

**LAWS OF REPUBLIC OF INDONESIA**

**NO.23, 2002**

**ON**

**CHILD PROTECTION**

**BY THE GRACE OF THE ONE AND ONLY GOD**

**PRESIDENT OF REPUBLIC INDONESIA,**

Considering :

- a. that Unified State of Republic of Indonesia guarantees the welfare of each of its citizen, including protection toward children's rights, which are (parts of) human rights.
- b. that children are mandates and gifts from the one and only God, and whose within are inherent dignities and pride as whole humans;
- c. that children are buds, potentials, and young generation who carries aspirations of the nation's struggle, possessing strategic roles and having characteristic and special traits that will ensure the existence of the nation and country in the future;
- d. that in order for every child to be able to carry such responsibilities ahead, then he needs to get as broadest opportunities as possible to grow and develop optimally, be it in physical, mental or social domains and to have noble morals, and it is needed to conduct protective acts and to realize children's welfare by providing guarantees to fulfill their rights as well as to give indiscriminative treatment.
- e. that in order to realize children's protection and welfare, institutional supports and laws are required so that they can guarantee its implementation.
- f. that a number of laws only regulate certain aspects of children and have not addressed in particular the whole aspects related with children protection;
- g. that based on all those considerations in letters a, b, c, d, e, and f, it is urgent that Laws on Children Protection be enacted;

In light of :

1. Article 20, article 20A verse (1), Article 21, Article 28B verse (2), and Article 34, Constitutions of Republic of Indonesia 1945;
2. Laws No.4 1979 on Children's Welfare (State Gazette 1979 No.32, Additional State Gazette No. 3143);
3. Laws no.7 1984 on the Elimination of all Forms of Discrimination Against Women) (State Gazette 1984, No.29, Additional State Gazette No. 3277);
4. Laws No.3 1997 on Children's Prosecution (State Gazette 1997, No.3, Additional State Gazette No. 3668);
5. Laws No.4 1997 on the Disabled (State Gazette 1997, No.9, Additional State Gazette No. 3670);

6. Laws No.20 1999 on Ratifying of ILO Convention No.138 concerning Minimum Age for Admission to Employment (State Gazette 1999, No.56, Additional State Gazette No. 3835);
7. Laws No.39 1999 on Human's Rights (State Gazette 1999, No.165, Additional State Gazette No. 3835);
8. Laws No.1 2000 on Ratifying ILO Convention No.182 concerning the Prohibition and Immediate Action for The Elimination of The worst Form of Child labor (State Gazette 2000, No.30, Additional State Gazette No. 3941).

**By approval of:**

HOUSE OF REPRESENTATIVES OF REPUBLIC OF INDONESIA

**DECIDES :**

**Enacting : LAWS ON CHILDREN PROTECTION**

**CHAPTER I**

**GENERAL REQUIREMENTS**

Chapter 1

In these laws, what is meant by:

1. A child is someone who has not reached the age of 18 (eighteen), including fetus in womb.
2. Protection is any activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in line with dignities of humanity, as well as acquire protection from violence and discrimination.
3. Family is the smallest unit in society that consists of husband and wife, or husband, wife and child(ren), or father and his child(en), or mother and her child(ren), or bloodline family in a straight line up or down until the third generation.
4. Parents are father and/or biological mother, or father and /or step mother, or father and/or foster mother.
5. Guardian is people or a body that in fact exercise(s) caregiving authority as parents to their child(ren).
6. Abandoned child is a child whose needs are not decently fulfilled, be it physical, mental, spiritual or social needs.
7. A disabled child is a child who has physical and/or mental limitation so that it disturbs normal growth and development.
8. A child who excels is a child who possesses extraordinary intelligence or has potentials and/or special talents.
9. An adopted child is a child whose rights are transferred from the authority of parents' family, legal guardian, or other people responsible for treatment, education, and raising of a child, into the foster parents' family based on court's ruling.

10. Foster child is a child who is cared for by someone or an institution to be given guidance, nurturing, treatment, education, and health, because his/her parents, or one of them, are not able to guarantee the child's decent growth and development.
11. Caregiving authority is parents' authority to care for, educate, nurture, guide, protect and to grow and develop a child in accordance with the religion one embraces and his/her competencies, talents and interests.
12. Child's rights are parts of human rights which oblige parents, family, communities, the government, and state to guarantee, to protect and to fulfill them.
13. Community is individuals, families, groups, and social and/or public organizations.
14. Accompanying officer is a social worker who possesses professional competencies in his/her fields.
15. Special protection is the protection provided for a child in cases of emergency, a child implicated with laws, a child from a minority group and isolated, a child who is economically and/or sexually exploited, a child traded for, a child who becomes a victim of drug abuse, alcoholic drinks, psychotropic substances, and other addictive substances (*napza*), a child victim of kidnapping, selling, and trafficking, a child victim of physical and/or mental violence, a child with disabilities, and a child of mistreatment and abandonment.
16. Every person is individual or corporation.
17. Government is the Government that consists of Central Government and Local Government.

## **CHAPTER II**

### **PRINCIPLES AND AIMS**

#### **Chapter 2**

Child protection acts principled on The Five Principles (*Pancasila*) and the Constitution of 1945 of Republic of Indonesia and basic principles of Convention of Child's Rights consist of:

- a. non-discrimination;
- b. best interest for children;
- c. rights to live, survive, and develop; and
- d. appreciation of child's opinion.

#### **Article 3**

Child's protection is aimed to guarantee the fulfillment of child's rights to live, grow, develop, and participate optimally in line with dignity of humanity, and acquire protection from violence and discrimination, for realization of quality Indonesian children who have noble morals and are well-being.

## **CHAPTER III**

## **CHILD'S RIGHTS AND OBLIGATIONS**

### **Article 4**

Every child is entitled to live, grow, develop, and participate decently in line with dignity of humanity, and acquire protection from violence and discrimination.

### **Article 5**

Every child is entitled for a name as a self-identity and citizenship status.

### **Article 6**

Every child is entitled to worship in accordance with his/her religion, to think, and to express in line with his/her level of intelligence and age, under parents' guidance.

### **Article 7**

- (1) Every child is entitled to know his/her parents, raised, and cared for by his/her own parents.
- (2) In cases that due to one thing or another the parents cannot guarantee the child's growth and development, or the child is in a neglected state, then the child is entitled to be given care for or adopted as a care given or adopted child in accordance with existing rules and regulation.

### **Article 8**

Every child is entitled to get health services and social security in line with physical, mental, spiritual, and social needs.

### **Article 9**

- (1) Every child is entitled to acquire education and teaching in the framework of developing his/her character and level of intelligence in line with his/her interest and talent.
- (2) Besides the child's rights as meant in verse (1), particularly for a disabled child, he/she is entitled to get special education, while a child who excels is also entitled to get special education.

### **Article 10**

Every child is entitled to express, and to be listened to about, his/her opinion, to receive, seek and give information in line with his/her level of intelligence and age for the shake of his/herself development in accordance with appropriateness and decency norms.

### **Article 11**

Every child is entitled to rest and make use of leisure times, socialize with peers, play, recreate and create in line with interest, talent, and level of intelligence for developing him/herself.

## **Article 12**

Every disabled child is entitled to earn rehabilitation, social aids, and up keeping of social welfare.

## **Article 13**

(1) Every child, so long as he/she is under parents' care, guardians', or any other party's responsible of caregiving, is entitled to have protection and treatment of:

- a. discrimination;
- b. exploitation, be it economic or sexual;
- c. abandonment;
- d. cruelty, violence, and molestation;
- e. injustice; and
- f. other mistreatment.

(2) In cases where parents, guardians or caregivers conduct any kinds of acts as meant by verse (1), then the perpetrators are subjects to heavier penalty.

## **Article 14**

Every child is entitled to be raised by his/her own parents, unless there are reasons and/or legal rules of law indicating that the separation is for a child's best interest and it is taken as the last consideration.

## **Article 15**

Every child is entitled to acquire protection from:

- a. misuse for political activities;
- b. being involved in an armed dispute;
- c. being involved in social riots;
- d. being involved in events that contain elements of violence; and
- e. beinginvolved in a war.

## **Article 16**

(1) Every child is entitled to acquire protection from targets of molestation, torture, or inhuman punishment.

(2) Every child is entitled to have freedom in accordance with law.

(3) Apprehension, detention or imprisonment of a child's criminal offense is conducted only if it is in accordance with existing laws, and can be conductedonly if it is the last resort.

## **Article 17**

(1) Every child stripped of his/her freedom is entitled to:

- a. get humane treatment and his/her place of containment is separated from that of adults;
- b. get legal aids or other assistance effectively given in every phase of existing legal process; and

c. defend him/herself and acquire justice in front of a child's court which is objective and impartial in a closed trial for public.

(2) Every child who becomes a victim or actor of sexual assault or who is against the law has the right to be kept confidential.

#### **Article 18**

Every child who becomes a victim of crime or a criminal actor is entitled to get legal aids and other aids.

#### **Article 19**

Every child has obligations to:

- a. respect parents, guardian, and teachers;
- b. love his family, communities, and care for friends;
- c. love the motherland, country and nation;
- d. worship in accordance with religious teachings; and
- e. practice ethics and possess noble morals.

### **CHAPTER IV OBLIGATIONS AND RESPONSIBILITIES**

#### **First Section**

##### **General**

#### **Article 20**

The state, community, family, and parents have the obligation and responsibility for arranging child's protection.

#### **Second Section**

#### **Obligations and Responsibilities of the State and The government**

##### **Chapter 21**

The state and the government have the obligation and responsibility for respecting and guaranteeing every child's rights regardless ethnic, religion, race, group, sex, culture, and language, child's legal status, rank of birth, and physical and/or mental conditions.

##### **Chapter 22**

The State and the government have the obligation and responsibility for providing facilities and infrastructures in arranging child's protection.

##### **Chapter 23**

(1) The State and the government guarantee child's protection, nurturing, and welfare by considering the rights and obligation of parents, guardians, or other people who are legally responsible for a child.

(2) The state and the government supervise the arrangement of child's protection.

## **Chapter 24**

The state and the government guarantee a child's rights to express his/her opinions in line with age and level of intelligence.

### **Third Section**

#### **Obligations and Responsibilities of Community**

### **Chapter 25**

Obligations and responsibilities of community toward child's protection are carried out through activities of peoples' roles in arranging child's protection.

### **Fourth Section**

#### **Obligations and Responsibilities of Family and Parent**

### **Chapter 26**

(1) Parents are obliged and responsible for:

- a. caregiving, nurturing, educating, and protecting a child;
- b. growing and developing a child in line with his/her competencies, talent and interest; and
- c. preventing early marriage at child's age.

(2) In the event of absence of parents, or their whereabouts are not known, or due to one thing or another they cannot perform their obligations and responsibilities, then obligations and responsibilities as meant by verse (1) can be switched to extended family, which is executed following existing rules and regulation.

## **BAB V**

### **CHILD'S POSITION**

#### **First Section**

#### **Child's Identity**

#### **Article 27**

- (1) Every child's identity must be given since at birth.
- (2) Identity as meant by verse (1) is described in Birth Certificate
- (3) The making of birth certificate is based on the letter of notification from the persons witnessing and/or helping the process of birth.
- (4) In the event that the process of birth is unknown, and his parents' whereabouts are not clear, the making of the birth certificate for that child is based upon the testimony of the person(s) who found it.

#### **Article 28**

(1) The making of birth certificate is the government responsibility and its arrangement is conducted at least at the lowest level of administration, that is at village level.

(2) The making of birth certificate as meant by verse (1) must be given in 30 (thirty) days' time at the latest starting from the date of application.

(3) The making of birth certificate as meant by verse (1) is not charged.

(4) Regulations on the procedures and conditions of making a birth certificate as meant by verse (1) are arranged by laws.

## **Second Section**

### **A child born under mixed marriage**

#### **Article 29**

- (1) If a mixed marriage between acitizen of Republic of Indonesia and a foreign citizen takes place, the child born under such marriage is entitled to earn citizenship from either the father's side or the mother's in accordance with the provision of existing laws.
- (2) In the event of divorce of a marriage as meant by verse (1), a child has the right to choose (which one) or it is based on the court's ruling determining on whose care between the two parents the child is entrusted.
- (3) In the event that a divorce takes place as meant by verse (2), while the child is still not able to choose and his/her mother is a citizen of Republic of Indonesia, for the child's best interest or based on his mother's request, the government is obliged to arrange for citizenship of republic of Indonesia for the child.

## **BAB VI**

### **CAREGIVING RIGHTS**

#### **Article 30**

- (1) In the event that parents as meant in Article 26, neglect their obligations, against whomsupervising can be imposed or parents caregiving rights can be revoked.
- (2) Act of supervising toward parents or revoking their caregiving rights as meant in verse (1) is executed through courts ruling.

#### **Article 31**

- (1) One of parents, blood siblings, or families up to third level, can apply a request to court in order to acquire court's ruling on revoking parents caregiving right or conducting an act of supervising if there is a strong reason for it.
- (2) If one of parents, blood siblings, or families up to third level, cannot perform their functions, then the revoking of caregiving right as meant in *verse(1)* can also be requested by authorized officials or other institutions which have authority for it.
- (3) Court's ruling as meant in verse (1) may appoint individuals or governmental/public institution to become a guardian for a child.
- (4) Individuals who conduct caregiving as meant in verse (3) must have the same religion with that of the child to be cared for.



### **Article 32**

Court's ruling as meant in Article 31 verse (3) at least contains stipulations of:

- a. It does not break the bloodline between a child and his/her biological parents.
- b. It does not relieve parents from the obligation to finance the child's living.
- c. It sets the time-line for revoking (of being a guardian).

## **CHAPTER VII GUARDIANSHIP**

### **Article 33**

- (1) In the event that a child's parents are not adept in performing a law-related activity, or their whereabouts are unknown, then persons or legal entities that meet the requirements can be appointed as guardians of the child.
- (1) To become a guardian as meant in verse (1) is conducted through court's ruling.
- (2) The appointed guardians as meant in verse (2) must have the same religion with that of the child.
- (3) For the shake of the child, guardians as meant in verse (2) are obliged to manage the wealth owned by the child.
- (4) Requirements on conditions and procedures for appointing guardians as meant in verse (1) are regulated further by Government Regulation.

### **Article 34**

The guardians appointed based on court's ruling as in Article 33, can represent a child in a legal action, be it inside or outside the court for the best interest of the child.

### **Article 35**

- (1) In the event that a child has not attained a court's ruling on guardians, then the wealth of the child can be managed by *Body of Inherited Wealth* or other authorized institutions for such matters.
- (2) *Body of Inherited wealth* or other institutions as meant in verse (1) acting as a supervising guardian to represent a child's interest.
- (3) Wealth management as meant in verse (1) and verse (2) must have a ruling.

### **Article 36**

- (1) In cases where the appointed guardian is not adept in acting out law-related activities or abuse his/her authority as a guardian, then his/her status of guardian is revoked and another is appointed as a guardian through court's ruling.
- (2) In cases where the guardian is deceased, another is appointed as a guardian through court's ruling.

**CHAPTER VIII**  
**CHILD'S CAREGIVING AND ADOPTION**

**First Section**  
**Child's Caregiving**

**Article 37**

- (1) Child's caregiving is aimed for a child whose parents cannot guarantee the child's growth and development decently, be it physical, mental, spiritual, or social aspects.
- (2) Child's caregiving as meant in verse (1) is conducted by an institution which possesses such authority.
- (3) In regard of institutions as meant in verse (2) whose foundation is religion, the child under caregiving must have the same religion with the institution's religion, which serves as its foundation.
- (4) In regard that a child's caregiving is carried out by an institution whose foundation is not religion, then the conduct of the child's caregiving must consider the religion embraced by the child.
- (5) Child's caregiving by an institution can be conducted either inside or outside of social institutions.
- (6) Individuals who wish to participate can do so through institutions as meant in verse (3), verse (4), and verse (5).

**Article 38**

- (1) Child's caregiving as meant in Article 37 is conducted without differentiating ethnics, religion, race, group, sex, culture and language, child's legal status, child's birth rank, and physical and/or mental conditions.
- (2) Child's caregiving as meant in verse (1) is conducted through activities of guiding, caring, treating, and educating in a sustainable way, also by providing financial aids and/or other facilities, to guarantee optimum child's growth and development in physical, mental and spiritual aspects, without affecting the religion embraced by a child.

**Second Section**  
**Child Adoption**

**Article 39**

- (1) Child adoption can only be done for the best interest for a child and it is done based on local habit and tradition and stipulations of existing laws.
- (2) Child's adoption as meant in verse (1), does not break the bloodline between an adopted child and his/her biological parents.
- (3) Candidates for foster parents must embrace the same religion as held by a child.
- (4) Child's adoption by foreign citizens can only be done as the last resort.
- (5) In cases where a child's origin is not known, the child's religion is then suited with the religion embraced by the majority of people.

**Article 40**

- (1) Adoptive parents are obliged to inform their adopted child regarding his origins and biological parents.

(2) Informing on the child's origin and biological parents as meant in verse (1) is done by considering the child's readiness.

#### **Article 41**

(1) The government and communities conduct guidance and supervising toward the execution of child adoption.

(2) Requirements on guidance and supervising as meant in verse (1) are arranged in the Government Regulation.

### **Chapter IX IMPLEMENTATION OF PROTECTION**

#### **First section**

##### **Religion**

#### **Article 42**

(1) Every child is protected to worship following his/her religion.

(2) Before the child can make up his/her mind regarding a religion to choose from, the religion embraced follows the parents' religion.

#### **Article 43**

(1) The state, the government, communities, families, parents, guardians and social institution guarantee child protection in his/her observation of the religion.

(2) Child protection as meant in verse (1) covers guidance, counseling, and a child's practices of religious teachings.

#### **Second Section**

##### **Health**

#### **Article 44**

(1) The government is obliged to provide facilities and conduct health acts which are comprehensive for children, so that every child can attain an optimum level of health starting since they are in the wombs.

(2) The facilities procurement and health acts as meant in verse (1) are supported by communities' participation.

(3) Comprehensive health acts as meant in verse (1) consists of promoting, preventive, curative and rehabilitative activities, both for basic health services and references.

#### **Article 45**

(1) Parents and families are responsible for taking care of a child's health and treat the child since from the womb.

(2) In the event that parents and families cannot afford to perform responsibilities as meant in verse (1), then the government is obliged to fulfill them.

(3) Obligations as meant in verse (2) are implemented in accordance with the existing rules and regulations.

#### **Article 46**

The state, the government, families and parents are obliged to make efforts that born children are free from diseases which are life-threatening or may inflict disabilities.

#### **Article 47**

(1) The state, the government, families and parents are obliged to protect children from efforts of transplanting their body organs for other parties.

(2) The state, the government, families, and parents are obliged to protect children from the acts of:

- a. taking a child's body organs and/or the child's body tissues without considering the child's health.
- b. selling and buying of body organs or a child's body tissues; and
- c. health experiments which uses children as research objects without parents' consent and which does not prioritize a child's best interests.

### **Third section Education**

#### **Article 48**

The government is obliged to implement basic education of minimum 9 (nine) years for all children.

#### **Article 49**

The state, government, families, and parents are obliged to provide as extensive opportunities as possible for children to acquire education.

#### **Article 50**

Education as meant in Article 48 is directed toward:

- a. child's attitude development and characteristic abilities, talents, physical and mental abilities until they acquire maximum potentials.
- b. Development of respects toward human's rights and basic freedom.
- c. Development of respect toward parents, cultural identity, language and his/her own values, national values in which the child live, from where the child originates, and civilizations different from that of the child;
- d. child's preparation for a responsible life; and
- e. development of respect and love toward environment.

#### **Article 51**

Children who excel are given opportunities and accessibility to acquire special education.

#### **Article 53**

(1) The government is responsible for providing free tuition and/or aids or special services for children from underprivileged families, abandoned children, and children living in remote areas.

(2) The government's responsibilities as meant in verse (1) includes encouraging communities to take part actively.

#### **Article 54**

It is obligatory that children at school and within school area be protected from violent act committed by teachers, school administrators or his/her peers at the schools or other education institution.

**Fourth Section**  
**Social Matters**  
**Article 55**

- (1) The government is obliged to arrange for care and treatment for abandoned children, be it in an institution or outside an institution.
- (2) Implementation of care and treatment as meant in verse (1), can be conducted by public institution.
- (3) To arrange for care and treatment of abandoned children, governmental and public institution, as meant in verse (2) can cooperate with various relevant parties.
- (4) In the event of implementation of care and treatment as meant in verse (3), is monitored by Social Minister.

**Article 56**

- (1) In conducting care and treatment, the government is obliged to make efforts and help children so that they can:
  - a. participate;
  - b. be free to express their thoughts and opinion in line with their conscience and religion;
  - c. be free to receive oral and written information adjusted with child's age phase and development;
  - d. be free to organize and gather;
  - e. be free to rest, play, recreate, create, and produce works of art and culture; and
  - f. acquire playing facilities which meet the criteria of health and safety.

- (2) Efforts as meant in verse (1) are developed and adjusted with age, level of children ability, and their surrounding so that they will not hinder and disturb children development.

**Article 57**

In the event that a child is abandoned on the reason of parents' negligence in performing their obligations, then institutions as meant in Article 55, families or authorized officials may propose to court to rule the child as abandoned.

**Article 58**

- (1) Court's ruling as meant in article 57 at the same time stipulates shelter, care, and treatment of that abandoned child.
- (2) The government or authorized institutions are obliged to provide a venue as meant in verse (1)

**Fifth section**  
**Special Protection**  
**Article 59**

The government and other state institutions are obliged and responsible for providing special protection to children in emergency situation, children implicated with law, children from minority groups and isolated, children economically and sexually exploited, children trafficking, children victims of drug, alcohol, and psychotropic and other addictive substances abuse (*napza*), children victims of kidnapping, selling and trafficking, children victims of physical and/or mental violence, disabled children, and children victims of mistreatment and abandonment.

#### **Article 60**

Children in emergency situation as meant in Article 59 consist of:

- a. children who become refugees’
- b. children victims of riots;
- c. children victims of natural disasters;
- d. children in armed conflict situations;

#### **Article 61**

Special treatment for children who become refugees as meant in Article 60 letter a is conducted in line with the provision of humanitarian law.

#### **Article 62**

Special treatment for children victims of riots, natural disaster, and children in arms conflict situations as meant in Article 60 letter b, letter c, and letter d, is conducted through:

- a. fulfillment of basic needs consisting of foods, clothing, shelter, education, health, study and recreation, security guaranty, and equal treatment; and
- b. fulfillment of special needs for disabled children and children suffering from psycho-social disorder.

#### **Article 63**

Everyone is prohibited to recruit or use children for military purposes and/or others and leave children’s life unprotected.

#### **Article 64**

(1) Special protection for children implicated with law as meant in Article 59 covers children conflicting with law and children victims of crimes is obligations and responsibilities of the government and communities.

(2) Special protection for children implicated with law as meant in verse (1) is conducted through:

- a. treating children humanely in line with children’s dignity and rights.
- b. procurement of accompanying officers for children as early as possible.
- c. procurement of special facilities and infrastructures.
- d. giving appropriate penalty for the child’s best interest.
- e. constantsupervising and recording on development of children implicated with law.
- f. providing a guarantee to keep relationship with parents or family; and
- g. protection from revealing of identity through mass media and to avoid

labeling.

(3) Special protection for children who become victims of crimes as meant in verse (1) is conducted through:

- a. rehabilitation act, be it in an institution or outside an institution.
- b. protection act from identity revealing through mass media and to avoid labeling.
- c. providing safety guarantee for both victim and expert witness, be it in physical, mental, or social aspects; and
- d. providing accessibility in order to be able to acquire information on the case development

#### **Article 65**

(1) Special protection for children from minority groups and isolated as meant in Article 59 is conducted through procurement of facilities and infrastructures in order for them to be able to enjoy their own culture, recognize and practice their own religion, and use their own language without disregarding access of community and cultural development.

(2) Every one is prohibited to obstruct children as meant in verse (1) from enjoying their own culture, recognizing and practice their own religion, and using their own language without disregarding access of community and cultural development.

#### **Article 66**

(1) Special protection for children who are economically and/or sexually exploited as meant in Article 59 is obligations and responsibilities of the government and communities.

(2) Special protection for exploited children as meant in verse (1) is conducted through:

- a. dissemination and/or socialization the provision of laws related with child protection from economical and sexual exploitation;
- b. monitoring, reporting, and penalty giving; and
- c. involvement of various governmental institutions, companies, worker unions, non-governmental organization, and communities in eliminating child economical and/or sexual exploitation.

(3) Every one is prohibited to place, let of , do, order to do, or participate in the act of exploitation against children as meant in verse (1).

#### **Article 67**

(1) Special protection for children who become victims of drug, alcohol, psychotropic, and other addictive substances abuse (*napza*) as meant in Article 59, and involved in their production and distribution, is conducted through acts of monitoring, preventing, caring, and rehabilitating by the government and communities.

(2) Every one is prohibited to deliberately place, let of, involve, order to involve children in the abuse, production, and distribution of *napza* as meant in verse (1).

#### **Article 68**

(1) Special protection for children who become victims of kidnapping, selling and children trafficking as meant in Article 59 is conducted through acts of monitoring, protection, prevention, treatment, and rehabilitation by the government and communities.

(2) Every one is prohibited to place, let of, do, order to do, or participate in, kidnapping, selling, or trafficking/trading as meant in verse (1).

#### **Article 69**

(1) Special protection for children victims of violence as meant in Article 59 that covers physical, psychic, and sexual violence is conducted by the acts of:

- a. dissemination and/or socialization of the provision of laws protecting children victims of violent acts; and
- b. monitoring, reporting, and penalty giving.

(2) Every one is prohibited to place, let of, do, order to do, or participate in the act of violence as meant in verse (1).

#### **Article 70**

(1) Special protection for disabled children as meant in Article 59 is conducted through acts of:

- a. treating the children humanely in line with their dignity and rights.
- b. fulfilling basic needs; and
- c. getting equal treatment as other children do in order to acquire social integration as fully as possible and to develop individuals.

(3) Every one is prohibited to disregard children's opinion discriminatively, including giving labels; in addition, equal education is needed for disabled children.

#### **Article 71**

(1) Special protection for children victims of mistreatment and abandonment as meant in Article 59 is conducted through monitoring, prevention, treatment, and rehabilitation by the government and communities.

(2) Every one is prohibited to place, let of, involve, order to involve children in situations of mistreatment, and abandonment as meant in verse (1).

### **CHAPTER X COMMUNITY ROLES**

#### **Article 72**

(1) Communities have the rights to acquire as much opportunity as possible to have role in child protection.

(2) Community role as meant in verse (1) is conducted by individuals, child protection agency, social institution, non-governmental organization, educational institution, religious institution, business entity, and mass media.

#### **Article 73**

Community role is conducted in accordance with the provision of existing laws.

### **CHAPTER XI**



## **COMMISSION OF INDONESIAN CHILD PROTECTION**

### **Article 74**

In the framework of upgrading the effectiveness of implementation of child protection, by these laws it is established Commission of Indonesian Child Protection which is independent in nature.

### **Article 75**

(1) Membership of Commission of Indonesia Child Protection comprises 1 (one) chairman, 2 (two) vices of chairman, 1 (one) secretary, and 5 (five) members.

(2) The committee membership as meant in verse (1) consists of elements of the government, religious leaders, social organization, public organization, professional organization, non-governmental organization, business entities, and community groups who care for child protection.

(3) The commission membership as meant in verse (1) and verse (2) is appointed and terminated by the President after having consideration from the House of Representatives of Republic of Indonesia, for 3 (three) years of tenure and can be reappointed for 1 (one) tenure.

(4) Further stipulation regarding organization completeness, work mechanism, and budgeting is enacted by Presidential Decree.

### **Article 76**

Commission of Child Protection has duties of:

- a. socializing the whole provisions of laws related with child protection, gathering data and information, accepting people's complaints, analyzing, monitoring, evaluation, and supervision toward implementation of child protection;
- b. submitting report, suggestion, input, and consideration to the President in the framework of child protection.

## **CHAPTER XII CRIMINAL PROVISION**

### **Article 77**

Every one who deliberately commits the acts of:

- a. discrimination toward a child resulting in a child's loss, be it material or moral so that it hinders his/her social function; or
- b. abandonment toward a child resulting in a child's sickness or suffering, be it physical, mental or social suffering;
- c. has penalty with maximum of 5 (five) years of imprisonment and/or fined Rp. 100.000.000 (a hundred million) in maximum.

### **Article 78**

Every one who knows and deliberately lets a child be in an emergency situation as meant in Article 60, a child implicated by law, a child from minority group and isolated, a child economically and/or sexually

exploited, a child trafficked, a child a victim of drug, alcoholic, psychotropic, and other substances abuse (*napza*), a child a victim of kidnapping, trafficking, or a child a victim of violence as meant in Article 59, while the child is in need of help and must be helped, is subject to maximum penalty of 5 (five) years of imprisonment and/or fined Rp. 100.000.000 in maximum.

#### **Article 79**

Every one who conducts child adoption which is against the provisions as meant in Article 39 verse (1), verse (2), and verse (4) is subject to maximum penalty of 5 (five) years of imprisonment and/or fined Rp. 100.000.000 at maximum.

#### **Article 80**

- (1) Every one who commits cruelty, violence or threat to violence, or child molestation, is subject to maximum penalty of 3 (three) years 6 (six) years and/or fined Rp. 100.000.000 at maximum.
- (2) In the event that a child as meant in verse (1) is badly wounded, then the perpetrator of crime is subject to penalty of 5 (five) years and/or fined Rp. 100.000.000 (a hundred million) at maximum.
- (3) In the event that a child as meant in verse (2) dies, then the perpetrator of crime is subject to maximum penalty of 10 (ten) years and/or fined Rp. 200.000.000 (two hundred millions).
- (4) Penalty is added one third from the provision as meant in verse (1), verse (2), and verse (3) if the one who commits the molestation is his/her parent.

#### **Article 81**

- (1) Every one who deliberately commits violence or threats for violence, forcing a child to commit sexual intercourse with him or with others, is subject to maximum penalty of 15 (fifteen) years of imprisonment and 3 (three) years at most and fine of Rp. 300.000.000 (three hundreds millions) at most and Rp. 60.000.000 (sixty) million at least.
- (2) Provision of crimes as meant in verse (1) also applies for every man who deliberately plays tricks, tells a series of lies, or persuades a child to commit sexual intercourse with him or others.

#### **Article 82**

Every one who deliberately commits violence, or threat of violence, forces, does tricks, tells a series of lies, or persuades a child to do, or let obscene acts be done, is subject to penalty of 15 (fifteen) years at most and 3 (three) years at least and fine of Rp. 300.000.000 (three hundreds millions) at most and Rp. 60.000.000 at least.

#### **Article 83**

Every one who trades, sells, or kidnaps a child for himself or for sale, is subject to penalty of 15 (fifteen) years at most and 3 (three) years at least and fine Rp. 300.000.000 at most and Rp. 60.000.000 at least.

#### **Article 84**

Every one who illegally conducts the transplantation of a child's body organs and/or body tissues for other parties in order to benefit him/herself or others, is subject to penalty of 10 (ten) years of imprisonment, and/or fine Rp. 200.000.000 (two hundreds millions rupiah).

#### **Article 85**

(1) Every one who buys and sells a child's body organs and/or body tissues is subject to penalty of 15 (fifteen) years of imprisonment, and/or fine Rp. 300.000.000 (two hundreds millions rupiah).

(2) Every one who illegally conducts the taking of a child's body organs and/or body tissue without considering the child's health, or health research which uses a child as an object of research without his/her parents consent or which does not consider the child's best interest, is subject to penalty of 10 (ten) years of imprisonment and/or fine Rp. 200.000.000 (two hundred millions rupiah) at most.

#### **Article 86**

Everyone who deliberately uses tricks, tells a series of lies, or persuades a child to choose another religion not based on his/her own wish, while in fact it is known or reasonably suspected that the child does not possess reasoning yet and is not held accountable according to the religion he/she embraces, is subject to maximum penalty of 5 (five) years of imprisonment at most and maximum fine Rp. 100.000.000 (a hundreds million rupiah).

#### **Article 87**

Every man who illegally recruits or uses a child for military purposes as meant in Article 63, or misuses him/her for political activities, or involves him/her in arms conflict or involves him/her in social riots, or involves him/her in the event which has elements of violence, or involves him/her in war as meant in Article 15, is subject to maximum penalty of 5 (five) years of imprisonment and/or maximum fine of Rp. 100.000.000 (a hundreds millions rupiah).

#### **Article 88**

Everyone who economically or sexually exploits a child in order to benefit himself or others is subject to maximum penalty of 10 (ten) years of imprisonment and/or maximum fine of Rp. 200.000.000 (two hundreds million rupiah).

#### **Article of 89**

(1) Every one who deliberately places, lets of, involves, orders to involve a child in the abuse, production, or distribution of drugs and/or psychotropic is subject to death penalty or life-imprisonment or 20 (twenty) years of imprisonment and minimum penalty of 5 (five) years of imprisonment and maximum fine of Rp. 500.000.000 (five hundred millions rupiah).

(2) Every one who deliberately places, lets of, involves, orders to involve a child in the abuse, production, or distribution of alcohol and/or other addictive substances is subject to maximum penalty of 10 (ten) years of imprisonment and minimum penalty of 2 (two) years of imprisonment and maximum fine of Rp. 200.000.000 (two hundreds millions rupiah) and minimum fine Rp. 20.000.000 (twenty million rupiah).

#### **Article 90**

(1) In the event of criminal acts as meant in Article 77, Article 78, article 79, Article 80, Article 80, Article 81, Article 82, Article 83, Article 84, Article 85, Article 86, Article 87, Article 88, and Article 89 is committed by a corporation, then criminal penalty can be imposed on the management and/or the corporation.

(2) Penalty imposed on a corporation is only penalty of fine with the provision that the penalty of fine imposed is added with 1/3 (one third) each fine as meant in verse (1).

**CHAPTER XIII  
TRANSITIONAL PROVISION**

**Chapter 91**

At the times of these laws are enacted, all the existing laws related with child protection are declared still effective as long as it is not against these laws.

**CHAPTER XIV  
CLOSING PROVISION**

**Article 92**

From the time of enactment of these laws, at least in 1 (one) year's time Commission of Indonesian Child Protection must be established.

**Article 93**

These laws are effective at the date it is enacted.

In order for every one to be knowledgeable, it is ordered that these laws be put in State Gazette of Republic of Indonesia.

Made official in Jakarta

Signed,  
Megawati Sukarnoputri

Enacted in Jakarta  
On October 22, 2002  
STATE SECRETARY OF REPUBLIC INDONESIA

Signed

BAMBANG KESOWO

STATE GAZETTE OF REPUBLIC OF INDONESIA 2002 NO.109  
Copies similar with the original  
SECRETARIATE OF MINISTRY OF REPUBLIC OF INDONESIA  
Head of Bureau of Laws II

Signed  
EdySudibyo

**EXPLANATION  
OF  
LAWS OF REPUBLIC OF INDONESIA  
NO.23 2002  
ON  
CHILD PROTECTION**

**GENERAL**

A child is a mandate as well as a gift from the one and only God whom we must always take care because within a child inherent is dignity and rights as a human that we must look up upon. Child basic rights are a part of human rights contained in Constitutions of 1945 and in Convention of United Nations on child's rights. From the side of state and civic life, a child is the country's future and generation that carries on the state's aspirations, so every child is entitled to live, grow, develop, and participate and also entitled to be protected from violence and discrimination as well as entitled to enjoy civic rights and freedom.

Although Laws No.39 1999 on Human's Rights has included the child's rights, as well as implementation of obligations and responsibilities of parents, family, communities, the government, and the state to provide protection for children, some laws on child protection are still needed to provide legal foundation for implementing those obligations and responsibilities. Thus, these laws establishment are based on consideration that child protection at every aspect is a part of national development activities, particularly in advancing national and state life.

Parents, families and communities are responsible of taking care and preserving those basic rights in line with the obligations put by the law. Likewise in the framework of conducting child protection, the state and the government are responsible for providing facilities and accessibility for children, particularly in ensuring their growth and development optimally and with focus.

These laws affirm that forms of responsibilities of parents, families, communities, the government and the state are a series of activities that must be conducted continuously so that child's rights are protected. This series of activities must be sustainable and focused to guarantee the children's growth and development, be it in physical, mental, spiritual or social aspects. This act is aimed to realize the best life for children, expected to become the country's next generation who are potential and resilient, possesses sense of nationalism which is induced by noble morals and *Pancasila* values, as well as highly motivated to preserve unity of the state and country.

Acts of child protection need to be conducted as early as possible, that is beginning from fetus life in the womb until the child reaches the age of 18 (eighteen). Grounded on the concept of child protection which is in tact, holistic, and comprehensive, these laws lay duties to provide protection for children basing on the following principles:

- a. non discriminating;
- b. the child's best interest;

- c. rights to live, survive, and develop; and
- d. respect for child's opinions.

In providing guidance, development and protection to a child, community's role is needed, whether through child protection agency, religious institutions, non governmental organization, social organizations, business world, mass media or through educational institution.

## **ARTICLE BY ARTICLE**

### **Article 1**

Clear enough

### **Article 2**

Principles of child protection in here are in line with basic principles contained in the Convention of Child's Rights.

What is meant by child's best interest is that in every act regarding a child conducted by the government, communities, legislative bodies, and courtier bodies, the best interest for the child should become a major consideration.

What is meant by the principle of rights to live, to survive, and to develop is the most fundamental rights for a child, protected by the state, the government, communities, families, and parents.

What is meant by the principle of respect for a child's opinion is appreciation of a child's rights to participate and express his/her opinion in decision-making process, particularly on matters affecting his/her life.

### **Article 3**

Clear enough

### **Article 4**

This right is in accordance with the provision in Article 28B verse (2) Basic Constitutions 1945 and main principles contained in Convention of Child's Protection.

### **Article 5**

Clear enough

### **Article 6**

This provision is meant to give freedom to a child in efforts to develop his/her creativity and intellectualism (their reasoning power) in line with the levels of a child's age. Provision of this article also affirms that this development must be still under his/her parents' guidance.

### **Article 7**

Verse (1)

Provisions on a child's rights to know who his/her parents are, meaning to know his/her origin (including his/her breast-feeding mother), is meant to avoid the breakdown of family line and bloodline between a child and his/her biological parents, while the rights to be raised and cared for by his/her parents are meant for a child to obey and respect his/her parents.

**Article 8**

Clear enough

**Article 9**

Verse (1)

Clear enough

Verse (2)

Clear enough

**Article 10**

Clear enough

**Article 11**

Clear enough

**Article 12**

The rights in this provision is meant to ensure that his/her life is in accordance with dignity of humanity, to raise self-confidence and ability to participate in social life, nation life, and state life.

**Article 13**

Verse (1)

Letter a

Discriminating treatment, for example treatment that differentiates ethnics, religion, race, group, sexes, culture and language, child's legal status, child's birth rank, and physical and/or mental condition.

Letter b

Exploiting treatment, for example an act or deed of using, taking advantage of, or blackmailing to gain personal, family, or group benefits.

Letter c

Acts of abandonment are for example an act or deed that deliberately neglects obligations to nurture, treat, or care for a child as it should be.

Letter d

Acts of cruelty are for example an act or deed of injustice, cruelty, anger, or relentlessness toward a child. Acts of violence and molestation are for example hurting and/or causing injury to a child, and it is not only physical but also mental and social in nature.

Letter e

Acts of injustice are for example an act of choosing side on one child over another, or an act of being unjust toward a child.

Letter f

Other acts of mistreatment are for example an act of harassment or doing indecent things to a child.

Verse (2)

Clear enough

#### **Article 14**

Separation meant in this provision is not to break relationship between a child and his/her parents.

#### **Article 15**

Protection in this provision covers activities which are direct and indirect, of acts that endanger a child's physics andpsychic.