIARA**: <http://www.kiara.or.id/>

34. **Koalisi Rakyat untuk Hak atas Air (KRUHA)**: www.kruha.org

35. **LBH APIK Yogyakarta**: Telp: 0274 – 552778 | Email: apik_jogja@yahoo.com

36. **Lembaga Studi dan Pengembangan Perempuan dan Anak (LSPPA)**: Telp/Fax 0274 – 419328 | Email: lsppa-yk@idola.net.id

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