



International  
Labour  
Organization



PUSAT KAJIAN  
PERLINDUNGAN ANAK  
CENTER ON CHILD PROTECTION

# REVIEW ON LEGISLATIONS, POLICIES AND PROGRAMS FOR THE ELIMINATION OF CHILD LABOR IN INDONESIA

May 2011

Consultant:

**Irwanto**

*Pusat Kajian Perlindungan Anak*

*Fakultas Ilmu-ilmu Sosial dan Ilmu Politik*

*Universitas Indonesia*

Assisted by:

**Siska Natalia**

**INTERNATIONAL LABOR ORGANIZATION (ILO)**  
**International Programme on the Elimination of Child Labor (IPEC)**  
**Jakarta Office**



# Table of Contents

|  |    |
|--|----|
| LIST OF TABLES   | 4  |
| LIST OF SELECTED ABBREVIATIONS   | 5  |
| EXECUTIVE SUMMARY  | 7  |
| I INTRODUCTION   | 11 |
| II OBJECTIVES OF DESK REVIEW   | 13 |
| III METHODOLOGY  | 15 |
| IV MAIN FINDINGS   | 17 |
| IV.1. Current situation of Working children and child labor in Indonesia | 17 |
| IV.2. Critical analysis of current data and information                  | 20 |
| IV.3. Current national response and analysis of existing gaps            | 24 |
| IV.3.a. National Legislation, policies, and programs                     | 24 |
| Progress in national legislation   | 24 |
| Progress on national policies  | 25 |
| Progress in national program   | 26 |
| Gaps and challenges in national legislations, policies, and programs     | 28 |
| IV.3.b. Invest in best practices   | 32 |
| V FUTURE DIRECTIONS  | 35 |
| V.1. Data and information  | 35 |
| V.2. Legislation   | 35 |
| V.3. Capacity building   | 36 |
| V.4. Policies and programs   | 36 |
| V.5. For ILO-IPEC and related UN agencies                                | 37 |

|     |  |    |
|-----|--|----|
| VI  | BIBLIOGRAPHY   | 39 |
| VII | ANNEXES  | 41 |
|     | ANNEX 1: WORKING CHILDREN BY GENDER AND OCCUPATION     | 41 |
|     | ANNEX 2: SUMMARY OF EXISTING LEGISLATIONS AND POLICIES | 44 |
|     | ANNEX 3: SUMMARY OF INTERNATIONAL CONVENTIONS          | 48 |
|     | ANNEX 4: SUMMARY OF EXISTING PROGRAM                   | 49 |

## LIST OF TABLES

|          |  |    |
|----------|--|----|
| Table 01 | Summary of Child Labor Statistics in Indonesia (2009) and Related Statistics | 18 |
| Table 02 | Summary of what we know about WFCL in Indonesia                              | 22 |
| Table 03 | Summary of Existing Legislations and Policy about WFCL in Indonesia          | 43 |
| Table 04 | Relevant International Convention and Indonesia ratification Status          | 48 |
| Table 05 | Summary of Program related to the elimination of WFCL in Indonesia           | 49 |

## LIST OF SELECTED ABBREVIATIONS

|           |   |
|-----------|---|
| BLT       | Bantuan Langsung Tunai/Unconditional Cash Transfer  |
| BLK       | Balai Latihan Kerja                                 |
| CCT       | Conditional Cash Transfer                           |
| CSO       | Civil Society Organization                          |
| ICLS      | Indonesian Child Labor Statistics                   |
| JARAK     | Jaringan Penanggulangan Pekerja Anak                |
| KPAI      | Komisi Perlindungan Anak Indonesia                  |
| LPA       | Lembaga Perlindungan Anak                           |
| MoH       | Ministry of Health                                  |
| MoNE      | Ministry of National Education                      |
| MoMT      | Ministry of Manpower and Transmigration             |
| MoSA      | Ministry of Social Affairs                          |
| MoWE&CP   | Ministry of Women Empowerment and Child Protection  |
| NAP       | National Action Plan                                |
| PKBM      | Pusat Kegiatan Belajar Masyarakat                   |
| PKH       | Program Keluarga Harapan                            |
| PKSA      | Program Kesejahteraan Sosial Anak                   |
| PKPA      | Pusat Kajian Perlindungan Anak                      |
| PPA-PKH   | Pengurangan Pekerja Anak – Program Keluarga Harapan |
| PPLS      | Pendataan Program Perlindungan Sosial               |
| Puslitkes | Pusat Penelitian Kesehatan                          |
| SNA       | System of National Account                          |
| TBP       | Time-Bound Programming                              |
| WFCL      | Worst Forms of Child Labor                          |
| YKAI      | Yayasan Kesejahteraan Anak Indonesia                |



# Executive Summary

This paper reviews the progress made and existing gaps in legislation, policies, and program to eliminate WFCL in Indonesia for the past 10 years. A desk review was conducted to examine related papers and documents.

## **The following are the main findings.**

1. An official statistics on working children and child labor is available through a National Survey conducted by BPS in 2009. The statistics reveal that there were 4,528,400 (2,612,600 males and 1,915,800 females) working children. Among them 1,755,300 (977,1 males and 778,2 females) were considered as child laborers working in the worst form (WFCL). For the past ten years we do not observe significant change (reduction) in the absolute number of children. A critical review of the current statistics, however, suggests that the existing statistics may underestimate the real magnitude of the problem. Moreover, on the gender dimension, the data missed the regional (urban/rural) context of working children. Overall, the data do not inform much about the situation and conditions of WFCL aside from the number of working hours and the sectors in which they were employed.
2. Indonesia has made significant progress in its national response to eliminate WFCL. During the political reform in 1998-2000 a number of progress were noted. In 1999 the government of Indonesia ratified ILO Convention 138 through Law No. 20 Year 1999 followed by the ratification of ILO Convention 182 through Law No. 1 year 2000. In the same year the 1945 went through the second amendment in which a chapter on human rights was included. Through Presidential decree No. 12 year 2001 a National Action Committee (NAC) against WFCL was established and a National Action Plan (NAP) was enforced followed by the establishment of its implementing bodies. A Presidential decree No. 59 year 2002 was enacted to endorse the NAP. In fact 2002 was marked with the enactment of Law No. 23 year 2002 on Child Protection. Since 2003 a number of relevant laws were enacted to fill in the gap of national response in protecting women and children (domestic violence, migrant workers, trafficking in person, and pornography). Unfortunately, however, Law No. 13 year 2003 failed to capture the mandate of both ILO Convention 138 and 182 as this legislation set the minimum age at 13-15 years old and did not explain and provide examples of light works. In addition, this law provides exception when children work in the family business and does not have any provisions for children age 16-17 years old.
3. Human rights commissions, including specifically addressing women and children' rights have been established. *Komisi Perlindungan Anak Indonesia* or the Indonesian Commission on Child Protection (KPAI) was established through a Presidential decree No. 77 year 2003 to fulfill the mandate of aw

No. 23 year 2002 on Child Protection. We may also observe that there are active CSO coalition such as JARAK, National Coalition Against Trafficking of Person, National Coalition Against Sexual Exploitation of Children and the like. These coalitions have been actively engaged in prevention, rescue, and care and treatment to victims or survivors, as well as in providing input for national and sectoral policies. During the first and second CRC periodic reporting period, they have been actively engaged in writing shadow reports to the UNCRC Committee.

4. Government of Indonesia has been investing significantly in the poverty alleviation and social protection programs. Different kinds of cash assistance (non-conditional and conditional), micro-credits, scholarships, and other interventions to prevent or to withdraw children from the WFCL. Some programs to provide care and support to survivors have also been implemented, especially by MoWE&CP and MoSA. In addition to that, a large number of NGOs have been working side by side with sectoral program and by themselves. These existing programs have not yet produced significant and sustainable impacts to WFCL due to challenges in the understanding of the magnitude and severity of the problem, lack of clarity of mandate or lack necessary provisions in existing legislations, lack of investment and commitment of local authorities, misperception of the target beneficiaries and lack of existing mechanism that can reach the most vulnerable children, and problematic coordination inter and across sectoral mandates and programs.
5. The fight for the elimination of WFCL in Indonesia in the past decade is not lacking in best practices. There have been a number of intervention that were able to create an enabling environment for policy change and effective implementation of WFCL prevention and elimination programs, especially in the fishing, shoes, and garment industries. There have been examples of NGO works to withdraw children from WFCL (such as in the garbage dumpsite, child domestic work, etc.) than can be recorded as best practices. Important elements of these practices needed to be recorded and used to promote best practices nation-wide.

### **Recommendations:**

1. Data and information should be improved to reconcile existing gaps between households in poverty and the magnitude of working children and children engaged in WFCL. Results from the National Census in 2010 may be used to reflect this gap.
2. A concerted effort is needed to harmonize and improve existing relevant national legislations. To eliminate WFCL, we need to improve the provisions in Law No. 13 year 2003 on the minimum age to employment. Comply with ILO Convention 138 and provide specific examples of allowable light works and regulate the protection for children age 16-17 years old. Including a provision on statutory rape into the Child protection Law No. 23 year 2002 would also add a very useful instrument to prevent children from being sexually exploited. Ratification of the Optional Protocols of CRC (1) on the involvement of children in armed conflict, and (2) on the sale of children, child prostitution and child pornography should help the government to set legal reform agenda for better protection of children, especially the most vulnerable.
3. A serious commitment for capacity building requires adequate investment to implement the existing National Plan of Action. Building capacity and efficient and effective mechanism for implementation would need the government at all level, especially at the district level to understand the problems and to create the enabling environment to appropriately address them.



4. Continue existing best practices with improved understanding of the problem, scaled up commitment down to the district level, improve sectoral and cross sectoral mechanism, and continue to work with CSO partners. Synchronize WFCL and poverty alleviation to achieve MDG 2015.
5. Improve the coordination of task forces, existing committee or commissions, and link them with existing protection systems in the legal system, social welfare, health, and the community to build a comprehensive child protection infrastructure.
6. For ILO-IPEC and related UN agencies. It is important that ILO-IPEC and other UN agencies mandated to address the protection of vulnerable children should have a unified and integrated agenda to:
  - Deal with broader issues on child protection and the structural barriers to law enforcement.
  - Ensure that national legislations meet the International standard, especially conventions already ratified by Indonesia.
  - Invest to broaden knowledge base of WFCL and child protection legislations within CSO and the academia (universities).
  - Facilitate the ratification of the two OP of CRC and CRPD and facilitate partners to inform the public about these protocols and new convention.
  - Provide capacity inputs to the law enforcers, including labor inspectors to be able to identify, process, and respond adequate and appropriately to emerging cases.



# I. Introduction

In the fight against the worst form of child labor, a significant progress was achieved in policy and legislation in Indonesia when the ILO Convention No. 138 year 1973 concerning Minimum Age for Admission to Employment was ratified through Law No. 20 year 1999. This was followed by the ratification of the ILO Convention No. 182 through Law No. 1 year 2000 on the Worst Forms of Child Labor. Indonesia was one of the first ILO member states in Asia to ratify this convention. To support the implementation of the two conventions, the Presidential Decree No. 12 year 2001 was issued to establish the National Action Committee (NAC) for the Elimination of the Worst Forms of Child Labor (WFCL) followed by the National Action Plan (NAP) endorsed by the Presidential Decree Number 59 in 2002.

A new framework, Time-Bound Programming was introduced to carry out the action plan which was then adopted in the NAP. The first phase of TBP was implemented from 2002-2007 and the second phase is, covering the year 2008 to 2013, now on going. In 2006 ILO's Global Report on Child Labor called for a globally united effort to eradicate WFCL by 2016. A consensus of ASEAN governments was reached in mid 2009 to support this agenda. It is very clear that the 2016 agenda was linked to achieving the MDG 2015 on (extreme) poverty reduction. The Indonesian government is optimistic to be able to achieve this goal in 2015<sup>1</sup>.

Amidst optimism to reduce the number of people living in poverty and to achieve MDG # 1 in 2015, it should be recognized that the current poverty reduction measures might not be effective in eradicating WFCL. This is partly due to the fact that WFCL is often embedded within the most extreme form of poverty and that its existence has been partly regulated by organized crime in the clandestine economy. Over a decade had passed since the ratification of the two key ILO instruments in the fight against child labor. A number of evaluations have noted important progress in the national response. The elimination of the Worst Form of Child Labor (WFCL), however, remains elusive. The present paper is to present critical analysis of what remain to be the challenges, the progress, and the lessons learned from current legislations, policies, and programs on Child Labor in Indonesia.

---

1 Bappenas (2010). Peta Jalan Percepatan Pencapaian Tujuan Pembangunan Millenium di Indonesia (h. 43).



## II.

# Objective of the Desk Review

The objectives of the review are:

- to identify and document progress made in the legislation, policies and programs to address child labor issues in Indonesia since 1999/2000;
- to identify and analyse the existing gaps that need to be addressed in the national response
- to identify policy options and good policy practices
- to recommend future directions in legislation, policies and programs for effective child labor elimination in Indonesia



# III.

# Methodology

This is a desk review of key documents provided by ILO-IPEC office in Jakarta. The documents have been reviewed internally and a draft report was written to be enriched by this desk review. Reviewed materials are presented in the Bibliography.





# IV. Main Findings

## IV.1. Current situation of Working children and child labor in Indonesia

For many years, discussion on child labor issues has distinguished between economically active or working children or children in the labor market and those working as child labor. However, the national statistics published by BPS had never separated the two categories. Only recently, the Indonesian Child Labor Survey or ICLS (BPS, 2009) defines “working children” as ‘children in employment’. These are children engaged in any activity falling within the production boundary in the SNA (System of National Account) for at least one hour during the referred period of time.<sup>2</sup> Therefore, working children includes children in employment regardless of its legality. Child labor in the ICLS is defined as working children who are engaged in any kind of presumably hazardous work as indicated by working hour according to the Manpower Law No. 13 year 2003<sup>3</sup>. Any children who are working before reaching the minimum age and working beyond the allowed working hour for light work are considered to be working in hazardous condition. Therefore, child labor statistics includes children age 13-14 who are working more than 15 hours per week, and working children age 15-17 who are working more than 40 hours per week as children in hazardous work. Children age 5-12 years old who are engaged in any types of work are automatically considered as working in hazardous condition. The following Table 01 provides a summary of child labor statistics as presented in ICLS.

---

2 Statistics Indonesia & ILO 2009, *Working Children in Indonesia 2009*, p.14

3 Article 69 of the Law No.13 concerning Manpower states conditions for light work as follows; (a) The employers must have written permission from the parents or guardians of the children, (b) There must be a work agreement between the employer and the parents or guardians of the children, (c) The employers must not require the children to work longer than three hours [a day], (d) The employers shall employ the children to work only at day or during the day without disturbing their schooling. (e) [In employing the children, the employers shall meet] occupational safety and health requirements, (f) A clear-cut employment relation [between the employers and the child worker/ his or her parent or guardian] must be established, and (g) The children shall be entitled to receive wages in accordance with valid rulings.

**Table 01: Summary of Child Labor Statistics in Indonesia (2009) and Related Statistics**

| Population of children | Male         | Female       | Total        |
|------------------------|--------------|--------------|--------------|
|                        | thousand     |              |              |
| Age 5-17               | 30,130,3     | 28,706,9     | 58,837,2     |
| In the labor market    | 2,612,6      | 1,915,8      | 4,528,4      |
| Working                | 2,391,3      | 1,661,5      | 4,052,8      |
| Working and schooling  | 1,147,4      | 988,1        | 2,135,5      |
| <b>Working only</b>    | <b>585,0</b> | <b>106,6</b> | <b>686,6</b> |

| By sex, age, and working hours                                    | Male         | Female       | Total            |
|---|--------------|--------------|------------------|
|   | thousand     |              |                  |
| All working children age 5-12                                     | 320,1        | 354,2        | 674,3            |
| Working children age 13-14 with working hours > 15 hours per week | 193,4        | 127,8        | 321,2<br>(51%)   |
| Working children age 15-17 with working hours > 40 hours per week | 463,6        | 296,3        | 759,8<br>(27.5%) |
| <b>Total</b>  | <b>977,1</b> | <b>778,2</b> | <b>1 755,3</b>   |
| As % to total children age 5-17                                   | 3.2          | 2.7          | 3.0              |
| As % to total working children age 5-17                           | 40.9         | 46.8         | 43.3             |

| By age and working hours                                | thousand | %     |
|---|----------|-------|
| Age 5-12 working only                                   | 674.3    | 100.0 |
| Age 13-14 working only > 15 hours per week              | 256.6    | 79.9  |
| Age 15-17 working only > 40 hours per week              | 370.1    | 48.7  |
| Age 5-12 working and house keeping >15 hours per week   | 198.2    | 29.4. |
| Age 13-14 working and house keeping > 15 hours per week | 172.1    | 53.6  |
| Age 15-17 working and house keeping > 40 hours per week | 178.60   | 23.5  |

| By residence and occupations | Rural | Urban |
|------------------------------|-------|-------|
| Sales workers                | 12 %  | 31%   |
| Agricultural workers         | 66%   | 14%   |
| Service workers              | 3%    | 18%   |
| Operators and laborer        | 19%   | 35%   |
| Others                       | 0%    | 2%    |
| Total                        | 100%  | 100%  |

| By Sectors and Sex                                   | Male     | Female | Total  |
|--|----------|--------|--------|
|  | thousand |        |        |
| Agricultural, Forestry, Hunting and Fishery          | 66.0     | 44.6   | 57.2   |
| Manufacturing Industry                               | 6.1      | 16.7   | 10.4   |
| Wholesale Trade, Retail Trade, Restaurant and Hotels | 12.8     | 28.0   | 19.0   |
| Community, Social and Personal Services              | 3.5      | 8.2    | 5.4    |
| Others   | 11.6     | 2.6    | 7.9    |
| Total 100.0  | 100.0    | 100.0  |        |
| In thousand  | 2391.3   | 1661.5 | 4052.8 |

| IDLE children   | Male             | Female           |                  |
|---|------------------|------------------|------------------|
| Children who were not doing anything: no schooling, housekeeping or engaged in employment | 3.760.5          | 2.973.2          | 6.733.7          |
| Children age 5-6  | 2.783.0<br>(74%) | 2.481.0<br>(83%) | 5.264.0<br>(78%) |
| Children age 7-17   | 977.5<br>(26%)   | 492.2<br>(17%)   | 1.469.7<br>(22%) |

| Number of Not Enrolled school aged children (MoNE, <i>Ikhtisar Data Pendidikan Nasional 2005/2006</i> ) – based on Net Enrollment Rate | Population | In school  | Not in school      |
|--|------------|------------|--------------------|
| 0-6  | 28,171,300 | 5,441,248  | 22,730,052         |
| 7-12   | 25,409,200 | 25,267,914 | 141,286            |
| 13-15  | 12,070,200 | 10,438,667 | 1,651,533          |
| 16-18  | 12,474,200 | 6,586,603  | 5,888,197          |
| Total  |            |            | 30,411,068         |
| Total 7-18   |            |            | 7,681,016<br>(15%) |

| NET ENROLLMENT RATE 2009 | NER 2009 | NER 2006 | % Change |
|--------------------------|----------|----------|----------|
| Age 7 - 12               | 94.37    | 93.54    | 0.83     |
| 13-15                    | 67.43    | 66.52    | 0.91     |
| 16-18                    | 45.11    | 43.77    | 1.34     |

What do the above statistics tell us? We are informed that the number of working children is currently 4,052,800 (2,391,300 males and 1,661,500 females). During the past decade the magnitude of the problem fluctuated a little bit but there was no significant real changes. In fact, according to the BPS (2010) the number of Working Children and Child Labor from 2004 had significantly increased in 2007 and stabilized through 2009<sup>4</sup>. According to current statistics, half of the working Children (2,135,500) combined schooling and working. The number of children who were engaged in working only were 686,600 (585,000 males and 106,600 females). Among those children who are supposed to work no more than 15 hours a day (13-14 years old), almost 80% worked exceeding the allowed working hours and over half of them still have to do housekeeping chores. When we calculate the number of children who are not supposed to work (age 5-12), working should not exceed 15 hours a week (age 13-14), and working should not exceed 40 hours a week (age 15-17) we arrive at the number 1,755,300 (977,1 males and 778,2 females). We also learn from the above statistics that from among these child laborers 9.5% of them had extra housekeeping workloads that make them working above the allowed working hours. Aside from the number of working hours, other statistics do not inform us about possible added hazards in their working condition. Although we have information on the sectors and types of occupation, we can draw very little from those statistics to identify WFCL.

On gender differences, ICLS 2009 informed us that more boys were engaged in the agricultural sectors while more girls were in the industrial, trade and community and personal service sectors. The ICLS 2009 did not specifically inform us about the regional (rural/urban) setting of working children. The statistics did inform us that boys were more involved in plantation, construction and related work, and mobile places including working around traffic lights. Girls, on the other hands were more involved in domestic works, client/office places, shop/kiosks and other services (see Annex I).

## IV.2. Critical analysis of current data and information

- (1) We find a huge gap when we compare the labor statistics to the education statistics. As indicated in Table 01, MoNE's data from year 2005/2006 informed us that approximately 7.6 million children age 7 -18 or 15% were not in school anymore. If we consider the % of improvement of net enrollment rate from 2006 to 2009 is only 1.03% and annual growth of Indonesia population is approximately 1.1%, we should not see much different in the number of children currently not in school in the same age bracket. ICLS 2009, however, suggests that 4 million children or 6.9% of children age 5-17 are working children. ICLS also informed us that there is a weak but significant negative correlation (negative 0.47) between school participation of children and labor force participation. Although the age groups are slightly different, (ICLS included children age 5 while MoNE included those who age 18) we may still assume that the number of working children should be significantly bigger. Even when IDLE children (6.733.700) are accounted, almost 3 million out of school children were missing in the present calculation since most of the IDLE children came from 5-6 years old age group. One should also consider PPLS (*Pendataan Program Perlindungan Sosial/Survey of Social Protection Program*)<sup>5</sup> data by name by address collected in 2008 for BLT (*Bantuan Langsung Tunai/ Unconditional Cash Transfer*) targeting, This statistic contains data on children who lived in near

4 See Graph 3.1o: Estimated Number of Working Children and Child labor Aged 10-17 (In Thousand), Indonesia 2004-2009 – p. 32)

5 The data on children who lived in near poor, poor, and very poor households according to PPLS 2008 is 21,122,000 – this is 35% of children age 5-17.

poor, poor, and very poor households which, according to PPLS 2008, is 21,122,000 or 35% of children age 5-17. If we bring school un-enrollment and BLT data to predict working children, we need to be cautious that the present statistics may seriously underestimate the real problem of child labor in Indonesia. This underestimation may undermine real progress since the basis for measuring success is very precarious (volatile). To measure real progress one needs to have a stable and reliable data base. A significant gap in the estimated data with other proxy data (especially on poverty) creates a wider room for error. A further consequence of this situation is difficulty in determining the adequacy of budgeting for national response for significant output and impact.

- (2) Types of occupations and sectors in ICLS do not fully inform us about the kinds and the severity of the hazards that working children may be exposed to<sup>6</sup>. The current statistics is also limited in informing us about WFCL due to the nature of SAKERNAS as a (normal) household survey which may help explain the possible underestimation of the real magnitude of the problem. Children working in premises or establishments that are not included as a normal household, such as on the street, garbage dumpsites, plantation estates and so on will not be captured by the survey, unless their place of residence (homes) are enumerated by BPS and that their working status is reported by family member. Similarly, children who spent most of their time outside of their homes (such as the street, fishing platforms, brothels, clandestine activities such as drug dealing and trafficking) would be missed. As such, our knowledge about WFCL depends on small studies and observations by IPEC-ILO (and other donor) sponsored government and NGOs<sup>7</sup>.
- (3) It is also important to note that the current statistics failed to help us understand that the most hazardous work place is not always outside of the homes. Children, who are working in their homes under the circumstances of the putting out system performed their duties inside of their own homes and supervised by parents or adult family members. Unfortunately, in this system, their homes have been turned into factories without proper health and safety measures. These children may be exposed to dangerous materials and unhealthy living conditions (glue and other chemicals, sharp utensils, industrial dusts, etc,) and may forced to be a part of the working team to meet the required output (both in quantity and quality). In such situation, children will not be able to refuse to work or to escape/avoid the hazardous environment and possible forceful and abusive supervision. ILO-IPEC has been dealing with such situation in the food, garment, and shoes industry in West Java. Moreover, working alongside parents may not be the safest conditions as often found when children work long hours in the plantations, mining and quarrying, as well as in the garbage dumpsite. Many children have to work side by side, spend the same working hours, exposed to the same risks, and yet under constant demanding control by parents.
- (4) Gender analysis based on he ICLS is rather difficult since we were presented with proportional figures (see Table 01) and less about working conditions. All places of work have their own specific risks. It is, however, safe to assume that since girls are more engaged in occupations that require servitude, they are more at risk of violence and exploitation due to their expected gender roles and cultural vulnerabilities. Boys, on the other hand, are more exposed to physical environmental hazards.
- (5) As pointed out earlier, since ICLS does not inform us about the situation of children identified as WFCL according to the 13 categories identified in the National Action Plan we need to briefly note what we do know about these children. Especially some that have been explored and understood.

6 BPS (2010) - see discussion on working place p. 60.

7 JARAK (2010). Satu dasawarsa mengembangkan aksi penghapusan pekerja anak: Hasil Monitoring pelaksanaan Konvensi ILO 138 dan 182 di Indonesia.

**The National Action Plan, identified 13 categories of WFCL as follows:**

- The employment of children as prostitutes;
- The employment of children in mines;
- The employment of children as pearl divers;
- The employment of children in construction sector;
- The confinement of children to work at offshore fishing platforms;
- The employment of children as scavengers;
- The involvement of children in the production of and activities that make use of explosives;
- The use of children for working on the street;
- The employment of children as domestic helps;
- The employment of children in cottage industries;
- The employment of children in plantations/estates;
- The employment of children in activities associated with the business of cutting down trees for timber, processing wood for building and transporting logs and timbers;
- Employment of children in industries and activities that make use of hazardous chemical substances.

The following Table 02 provides limited evidence that have been obtained on children working in: cottage industries, commercial sex industry (although mostly about girl children), plantations/estates, on offshore fishing platforms in North Sumatra, on the street, in garbage dumpsite, in illicit drug dealing, and as domestic helpers. As indicated earlier, our knowledge of these children (WFCL) came from ILO-IPEC and other donor sponsored studies and assessments.

**Table 02: Summary of what we know about WFCL in Indonesia**

| Categories of WFCL                                | Description   | Notes   |
|---|---|---|
| Children exploited in the commercial sex industry | Magnitude (estimated): 195.000 or 30% of all commercial sex workers (UNICEF, 2005). Many were trafficked from poor sub-districts. Recruited by relatives and/or someone they trust in the community. In debt-bondage. Prone to all kinds of abuse and violence. Many children were victims in the tourism sector (Childwise, 2007) <sup>8</sup> . | Most studies highlighted girls in prostitution. Boys were pushed into this industry but were rarely studied. Some cases of boys recruited for sexual exploitation and pornography were recorded by Childwise Australia. |
| Children in cottage industries                    | Magnitude (estimated) : Unknown Found in tiles, food, shoes, and garment industries. Supervised by adults (including parents), long working hours, no special measures for safety, many left their schools, wage very low and often attached to parents', no time for recreation.   | Children working in very dangerous environment such as pyrotechnics factories ( <i>pabrik mercon</i> ) and transportation were not frequently observed and reported.  |

8 Childwise (2009). Travelling child-sex offenders in south-east asia: A regional review 2007/2008.

| Categories of WFCL                        | Description  | Notes   |
|---|--|---|
| Children in plantation/estate             | Magnitude (estimated): Unknown<br>Seasonal. Taken by parents to add output. Exposed to chemical and hazardous working hours. Many have to leave school (temporarily). Examples may be found from studies of children in tobacco plantation by AKATIGA (2002) <sup>9</sup> , ILO-IPEC (2008) <sup>10</sup> . One may observe children working in tea plantation in West Java where three generational families have served the industry without any improvement in their economic condition (DAAI Tv Documentary "Menembus Batas, 2011) | Children accompany parents working very early in the morning (before the sun rises) to help parents to fulfill the required outcome of a day work. To do that children have to take time out from their study.  |
| Offshore fishing platforms                | Magnitude (estimated): Unknown<br>Out of school children (boys) age 13-17. Recruited from inland communities. Have to work for at least 3 months. Paid 200-300 thousands monthly collected at the end of third months. Irregular and long working hours. Poor and harsh working condition.   | Significantly reduced in the year 2004 <sup>11</sup> . But a number of platforms monitoring by KKSP Foundation in 2008 found children still working in 17 Jermals in Deli Serdang and Batu Bara districts. No exact number of children were mentioned.                          |
| Child working on the street               | Magnitude (estimated) : 104.497 (PMKS data of MoSA, 2007)<br>Children may be part of urban poor families, runaways, or homeless families. At risk of all kinds of abuse and violence. Many of the girls ended up sexually exploited. The boys were experimenting with drugs (especially glue and psychotropic pills), and unsafe sex.  | Knowledge on girl children on the street is less adequate. Girls worked longer on the street. They are exposed to more risks of sexual exploitation and violence. Many of these children have been living on the street since they were born. They belong to homeless families. |
| Children working on garbage dumpsites     | Magnitude (estimated): Unknown<br>Found in many major cities in Java (especially Greater Jakarta) Sumatra, and Sulawesi. Brought by parents from poor villages. Collecting reuseable garbage. Very poor working and living condition. No sanitation. Mostly do not go to school. No basic health services.   | Mostly known is children in Bantar Gebang, Bekasi. Government of Japan and a local NGO established an elementary school near the dumpsite in 2003.  |
| Children involved in illicit drug dealing | Magnitude (estimated): Unknown<br>Recruited from poor urban communities (both still in and out of school) or street children. Paid as courier or local contact person. Some ended up using drugs.  | Many of them were not fully aware of the legal consequences.  |
| Children working as domestic helpers      | Magnitude (estimated): 700,000. <sup>12</sup><br>Recruited from poor families or sub-districts. As young as 12 years old. Recruited by agencies or brought by relatives. Working more than 18 hour a day. No legal protection.   | Socially and culturally supported. Reported by the Human Rights Watch as violation of human rights <sup>13</sup> .  |

9 Pekerja anak di perkebunan tembakau

10 ILO-IPEC 2008a, *Baseline Survey on Child Labour in Plantation in Jember District*

11 Peraturan Daerah Pemerintah Provinsi Sumut No 5 Tahun 2004 tentang Penghapusan Bentuk-Bentuk Pekerjaan Terburuk untuk Anak was issued.

12 Based on as survey by ILO and Department of Social Work, Universitas Indonesia in 2004 – ILO-IPEC (2004). Bunga-bunga di atas padas: Fenomena pekerja rumah tangga anak di Indonesia.

13 Workers in the shadow: Abuse and exploitation of child domestic workers in Indonesia (2009).

As indicated above, in many instances of our encounter with WFCL – we may have some ideas about where and what they are doing, but we do not fully understand the magnitude of the problem and the full scale of the hazards that children are exposed. This may have consequences in informing the public, especially local authorities and decision makers, about the need to be united and to have firm commitment in combating and eliminating WFCL.

### **IV.3. Current national response and analysis of existing gaps**

Indonesia has made significant progress in its national response to eliminate WFCL. Relevant legislations have been enacted and international conventions ratified or signed since 1999, National Action Plans enforced and their implementing bodies or task forces established. A number of ministries have monitoring bodies or specific mechanism to support child protection policies. Relevant capacity building programs have been implemented in different sectors of government including within the justice system. It is well understood, however, that WFCL is a very complex phenomenon. To effectively address and eliminate WFCL requires all instruments, mechanisms, practices and related programs to work in concerted and coordinated manner. In the same manner, responses should be directed both at the demand side and at the factors affecting the supply of working children. The following review will look at what are the current gaps and challenges to be addressed for future undertaking.

#### **IV.3.a. National Legislation, policies, and programs**

Indonesia has been one of the most productive countries in producing legislations and policies related to child labor and the elimination of WFCL. Activists believed that Indonesia has had enough legislation to tackle WFCL effectively<sup>14</sup> if the existing laws and regulations were implemented properly. Table 03 summarizes the progress until this date (see ANNEX 2).

##### **Progress in national legislation**

- (1) After the 2<sup>nd</sup> amendment in 2000, Indonesia Constitution 1945 has included a chapter on human rights (Chapter XA). This chapter has inspired new legislations to consider human rights principles as essential elements. Supported by Law No. 39 Year 1999, Indonesia is moving into the rights-based development planning and budgeting in all government sectors. Since 2000 Indonesia has been actively engaged in international human rights laws and conventions. A significant number of major International Conventions have been ratified or signed (see Table 04 in ANNEX 3). Ratification of an international convention has been one of the indicators of how the issue has been perceived and dealt with nationally. It is also well-understood that ratification or accession to an international convention means binding oneself with international commitments and requirements. We noted that during this decade review there have been at least 7 important conventions ratified into the national laws. Currently, Indonesia is seriously looking at the ratification of the two CRC Optional protocols (1) on the involvement of children in armed conflict, and (2) on the sale of children,

14 Results of Focus Group Discussion (FGD) on Legislation, Policies, and Programs for Eliminating Child Labor in Indonesia: Progress, Gaps, and Future Directions, Jakarta, ILO Main Conference Room, 6 January 2011, 13:30 – 16:00



child prostitution and child pornography. These Optional protocols require separate ratification or accession. In addition, Indonesia has signed the Convention on the Rights of People with Disabilities (CRPD) and may ratify this convention very soon. CRPD may not be directly relevant to child labor. However, since we frequently observe children with disabilities exploited to solicit on the street as beggars and may be framed in other forms of exploitation (drug trafficking, commercial sex), the ratification of the convention should be able to strengthen our national response.

- (2) Ratifications of ILO Conventions No. 138 and 182 should have laid the foundation for significant progress in strengthening labor legislation and policies to regulate work by children and to prevent and combat the worst form of child labor. However, the Law No. 13 Year 2003 failed to capture the mandate of the convention. This law was criticized by the National NGO Coalition for Child Rights Monitoring (2010) for its lack of perspective on the minimum age for employment and on the nature of work. Article 68 of the law stipulates that it is prohibited to employ children. Article 69 provides an exception for children age 13 to 15 years old performing light works. This provision does not comply with article 2 paragraphs 3 and 4 of the Convention in which minimum age for work is recommended at age 15 or 14 years old for developing countries. In addition to that, no clear definition of "light work" is provided in the legislation. Light work is defined as activities "that are not negatively affect the child's development and physical, mental and social health" (paragraph 1). Paragraph 2 recommends that children's work should not exceed the maximum of 3 hours a day and should be performed in daytime but should not disturb a child's school time. No other explanations are provided to infer what the legislation mean by light work. Another loophole is provided in paragraph 4 when further exception is allowed when children work within his/her family business activities. The criticism of this law goes further with the absence of any regulations in the law about children age 16-17 years old. This law is the legal basis for national action planning and the establishment of its mechanism for implementation against WFCL. This lack of perceptiveness and accuracy has been preventing effective implementation of the law. This should be acknowledged and amended.
- (3) Law No. 23 Year 2002 on Child Protection provides an umbrella protection for children, especially those in difficult circumstances including working children. The law also provides the basis to recognize, respect, and protect child rights. The law also introduced a new perspective in the criminal justice system where children committing crime are regarded as "victims" who deserve diversion and discretion. This law helps decriminalized children involved in criminal activities, such as drug dealing or trafficking, and prostitution. To be effective, however, more concerted effort is much needed to educate law enforcers and harmonize related legislations including district regulations.
- (4) Since 2003 a number of relevant laws were enacted to fill in the gap of national response in protecting women and children (domestic violence, migrant workers, trafficking in person, and pornography).
- (5) Other laws on national education, population administration, citizenship, witness protection, and social welfare provide substantial support for the implementation of specific provisions in the Law No. 13 year 2003 and Law No. 23 Year 2002 – especially to prevent vulnerable children recruited into WFCL.

### **Progress on national policies**

- (1) Human rights commissions, including specifically addressing women and children' rights have been established. In many instances, these commissions work closely with convention watch groups and CSO alliances. On children's rights, Indonesia now has KPAI (Komisi Perlindungan Anak Indonesia) at

the national level and KPAID (Municipal/District level KPAI) and LPA (Lembaga Perlindungan Anak – established by the Ministry Social Affairs at municipal and district levels<sup>15</sup>) at provincial, municipality, and district level. In addition to that there are active CSO coalition such as JARAK, National Coalition Against Trafficking of Person, National Coalition Against Sexual Exploitation of Children and the like. These coalitions have been actively engaged in prevention, rescue, and care and treatment to victims or survivors, as well as in providing input for national and sectoral policies. During the first and second CRC periodic reporting period, they have been actively engaged in writing shadow reports to the UNCRC Committee.

- (2) There are a number of presidential and ministerial decrees, instructions, and regulation that address policies to prevent children from becoming or to prohibit activities that put children in WFCL situations. These policies were introduced in the following sectors such as manpower and transmigration, culture and tourism, social affairs, and women empowerment and child protection. Through Presidential Decree Number 59 of the Year 2002 on National Action Plan for Elimination of the Worst Forms of Child Labor, the national policy is set to gradually prevent and eliminate the WFCL by: (1) setting priorities for the gradual elimination of the WFCL, (2) involving all the stakeholders at all levels, (3) carefully developing and using domestic potentials, and (4) technical cooperation and assistance from various countries and international agencies, through various action programs. In order to implement the policy effectively, the decree addresses roles and responsibilities of various stakeholders in different sectors such as; education, labor, health, legal enforcement, harmonization of laws and regulations, socio-cultural economy, and media. The roles of stakeholders are accommodated into a National Action Committees (NAC) or Task Forces at the national and local levels. In fact, Action Committees for WFCL have been established in many provinces<sup>16</sup> and are still functioning to date<sup>17</sup>.
- (3) In the previous (first) National Medium Term Development Plan 2004-2009, issues regarding child protection and child sensitive development plan was formulated into a separate document called PNBAI (Pembangunan Nasional Bagi Anak Indonesia). The State Ministry of Women Empowerment was appointed as the focal point for the socialization of the program. A review conducted at the end of the first term (Irwanto, 2008) suggested that the implementation of PNBAI was very slow and ineffective due to a lack of legal mandate. To overcome the situation, BAPPENAS took the necessary step to renew PNBAI and channeled the program into the construction of the second Medium Term Development Plan (RPJM). All policies and programs in the previous PNBAI document were adopted, renewed and mainstreamed through Presidential Regulation No. 5 on RPJM 2010-2014 into sectoral budgeting. In this second medium term national development plan, the elimination of WFCL is integrated into poverty alleviation and education for all programs to support the achievement of MDGs by 2015.

### **Progress in national programs**

As summarized in Table 05 (see ANNEX 4), various programs have been initiated to directly address child labor issues and WFCL and to deal with the underlying causes, especially poverty and cultural factors. The following are key progress in the past decade:

15 This used to be linked to the National Commission for Child Protection (Komisi Nasional Perlindungan Anak) – now an NGO, and currently is still representing MoSA on child protection issues.

16 IPEC evaluation: Combating the worst form of child labor in Indonesia: Supporting TBP for the elimination of WFCL (2008).

17 Cluster and Synergy Evaluation of USDOL Funded Child Labor Projects in Indonesia, Macro, 2010

- (1) The implementation of Withdrawal of Child Labor (Penarikan Pekerja Anak –PPA) to support the Family Hope Program (PKH) by MoMT in collaboration with MoNE and MoSA since 2008. In 2008, the program targeted 5,000 working children and 3,000 children in 2010 were to be withdrawn. Although this program combines withdrawal of child labor with bridging school program, it should be acknowledged that the infrastructure at the district and sub-district level might not be well prepared to accommodate these children. Only 10% or less of children who had been withdrawn from their work were actually accommodated by schools in the respected (sub) districts.
- (2) Conditional Cash Transfer (CCT) programs such as Family Hope Program (*Program Keluarga Harapan* – PKH) and Child Social Welfare Program (*Program Kesejahteraan Sosial Anak* – PKSA) both implemented by MOSA in collaboration with related sector providing basic services in education and health. These CCT program provide families with vulnerable children with cash assistance (maximum 2.2 million IDR/household) and require the family to access school and medicare and other services facilitated by local PKH facilitators. Working children are required to quit their work to qualify for this assistance. This program is expected to reach 1,17 million households in 2014 (Bappenas, 2010).
- (3) Block Grant for tackling Child Trafficking (MONE). The program was implemented in 2009. The grant was intended for Trafficking Task Force at the district level to prevent and eliminate trafficking, provided to a maximum of 30 task forces. According to the guideline, the district task forces submit proposals to MONE, and each approved proposals receive a maximum of Rp. 45 million. One of the requirements for application is to have Crime Prevention Education Program on Crime of Trafficking in Persons in the district or city. In addition to that, MoNE launched a number of financial assistance to school and individual child/student (BOS, Block Grant for Children with Special Needs and Special Services, Scholarships for Poor Children) to maintain retention of children in school. To accommodate the need for withdrawn children to continue their education at secondary education, MoNE introduced One Roof School. The secondary level education is provided in the afternoon within the same school building or next to it, after the elementary school finishes their classes. This approach is effective in providing easier access to secondary education for students especially in the regions and communities where educational facilities are insufficient. From 2004 to 2007/8 a number of 2,215 has been built (Weston, 2008). Success in this program has been reported repeatedly, and new schools are built continuously every year by the government with the support of international donors.
- (4) The government also provides poverty alleviation programs such as PNPM Mandiri. The general objective is to improve the welfare of poor communities, and specific objectives include; increase in participation of all community members, improve the capacity of community institutions and local governments to provide better public services especially to the poor communities through pro-poor policies, programs and budgets, developing community social capital, and increase in innovation and the use of appropriate technology, information and communication in community empowerment. The basic principles also include human development, autonomy, decentralization, gender equity and just, and democracy. The core programs are to strengthen community implementation organizations, to identify their needs, prepare village medium-term poverty reduction plans and implement projects included in these plans. The PNPM-support programs deliver specific services through sectoral programs such as health or education.<sup>18</sup> In addition to this program, we noted similar program such as PKH, BLT, PEKA, etc.

---

18 The Oversight Team of PNPM Mandiri 2008, *PNPM Mandiri The National Program for Community Empowerment*

- (5) We should recognize that MoWE&CP and MoSA have developed programs that provide treatment and rehabilitation services for child survivors of WFCL, such as RPSA (Rumah Perlindungan Sosial Anak), P2TP2A (Pusat Pelayanan Terpadu Perlindungan Perempuan dan Anak), PPA (Pelayanan Perempuan dan Anak). Currently the MoWE&CP is promoting Child Friendly City or Kota Layak Anak (KLA) to mainstream child protection issues into regional development planning. Some of these initiatives are quite new. More data and information, especially based on empirical evaluation, is needed to enable us see the value and benefits of these programs and activities. Moreover, concerns of overlaps between the MoWE&CP with sectoral programs and activities should be seriously considered.

### **Gaps and challenges in national legislations, policies, and programs**

- (1) Awareness about the problem and related national response. One consistent challenge in the national response has been the effectiveness of campaign and advocacy works against child labor and WFCL. Existing evidence indicated that the community, law enforcers, and decision makers were not fully aware of the problems and existing or on going responses. Given the size and cultural diversities of the country, cultural practices that support working children is in itself is a formidable challenge to be resolved. Other problems such as poverty, low level of literacy and education, and the difficult subject of state responsibilities and legislation awareness raising is yet another colossal challenge. Given the state of the art and sophistication in the communication technology infrastructures, we should acknowledge that until this date campaign against WFCL has not been able to convey a condition of deterrence<sup>19</sup> for both demand and supply side. Many people would argue that the main reason for this are (a) lack of visibility and consistency in campaign strategies, and (b) the failure of the state to implement the rule of law. Child labor issues, especially WFCL rarely appeared on popular public or mass media. If ever, they are delivered as a short reportage and news footage. As such they are presented more as an event or incidence and rarely constructed to include social and legal repercussions. On the rule of law, it is often discussed by national experts on child labor as a problem of the culture of law implementation rather as a problem of substance of the law. As indicated recently by the Harvard Kennedy School Indonesia Program (2010), even after the political reform in 1998 Indonesia has failed to reform the legal institutions to achieve one of the main objectives of *Reformasi* (Reformation) that is to uphold rule of law and justice. Instead, the legal institutions in Indonesia remain intact as machineries that rule the state by the law, protecting the privileges of the haves and fail to protect vulnerable citizens.
- (2) Closely linked to the above, Indonesia has not been able to deal with important structural barriers in law enforcement and policies. Some of the barriers are as follows:
- ◆ Harmonization of the law has been hampered by cultural and political factors. Loopholes in the Law No 13 Year 2003 and the observed strong reservation to regulate domestic works<sup>20</sup> and to criminalize any sexual contacts with children, are classic example of structural barriers that translate into lack of seriousness in handling cases of trafficking of women and children, lack of serious implementation of Labor laws and regulation in cases of children working in cottage and home industry. These problems represent clear examples of cultural perception of the problem, i.e.: child marriage is culturally accepted and legally protected, sexual contacts

19 Borrowing from Marshall, P. & Sirait, M. (2007). Assessment of child trafficking in Indonesia. Internal report to UNICEF.

20 Human Rights Watch, *ibid*.

with children is common and protected in certain community, poor children have to (culturally obliged to) help their parents, and working in family business should be safe.

- ◆ Missing or the absence of important provisions in the law (such as statutory article on rape, protection of children in informal sector, legal mandate for professional social workers, divisions of responsibility in rescue/care and treatment-rehabilitation of survivors of trafficking) have been associated to confusion and lack of serious actions when dealing with real cases of WFCL.
- ◆ Conflicting provisions in the laws – such as criminalization of children involved in drug trafficking (Law No. 35/2009) and prostituted children (a number of District regulations)<sup>21</sup>.
- ◆ The political culture of budgeting suggests that in the provincial and district level, a local legal mandate is a necessary condition for budget commitments<sup>22</sup>. This practice causes a lot of resources and time since any major program such as the elimination of WFCL should have a legal basis (PERDA) at the local level, even when a national legislation is already in place. Without a PERDA no significant local budget will be allocated for the cause. The whole national development machineries (Bappenas dan Bappeda) as well as the political process (DPRD) have been successfully able to perpetuate this cultural practice.
- ◆ Problems in the mechanism of legal and policy implementation. Although the establishment of National Committees, Task Forces, child protection commission and institution, reporting structure (such as Tesa 119) are important indication of progress, many of them suffer from lack of serious investment from the national and local (provincial/district) governments. Recent account by CSIS, for example, suggested that some municipalities and districts did not have Local Action Committee as yet. They also have the impression that policy makers in their study sites (Papua, W Papua, East Nusa Tenggara, Maluku, South Sulawesi, and Nanggroe Aceh Darussalam/NAD) were not aware of the issue of child labor and youth employment. Consequently, local budgeting, commitment for policy implementation and intervention varies across the regions in Indonesia.
- ◆ The existing laws complicate procedures of procurement of services to children. To be able to access BOS assistance the state require public school to access the funds from the local office of MoNE. Private schools have direct access to the funds. Consequently, students in public/state schools who need such assistance have to go through more bureaucracy that often result in frustration and finally failure to access available funds. In the case of birth certificate, for example, although the Law on Population Administration No. 23 Year 2006 articles 27 and 32 require that a new born citizen should be registered within 60 days, beyond the given period, the procedures become more difficult. In addition to that, to obtain a birth certificate, one should submit a number of papers including certificate of marriage, ID card, a letter of acknowledgement from the midwives or doctor, etc. Many parents could not comply to the rule and requirements, nonetheless to pay the cost incurred.
- ◆ The withdrawal of Law No. 40/2004 on National Social Security System by the Constitutional Court in 2010 helps strengthen the perceived and actual lack of social protection by the state.

(3) Difficulty to retain students in school. One way to prevent children from working in hazardous jobs is to retain their school participation. A recent review on the situation of secondary school in Indonesia (Weston, 2008) it was revealed that government subsidized programs to help poor

---

21 Annex 2 – FGD, *ibid*.

22 Annex 2 – FGD, *ibid*.

children in school are not actually implemented to achieve that goal. The review indicated that only 50% of children from the poorest quintile as compared to 80% of children from the richest quintile were able to complete their Junior Secondary education. Transition from primary to secondary school happened more in the urban than rural districts (World Bank, 2009). The major reason for dropping out or not able to continue their education is economic or financial. Unfortunately, available government subsidies and scholarships are not sufficiently targeted to children who need such assistance the most. According to a SMERU assessment of BOS (Hastuti et al., 2006), only 4 out of 40 schools surveyed used the money to help directly poor students. Because of lack of financial ability, poor children tend to have limited choices in schooling and tend to end up in the worst available education institution in the (sub) district. Many of these institutions may not even have the facilities to assist students through a state exam (in year 6<sup>th</sup>) which put these children more vulnerable for discontinuation. These are children who more likely than others to engage in WFCL.

- (4) Education “the Weakest Link” in coordination. Learning from the implementation of PPA-PKH, PKSA and PKH we may assume that the education sector may be the weakest link in the cross sectoral coordination. This is not to say, however, that there is lack of ingenuity or concerns within this sector. CCT practices to bring back children who have been out of school have been experiencing difficulties. To many children already outside of formal education, school is an intimidating entity. Many children were afraid to be back in school, parents and teachers were pessimistic, and needed support from local leaders are often absent (CCP UI, 2011). Stigma and discrimination to poor children generally or to working children (e.g., street children), children in conflict with the law, and other children in difficult circumstances may prevent reintegration of these children into the formal system. Currently, approximately 300,000 students are able to enroll in 10,300 Open Junior Secondary Schools (Weston, 2008). Although this may be the best transitional policy, many of these children deserve better arrangement.
- (5) The implementation of PKH, and PKSA seem to be promising interventions to withdraw WFCL and prevent vulnerable children to engage in WFCL. These programmes involve some form of cash transfer to institutions providing basic services in education and health or to families with targeted children to enable them access food/nutrition and basic services. They were implemented on the assumption that existing conditions around children can be changed through enforced conditions. When those conditionalities are not met, families and/or children could not access the government assistance. As promising as they are, a number of challenges are to be resolved. One chronic problem in public policy in Indonesia is lack of thorough systemic preparedness. Lack of data, lack of professional accountability, and the absence of a planning culture (Weston, 2008; World Bank, 2010) may be factors behind this lack of systemic preparedness. Assessment on or spot check on CCT program such as PKH and PKSA, for example, indicated that implementing institutions should improve socialization, targeting, and adherence to the program requirements and conditionalities (PPA UI, 2010; Puslitkes UI, 2010). Withdrawal of WFCL requires that existing education or training institutions are ready to participate to accommodate their needs for more decent work skills. When children are taken back into the formal education system, a bridging program to ensure readiness should be in place. When children are already in school, they should learn work related skills alongside traditional scholastic skills to prevent them from boredom and burn-out<sup>23</sup>. This kind of school to work programs is lacking in the national response.

23 ILO (2006). The end of child labor: Within reach, p. 18.

- (6) The Harvard Kennedy School Indonesia Program (2010) suggests that the limited impacts of poverty alleviation programs in Indonesia, including PKH conditional cash transfer program is its basic assumption that “poor communities are ‘socially homogenous’ and static” (p. 47). This assumption means that these people are easy to identify and to understand their priorities, which is never true. This is why such programs are often mistargetted and mismanaged. When programs find difficulties in reaching the target beneficiaries (e.g., children living on the street) and yet they have to be implemented, they resort to the existing mechanism that can lead to any children living in poverty or near poverty and deliver the assistance as other (non-conditional) assistance.
- (7) There is a serious lack of programs that could reach deep into the working condition of the WFCL, such as children in prostitution and other forms of hazardous work. An indigenous model outreach intervention where child survivors are trained to provide information in sending areas and to outreach children in their working sites (as performed by Yayasan Bandungwangi in Jakarta and Indrianti Foundation in Yogyakarta to prostituted children) is scarce and lack of serious funding. A recent PKSA program managed by MoSA is partly aimed to help children in such difficult circumstances. On going assessment by the Center on Child Protection at Universitas Indonesia (supported by Bappenas and the World Bank, 2011) suggests that such program is lacking of appropriate infrastructure and mechanism. Existing MoSA related social/welfare institutions are lacking of appropriate perspective, skills, and manpower to deliver the program to the proposed target groups.
- (8) There is a serious lack of documentation of best practices in the treatment, rehabilitation, and reintegration of survivors of WFCL. The existing legislation do not have clear provisions on state responsibility to survivors of WFCL. In fact, nationally Indonesia has no comprehensive policy on rehabilitation and reintegration. We understand that MoSA has a program for social rehabilitation and safe home for WFCL (RPSA). The MoWE&CP also provides P2TP2A or *Pusat Pelayanan Terpadu Perlindungan Perempuan dan Anak (Integrated Service Centre for Women and Children’s Protection)*. *These state sponsored programs are very limited in coverage and there has not been any documentation and report of their achievements. A number of NGOs have provided such services but similarly lack of documentation.*
- (9) Lack of serious investment in monitoring and reporting mechanism. The establishment of NAC, task forces, and child protection institutions have not been followed with monitoring and evaluation mechanism. In many cases, monitoring and evaluation are conducted on a project basis by the donor. Periodic data collection and reporting of these institutions to the public as an act of accountability is absent. While they use public funds for its establishment and operation, the public has no control over their performance and achievements. FGD among experts and activists, for example, indicated that since good results of rescue or withdrawal of WFCL were not well-monitored, many of them dropped out of school or training program and returned to their hazardous works<sup>24</sup>.
- (10) Lack of investment in labor inspector. The availability and competency of labor inspector is one of the requirements for eliminating WFCL according to ILO Convention 182. For a long time, limited number, qualification, high turn over, and lack of legal mandate of Indonesian labor inspector has been a major reason for the slow progress in eliminating WFCL<sup>25</sup>. Just recently, the president issues Presidential Regulation No 21 Year 2010 on Labor Inspector. To be able to implement this regulation, however, ministerial decree for scope of work and responsibilities, information network, and other provisions will need ministerial decrees which will take sometime to materialize.

---

24 Annex 2, *ibid.*

25 IPEC Evaluation (2008), *ibid.*, p. 46 and see also Cluster and Synergy, *ibid.*, p.46 and Annex 2 FGD.

### IV.3.b. Invest in best practices

It is difficult to find records of best practices to eradicate WFCL in Indonesia. Best practice in this document is defined as any elements of policy or programs than contribute to the elimination of the WFCL. The following section is a review of what are promising elements in the current policies and programs:

There is a growing body of evidence that linking poverty alleviation program with educational reform may significantly contribute to the prevention and elimination of WFCL<sup>26</sup>. A number of requirements, however, are observed. First of all, preparing the enabling environment for change through awareness of the problem and commitment to address it. Secondly, availability of poverty alleviation program that are targeted toward the most vulnerable children, especially those who are already out of school. Thirdly, education policy should be reformed to accommodate the special needs of working and other vulnerable children. Fourthly, there should be a strong partnership with the civil society organization to identify, outreach, and support and care of the child beneficiaries.

Indonesia does have examples of good practices in dealing with WFCL. In the early years of TBP (National Action Plan), NGOs assisted by IPEC-ILO were able to convince provincial government on North Sumatra and West Java that many children in their respective region were engaged in hazardous work in the fishing (N Sumatra) and in the shoe and garment industries (W Java). After a short period of learning and fact finding, the government was able to issue decrees and directives to deal with the problem. NGOs (JARAK and its members) were involved in monitoring and implementation of the policy and program.

Once the enabling environment for change is established, poverty alleviation programs such as PKH, PKSA, different kinds of social assistance and subsidized programs for the poor can be utilized to strengthen WFCL elimination policy and programs. When the mechanism of program delivery, coordination of stakeholders and maintenance of conditionality are improved, these programs should be able to bring significant results. As explained earlier, however, one barrier of achieving the objectives, especially PPA-PKH, has been lack of readiness or coordination with the local education authority.

Our observation also indicates that creating enabling environment to eliminate WFCL also requires systemic reform of the sector involved, especially the education sector. In order for the education sector to be able to partner effectively to eliminate WFCL it should reform its system to address accessibility and affordability, quality and relevance, as well as flexibility of teaching-learning processes. The Indonesian government has been keen to deal with issues of affordability and accessibility through different kinds of scholarships for poor students, the establishment of One Roof s and Open Schools and other alternative means of learning and training (such as PKBM). The sector, however, face a number of challenges in dealing with the special needs of working children returning to school. Teachers should receive technical assistance to understand the circumstances of their prospective pupils and change their approach to fit with the the learning needs and styles of the students. In addition to that, the standard formal education curricula may not fit with the needs of these children. Modification of learning curricula to ensure relevance with children's needs is an important issue that needs to be addressed. It is well understood that there have been a number of attempts to adjust the formal education curriculum to meet the needs of these children. Unfortunately, teachers and tutors are not ready to implement the adjusted curricula. They treated their students like "usual" children and failed to capture and understand their

26 Inter-Agency Working Group on Child Labour and Education, *Emerging Good Practices in the Elimination of Child Labour and the Achievement of Education For All*. First published by ILO 2005.



special needs that bring both teacher (tutor) and students frustrated. Consequently, teachers (tutors) believe that teaching such students are too demanding or too difficult considering the incentives that they receive. Prospective students also believe that they could not succeed in such education system because their opportunities and potentials have been obsolete. Preparing the mindset of teachers and tutors to understand the problems that these children and the special needs that they have should be part of the curriculum reform so that teaching learning processes is more relevant and meaningful for these children.

When the enabling environment is established, other stakeholders – especially CSO (Civil Society Organisation) should be able to contribute to the WFCL elimination program. There have been a number of examples where CSO are able to effectively provide assistance on programs to eliminate WFCL. ILO-IPEC working with CSO network on child labor (JARAK) has been able to empower its member to work closely with the education sector, such as through PKBM and the Non-formal Package program, training institution, such as BLK, to pull WFCL from their hazardous work and learn new vocational skills as well as obtained higher level education certificates. Dinamika Foundation provides 5 years formal school education program in the garbage dumpsite in Bantar Gebang District in Bekasi, YKAI and Rumpun Gema Perempuan Foundation have been running a Sanggar (informal learning center) where child domestic workers could study and obtained new skills and formal education equivalent certificate to improve their working conditions.

In an area where many children were pushed out of schools and engaged in hazardous work, an NGO like KKSP in Medan can create a program which combines the implementation of government assistance for poor students with creative in school prevention program. KKSP worked with a Private Junior Secondary School (SMP) Budi Rahayu at Sub-district Pecut Sei Tuan, Deli Serdang, Medan, North Sumatra. District of Deli Serdang is considered a sending area for WFCL. Through an extra-curricular activity on radio broadcasting and journalism, they were able to inform students and teachers about important issues such as violence, exploitation and HIV/AIDS. Broadcasting was performed twice a day, 20 minutes before classes begin in the morning and 15 minutes during school break in the afternoon.

ILO-IPEC office is currently engaged in a number of vocational and life-skills trainings for ex-child laborers in partnership with MoMT, labor union, and NGOs. The programs is supported by trained facilitators and equipped with modules and instruments especially designed to engage students in interesting and playful teaching and learning situation. Many young children returning to primary education and older children seeking for relevant vocational training have been benefiting from this program. Review of outcomes and impacts should be collected to see if such intervention can be applied in a nation-wide program.

A recent government program to promote Child Friendly City (*Kota Layak Anak*) currently implemented by MoWE&CP may provide a venue for effective WFCL elimination program. The Child Friendly City used 28 indicators that are derived from CRC and other relevant sectoral indicators is promoted to the local leadership of province, municipality, down to the district. A commitment is sought through MOU with the Ministry. An annual assessment of achievement of all 28 indicators is performed involving a steering committee with diverse membership (professionals, academics, and activists). Five best cities or municipalities are awarded with presidential recognition and award. Limited observation of this program suggests that some of the coordination problems when child rights is promoted through sectoral approach can be resolved through direct involvement of the local leadership.

All of the above, may be sustainable examples of best practices when the leadership of the local authority understands the problem and is committed to deal with it and the quality of management of the program is continuously monitored and improved. Investment in the local leadership and in the improvement of the program mechanism and structure is crucial.

This review has been able to identify progress, gaps and challenges in the national response to WFCL. The following recommendations are aimed to improve national response through legislation and policies.

## V.1. Data and information

BPS data on ICLS 2009 provides clearer picture of the situation of children in the labor market at the national level. The data, however, provide very limited information on the magnitude and condition of WFCL. In fact, currently data and information on child labor seems to be isolated from other relevant data and information. BPS, for example, uses PPLS by name by address data 2008 on people living in poverty – including children. The magnitude of child labor from ICLS (4.05 million) does not seem to significantly reflect the number of children living in near to very poor households (21 million). The ICLS was even much smaller than the number of school aged children who are not in school anymore (9 million). A way to reconcile these disparities should be found. One way is to look at the result of the 2010 Census data. ILO-IPEC and other developing partners should provide further technical assistance to improve data and information on child labor and facilitate government partners to use existing data to mainstream the issue into the national development program.

## V.2. Legislation

- (a) This review clearly pointed out that there are certain loopholes in the national law which present structural barriers to effective implementation of policy against WFCL. Amendment of Law No.13 Year 2003 on its provision of minimum age and introduction a statutory rape of sexual engagement with children in the Law No. 23 year 2002 on Child protection or higher marital age would tremendously help existing policies and program to eliminate WFCL. Social worker is a very important profession that could contribute to the prevention and elimination of WFCL. The law No. 11 Year 2009 on

Social welfare is lacking of clear mandate for professional social workers. An amendment of this law to address that issue would be a significant contribution to existing mechanism of program implementation, monitoring, and evaluation. In addition to that, this review recommends that the ratification of CRC OP (1) on the involvement of children in armed conflict, and (2) on the sale of children, child prostitution and child pornography should be considered as a national priority as these protocols will protect the most vulnerable children.

- (b) It is inevitable to see each legal instrument is tied with a certain government sector and its policies. While WFCL is certainly a problem that can be resolved only through inter and cross sectoral collaboration, investment to improve coordination and collaboration is hampered by sectoral interest and, during the past decade, by regional autonomy. Unless the leaderships in the government ministries and institutions find the passion, interest, and ways to collaborate horizontally and vertically to resolve the problem of WFCL, existing legislations carrying numerous home works for harmonization will remain ineffective. MoMT as the sectoral focal point for WFCL should capitalized on the recent issuance of the Presidential Instruction No. 1 Year 2010 on the Acceleration of Priorities of National Development and Presidential Instruction No. 3 Year 2010 on a Just National Development. These two instructions were issued to provide stronger structural support in achieving the MDGs, especially on poverty alleviation. A special team for monitoring the implementation of those instructions was formed and working under the supervision of the Vice President. Facilitate existing mechanism for the elimination of WFCL to this office. Advocate the issue more aggressively internally as a serious barrier to achieving greater goals, that is MDGs. Improve internal capacity (especially labor inspectors) and coordination and work with Bappenas to resolve budgeting issues that prevent effective cross-sectoral coordination. Work closely with provincial and district authorities to promote ownership and serious investment.

### **V.3. Capacity building**

Many reviews and assessment have been conducted in the area of WFCL and youth employment. One general observation has been that there is a significant gap between the National Plan of Action and the capacity to implement it. Lack of sustainable technical assistance, failure to generate more expertise, and lack of investment to support such technical assistance, especially within MoMT itself and related sectors. More concerted effort should be invested to look after this matter more seriously.

### **V.4. Policies and programs**

- (a) It is very clear that Indonesia has had specific policies on WFCL from presidential decrees/instructions/regulation to local laws and regulations. Existing policies are available to prevent and criminalize recruitment and employment of WFCL. A number of options for policy and programmatic assistance are:
- ◆ MoMT and related sectors to continue supporting the establishment of mechanism for NAC and mobilize expertise and resources to improve capacity to execute planned activities and advocate for increased local investment. Since there are a number of existing task forces and

committees, MoMT and its sectoral partners should work very hard to minimize program overlaps and repetitions.

- ◆ Work together with provincial and district authorities to strengthen existing best practices in poverty alleviation and other program to achieve the MDGs such as PPA-PKH, PKSA, BOS, PNPM Mandiri, and other empowerment oriented programs. Government leadership should be more open to CSO partners and the private sector. Link or integrate CSO best practices into these programs and into private sector public interests.

(b) Indonesia is seriously lacking in a systemic structure, which provides a comprehensive protection for children. Although the country has enacted a number of laws, regulations, decrees, and district regulations, published a number of National Plan of Actions, established Task Forces, Child Protection Institutions and mobilized civil society (including children and youth) participation – these parts and pieces of important elements for a potentially comprehensive Child Protection System (CPS) are not necessary inter-linked or working in harmonious manner. In fact, these parts and pieces often act independently, strictly sectoral, and in isolation from each other<sup>27</sup>. Government, especially BAPPENAS may consult existing experts in the universities and its bi(multi) lateral partners to identify existing protective elements in the society or community and in the component of existing policies and programs. Mobilize resources to weave existing protective elements and create legislation or institutions or mechanism (such as for social insurance) to fill in the gap of a comprehensive child protection system.

## **V.5. For ILO-IPEC and related UN agencies**

- (a) ILO-IPEC has very limited mandate to inform and engage its partners (tripartite constituents) on and for legal reform to eliminate WFCL. It is important that ILO-IPEC and other UN agencies mandated to address the protection of vulnerable children should have a unified and integrated agenda to:
- ◆ Deal with broader issues on child protection and the structural barriers to law enforcement.
  - ◆ Ensure that national legislations meet the International standard, especially conventions already ratified by Indonesia.
  - ◆ Invest to broaden knowledge base of WFCL and child protection legislations within CSO and the academia (universities).
  - ◆ Facilitate the ratification of the two OP of CRC and CRPD and facilitate partners to inform the public about these protocols and new convention.
  - ◆ Provide capacity inputs to the law enforcers, including labor inspectors to be able to identify, process, and respond adequate and appropriately to emerging cases.

---

<sup>27</sup> See also CSIS mapping evaluation (2010) and USDOL Cluster and synergy evaluation (2009).



# Bibliography

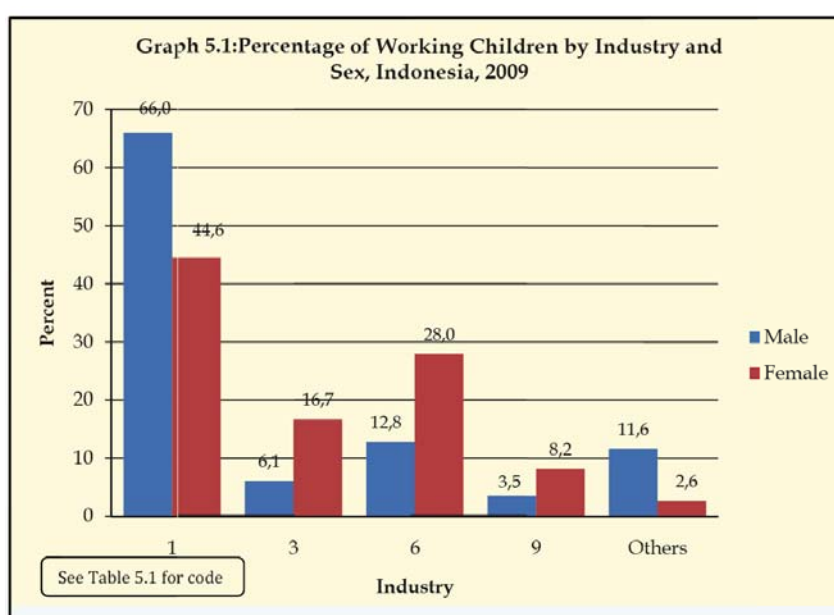
- Bappenas (2010). Peta Jalan Percepatan Pencapaian Tujuan Pembangunan Millenium di Indonesia (h. 43).
- Bappenas, National Mid-term Development Plan 2010 - 2014
- BPS (2010). Working Children in Indonesia 2009.
- Center on Child Protection UI (2011). Assessment on the Implementation Process of Social Assistance Program for Child Protection (PKSA) *As an Input to the Development of a Comprehensive Child-Sensitive Social Welfare and Protection Strategy in Indonesia. Presented to the World Bank, March 30, 2011*
- Cluster and Synergy Evaluation of USDOL Funded Child Labor Projects in Indonesia, Macro, 2010
- CSIS (2010). Draft report on the Mapping of Policies Development Framework on Child Labor and Youth Employment Issues in Indonesia, unpublished report for ILO.
- ILO (2007). Project Brief: Project of Support to the Indonesia Time Bound Programme on the Elimination of the Worst Forms of Child Labor – Phase II
- Irwanto (2008). Anakku Sayang: Anak dalam pembangunan nasional jangka menengah dan panjang 2004-2015. Monograf untuk KPP, 30 Desember 2008.
- Harvard Kennedy School (2010). From Reformasi to Institutional Transformation: A strategic assessment of Indonesia prospects for growth, equity, and democratic governance. Jakarta: ASH Center for Democratic Governance and Innovation, Rajawali Foundation Institute for Asia.
- JARAK (2010). Report on the Monitoring of the Implementation of Convention 138 and ILO Convention 182. Jakarta: IPEC/ILO
- Koalisi LSM Nasional untuk Monitoring Hak-hak Anak (2010). Laporan tinjauan pelaksanaan Konvensi Hak-Hak Anak di Indonesia 1997-2009. Jakarta: Save the Children.
- Marshall, P. & Sirait, M. (2007). Assessment of child trafficking in Indonesia. Internal report to UNICEF.
- MoMT (2008). Report on the Implementation of National Plan of Actions on the Elimination of the Worst Forms of Child Labor,
- PUSLITKES UI. (2010). Ringkasan Eksekutif: Kajian (Spot Check) Pelaksanaan Program Keluarga Harapan 2007-2009. Jakarta: UI dan Bapenas.

- SMERU (2010). A rapid appraisal of the PKS-BBM Education Sector; School Operational Funding 2005.
- The World Bank (2009). Investing in Indonesia's education at the district level: Analysis of regional public expenditure and financial management
- Weston, S. (2008). A Study of Junior Secondary Education in Indonesia: A Review of the Implementation of Nine Years Universal Basic Education Program. Jakarta: USAID, Save the Children, AED, and IRD.



# Annexes

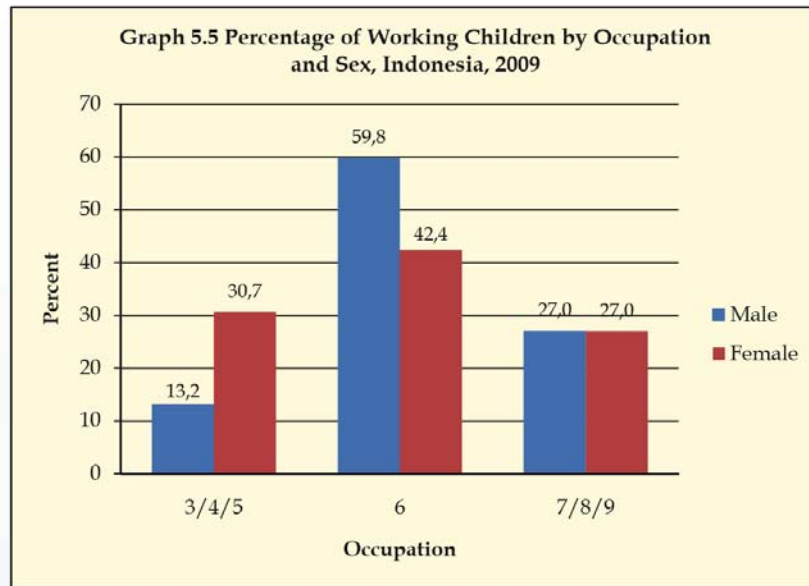
## ANNEX 1: WORKING CHILDREN BY GENDER AND OCCUPATION



Code 1: Agriculture, Forestry, Hunting and Fishery. Code 3: Manufacturing Industry. Code 6: Wholesale Trade, Retail Trade, Restaurant and Hotels. Code 9: Community, Social and Personal Services. Code 2,4,5,7&8: Others

Table 5.3 Percentage of Working Children by Occupation and Age Group Indonesia, 2009

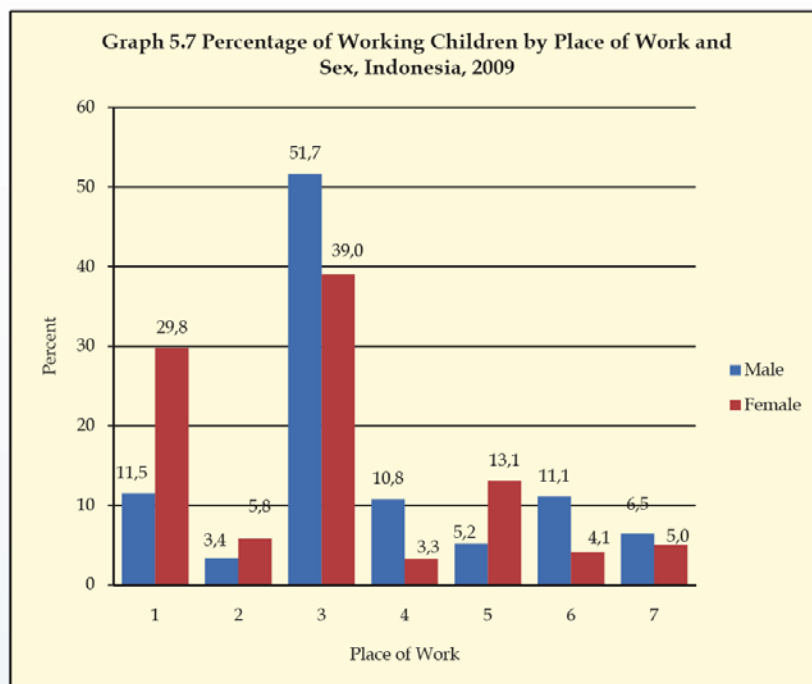
| Occupation  | 5-12  | 13-14 | 15-17 | 5 - 17 |
|---|-------|-------|-------|--------|
| 3/4/5 Clerical and Related Workers, Sales and service workers                     | 19.0  | 20.8  | 20.6  | 20.3   |
| 6 Agricultural, Animal husbandry, Forestry workers, fisherman and hunter          | 61.9  | 59.9  | 48.8  | 52.7   |
| 7/8/9 Production and related workers, transport equipment operators and labourers | 19.1  | 19.3  | 30.6  | 27.0   |
| Total   | 100.0 | 100.0 | 100.0 | 100.0  |



Code: See Table 5.3

**Table 5.4 Percentage of Working Children by Place of Work and Age Group Indonesia, 2009**

| Place of Work  | 5-12  | 13-14 | 15-17 | 5 - 17 |
|--|-------|-------|-------|--------|
| 1 At family dwelling   | 17.8  | 19.8  | 19.1  | 19.0   |
| 2 Client Places, Office, Factory                             | 2.9   | 1.7   | 5.3   | 4.4    |
| 3 Plantation/Farm/Garden                                     | 53.8  | 51.7  | 43.5  | 46.5   |
| 4 Construction Sites, Mine/Quarry, Pond/lake/river           | 3.2   | 7.4   | 8.8   | 7.7    |
| 5 Shop/Kiosk/Coffee House/Restaurant/Hotel                   | 4.5   | 8.2   | 9.4   | 8.4    |
| 6 Mobile Places, Fixed, street / market stall, Traffic Light | 10.4  | 4.6   | 8.5   | 8.2    |
| 7 Others   | 7.4   | 6.5   | 5.3   | 5.9    |
| Total  | 100.0 | 100.0 | 100.0 | 100.0  |



## ANNEX 2: SUMMARY OF EXISTING LEGISLATIONS AND POLICIES

**Table 03: Summary of Existing Legislations and Policy about WFCL in Indonesia**

| No.                  | Name of Law/ Policy   | Description   | Comments   |
|----------------------|---|---|--|
| <b>National Laws</b> |   |   |  |
| 1                    | Amendment of 1945 Constitution <sup>28</sup>  | Inclusion of human rights provisions in article 28. Article 28B suggests that all children have the rights to grow, develop, and protected by the law from violence and discrimination.   | Lacking of articles on the best interest of the child or the right to participation <sup>29</sup> .  |
| 2                    | Law No. 39 / 1999 On Human Rights   | This is the national legislation that translates the Universal Declaration of Human Rights.   | Used as the basis for five yearly Human Rights programming.  |
| 3                    | Law No. 20/1999 on Ratification of ILO Convention Number 138 Year 1973 concerning Minimum Age for Admission to Employment                         | This law is used as an instrument for ratification of ILO Convention No. 138. In this document the government of Indonesia is committed to comply with the mandate of the convention including to set the minimum age for employment in national legislation and to increase the minimum age (points IV.2 and IV.3).  | The convention fails to address the involvement of children in commercial activities especially in the area of art and talents. Many children have to deal with hours and days of production time without adequate legal protection. Only recently the government issued Ministerial Decree (MOMT) No. 115 / 2004 on Protection of Children undertaking jobs to develop talent and interest. The effectiveness of this decree remains to be observed.  |
| 4                    | Law Number 1 of the Year 2000 on Ratification of ILO Convention 182 concerning the Prohibition and Elimination of the Worst Forms of Child Labour | Adopted in Law No. 13 Year 2003 on manpower to combat WFCL  |  |
| 5                    | Law No. 23 / 2002 On the Protection of the Child  | This law is supposed to be the umbrella legislation for child protection. The law states general measures to protect children and children in need of special protection, which includes children being exploited economically or sexually, and children who are victims of kidnapping, sale and trading. Therefore, this law should be able to penetrate the market for child labor.<br><br>This law also adopts children exploited in the sex industry and drug trafficking as victims. This is contrary with existing Juvenile Justice law No. 3 year 1997 and | No provision that defines violence, abuse, or neglect.<br><br>No provision that criminalize sexual intercourse with minor that is usually used as the statutory article on rape to protect children from sexual exploitation.<br><br>No articles that links and unified all activities that protect the rights of children into a unified system of Child protection (see Article 1 para 2).<br><br>The foundation and principles to establish KPAI is considered flawed <sup>30</sup> .<br><br>No extra-territorial provision that criminalize perpetrators of children <sup>31</sup> . |

28 2nd Amendment in 2000: Addition of Chapter XA articles 28A to 28J on Human rights.

29 See: Save the Children (2010). Laporan tinjauan pelaksanaan Konvensi Hak-Hak Anak di Indonesia 1997-2009.

30 Irwanto, Hendak dibawa ke mana KPAI? KOMPAS Daily Newspaper, 23 July 2010.

31 Shadow report, *ibid.*, p. 175.

| No. | Name of Law/<br>Policy   | Description  | Comments   |
|-----|--|--|--|
|     |  | <p>the newly enacted Law No. 35 year 2009 on Narcotics which criminalize children.</p> <p>A penalty for the exploitation of children economically or sexually is a term of imprisonment of not more than ten years and/or a maximum fine of Rp 2,000,000.</p> <p>The law also states the establishment of a Commission for the protection of Indonesian Children (KPAI) assigned to monitor and supervise the protection of children's rights and advises the President.</p> |  |
| 6   | Law No. 20 / 2003<br>On National Education System  | This law guarantees that all children have equal access to quality education. The law also suggests that the state is responsible to provide services for children with special needs with special education. The state is also responsible to provide access to economically disadvantaged children.  | Education sector currently received the largest budget that is almost equal to progressive countries in the region. When utilized properly, this sector may contribute very significantly in eliminating WFCL.   |
| 7   | Law No. 13 / 2003<br>On Manpower   | The law is a main source of legal reference on child labor, which prohibits the WFCL based on the definition contained in ILO Convention No.182 and regulates light work which is allowed for children age from 13 to15 (article 69). In case of violation of the law, the person is subjected to a criminal sanction in jail for a minimum of two years and a maximum of five years and/or a fine of a minimum of Rp 200,000,000 and a maximum of Rp 500,000,000.           | <p>Considered not effective to deal with children working in the informal sector and children working in the entertainment industry.</p> <p>Although this laws defines light works for children age 13-15 years old, it does not mention specifically that the national minimum age for employment is 15 years old as in the minimum age declaration accompanying Law no 13/2003 on the ratification of ILO convention 138. The absence of this provision has created confusion regarding minimum age for employment.</p> <p>Article on children working outside of formal working relationship (Article 75) still need an implementing regulation</p> |
| 8   | Law No. 39 / 2004<br>On Placement and Protection of Indonesia Workers in Foreign Countries (Migrant Workers Law) | The law sets the minimum age of 18 years old for Indonesian workers to legally work in foreign countries. If the workers are to be employed by an individual user, they must not be younger than 21 years old (article 35). The workers must have completed at least their junior high school education (SLTP) or an equivalent level of education.  | Article 102 criminalizes violation against article 35 with imprisonment of 1-5 years and/or fine from 1 to 5 billion IDR.  |

| No. | Name of Law/<br>Policy  | Description   | Comments   |
|-----|---|---|--|
| 9   | Law No. 21 / 2007<br>On Elimination of Human<br>Trafficking       | The law is a legal basis for prohibition of human trafficking including children. It provides law enforcers with the power to investigate and prosecute offenders in all forms of trafficking. When the victim is a child the law provides 1/3 additional sanction (article 17). The law also provides protection for victim as a witness to the crime. | Problem with the definition of a child. When a child is in the womb of a trafficked mother, the child will be born as a trafficked child? <sup>32</sup>  |
| 10  | Law No. 44 / 2008<br>On Pornography                               | Criminalize production, distribution, and public utilization of pornographic materials. Provides higher penalty (one-third higher) when involving minor subject.  | Production for personal use – not criminalize – Explanation of Article 4 paragraph 1. This may be used as an excuse for possession of the unlawful materials and neglecting the fact that the production of such materials requires an act of abuse or violence against the subject.   |
| 11  | Law No. 23 / 2004<br>On Elimination of<br>Domestic Violence       | This law prohibits physical, psychological and sexual violence against family members and persons working in the home, and provides for sanctions against perpetrators of the abuse. Live-in domestic workers are including in the law's protection (article 2).  | Does not contain provisions on exploitative work inside the home or endangerment as a form of violence. The definition of "violence" (article 1 point 1), however, include coercion and unlawful deprivation of liberty.   |
| 12  | Law No. 11 / 2008<br>On Electronic Information<br>and Transaction | Penalty for distributing information containing pornographic materials (Article 27)– including one-third higher penalty for information containing sexual exploitation of children (Article 52).  | ICT, including personalized communication devices such as mobile phone, are common medium of transfer. These devices are used as means to exploit children. Criminalizing the use of ICT to distribute or obtain pornographic materials, especially containing images of minor does strengthen child protection.   |
| 13  | Law No. 23 / 2006<br>On Population<br>Administration              | Every (newborn) citizen has the rights to obtain population documents (including Birth Certificate) for free. Supported by a Government Regulation No. 37 Year 2007.  | The procedures to obtain birth certificate is complicated by Presidential Regulation No. 25 year 2008 on the administration and management of Population and Civil Registration. A number of documents need to be submitted within 60 days after the child was born. These structural barriers will maintain the vulnerabilities of children born from poor families and complicate intervention to prevent children from being victimized by organized crime. |
| 14  | Law No. 13 / 2006<br>On Protection of Witness<br>and Victim       | This law provides legal protection to witness of a crime – including testifying victims. A special Institution (LPSK) is established to carry out protection mandate. In cases involving WFCL, children who are victimized in the household or survivors of trafficking can be protected in their testimony against their perpetrators.                 | No specific procedures for child victims as witness.   |

32 Shadow report, *ibid.*, p. 174.

| No.                      | Name of Law/<br>Policy   | Description  | Comments   |
|--------------------------|--|--|--|
| 15                       | Law No. 11 / 2009 on Social Welfare  | The law addresses the right to basic needs, providing a comprehensive and professional social welfare, community protection, registration and licensing, and administrative sanctions for institutions that hold social welfare.<br>This law also covers neglected children and children with special needs.                       | No legal mandate for social workers to deal with irresponsible parents or guardians to report and follow-up cases.   |
| 16                       | Law No. 35 / 2009 On Narcotics   | Criminalize production, possession, distribution, all activities that may cause other people to use or engaged in illicit distribution or trafficking of drugs – including when performed by minor.  | Does not provide information on protection, rehabilitation and recovery procedures for children involved in the production, trafficking and distribution of narcotics.   |
| 17                       | Law 12/2006 on Citizenship   | Protect children born by Indonesian mother despite of the citizenship of the biological father (Article 1 point b, g, and h).  | Resolves stateless children issues. Inability to obtain proper papers for citizenship may seriously affect child's vulnerability to enjoy their basic rights for education and other basic services. Children who are denied of these rights are seriously vulnerable to be pushed or recruited into WFCL. |
| <b>National Policies</b> |  |  |  |
| 18                       | Presidential Decree No. 12 / 2001 On the National Action Committee for the Elimination of the WFCL                   | The decree states the provision for elimination of the worst forms of child labour, such as slavery, prostitution, employment in prohibited activities, and employment under dangerous working conditions. The law declares the establishment of National Action Committee in order to plan and implement the elimination of WFCL. | Have been followed up by MoMT to be established in the provinces, municipalities and districts.  |
| 17                       | Ministerial Decree (MoHA) No. 5 / 2001 on the Elimination of WFCL  | This decree protects children from WFCL through rescuing and getting children back to school or non-formal education with government assistance.   | The implementation of this decree needs a lot of cross and inter sectoral coordination, which are commonly the barrier to its effectiveness.   |
| 18                       | Presidential Decree No. 59 / 2002 On the National Action Plan for the Elimination of the Worst Forms of Child Labor. | The National Action Plan – a follow up of the establishment of the National Action Committee. The action plan delineate program activities for 20 years to eliminate WFCL.   | Entering the 2 <sup>nd</sup> phase of its implementation.  |
| 19                       | Ministerial Decree (MOMT) No. 235 / 2003 On Types of Work that Hazardous to the Health, Safety or Morals of Children | The decree is a basis for prohibition of hazardous work for children. It defines hazardous occupations in which children cannot work, including works that harm the health, safety and moral of the child.   | No sanctions was mentioned   |
| 20                       | Regulation of the Minister of Home Affairs No. 6 / 2009 on Guidelines for  | This is to support gthe Presidential Decree No. 12 / 2001 on the National Action Committee for the Elimination of the WFCL   | Scaling –up response to the district level.  |

| No. | Name of Law/ Policy   | Description   | Comments  |
|-----|---|---|---|
|     | the Formation of Regional Action Committees, The Establishment of Regional Action Plans, and The Empowerment of Communities in the Elimination of the WFCL  |   |   |
| 21  | Ministerial Decree (MOMT) No. 115 / 2004 on Protection of Children undertaking jobs to develop talent and interest  | The decree is to address wide spread concerns about lack of protection of children who are engaged in creative and talent oriented work in commercial entertainment industries. It sets requirements for children to take on such jobs such as: the best interests of children, children's participation, 15 years as the minimum age for admission for employment, limitation of work hours, and protection against drugs abuse. | Problem with monitoring and reporting.  |
| 22  | Presidential Regulation No. 69 / 2008 On the formation of A National Task Force to prevent and suppress trafficking in person.                              | To coordinate national responses against trafficking in person from national to district level.   | Scale-up response to combat trafficking in person.  |
| 23  | Regulation of the Minister of Culture and Tourism No. PM.30/HK.201/ MKP/2010 on Guidelines on the Prevention of Sexual Exploitation of Children in Tourism. | To response to internal and international pressure against sexual exploitation of children in tourism sector. This has been socialized to the stakeholders of tourism industry.   | Provide national code-of-conduct to the hotel and tourism industry  |
| 24  | Presidential Decree No. 87 / 2002 On the National Action Plan for the Elimination of the Sexual Exploitation of Children                                    | Provides activities to prevent, suppress, and provision of rehabilitation services of sexual exploitation of children from 2002-2007.   | UN CRC committee is concerned that this decree does not provide optimum protection for victims and survivors. <sup>33</sup> |

33 Ahmad Sofian. ESKA: Buruknya potret HAM anak di Indonesia. Kompasiana, 6 July, 2020.

## ANNEX 3: SUMMARY OF INTERNATIONAL CONVENTIONS

**Table 04: Relevant International Convention and Indonesia ratification Status**

| International Convention  | Ratification status |
|---|---------------------|
| Convention on the Right of The Child, 1989<br>Decree No. 36/1990  | Presidential        |
| • OP to the CRC on the sale of children, child prostitution and child pornography, 2000                                   | - not yet           |
| • OP to the CRC on the involvement of children in armed conflicts, 2000   | -                   |
| CEDAW (Convention on the Elimination of All Forms of Discrimination against Women), 1979                                  | Law No. 7 /1984     |
| • OP to the CEDAW, 1999   | -                   |
| CAT (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), 1984                      | Law No. 5 / 1998    |
| • OP to the CAT, 2002   | -                   |
| CERD (International Convention on The Elimination of All Forms of Racial Discrimination), 1965                            | Law No. 29 / 1999   |
| ILO C. 138 (Minimum Age Convention), 1973   | Law No. 20 / 1999   |
| ILO C. 182 (Worst Form of Child Labour Convention), 1999  | Law No. 1 / 2000    |
| ILO Convention Concerning Labor Inspection in Industry and Commerce   | Law No. 21/2003     |
| CCPR (International Covenant on Civil and Political Rights), 1966   | Law No.12 / 2005    |
| • OP1 to the ICCPR, 1966  | -                   |
| • OP2 to the ICCPR (aiming at the abolition of the death penalty), 1989   | -                   |
| ICESCR (International Covenant on Economic, Social and Cultural Rights), 1966   | Law No. 11 / 2005   |
| CRPD (Convention on the Rights of Persons with Disabilities), 2006  | Signed              |
| • OP to the CRPD, 2006  | -                   |
| CED (Convention for the Protection of All Persons from Enforced Disappearance), 2006                                      | -                   |
| CMW (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Familias), 1990 | -                   |
| Convention against Transnational Organized Crime (Palermo Convention), 2000   | Law No. 5 / 2009    |
| • The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, 2000               | Law No. 14 / 2009   |
| • The Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000   | Law No. 15/ 2009    |
| The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices similar to Slavery, 1956          | -                   |
| The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 1949     | -                   |



## ANNEX 4: SUMMARY OF EXISTING PROGRAM

**Table 05: Summary of Program related to the elimination of WFCL in Indonesia**

| No.                            | Name of Program  | Description  | Comments  |
|--------------------------------|--|--|---|
| <b>Elimination of the WFCL</b> |  |  |   |
| 1                              | PPA-PKH (2008 - now)<br>Pengurangan Pekerja Anak – Program Keluarga Harapan (Withdrawal of Child Labor to Support Family Hope Program) | Executed by: the Ministry of Manpower and Transmigration (MOMT) and Manpower Offices at the Provincial and District level, in collaboration with Ministry of Education.<br>Description: Program withdraws child labourers from various sectors, provide them with a month education in the shelter and refer the children to education services.   | The program suffered from lack of coordination and preparedness of the local receiving educational institutions. Many children may relapse into WFCL because of this. |
| 2                              | PKSA (2010)<br>Program Kesejahteraan Sosial Anak (Child Social Welfare Service Program)  | Executed by: Ministry of Social Affairs<br>Description: One of targeted groups is street children. The program provide Personal Savings for street children for several months (eight months). The fund is given to meet the children's basic rights such as: nutrition, education, and family empowerment.  | Newly implemented. Evaluation not available.  |
| 3                              | Bantuan Tunai Penanggulangan Perdagangan Anak. (Block Grant for Tackling Child Trafficking)  | Executed by: Ministry of National Education<br>Description:<br>The grant was intended for Trafficking Task Force at the district level to prevent and eliminate trafficking. One of the requirements for application is to have Crime Prevention Education Program on Crime of Trafficking in Persons in the district or city.   | Very useful and considered effective  |
| <b>Education</b>               |  |  |   |
| 4                              | Sekolah Satu Atap (One Roof School)  | Executed by: Ministry of National Education<br>Description: This is a program to promote access to secondary education. The secondary level education is provided in the afternoon within the same school building or next to it, after the elementary school finishes their classes. This approach is effective in providing easier access to secondary education for students especially in the regions and communities where educational facilities are insufficient. | Has been a successful example – adopted by MONE nation-wide   |

| No.              | Name of Program   | Description   | Comments   |
|------------------|---|---|--|
| 5                | BOS<br>Bantuan Operasional Sekolah (Operational Aids for School)  | Executed by: Ministry of National Education<br>Description: This program aims to reduce the burden of operational costs. The program is beneficial especially to poor communities where expense for education has been replaced from parents to schools.  | Have to deal with mismanagement and mis-targeting  |
| 6                | BSM<br>Beasiswa Siswa Miskin (Scholarship for Poor Children)  | Executed by: Ministry of National Education<br>Description: This program is providing scholarships for the poor to access basic education. The program contributed to promote compulsory 9 years basic education and reduced drop-out rate.   | No evaluation  |
| 7                | Pendidikan Kesetaraan Paket A, B dan C. (Equivalency Education Packet A, B and C)                           | Executed by: Ministry of National Education<br>Description: This program provides non-formal and informal education which equivalence with primary and secondary school level. The program is a solution for the limitation of education facilities, and for dropped out children. The graduates get the graduation certificate and some skills to work.  | No evaluation  |
| 8                | PLK<br>Pendidikan Layanan Khusus (Education with Special Services)  | Executed by: Ministry of National Education<br>Description: Education with special services is provided for learners in the remote and less developed areas, isolated areas, and/or for learners who are victims of natural disasters, suffer from social deficiencies, and those who are economically disadvantaged (National Education System Act, Art. 32.b), include children in juvenile centers, street children and child prostitutes.   | One unique characteristic of this type of education is that students are taught scholastic as well as non-scholastic skills such as life-skills. |
| <b>Education</b> |   |   |  |
| 9                | PNPM Mandiri Program Nasional Pemberdayaan Masyarakat Mandiri (National Program for Community Empowerment). | Executed by: Several Ministry and Institutions, under coordination of Ministry for People's Welfare.<br>Description: PNPM Mandiri is one of the poverty reduction programs, aiming at creating and enhancing community capacity to efficiently overcome various development problems faced by the communities. The core programs are to strengthen community implementation organizations, to identify their needs, prepare village medium-term poverty reduction plans and implement projects included in these plans. | Considered a promising program but need to be adjusted with local dynamism in poverty reduction strategies .                                     |

| No.                                     | Name of Program  | Description   | Comments  |
|---|--|---|---|
| 10                                      | BLT<br>Bantuan Langsung Tunai<br>(Unconditional cash transfer)   | Executed by: Ministry of Social Affairs, and several Ministries.<br>Description:<br>This program was designed to deal with the abrupt impacts of the withdrawal of government subsidies, especially on oil/gasoline. This is a non-conditional cash transfer.   |   |
| 11                                      | PEKA<br>Pemberdayaan Ekonomi Keluarga Anjal<br>(Economic empowerment for families of Street Children)                              | Executed by: Ministry of <i>Women Empowerment and Child Protection</i><br>Description:<br>This is provided to the family as a rolling capital (micro-credit). Recipients are assisted to develop micro-economic activities while they were taught about child rights and parenting.   | No evaluation   |
| <b>Rehabilitation and Reintegration</b> |  |   |   |
| 12                                      | RPSA<br>Rumah Perlindungan Sosial Anak (Social Protection Home for Neglected Children)   | Executed by: Ministry of Social Affairs<br>Description:<br>To be established in major provinces to help neglected children to find alternative care.  | No evaluation   |
| 13                                      | P2TP2A<br>Pusat Pelayanan Terpadu Perlindungan Perempuan dan Anak (Integrated Service Centres for Women and Children's Protection) | Executed by: Ministry of Women Empowerment and Child Protection<br>Description:<br>To be established in all provinces, municipalities and districts. Provides services for women and children who are in need of special protection. This center provides social rehabilitation services for survivors of trafficking in person.<br>Executed by: Indonesian Nasional Police                                 | No evaluation.  |
| 14                                      | PPA<br>Pelayanan Perempuan dan Anak (Services for Women and Children)  | Description: This used to be RPK or special room to provide services for women and children coming to the police and reporting violence and abuse. This service is available at the Headquarter, provincial and district police stations. The police are trained to help clients for the following issues:<br>human trafficking, people smuggling, domestic violence, rape, prostitution, pornography, etc. | Has been recognized as a very important contribution of the police force to protection of women and children. |
| 15                                      | Kota Layak Anak (Child Friendly City)  | Execution: Currently the Ministry of Women Empowerment and Child protection is keenly promoting the concept <i>Kota Layak Anak</i> or City Friendly Children through out the country. In 2015, over 100 cities are expected to adopt this concept with measurable indicators.   | At very early stage. Developing concept and indicators.   |