

## Annex 1: footnotes

(1) This can be seen in Section 28i Article (2) of UUD 1945: *every individual has the right to be free from discriminative treatment of any cause and has the right to be protected from such discriminative treatment.* This section contradicts Section 18b Article (2) UUD 1945 which says, *the country acknowledged and respected the society units of traditional law along with their traditional rights as long as the custom is still alive and in accordance with society development and the principle of the Unitary State of the Indonesian Republic, which is regulated by the law.* The sentence “*as long as.....*” and so on in that Section 18b Article (2) threatens the existence of indigenous people which was considered not complying with the development. In the same manner as the recommendation of CERD Committee in August 2007, the government has the duty of reviewing every kind of legalization and constitution related with natural resources and the rights of Indigenous people.

(2) As an example, The Law of Victim and Witness Protection has not accommodate the rights of children yet, even The Regulation No. 23/2002 an Children still has plenty of contradictive with the substance of the Convention on the Rights of Children (CRC). The non-existence of ratification on several international protocols evoke: *first*, the criminal act of organized and transnational child abuse. *Second*, the children are involved in conflicts, considering that there are tendencies of increasing horizontal conflicts in Indonesia, as a result of reinforcing identity politics based on class interest. Therefore, there is a need for a strong basic regulation to protect children in conflict area, if these two optional protocols are not ratified soon, there would be a judicial gap to protect children from the two conditions above.

(3). KPAI's function based on Section 76, is: socializing the regulation, collecting data and information, receiving public complaint, performing research, monitoring, evaluation, and supervision on the implementation of children protection; also giving reports, advice, input, and judgment to the President on children protection. In fact, legal statement and recommendation which supposed to be KPAI's political attitude to respond to cases of children rights abuse was never been issued by KPAI. This condition is aggravated by KPAI's failure to place the institution according to its mandate.

(4) Example of violence affected by MUI ruling: In November 2007, MUI once again issued a ruling that states Al Qiyadah Al Islamiyah is declared deviate. Meanwhile, MUI already issued its deviation statement on Bumi Segandhu Losarang Indramayu traditional society belief, mass assault on the house of Sapto Dharmo Kejawan Group member in Brebes, and yet a lot more cases. Another basic problem is the government's absence in protecting citizen with different beliefs from violence acts and damage performed by other society groups whom refuse the existence of different beliefs based on the difference of religion interpretation. Those violence acts suffered by Ahmadiyah Community in several regions were never underwent any judicial process according to regulations prevailed in Indonesia. Regulation opposing the constitution and ICCPR is: TAP MPR No. IV/MPR/1978, TAP MPR No. IV/MPR/1983, TAP MPR No. IV/MPR/1988 on GBHN which stated that Beliefs on The One and Only God is not a

religion, the establishment of Beliefs on The One and Only God is implemented in order not to aim at forming new religion; to make effective the important moves taken so that the implementation of Beliefs on The One and Only God absolutely in an accordance with the basics of The One and Only God based on fair and civilized humanity foundation.

(5). Government's Regulation on Compensation/Rehabilitation found an obstacle because: (1). There's no clarity in giving reparation, (2) There's no policy of special budgeting to fulfill the victim's rights, (3). The giving of reparation was made depended on court decision which has fixed judicial power. Therefore, even if the ad hoc court of Human Rights in 2005 has decided to give reparation for Tanjung Priok victims, until now the decision is unable to be fulfilled because the defendants was released by the court. The victims are still submitting a civil law charge to fulfill their rights. On the other hand, there's no clarity of which institution responsible in mechanism of fulfilling the victims' rights. In this case, there supposed to be an institution in charge for submitting the country's budgeting for victims of human rights abuse.

(6) Regulations contained sentence of death, is KUHP, Emergency Regulation No. 12 Tahun 1951, President Decree No. 5 Tahun 1959, Perpu No. 21 Tahun 1959, UU No. 11/PNPS/1963, UU No. 4 Tahun 1976, UU No. 5 Tahun 1997, UU No. 22 Tahun 1997, UU No. 31 Tahun 1999, UU No. 26 Tahun 2000, and UU No. 15 Tahun 2003. Those regulations are still valid.

(7) Regional Regulations on Public Orderliness and on Demography made by governments of big cities in Indonesia, especially Jakarta, tends to lay the poor people aside from the city through many kinds of modus: condemnation of residences, condemnation of working sites and justice operation. (2) Greater allocation of city space was given to big scale business, in fact has condemn small business and informal sectors by brutality such as violence, and great number of working sites incineration.

(1) The abandonment of pro-poor regulation, such as: 1) Regulations No. 7 Year 1996 on Food which guarantee food fulfillment as one of human rights. But the regulation substances which guarantee the poor rights for food was not implemented; 2) Regulation No. 4/1992 on Housings and Residence, which regulate to build inexpensive housing for low economical class. This regulation was not performed because the implementation set-up was not made; 3) Regional Regulations No 2/2000 on Private Marketing which regulate to use 20% of big scale department store space for informal sectors, in fact, was not implemented. Development policies in regional autonomy era orienting on the increasing of PAD and policies of budgeting allocation which was much greater spent on paying debts had gave birth to several regulations and policies that eliminated the basic rights of the poor. In 2005, for example, APBN budget for poor people reached Rp4,7 quintillion for 15,5 millions of poor families, budget allocation for health service Rp7,4 quintillion, budget for educational sector Rp21,5 quintillion, while the budget for paying debts reached Rp64 quintillion. The affect of this policies can be seen, for example, in cases of subsidy abolition, health service commercialization, the lost of sites for food, etc.

(8). Example of the ecosob implementation failure in grass-root stage: **First**, the cases of bloating due starvation, where 20-40 percent of children in 72 percent of regencies in Indonesia suffer from malnutrition. **Second**, the cases of rights on housings abuse, in form of city poor residences condemnation. **Third**, the extending abuse of the right to work, where open unemployment stage increased from 10,9 million in 2005 into 11,1 million in 2006. **Fourth**, the extending abuse of right for health. Each year, 9.000 people (mothers) who suffered from positive HIV gave birth and it was estimated that every year 3.000 babies with HIV was born. The number of HIV cases was increasing fast. **Fifth**, the extending abuse of the right for education, **Sixth**, the extension of environment damage which affecting on extending abuse of many kinds of ecosob rights and also the right to live.

(9). The priority of KPAI mechanism change: recruitment of KPAI members by involving public as large as possible to reach plural composition. Add the power of subpoena. Create coordination mechanism with National Committee on Human Rights and National Committee on Women.

(10) Priority of ratification: HAM Statuta Roma, Optional Protocol CEDAW ; Women politic representative and women access in public life; The cancellation of Section 29 CEDAW reservation; *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OPSC)* and *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OPAC)* . Optional Protocol ICCPR ; encourage Indonesian government to immediately sign and ratify Convention on the Protection of All Persons from Enforced or Involuntary Disappearances

(11). Priority in policy stage including: implementation CSR system, especially in social responsibility framework and corporation environment as a party who have the potential to abuse human rights (*non state actor*), ; Implementation of Ecosob Rights Covenant in law and judicature system to fulfill and settle the Ecosob Rights abuse, including settlement on abuse by corporation or *non state actors*. ; To withdraw regulations that still regulate sentence of death. To make special policy on reparation budgeting for heavy stage of human rights abuse.