

**UNIVERSAL PERIODICAL REVIEW**

**The country under review: Indonesia (2022)**

**4<sup>th</sup> cycle**

**Submission from Dompot Dhuafa, Indonesian Humanitarian NGO**

**ANNEX**

## A. INTRODUCTION

Dompot Dhuafa is an Islamic philanthropic institution dedicated to empowering the poor with a cultural approach through philanthropic activities and prophetic social entrepreneurship or Prophetic socio-techpreneurship. Since 1993 Dompot Dhuafa has conducted countless social and philanthropic program in helping unfortunate people inside and outside Indonesia. Dompot Dhuafa philanthropic program focuses on five main pillars or points which comprised of Education, Health, Economy, Social and Preaching/ Dakwah, and Cultural. Those five point also translated into five basic human rights and needs in order to alleviate poverty.

Access to quality education plays a great role in alleviating poverty by providing a new chance for the young poor generation a better career for the future. access to quality healthcare provide highest quality of well-being physically and mentally to support also play great role in alleviating poverty, as healthy life will affect human full capacity to work and to learn.

To help increases people economic power and close the poverty gap, Dompot Dhuafa realize the importance of socio- entrepreneurship role in helping to create a new job as well as generating income and social benefit for the societies. In delivering its philiantropic program, Dompot Dhuafa always utilizes social, cultural and Islamic Dakwah approach. By using this approach Dompot Dhuafa hope its program are able to be rooted back into society in order to maximizes program sustainability.

During COVID-19 Pandemic, Dompot Dhuafa deeply concerned in the fulfilment of basic and general human rights including children rights, housing rights and health rights. Dompot Dhuafa realized that in order to maximize COVID-19 prevention effort, Indonesian government has to implement restrictive policy such as travel and trade ban, PSBB (Pembatasan Sosial Berskala Besar) or Big Scale Social Restriction Policy and PPKM (Pemberlakuan Pembatasan Kegiatan Perkantoran) or Enancment of Office and Works activity Restriction Policy.

Thus restrictive measure prevent daily activity such as travel, works and education, as most of Indonesian people are living on or below the standard of poverty by working in informal sectors such as seller, street hawker, and other services. The restrictive policy applied by the government has devastated most of Indonesian income. Furthermore the lack of access to a information technology such as internet access, laptops and tablet reduced Indonesian student access during online class session.

Covid-19 pandemic situation also reveal the capacity of Indonesian health care access, during the lack of healthcare facility and medicine access, such as the availability of hospital beds, Covid-19 drugs and vaccine. This limited supply has force Indonesian government to implement discriminative policy by prioritizing covid treatment, medicines and vaccine to only Indonesian citizen.

This review paper contain further information and report regarding human rights enactment by the Indonesian Government in the aspect of Child Rights, Affordable Housing and Health Rights especially during the time of COVID-19 pandemic.

## CHILD RIGHTS IN UNIVERSAL PERIODIC REVIEW ON INDONESIA 2022

### 1. Current Situation in Indonesia

#### A. Education during COVID-19 Pandemic

- Uneven digital infrastructure makes not all regions of Indonesia able to have internet access. This problem could look through data showing that 12,548 villages out of 83,218 villages in Indonesia have not yet had internet access where the majority of areas that have not yet received such access are located in the FOD (Front, Outermost, and Disadvantaged) areas and located in eastern of Indonesia. Thus, the online learning activities carried out are not effective for rural communities.<sup>1</sup> Thus, the online learning activities carried out are not effective for rural communities. This condition has made local school teachers in several areas come to their students' homes one by one and give lessons like what happened in Sragen, Central Java.<sup>2</sup>
- The teacher tries to overcome the ineffectiveness of learning activities by giving assignments to make students learn independently the material presented during learning. However, the task is the overload that makes the student less resilient and has an increased level of anxiety.<sup>3</sup> This situation makes depression rates among students increase and Students do not understand the material during online learning which is reflected by the decline in student achievement in dealing with exam questions during pandemic time.<sup>4</sup>
- Today, the government has set a policy of face-to-face learning, both limited and full. The applied learning can only be carried out by students who already have a full dose of the vaccine. The implementation of this policy has created new clusters of the spread of COVID-19 in schools. An example is a school in Bogor

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<sup>1</sup> Media Indonesia, "Pemerintah Tetap Kebut Infrastruktur Digital di Masa Pandemi," <https://mediaindonesia.com/humaniora/421483/pemerintah-tetap-kebut-infrastruktur-digital-di-masa-pandemi>, diakses pada 28 Agustus 2021.

<sup>2</sup> Labib Zamani, "Cerita Guru SD di Sragen Mengajar ke Rumah Siswanya yang Tidak Bisa Belajar Online," <https://regional.kompas.com/read/2020/05/08/13414831/cerita-guru-sd-di-sragen-mengajar-ke-rumahsiswanya-yang-tidak-bisa-belajar>, diakses pada 28 Agustus 2021.

<sup>3</sup> Harri Jumarto Suriadi, Firman, dan Riska Ahmad, "Analisis Problema Pembelajaran Daring Terhadap Pendidikan Karakter Peserta Didik," *Edukatif* Volume 3 (April 2021), hlm. 167.

<sup>4</sup> Prihatin, "Peran Orang Tua dan Kendala yang Dihadapi dalam Pembelajaran di Rumah (Daring) saat Pandemi COVID-19," *Mahaguru* Volume 3 (April 2021), hlm. 150.

City, West Java where 676 students and teachers were affected by COVID-19.<sup>5</sup>

## **B. Child Rights Protection during COVID-19 Pandemic**

- The prohibition of crowding makes all activities centered at home cause children's play space to be limited only in the house where children can only explore nature and the environment at home.<sup>6</sup> The limited children's play space makes children not familiar with the world outside their homes. So, the children's socialization space to meet and understand new things is inhibited.
- Besides things that children do not get from the outside world, children themselves get danger from gadgets such as learning media and communication with the world outside the home. This danger arises from the child's addictive attitude towards online games on the gadget makes him able to spend hours and at the same time causes the child to be lazy to do physical activity and neglect daily activities that he should do such as eating and bathing.<sup>7</sup>
- Besides that, children's safety is also endangered during the pandemic cause of the potential for violence against children to increase as the number of parents experiencing stress increases. This could be seen from the online information system data of the Ministry of Women's Empowerment and Child Protection as of August 30, 2021, there were 10,552 violence cases against the child of which 6,404 cases occurred in the household.<sup>8</sup> There are several types of violence against children such as physical, psychological, and sexual violence.<sup>9</sup>

## **C. Protection on Undocumented Children**

- The COVID-19 pandemic has made the country concentrate on the needs and saving its people from the pandemic. So, the budget for other expenditure items

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<sup>5</sup>Shabrina Zakaria, "Dari Klaster Sekolah di Bogor, 676 Siswa dan Guru Terpapar Covid-19," <https://repiabar.republika.co.id/berita/r7frkx396/dari-klaster-sekolah-di-bogor-676-siswa-dan-guru-terpapar-covid19>, diakses pada 23 Februari 2022.

<sup>6</sup> Susi Retnowati dan Herlina Siwi Widiyana, "Peran Orangtua terhadap Pendampingan Belajar Anak dari Rumah Pada Masa Pandemi COVID-19," *Healthy Tadulako Journal* Volume 7 (Mei 2021), hlm. 97.

<sup>7</sup> Hafid Abdul Tamsil, "Permasalahan Penggunaan *Gadget* pada Tumbuh Kembang Anak Usia Dini di Masa Pandemi COVID-19," *Cendekiawan Ilmiah* Volume 6 (Juni 2021), hlm. 47.

<sup>8</sup> Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, "Ringkasan Simfoni PPA," <https://kekerasan.kempppa.go.id/ringkasan>, diakses pada 28 Agustus 2021.

<sup>9</sup> *Ibid.*

like refugee aid has decreased, which has prevented refugees from receiving assistance to date.<sup>10</sup> Besides the dwindling aid, refugee facilities have become unkept because the budget intended to maintain these facilities has also been scratched to deal with the COVID-19 pandemic like the former Kodim headquarters housed about 300 refugees in Kalideres, West Jakarta.<sup>11</sup>

- The crowd prohibition policy made many public facilities temporarily closed so that the refugees' access to public facilities is limited and even the refugees could not access public facilities in the form of health services which were the most significant needs during the pandemic, so they carried out self-medication for all symptoms of the disease. what happened as experienced by the refugees in Kalideres, West Jakarta.<sup>12</sup>
- The most effective way to deal with the pandemic, the vaccine is still focusing on citizens, which is often carried out according to regional clusters and requires carrying an identity document. These requirements resulted in the rejection of vaccination for the refugees like what happened in Puncak, Bogor.<sup>13</sup>

#### **D. Marriage and Family**

- The high number of child marriages in Indonesia, especially during the COVID-19 Pandemic. In 2020, there are more than 64 thousands couple that file the Child Marriage Dispensation to the court.<sup>14</sup>
- The number of child marriage is rising during the pandemic because of pregnancy outside the marriage and free sex which has been done during the pandemic. During the pandemic, the children has more freedom to socialize as the impact of

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<sup>10</sup> Tri Nuke Pudjiastuti, "Kerentanan Pengungsi pada Masa Pandemi COVID-19 di Indonesia," <http://www.politik.lipi.go.id/kolom/kolom-1/politik-internasional/1384-kerentanan-pengungsi-pada-masa-pandemicovid-19-di-indonesia>, diakses pada 29 Agustus 2021.

<sup>11</sup>Rizki Sulistio "Curhat Pengungsi Afghanistan di Kalideres, Tidak Dapat Bantuan dari Pemerintah Indonesia,"<https://voi.id/berita/77745/curhat-pengungsi-afghanistan-di-kalideres-tidak-dapat-bantuan-daripemerintah-indonesia>, diakses pada 29 Agustus 2021.

<sup>12</sup> Santi, "Analisis Perlindungan Kesehatan di Masa Pandemi COVID-19 terhadap Pengungsi di Eks Gedung Kodim Kalideres," *Jurnal Indonesia Sosial Sains* Volume 2 (April 2021), hlm. 610.

<sup>13</sup> Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, "Ringkasan Simfoni PPA," <https://kekerasan.kemenpppa.go.id/ringkasan>, diakses pada 29 Agustus 2021.

<sup>14</sup> Ellyvon Pranita, "Pernikahan Dini Meningkat Selama Pandemi, BKKBN Gencarkan Edukasi Reproduksi," <https://www.kompas.com/sains/read/2021/10/01/100000523/pernikahan-dini-meningkat-selama-pandemi-bkkbn-gencarkan-edukasi?page=all>, accessed on November 2, 2021.

the online learning activities.<sup>15</sup>

- Besides of the accidental marriage, some of the children marriage during the pandemic come from the children's initiative because they feel bored and want to prevent free sex/sex before marriage.<sup>16</sup>
- 3,73% toddler in Indonesia have an inappropriate child care from their parents because their parents have to work to fulfill their needs, so they do not have time to take care of them. This issue can be tackled by build the day cares in urban place, especially in the midle-low income environment.<sup>17</sup>

#### **E. Children's Health and Prosperity**

- 26,9% children in Indonesia have stunting.<sup>18</sup> The stunting problem comes from the insufficient nutrition for the children which will impact to the children's body growth and personality development.<sup>19</sup> The root of this problem is illiterate parents about the urgency and formulation of the proper nutrition for the children.<sup>20</sup> Recently, the government is tackling this problem by giving the proper nutritional food to the family directly and make a lot of socialization event to socialize about the proper nutrition for the children in the villages.
- Only more than half children in Indonesia get the exclusive breastmilk with the specific percentage on 53,9% in 2020.<sup>21</sup> This percentage is decreasing since the peak on 2018 which more than 68% children in Indonesia got the exclusive breastmilk. This condition would make the children's potential on growth and

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<sup>15</sup> Elga Andina, "Meningkatnya Angka Perkawinan Anak di Masa Pandemi COVID-19," *Info Singkat Bidang Kesejahteraan Sosial 13* (Ferbuari 2021), hlm. 14.

<sup>16</sup> *Ibid*, hlm. 15.

<sup>17</sup> Dewanto Samudro, "KPPPA: 3,73 persen balita tidak mendapatkan pengasuhan yang layak," <https://www.antaraneews.com/berita/1558920/kpppa-373-persen-balita-tidak-mendapatkan-pengasuhan-yang-layak#mobile-src>, accessed on November 12, 2021.

<sup>18</sup> Aisyah Nursyamsi, "Kepala BKKBN: Angka Stunting di Indonesia Masih Berada Pada Angka 26,9 Persen," <https://www.tribunnews.com/nasional/2021/10/29/kepala-bkkbn-angka-stunting-di-indonesia-masih-berada-pada-angka-269-persen>, accessed on November 15, 2021.

<sup>19</sup> dr. Meva Nareza, Pahami Penyebab Stunting dan Dampaknya pada Kehidupan Anak," <https://www.google.co.id/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiYv-7n8Nr0AhVVzTgGHS-eDUUQFnoECAIQAAQ&url=https%3A%2F%2Fwww.alodokter.com%2Fbayi-lahir-stunting-faktor-penyebab-dan-risiko&usq=AOvVaw2sniqNiaVxuPHg1-vobJsK>, accessed on November 16, 2021.

<sup>20</sup> *Ibid*.

<sup>21</sup> Rahel Narda Chaterine, "Menko PMK Sebut Angka Pemberian ASI Eksklusif Turun dalam 3 Tahun Terakhir," <https://nasional.kompas.com/read/2021/08/25/13595401/menko-pmk-sebut-angka-pemberian-asi-eksklusif-turun-dalam-3-tahun-terakhir?page=all>, accessed on November 20, 2021.

development is not optimal.<sup>22</sup>

- The rising of child smoker percentage from 7,2% in 2013 to 9,1% in 2020.<sup>23</sup> The rising is caused by the easiness to get the cigarette and the massive advertisement from the cigarette corporation.<sup>24</sup>

## **2. Regulations About the Issues in Indonesia**

### **A. Education Issues**

- Decree Of The Minister Of Education And Culture Republic Of Indonesia Number 719/P/2020 About Curriculum Implementation Guidelines In Education Units In Special Conditions
- Joint Decision Minister Of Education, Culture, Risbt, And Technology, The Minister Of Religion, The Minister Of Health, And The Minister Of International Affairs Republic Of Indonesia About About Learning Organization Guide In The Time Of The Coronavirus Disease Pandemic 2019 (Covid-19)

### **B. Child Rights**

- Government Law Of The Republic Of Indonesia Number 78 Year 2021 about Special Protection for Children
- Law Number 23 Year 2002 about child protection
- Joint Decision Minister Of Women's Empowerment And Child Protection, Minister Of Health, And Head Of National Agency Disaster Management about Family Health Protocol During The Coronavirus Pandemic Disease 2019 (COVID-19)

### **C. Protection to the Undocumented**

- The problem of the undocumented child because of the parents marital status that just put its mother name without father in its birth certificate which often being stigmatized as illegitimated child. This situation impacts not all children has the birth certificate.<sup>25</sup>

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<sup>22</sup> *Ibid.*

<sup>23</sup> Liputan 6, "Jumlah Perokok Anak di Indonesia Meningkat, Iklan Jadi Faktor Pemicu," <https://www.liputan6.com/news/read/4378628/jumlah-perokok-anak-di-indonesia-meningkat-iklan-jadi-faktor-pemicu>, accessed on November 20, 2021.

<sup>24</sup> *Ibid.*

<sup>25</sup> Deti Mega Purnamasari, "Kemendagri: Kepemilikan Akta Kelahiran sampai dengan 93,78%," <https://nasional.kompas.com/read/2021/02/09/14374851/kemendagri-kepemilikan-akta-kelahiran-anak-pada-2020-capai-9378-persen?page=all>, accessed on November 2, 2021.



- There is no specific regulation about refugee care in Indonesia, the only regulation about refugee care is in Law Number 24 Year 2000 about International treaty that give a space for refugee's recognition as the result of treaty

#### **D. Marriage and Family**

- Law Number 1 Year 1974 about Marriage
- Law Number 16 Year 1974 about the change of Law Number 1 Year 1974
- Government Law Number 9 Year 1975 about the Implementation of Law Number 1 Year 1974
- Supreme Court Law Number 5 Year 2019 about Guidelines for Adjudicating Marriage Dispensation

#### **E. Child Health and Prosperity**

- President Law Number 72 Year 2021 about Stunting Decrease Acceleration
- President Law Number 83 Year 2017 about Strategic Food and Nutrition Policy
- President Law Number 42 Year 2013 about National Movement for the Acceleration of Nutrition Improvement
- Minister of Health Law Number 29 Year 2019 about Management Of Nutrition Problems For Children Due To Disease

### **3. Resolution**

#### **A. Education**

- Provide a budget for the Health Protocol Package containing masks and hand sanitizers for each student to be distributed regularly by the school
- Create an audiovisual learning platform that can be accessed by all students in Indonesia so that the quality of the learning materials delivered online is equal
- Prioritizing the development of technology and digital infrastructure in the outermost, remote, and underdeveloped areas to improve the quality of online education.

#### **B. Child Rights**

- Improving child parenting education for prospective parents so that they can accommodate and guide the process of maturation of their children
- Conducting counseling to children about domestic violence and how to make a complaint to the authorities if they get violence

### **C. Protection to the Undocumented**

- Making changes to the law on civil registration regarding the status of fathers for children out of wedlock
- Making comprehensive regulations on the care of refugees in Indonesia
- Conducting a population census of refugees in Indonesia to find out concrete data on the number of people who are refugees
- Create affirmative policies to accommodate the special needs of the COVID-19 Pandemic for refugees

### **D. Marriage and Family**

- Conduct counseling about the dangers of early marriage due to pregnancy out of wedlock in every school
- Organizing sexual education at every school level, from elementary school to university to increase students' personal awareness about the dangers of sex outside of marriage
- Carry out youth and young women empowerment activities in the community to fill spare time during the COVID-19 Pandemic

### **E. Child Health and Prosperity**

- Providing free nutritious food such as milk and fruit for every family in the village with a high stunting rate through village funds in the state budget
- Conducting special education for pregnant women about the importance of exclusive breastfeeding and providing tools to help procure breast milk for children
- To make buying and selling cigarettes difficult by increasing taxes on cigarette purchases and limiting sales to accredited market places on condition that they show identity cards.

## **HOUSING ISSUES**

### **The Problems of Fulfilling the Right to Adequate and Affordable Housing in Indonesia**

The right to adequate housing can be said to be the "*right to live somewhere in security, peace, and dignity*" or the center and place of the fulfillment of economic, social, cultural rights to live in dignity and peace.<sup>26</sup>

The fulfillment and protection of the right to adequate and affordable housing as a fundamental right come from survival and maintaining the dignity of human life. However, based on the Central Statistics Agency data, many households in both urban and rural areas do not have access to decent and affordable housing. It is recorded that the percentage of homes that have access to decent and affordable housing in urban areas in 2019<sup>27</sup> is 61.09%, while in rural areas, it is 50.67%. Then in 2020, the percentage in urban areas is 63.24%, and in rural areas is 54.82%. Although the rate has increased, this figure still shows the number of households that do not yet have access to adequate housing.<sup>28</sup>

Limited access to decent housing, low quality of the residential environment, and weak protection to get proper housing are the main problems faced, especially the poor, both rural and urban. However, the housing problems faced by the urban poor are different from the rural poor. In urban areas, most low-income families live in villages behind office buildings and shops in small clusters close to each other, unhealthy, and often in one house more than one family lives. Besides that, it is often found under toll bridges, the edges of railroad tracks, and on abandoned land.<sup>29</sup>

### **The Problems of Fulfilling the Right to Adequate and Affordable Housing in Urban Areas**

Population density does not coincide with the fulfillment of floor density, which causes overcrowding. In Jakarta, for example, based on data from the Central Statistics Agency,

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<sup>26</sup> Elisa Sutanudjaja, "*Politik Pengadaan Hunian Layak di Kota*" presented in a Focus Group Discussion on the Role and Urgency of Civil Society Involvement in the Universal Periodic Review for Indonesia 2022: Inventory of Crucial Issues in Guaranteed Access to Affordable Housing, 16 October 2021.

<sup>27</sup> Since 2019, households are classified as having access to livable housing/houses if they meet 4 (four) criteria, namely: (1) adequate living space of at least 7.2 m<sup>2</sup> per capita (sufficient living space); (2) have access to proper drinking water; (3) have access to proper sanitation; (4) building resilience (durable housing), namely the widest roof in the form of concrete/tile/zinc/wood/shingle; the widest wall in the form of wall/plaster woven bamboo/wire, wood/board and logs; and the widest floor is marble/granite/ceramic/parquet/vinyl/carpet/tile/tile/terrazzo/wood/board/cement/red brick.

<sup>28</sup> Central Statistics Agency, "Percentage of Households with Access to Adequate and Affordable Housing by Area of Residence (Percent)," [https://www.bps.go.id/indikator/indikator/view\\_data/0000/data/1242/sdgs\\_11/1](https://www.bps.go.id/indikator/indikator/view_data/0000/data/1242/sdgs_11/1), accessed 12 December 2021.

<sup>29</sup> Firdaus, "The Fulfillment of Right on Adequate Housing to the Urban Poor in Human Rights Perspective," *Jurnal Penelitian HAM* 7 (December 2016).

44% of houses in Jakarta only have an area of fewer than 9.9 M<sup>2</sup> per person.<sup>30</sup> Moreover, the procurement of decent housing in cities is hampered by dualism and stigma in society about towns and villages. In contrast, the definition of a village is an area with its main characteristic, namely the mixing of life and work activities, as well as a form of manifestation of the social space of the community consisting of various levels of privatization, public, ethnic, and religious which they use to survive.

The challenges of fulfilling and protecting the right to decent housing in urban areas, especially urban villages, are the stigma against the existence of villages and informality, impartiality to people's history, the duality of land status and black and white understanding, regional spatial planning and zoning set by the Government, quality of infrastructure, predict- provide planning, and space inequality.<sup>31</sup>

### **The Problems of Fulfilling the Right to Adequate and Affordable Housing in Disaster Areas**

Fulfilling the right to adequate and affordable housing is also a significant issue in disaster areas. Indonesia is a disaster-prone area. Disasters generally bring damage and loss both morally and materially. Losing their homes is a consequence of people living in disaster-prone areas. Therefore, the Government must implement disaster management during emergency response. Based on Law Number 24 of 2007 concerning Disaster Management, the Government is obliged to meet the basic needs of disaster victims. One of the basic needs based on Article 53 of the Law is shelter and shelter.<sup>32</sup>

Reporting from the BNPB Disaster Data Geoportal, in 2021, as of October 15, 2021, it was recorded that 130,515 houses were damaged and 1,058,107 houses were submerged due to natural disasters in Indonesia.<sup>33</sup>

Fulfilling the right to adequate and affordable housing in disaster areas often faces problems. Some of the issues include: (1) leadership of the central and local governments who lack experience in disaster management; (2) determination of disaster status; (3) at least areas

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<sup>30</sup> Central Statistics Agency 2016 in Elisa Sutanudjaja, “*Politik Pengadaan Hunian Layak di Kota*”.

<sup>31</sup> Elisa Sutanudjaja, “*Politik Pengadaan Hunian Layak di Kota*” presented in a Focus Group Discussion on Inventory of Crucial Issues in Guaranteeing Access to Affordable Housing, 16 October 2021.

<sup>32</sup> Indonesia, *Disaster Management Law*, Law Number 24 of 2007, Article 53.

<sup>33</sup> National Disaster Management Agency, “Disaster Data,” <https://gis.bnpb.go.id/databencana/map.php>, accessed 12 December 2021.

that have a disaster management plan; and what often happens is (4) long and tortuous bureaucracy between stakeholders related to disaster management.<sup>34</sup>

### **The Problems of Fulfilling the Right to Adequate and Affordable Housing for Youth**

Narratives of the difficulty of fulfilling the right to decent and affordable housing for young people or millennials to own a home are often heard. Based on data from the Residential Property Price Index (IHPR) of Bank Indonesia, the increase in residential prices reached 39.7% within a decade. Meanwhile, the increase in the Regional Minimum Wage (UMR) throughout Indonesia per year, taking into account the development of the inflation rate, is still not comparable. The low homeownership of millennials, especially in big cities, is due to high housing prices. The increase in house prices and the increase in income are not directly proportional.<sup>35</sup>

The challenges of providing decent and affordable housing for millennials and/or low- and middle-income households are unequal economic and population growth. Increased global capital flows into real estate investment and the most significant expenditure for most families. In addition, the provision of affordable housing often faces market failures due to the lack of stable and consistent policies, the absence of a planning mechanism that regulates affordable housing, and failures in governance to coordinate strategies.<sup>36</sup>

### **The Problems of Fulfilling the Right to Adequate and Affordable Housing for Refugee**

To analyze the fulfillment, this research conducted interviews to obtain information about the rights fulfillment in Cisarua, Bogor. Cisarua, Bogor is one location with high occupancy

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<sup>34</sup> Haryo Mojopahit, "Problems and Fulfillment of the Right to Adequate and Affordable Shelter in Post-Emergency Disaster Areas" presented in a Focus Group Discussion on the Role and Urgency of Civil Society Involvement in the Universal Periodic Review for Indonesia 2022: Inventory of Crucial Issues in Guaranteed Access to Affordable Housing, 16 October 2021.

<sup>35</sup> Housing and Settlement Areas, "Millennial Challenges to Own a Home," <https://perkim.id/pembiayaan/tantangan-milenial-untuk-memiliki-rumah/>, accessed 13 October 2021.

<sup>36</sup> Teguh Kurniawan, "Fulfilling the Rights and Challenges of Providing and Equitable Housing Ownership for Young People," presented in a Focus Group Discussion on the Role and Urgency of Civil Society Involvement in the Universal Periodic Review for Indonesia 2022: Inventory of Crucial Issues in Guaranteed Access to Affordable Housing, 16 October 2021.

by refugees. This research managed to obtain information by interviewing 2 (two) families to get information regarding their housing conditions and their housing rights fulfillment. Our interview with the refugees at Cisarua, Bogor highlighted 2 (two) main problems regarding the right of adequate and affordable housing fulfillment. The first problem happened when the refugees first arrived in Indonesia. Until now, there is no temporary housing or shelter for the refugees to stay temporarily for transitioning when arriving in Indonesia. The second problem would be the rent fee of the refugee housing since as we know our regulation prevents foreigners from owning land in Indonesia.

Based on the refugees' information, to solve the transition problem, newly arrived refugees would go to the only resource that is viable, which is finding their community that arrived before them. Their community could be in the form of an unofficial community or group of refugees that arrive from the same country as them and arrived before them. The newly arrived refugee would stay with the established community from the same country as them. As an alternative, the newly arrived refugees could also ask for financial help from their relatives that already have financial stability in other countries. However the solution is not applicable for all refugees. The refugees have to have access to the well established refugee communities from the same country or having relatives that are financially stable.

The second problem is the housing rent fee for refugees. It is known that refugees count as foreigners which disables them to own land in Indonesia. Therefore, refugees are only able to rent a house. Most refugees rent houses located within their community. This fact would benefit the owner of the property that would raise the rent fee due to the high needs of the property location. On the other hand we know that refugees are restricted to their own work permit. This is contradictive due to their increasing needs but unable to obtain more income.

### **International and National Legal Instruments in the Protection of the Right to Adequate and Affordable Housing**

The right to adequate and affordable housing is regulated in many international legal instruments. For example, article 11 of the International Covenant on Economic, Social, and Cultural Rights expressly states that everyone has the right to live with an adequate standard, including fair housing.<sup>37</sup> The same thing is also regulated in Article 25 paragraph (1) of the

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<sup>37</sup> United Nation, *International Covenant on Economic, Social, and Cultural Rights*, Article 11.

Universal Declaration of Human Rights, which states that every individual has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing.<sup>38</sup>

The regulation of this right is also found in other instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, International Convention on The Protection of The Rights of All Migrant Workers and Members of Their Families, International Labor Organization's Recommendation 1961 No. 115 on Workers' Housing, and The 1951 Refugee Convention. Indonesia has ratified almost all of the international legal instruments mentioned above.

Indonesia itself in the 1945 Constitution states in Article 28H paragraph (1) that everyone has the right to live in physical and spiritual prosperity, to live, and to have a good and healthy living environment.<sup>39</sup> Then Article 40 of Law Number 39 of 1999 concerning Human Rights also states that everyone has the right to live and have a decent life.<sup>40</sup> Recognition of the right to decent and affordable housing was strengthened and concreted again with Law Number 1 of 2011 concerning Housing and Settlement Areas (UU-PKP). The preamble to the UU-PKP states that the state is responsible for protecting the entire Indonesian nation by implementing housing and settlement areas so that people can live and live in decent and affordable homes in healthy, safe, harmonious, and sustainable housing throughout Indonesia.<sup>41</sup> Referring to these international and national legal instruments, the issue of protection of adequate and affordable housing is an important issue that is of concern to the public, NGOs, and especially by the Government.

### **The Role of Philanthropic Institutions in Fulfilling the Right to Adequate and Affordable Housing**

Regarding the problem of fulfilling adequate and affordable housing in urban areas, one way to balance the inequality between villages and cities, control spatial land use, and fulfill the right to decent housing in urban areas is to carry out vertical development. This development has been carried out in several metropolitan areas; one example is the Kampung Susun

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<sup>38</sup> United Nation, *Universal Declaration of Human Rights*, Article 25 (1).

<sup>39</sup> Indonesia, *1945 Constitution*, Article 28H (1).

<sup>40</sup> Indonesia, *Human Rights Law*, Law Number 39 of 1999, Article 40.

<sup>41</sup> Indonesia, *Housing and Resettlement Area Law*, Law Number 1 of 2011, in consideration.

Bahari Aquarium in North Jakarta, Jakarta Province. In the arrangement of the Kampung Susun Bahari Aquarium, several institutions are involved in the planning process, including *Jaringan Rakyat Miskin Kota (JRMK)*, *Urban Poor Consortium (UP)*, and *Rujak Center for Urban Studies*.

Then related to the fulfillment of the right to decent and affordable housing in disaster areas, philanthropic institutions have a significant role. The long bureaucratic process on the Government's side did not stop Civil Society Organizations (CSOs) from helping through emergency response actions, recovery programs, etc. Each CSO has its limitations and unique resources. Several CSO efforts in fulfilling the right to adequate housing in disaster areas advocate for the rights of disaster survivors and invite the community and the business world to build resilient infrastructure. One of the CSOs, Dompét Dhuafa, has produced at least 1100 temporary shelters in Lombok, 305 temporary and permanent residences in Palu-Sigi-Donggala, and 100 temporary shelters in Banten.<sup>42</sup>

### **Recommendations for the Fulfillment of the Right to Adequate and Affordable Housing**

Encouraging vertical residential development in urban areas and facilitating the process of land acquisition and/or land consolidation for vertical residential development in urban areas.

We encourage stakeholders to simplify and tidy up disaster coordination patterns to strengthen Government leadership in Disaster Management.

Encourage all provinces and districts/cities to prepare regional action plans for Disaster Risk Reduction or Regional Disaster Management Plans.

We encourage resilient infrastructure development in housing, not only in buildings.

The Government embraces CSOs and related stakeholders more strongly in disaster management's planning and implementation process. It maintains the ecosystem of Civil Society Organizations to remain empowered to mobilize resources and manage them properly because CSOs are not competitors/competitors of the Government.

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<sup>42</sup> Dompét Dhuafa has a program implementer called the Disaster Management Center (DMC), which is a disaster program implementer who acts as the frontline in disaster management, both at home and abroad.



Through fiscal policy, financial policy, and housing market regulation policies, it is encouraging to reduce administrative costs in providing affordable housing that consumers bear.

We are realigning resources, land and infrastructure investments, and increasing the capacity of the housing industry and nonprofit providers to support partnerships.

### **Right to Health Care for Refugees in Indonesia**

Health is an essential human right for all human races in the world without exception. The 1948 United Nations Universal Declaration of Human Rights, Article 25, states everyone has a right to a standard of living adequate for health and well being, and it specifically mentions medical care. However, the declaration has not been implemented properly because the right to health is not easily obtained for people in special conditions, especially the asylum seekers.

According to the 1951 Refugee Convention, refugees should have access to the same or similar healthcare as host populations. Currently, many refugees get short-term health insurance called Refugee Medical Assistance (RMA). It is available for up to 8 months. Some refugees might be eligible for Medicaid or the Children's Health Insurance Program (CHIP) which is available for several years.

Even though making it possible for refugees to access healthcare is a top priority for the United Nations High Commissioner for Refugees (UNHCR), however, based on our interviews with two families of asylum seekers who are living in Cisarua, Bogor there are still difficulties in accessing health services in Indonesia.

Access to health services is difficult for asylum seekers because they do not have identity cards and also unclear citizenship status. They only have an identity card from UNHCR but the card is not integrated with the existing health care system in Indonesia. People in Indonesia still do not recognize the identity card. So that in order to get medicine and health services, they must try to convince health workers in Indonesia that they are asylum seekers who are legally allowed to live and get health services in Indonesia.

The resource person also told about the experience of giving birth to a baby in Indonesia. After going through a fairly complicated administrative stage, they can give birth and get services like other communities. Newly born refugee babies can get a Letter of Birth from the Hospital but can't get a Birth Certificate from the official government because the requirements for making a Birth Certificate are to have an Identity Card and Family Card.

During the Covid-19 pandemic, they did not receive food assistance from the government, they only received assistance from the community and non-governmental organizations. Even though they are also affected by the pandemic, it is increasingly difficult for them to find work because the quarantine program requires everyone to stay at home. Even when they are infected with the coronavirus, they have to self-isolate without special assistance from the government. Fortunately, they have received vaccine injections through the vaccine program for refugees organized by the University of Indonesia Hospital.

Basically, everyone has the right to health. This right is guaranteed in Article 4 of Health Law No. 36 of 2009. What is meant by the right to health is the right to obtain health services from health service facilities in order to realize the highest degree of health.

The phrase used in the Health Law No. 36 of 2009 is "everyone", which means that both Indonesian citizens and non-Indonesian citizens are also entitled to health services and health facilities, including refugees residing in Indonesia.

Especially for children, children's rights to health services are also guaranteed in Article 62 of the Human Rights Law which guarantees the right of every child to obtain proper health services and social security, in accordance with their physical and mental spiritual needs.

What about the fulfillment of the right to health services for refugees in Indonesia? Based on our observations of refugees from Rohingya who live in Ciputat, South Tangerang, we found that the fulfillment of refugees' rights to health services as mandated in Article 62 of the Human Rights Law has been fulfilled.

This is because refugees in Indonesia who already have a refugee identity card from the United Nations High Commissioner for Refugees (UNHCR) can access health facilities

in Indonesia, so that even though the refugees are not Indonesian citizens, they are still entitled to health services in Indonesia. Even though they get health services in Indonesia, these services are not necessarily obtained for free, but they have to pay to access health services.

In addition, refugees in Indonesia are also entitled to receive an injection of the COVID-19 vaccination. However, because the refugees do not have a resident identification number (“NIK”), the refugees cannot receive a COVID-19 vaccination certificate and cannot access the care protect application. As a consequence, they find it difficult to visit public places that require a protective care scan to enter them.

### **Protection and Fulfillment of Health Care Access Rights Related to COVID-19 for asylum seekers in Indonesia**

1. The Constitution of the Republic of Indonesia of 1995 Article 28H as a basis for recognition of health rights, using the phrase everyone which means that the Government of the Republic of Indonesia guarantees health rights. For all people who are not attached, including Indonesian citizens, foreign nationals and people who do not have citizens.
2. Furthermore, Law No. 36 of 2009 on Health as the implementing regulation of the constitutional mandate adopts the principle of fulfilling health in an inclusive and non-discriminatory manner.
3. Indonesia, located at the crossroads of two continents and oceans, is a stopover for refugees from the Middle East and Rohingya seeking asylum in Australia. As a country that does not ratify the United Nations Convention Relation to the Status of Refugees, Indonesia does not recognize the status of asylum seekers.
4. In efforts to prevent and counter COVID-19 the Government of the Republic of Indonesia provides access to health services in the form of COVID-19 vaccination for the community as well as free treatment and medicines for Indonesian citizens. Access to COVID-19 vaccinations, free COVID-19 treatments and medicines are not provided to foreign nationals or non-citizens seeking asylum in Indonesia. Asylum seekers must pay a certain amount of money to get the COVID-19 vaccine or COVID-19 medicines and treatments.

## **Recommendations**

1. The government should strengthen the implementation of health services in the COVID-19 pandemic emergency by preparing and designing updates to the Infectious Disease Prevention Act No. 40 of 1984 and its derivatives. So that the system and implementation of health services in Indonesia will be better prepared to face the condition of health in the future.
2. The Indonesian government must optimize the demographic factors of Indonesian people who have a high gap rate with a Gini ratio of 0.384. This means that although the government has provided health care facilities and recognized health rights, but if the recognition is not followed by health insurance in the form of providing free health access for people who cannot afford it, then the level of health services in Indonesia will be low. Therefore, the government needs to increase the provision and implementation of free health insurance, especially for underprivileged people.
3. The government must be consistent in providing justice for the fulfillment of health rights. In accordance with the mandate of the constitution and Law No. 36 of 2009 on Health, the Government is obliged to provide recognition and guarantee the right to health as fairly as possible for everyone, not only Indonesian citizens.

