

**UPR Submission on Young People's Sexual and Reproductive Rights in  
Indonesia**

**13th Session of the Universal Periodic Review – Indonesia- June 2012**

**Joint Submission by:**

**The Indonesian Planned Parenthood Association (IPPA)**

[www.pkbi.or.id](http://www.pkbi.or.id)

**&**

**The Sexual Rights Initiative**



## Executive Summary

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**KEY WORDS:** Child Marriage; Rights of the Child; Right to Health; Right to Education; Sexuality Education; Family Planning; Adolescent Sexual and Reproductive Health; Discrimination Based on Marital Status; Unsafe Abortion; Maternal Mortality; HIV;

1. This report is submitted jointly by the **Indonesian Planned Parenthood Association<sup>1</sup>** and the **Sexual Rights Initiative<sup>2</sup>** and aims to bring attention to violations of young people's sexual rights, including reproductive rights, in Indonesia. The issues covered in this stakeholder submission include new legal and policy developments since Indonesia's first Universal Periodic Review (UPR) in 2008 and also updates on thematic areas raised during Indonesia's first UPR.
2. The following rights violations are addressed in the submission:
  - Child marriage continues to be a common practice violating children's rights to special protections and also their rights to health, education and to be free from violence.
  - Many girls forced into child marriages and unmarried girls who are pregnant are denied access to any educational opportunities in violation of their right to education.
  - Young people are denied comprehensive and rights-based sexuality education and reinforced by laws, policies, norms and religious values that in practice restrict young people's access to contraceptive and reproductive health services unless they are married.
  - The failure to provide sexual and reproductive health information, education and services to young people prevents them from protecting themselves from sexually transmitted infections, HIV, unwanted pregnancies and unsafe abortion.
  - The fulfillment of the right to information, education and access to high quality of services to young people will increase the quality of life for around 63 million<sup>3</sup> young people in Indonesia. Sexuality education is part of human rights therefore this report also gives recommendations to the government of Indonesia to immediately take necessary actions to the fulfillment of rights to comprehensive sexuality education and the rights to attain the highest standard quality of services for young people related to their sexual and reproductive health and needs.

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<sup>1</sup>**Indonesian Planned Parenthood Association (IPPA)** (PKBI abbreviation in Indonesian language) is a nation wide non government organization who works for the fulfillment of sexual and reproductive health and rights in Indonesia since December 1957. IPPA provides comprehensive right based information, counselling and services for all people related to their sexual and reproductive health and rights through its 26 chapters, 231 branches, 26 youth centers and 29 Clinics covering 26 provinces and 231 regencies/municipalities in Indonesia. As a member of International Planned Parenthood Federation (IPPF) since 1969, IPPA works towards a society where gender or sexuality is no longer a source of inequality or stigma.

<sup>2</sup> **The Sexual Rights Initiative** is a coalition including: Action Canada for Population and Development (ACPD); AKAHATA (Argentina); Creating Resources for Empowerment and Action (India), Egyptian Initiative for Personal Rights, Federation for Women and Family Planning (Poland), and others.

<sup>3</sup> Central bureau of statistic, Indonesian population census 2010

- Legal and administrative restrictions to safe abortion, combined with the denial of contraceptives to unmarried people of all ages, means that many of the 2 million abortions<sup>4</sup> performed annually are by unskilled providers in unsafe conditions and can lead to severe health complications and death.
- A law on pornography passed in 2008 has been used to criminalize women's and girls' sexuality. This law also considers educational material on sexual and reproductive health to be pornography.

## **Stakeholder Information**

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### **Child Marriage**

3. Child marriage is common in several provinces in Indonesia, especially in rural areas. The Indonesia Primary Health Survey 2010 found that 46.4 % of Indonesian young girls were married before 20 years old<sup>5</sup>. Furthermore, census data indicates the average age of marriage has decreased in the last three population censuses from 20 years old to 18 years old and the latest census in 2010 shows the average age of marriage is now 15 years old<sup>6</sup>.
4. Discriminatory laws, poverty, social and religious customs and gender inequality contribute to the continuation of this practice. In addition, restrictive abortion laws combined with stigma associated with pregnancy outside of marriage, means that unmarried adolescent girls who become pregnant are often forced into marriage. The Committee on the Rights of the Child (CRC) has repeatedly expressed concern at the high rates of child marriage among girls under 15 years old, especially in rural communities, and recommended that the Government of Indonesia take all necessary measures to prevent early marriage.
5. The Law of Marriage No.1/ 1974 article 7 (1) sets the minimum age of marriage for boys at 19 years old and 16 years old for girls. The Committee on the Rights of the Child (CRC) and the Committee for the Elimination of Discrimination Against Women (CEDAW) have expressed concern that this law discriminates against girls and recommended that the Government of Indonesia ensure that the age of marriage is the same for girls as it is for boys.
6. Child marriage violates girls' rights to special protections because they are children and their rights to education, health, and life. Girls forced into marriage usually drop out of school and do not continue with their education. Early marriage frequently results in early childbirth which contributes to pregnancy related deaths and disability.

### **Right to Education and Access to Comprehensive Sexuality Education**

7. The CRC has expressed concern that married children and pregnant adolescents do not generally continue their education and has recommended the Government of Indonesia to provide education opportunities for these young people. However, unmarried girls who become pregnant continue to be threatened with expulsion from school and married adolescent girls

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<sup>4</sup> Utomo, Budi et al, Incidence and socio psychological aspect on abortion in Indonesia: community based survey in ten major cities and six district year 2000. Jakarta: center for health research university of indonesia, 2001

<sup>5</sup> Riset Kesehatan Dasar. Kementerian Kesehatan. 2010 (Primary Health Survey. Ministry of Health. 2010)

<sup>6</sup> <http://nasional.kompas.com/read/2011/11/03/02240779/Kesehatan.Reproduksi.Orang.Muda.Diabaikan>

continue to leave school. The government still has no policy or alternative education opportunities for girls in these circumstances.

8. Indonesia's 63 million young people aged 10-24, especially those who are unmarried, do not receive sufficient information and education on sexual and reproductive health and rights. Sex education in school curricula only introduces human reproductive functions and the main message content in educational materials is the promotion of family, moral and religious values.
9. Research from a variety of sources has found low levels of sexual and reproductive health awareness among young people. Less than 30% of young people in Indonesia understand how and when a girl or woman becomes pregnant<sup>7</sup>. Research carried out in 2010 found that only 18.5% of young people have comprehensive knowledge on HIV and only 11.4 % of young people under 15 have a comprehensive knowledge on HIV.<sup>8</sup>
10. While appreciating the effort of National education ministry and the BKKBN (National Family Planning Coordinating Board) to undertake joint memorandum to incorporate family planning into the formal school curriculum, IPPA is concerned that the implementation and its contents may not follow the international guidelines on sexuality education and will increase young people's vulnerability to unwanted pregnancies and sexually transmitted infections. This legitimate concern stems from the existence of the Development of Population and Family Planning Law No. 52 Year 2009 that restrict access to sexual and reproductive health services, including family planning and contraceptives, only to married couples and Pornography Law No.44 Year 2008 that classifies sexual and reproductive health information as pornographic materials. In addition, there has been no consultation with stakeholders, including young people, on the content of this proposed curriculum.
11. The implementation of comprehensive and rights-based sexuality education has become much more complicated since the government issued the Pornography Law No.44 Year 2008. Article 1 of this law, defines pornography as anything violating the norms of decency and under Articles 13 and 14, medical devices, equipment, education materials and teaching tools can be categorized as pornographic materials. The Government is now in the drafting phase of the regulations of Articles 13 and 14, and the IPPA is very concerned that these regulations propose to restrict young people's access to sexual and reproductive health information and education and also limits the use of reproductive health learning materials only to organizations and/or health professionals authorized by the Government. These inappropriate restrictions on young people's access to information and education prevent them from learning how to protect themselves from unintended pregnancy and sexually transmitted infections (including HIV).
12. The Special Rapporteur on the Right to Education stated in his 2010 annual report to the General Assembly that the Right to Education includes the right to comprehensive sexuality education. The UNESCO International Guidelines on Sexuality Education define Comprehensive Sexuality Education as "an age-appropriate, culturally sensitive and comprehensive approach to sexuality education that includes programmes providing scientifically accurate, realistic, non-judgmental information. Comprehensive sexuality education provides opportunities to explore

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<sup>7</sup> Indonesia Adolescent Reproductive Health Survey, 2007

<sup>8</sup> Indonesia Primary Health Survey, 2010

one's own values and attitudes and to build decision making, communication and risk reduction skills about all aspects of sexuality<sup>9</sup>". In addition, teaching strategies must be differentiated and flexible to meet the differing needs of female and male students, taking into account the fact that persons with special needs — such as young people not attending school or young married women — need to be taught about sexuality through methods other than formal education, as do adults who never received sexuality information and education.

13. Indonesia is clearly interfering with the rights of young people to sexuality education through laws and policies that restrict rights-based and comprehensive information and education on sexuality.

#### **Access to Sexual and Reproductive Health Services**

14. A new law passed in 2009, The Development of Population and Family Planning Law No. 52, restricts the provision of contraceptive and family planning services only to married couples. Laws and policies that restrict access to sexual and reproductive health services, information and education only to married couples stigmatizes young people's sexuality and prevents young people from protecting themselves from unintended pregnancy and STIs.
15. According to Indonesia Adolescent Health Reproductive Survey on 2007, 50% of young people between the ages 15-24 years old need family planning services but because of The Development of Population and Family Planning Law No. 52 they are unable to access family planning services. IPPA's Study<sup>10</sup> on Knowledge and Attitude on Sexual and Reproductive Health and Rights (SRHR) among 2400 young people in 24 cities found that 26.5% had difficulties accessing SRHR information and 46.7% found it hard to get condoms.
16. A study by IPPA in 2010 found that 17.1% of young people had engaged in sexual intercourse and other study conducted by IPPA in its clinics from 2004-2007, found that 8,6% of IPPA's 31.697 cases were occurred on young girls under 21 years old who were experiencing unintended pregnancy and needed access to counselling and services. In addition, the Ministry of Health reported in 2009 that 52.5% of people living with HIV are under the age of 30, the prevalence rate among young people has rapidly increased due to the transmission from injecting drug use and unprotected sex<sup>11</sup>.

#### **Right to attain the highest standard of Health**

17. Health Law No. 36 of 2009, particularly Article 75, allows abortion to be performed legally for the following indications: medical emergency, if the pregnancy threatens the woman's life, if the fetus has a genetic malformation or in the case of rape. However, because of the legal restrictions and additional administrative barriers especially for young and/or unmarried women, many abortions are performed by unskilled providers in unsafe conditions and can lead to severe health complications and death.

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<sup>9</sup> Vernor Muñoz. *Report of the United Nations Special Rapporteur on the right to education*

<sup>10</sup> IPPA study conduct in 2010

<sup>11</sup> Indonesia Primary Health Survey, 2010

18. Abortion is under-reported due to the restrictive nature of the law but it is estimated that approximately 2 million abortions take place in Indonesia each year, most of which are unsafe. According to Bappenas (National development Planning Agency), complications from unsafe abortions contribute 6-16 % of the national maternal mortality rate in Indonesia<sup>12</sup>. IPPA studies collected from 2000 to 2010 has shown that out of 94,270 unwanted pregnancy cases, approximately 20% of cases were adolescent and/or unmarried girls and women.
19. Health Law No. 36/2009 requires spousal consent or the consent of a family member for a woman or girl to have a legal abortion. This creates a massive barrier to safe abortion services for all women and girls and creates unjustifiable risks to women's and girls' health and life.
20. There is an urgent need to improve access to contraceptive services and safe abortion services to protect women's and girls' rights to health and life.

### **Criminalization of Women's and Girls' Sexuality**

21. Article 1 of the Pornography Law 44/2008 defines pornography as anything violating the norms of decency. In addition to the restrictions noted above regarding the inappropriate application of this law to sexuality education and information, Pornography Law 44/2008 has been used to criminalize women and girls in a variety of circumstances.
22. The original intention of Pornography Law 44/2008 was to prevent violence against women and protect women from sexual exploitation. However, upon implementation, Law 44/2008 has been used to jail women and girls who are perceived to have transgressed social mores related to sexuality, including erotic dancers and women and girls who have extra-marital sex<sup>13</sup>.
23. A broad civil society coalition of 47 applicants including churches, women, and youth and legal aid organizations filed an application for a constitutional judicial review of Law 44/2008 on the basis that it has a weak legal foundation; a definition are vague and is a threat to women's civic and social freedoms. The application for judicial review was rejected in March 2010 because it was ruled that the law "upholds the moral character of the nation" and that individual rights can be overruled to "protect the community".

### **24. Recommendations:**

- a) Recommend government of Indonesia to review Law No 1/1974 in particularly on the age of Marriage and to set the minimum legal age of marriage at 18 for boys and girls as recommended by the Committee on the Rights of the Child.
- b) To develop policies which guarantee access to education for married adolescents and unmarried girls who are pregnant as part of their human rights
- c) To guarantee the provision of rights-based comprehensive sexuality education.
- d) Every young people has the right to comprehansive sexuality education and services to make sure that they can make informed choices related to their sexual health. Therefore recommend to the

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<sup>12</sup>Laporan Pencapaian Tujuan pembangunan Milenium. Bappenas. 2010 ( MDGs Report Achievement. National Development Planning Agency. 2010)

<sup>13</sup> The Jakarta Globe, March 28, 2011

National Education Ministry and the National Family Planning Coordination Board to consult widely with young people, civil society, teachers and health care professionals on the development of a joint memorandum to incorporate family planning into the school curriculum.

- e) To involve civil society and young people in the process of drafting government regulations on Pornography Law No. 44/2008, in particular for articles 13&14 to prevent sexuality material for educational purposes to be categorized as pornography materials.
- f) Recommend government of Indonesia to immediately make regulations on article 75 about reproductive health on Law no 36/2009 on Health. Especially to accommodate woman to have access to safe abortion services as a protection for woman from unsafe abortion services which could lead to maternal death.
- g) Impose Health Law No. 36/2009 as a "Lex Specialist" on abortion cases.
- h) Recommend government of Indonesia to review Law No 52/ 2009 in particular on articles that access to family planning could only be given to couple, Government regulations should be able to accommodate the needs for young people and unmarried to access SRHR (attain standard of health)
- i) Consult with and involve women organizations, feminist scholars, health care professionals, sex workers, young people, human rights advocates, sexual rights advocates and other related NGOs when drafting government regulations for the implementation of the pornography law so that girls and women are not criminalized for exercising their sexuality but are also protected from violence.
- j) Collect data on unsafe abortion in order to record its magnitude on women's and girl's health