

**President  
Of the Republic of Indonesia**

**Elucidations on  
Law number 23 Year 2002  
on  
Child Protection**

**General**

Children represent a gift and blessing from Almighty God, and must always be protected, as they possess human dignity and rights that must consistently be held in high regard. The rights of children constitute part of the overall set of human rights provided for in the 1945 Constitution, and are enumerated in the United Nations' Convention on the Rights of the Child. From the perspective of national and state life, children represent the future of the nation and constitute the generation that will take over the mantle of advancing the hopes of the nation. Thus, every child is entitled to live, grow and develop, to participate in society, to be protected from violence and discrimination, and to have his/her rights and liberties upheld.

While Law number 39 of 1999 refers to the rights of children, the specific obligations and responsibilities of parents, the family, the community, the government and the state still need to be spelled out in a law on the protection of children that is capable of providing a juridical basis for the fulfillment of such obligations and responsibilities. Accordingly, the provisions of this Law have been based upon the consideration that the protection of children, in all its aspects, forms part and parcel of the national development effort, particularly as regards the advancement of national and state life.

Parents, the family and the community are all responsible for protecting and upholding the rights referred to above in accordance with the obligations that have been respectively placed upon them by law. In addition, the state and the government are also responsible for providing facilities and access to children so as to ensure their optimum growth and development.

This Law stresses that the responsibilities of parents, the family, the community, the government and the state take the form of a series of activities that must be undertaken on an ongoing basis so as to ensure the protection of children's rights. These activities must be sustained and be directed at ensuring the proper physical, mental, spiritual and social growth and development of children. All this is necessary so as to ensure the best possible life for the child as a potential leader of the nation, and to make sure that he grows up to be resilient, imbued with the spirit of patriotism and the values of *Pancasila*, and is of good moral character, as well as being determined to uphold the unity and integrity of the nation and state.

The efforts to protect children need to be undertaken as early as possible, that is to say, from the time the child is still in the womb, and must continue until the child reaches the age of maturity (18 years). Based upon

the overall and comprehensive protection of children, this Law assigns the obligations to protect children in accordance with the following principles:

- a. Non-discrimination;
- b. The best interests of the child;
- c. The right to life, continuity of life, and development; and
- d. Respect for the opinions of child.

In encouraging the development and protection of children, the community must be afforded a role through the efforts undertaken by child protection institutions, religious institutions, non-governmental organizations, community organizations, charitable organizations, business, the mass media and educational institutions.

### **Elucidation Article by Article**

#### Article 1

Self-explanatory

#### Article 2

The principles set out here are in accordance with the basic principles contained in the Convention on the Rights of the Child

The "best interests of the child" principle means that all actions involving children that are undertaken by the government, the community, the legislature, and the judiciary must take the best interests of the child as the paramount consideration.

The term "life, continuity of life and to develop" refers to the most fundamental human rights of children that must be protected by the state, the government, the community, the family and parents.

"Respect for the opinions of children" refers to respect for the rights of children to participate and to voice their opinions as regards the taking of decisions that will influence their lives.

#### Article 3

Self-explanatory

#### Article 4

This right is in accordance with that which is contained in Article 28B (2) of the 1945 Constitution and the basic principles set out in the Convention on the Rights of the Child.

#### Article 5

Self-explanatory

#### Article 6

This provision is designed to ensure freedom for children in developing their creativity and intellects in accordance with the age of the child in

question. This Article also stresses that such development must continue to be guided by the child's parents.

#### Article 7

##### Section (1)

This provision concerns the right of a child to be informed who his parents are, in the sense of his background (including his natural mother), and is intended to avoid the severance of the relationship between the child and his natural parents. Meanwhile, the inclusion of the provision that every child shall have the right to be brought up and cared for by his parents is intended to encourage respect and obedience on the part of children.

##### Section (2)

The fostering or adoption of a child shall be undertaken in accordance with legal and customary norms, and the norms of the religion adhered to by the child.

#### Article 8

Self-explanatory

#### Article 9

Self-explanatory

#### Article 10

Self-explanatory

#### Article 11

Self-explanatory

#### Article 12

The rights provided for in this provision are designed to guarantee the child's life based upon his dignity as a human being, and to improve the child's self-confidence and his ability to participate in the life of the community, nation and state.

#### Article 13

##### Section (1)

Paragraph a.

Discriminatory treatment includes, but is not limited to, discrimination based upon ethnicity, religion, race, class, sex, culture, language, legal status of the child, sequence in which the child was born, or the physical and/or mental condition of the child.

Paragraph b.

Exploitation includes, but is not limited to, an act of manipulation of a child, using or forcing a child to act for profit in the interests of a particular party, the family or a group.

Paragraph c.

"Neglect and/or abandonment" includes, but is not limited to, an act of deliberately abdicating one's responsibilities to properly maintain and look after a child.

Paragraph d.

"Harsh treatment" includes, but is not limited to, tyrannical treatment, vilification, cruelty or not giving a child the love to which he is entitled. Meanwhile, "violence and abuse" refers to, for example, the injuring or wounding of the child. It is not confined to physical abuse, but also encompasses mental and social abuse.

Paragraph e.

"Injustice" includes, but is not limited to, siding with one child against another, or acting arbitrarily in respect of a child.

Paragraph f.

"Other forms of mistreatment" includes, but is not limited to, verbally abusing a child or speaking rudely to a child.

Section (2)

Self-explanatory

Article 14

"Separation" as referred to in this Article does not mean that the relationship between the child and his parents shall be severed.

Article 15

"Protection" as referred to in this Article means both direct and indirect actions taken to save a child from activities that endanger him either physically or mentally.

Article 16

Self-explanatory

Article 17

Section (1)

Paragraph a.

Self-explanatory

Paragraph b.

"Other assistance" as referred to in this Article means, for example, guidance from a social worker, consultation with a psychologist or psychiatrist, or assistance from a language expert.

Paragraph c.

Self-explanatory

Section (2)

Self-explanatory

Article 18

"Other assistance" as referred to in this Article includes medical, social, rehabilitation, and vocational or educational assistance.

Article 19

Self-explanatory

Article 20

Self-explanatory

Article 21

Self-explanatory

Article 22

"Infrastructure and facilities" as referred to in this Article means, for example, schools, playgrounds, sports facilities, places of worship, health facilities, art facilities, recreational facilities, crèches, places for nursing mothers, and juvenile detention centers.

Article 23

Self-explanatory

Article 24

Self-explanatory

Article 25

Self-explanatory

Article 26

Self-explanatory  
Article 27  
Self-explanatory  
Article 28  
Self-explanatory  
Article 29  
Self-explanatory  
Article 30  
Self-explanatory  
Article 31  
Self-explanatory  
Article 32  
Self-explanatory  
Article 33  
Section (1)  
Self-explanatory  
Section (2)  
The "court" as referred to in this Article means the Religious Court for Muslims and the District Court for non-Muslims.  
Section (3)  
Self-explanatory  
Section (4)  
Self-explanatory  
Section (5)  
Self-explanatory  
Article 34  
Self-explanatory  
Article 35  
Self-explanatory  
Article 36  
See Elucidation on Article 33 (2)  
Article 37  
Elucidation:  
Section (1)  
Self-explanatory

Section (2)

The term "institution" as used herein means an institution that is involved in the fostering of children.

Section (3)

Self-explanatory

Section (4)

Self-explanatory

Section (5)

Self-explanatory

Section (6)

Self-explanatory

Article 38

Self-explanatory

Article 39

Section (1)

Self-explanatory

Section (2)

Self-explanatory

Section (3)

Self-explanatory

Section (4)

Self-explanatory

Section (5)

The provisions of this Article apply to children who are not yet intellectually developed and responsible. The determination of the child's religion shall be in accordance with the religion of the majority of the local inhabitants (at the village or sub-district level), and be based upon consensus after a proper study has been carried out.

Article 40

Section (1)

Self-explanatory

Section (2)

The word "readiness" as used in this Section shall mean whether psychologically or socially the child is ready. The child will normally be ready upon reaching the age of eighteen (18) years.

Article 41

Self-explanatory

Article 42

Section (1)

Self-explanatory

Section (2)

A child shall be permitted to choose his religion if he is sufficiently mentally developed, and meets the requirements set by the religion of his choice, as well as the provisions of the laws and regulations in effect.

Article 43

Self-explanatory

Article 44

Self-explanatory

Article 45

Self-explanatory

Article 46

The phrase "life-threatening or incapacitating diseases" as used in this Article refers, for example, to HIV/AIDS, tuberculosis, leprosy, or polio.

Article 47

Self-explanatory

Article 48

Self-explanatory

Article 49

Self-explanatory

Article 50

Self-explanatory

Article 51

Self-explanatory

Article 52

Self-explanatory

Article 53

Self-explanatory

Article 54

Self-explanatory

Article 55



Section (1)

By "institution" as referred to in this Section is meant the system of government or private institutions, while "outside an institution" means fostering by a family or individual.

Section (2)

Self-explanatory

Section (3)

Self-explanatory

Section (4)

Self-explanatory

Article 56

Self-explanatory

Article 57

Self-explanatory

Article 58

Self-explanatory

Article 59

Self-explanatory

Article 60

Self-explanatory

Article 61

Self-explanatory

Article 62

The phrase "psychological problems" as used in this Article refers to mental trauma and other developmental problems affecting a child at an early age.

Article 63

Self-explanatory

Article 64

Self-explanatory

Article 65

Self-explanatory

Article 66

Self-explanatory

Article 67

Self-explanatory

Article 68

Self-explanatory

Article 69

Self-explanatory

Article 70

Self-explanatory

Article 71

Self-explanatory

Article 72

Self-explanatory

Article 73

Self-explanatory

Article 74

Self-explanatory

Article 75

Section (1)

Self-explanatory

Section (2)

The phrase "community figures" as used in this Section includes traditional leaders.

Section (3)

Self-explanatory

Section (4)

The organizational structures to be established by Presidential Decree include structures at the local level.

Article 76

Self-explanatory

Article 77

Self-explanatory

Article 78

Self-explanatory

Article 79

Self-explanatory

Article 80

Self-explanatory

Article 81

Self-explanatory  
Article 82  
Self-explanatory  
Article 83  
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Article 84  
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Article 85  
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Article 86  
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Article 87  
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Article 88  
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Article 89  
Self-explanatory  
Article 90  
Self-explanatory  
Article 91  
Self-explanatory  
Article 92  
Self-explanatory  
Article 93  
Self-explanatory

Supplement to the Official Gazette of the Republic of Indonesia number 4235