



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Indonesia: Government and law enforcement officials are expected to take serious measures to combat paedophilia in Bali\***

1. The Asian Legal Resource Centre (ALRC) and the Network of Care for Child Victims of Paedophilia (Jaringan Peduli Anak Korban Pedofilia, JPAKP) wishes to bring to the attention of the UN Human Rights Council the issue of child molestation taking place across Bali, Indonesia, as the issue of violence against children is under consideration during the HRC's 22<sup>nd</sup> session. Both the ALRC and JPAKP welcome the work of the Special Representative of the Secretary-General on Violence against Children and hope that the government of Indonesia will cooperate fully with her mandate.

2. Article 19 of the UN Convention on the Rights of the Child mandates all its state parties, including Indonesia, to take all appropriate measures to protect children from all forms of physical and mental violence, including those with sexual nature. As repeatedly underlined in many international human rights instruments and reiterated by various human rights bodies, violence against children is preventable and there is no circumstance in which such abuse can be justified.

3. The Singaraja District Court in Buleleng Regency is currently examining a child molestation case allegedly perpetrated by a 57 year old Dutch citizen. With the consent of the victims' families, the suspect was reported to the police after allegedly molested four girls aged between nine to 13 years old living in Kaliasem village, Lovina, Singaraja. A local activist has also recorded an interview between her and two of the victims who claimed that they have been subject to groping by the accused. In the recorded interview taken with the consent of the parents, one of the victims mentioned that she had been kissed by the accused as well. However, at the case's first trial on 8 January 2013, the four victims and four witnesses mysteriously withdrew their testimonies and stated that the suspect never committed the crimes as previously accused.

4. Following the withdrawal of testimonies from the victims and the witnesses, the ALRC and the JPAKP held a meeting with the prosecutor of the case. To the ALRC and JPAKP, the prosecutor said that investigation of the case is the responsibility of the police and gave the impression that there is not much prosecutor can do with the withdrawal of testimonies by the victims and witnesses. He was reluctant to be pro-active in finding out the reasons of testimonies withdrawal and refused to take up the local activists' suggestion on presenting a psychiatrist who is capable of assessing whether the victims and the witnesses were lying when they were questioned by the police. The prosecutor also refused to present the video of interview with two of the victims recorded by the local activist before the court, claiming it is not within his authority but that of the police. Police officers responsible for investigating the case testified on the third hearing of the case and delivered information which was in favour of the accused. With the lack of willingness of law enforcement officials in dealing with this case, it is likely that the accused will be acquitted by the court.

5. This trial is the first arrest of a foreigner for child molestation since 2009. However, child molestation or paedophilia is not a new issue in Bali, especially in the Buleleng Regency. Previously in 2001, an Italian citizen was sentenced to imprisonment after convicted guilty for molesting a minor. The same case happened to a national of Australia

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\* Jaringan Peduli Anak Korban Pedofilia, JPAKP, Indonesia, an NGO without consultative status, also shares the views expressed in this statement.

who was sent to imprisonment by the court before he committed suicide in the prison. In Banjar, Kaliasem, another Dutch citizen was also allegedly perpetrated child molestation but, due to aid he had given to the locals, he was considered more as a hero than a criminal.

6. The ALRC and JPAKP wishes to bring the Council and the government of Indonesia's mind to the UN Committee on the Rights of the Child's concluding observations on Indonesia in 2004, in which the Committee recommends the government to 'ensure that perpetrators of violence against children are duly prosecuted.' In its 2007 Resolution, the UN General Assembly has specifically called all states to penalise effectively the act of paedophilia and to ensure the prosecution and punishment of offenders.

7. Child molestation is a punishable crime in Indonesia under the Law No. 23 Year 2002 on Children Protection. According to Article 82 of the law, any individual who commits sexual harassment towards children are subject to 3 up to 15 years imprisonment as well as IDR 60-300 million of fine. Despite such prohibition, arrest and punishment of the perpetrators hardly take place at least in Bali which is often called 'the paradise for paedophiles'. Isolated cases were brought to investigation and trial yet even in such instances the tendency was that acquittal or light imprisonment that took place. Mario Manara, for example, was sentenced to only 9 months of imprisonment.

8. The impunity enjoys by those perpetrating child molestation in Bali is mainly caused by the government and law enforcement officials' lack of seriousness in tackling the issue. Local activists reported that article on paedophilia stipulated under the Child Protection Law are barely used by law enforcement officials when they are handling with child molestation cases. Instead, the officials use articles under the Penal Code which carry a less severe punishment than the one enshrined in the Child Protection Law.

9. The reluctance of locals or the victims' families to report child molestation cases and to testify against the perpetrators is another challenge in eradicating the crime in Bali province. The absence of protection centre for paedophilia victims has made children more vulnerable to threat, bribes and other interferences from adults trying to convince them not to report the abuses to the relevant authorities. In addition to that, the reluctance to file complaints on the abuse is also often caused by the dependency of the family's victims or the locals to the charity provided by the perpetrators. The victims' family in the ongoing case repeatedly mention 'the good deeds' done by the accused such as giving them bulbs, note books and other basic necessities. Coming to a poor village and giving out 'charities' to the locals are the modus operandi commonly used by the paedophiles in Bali. In a child molestation case in Serangan, Denpasar, the victims' family decided not to report child molestation experienced by their children as the perpetrators provided each of them with IDR 10 million (approximately USD 100) and a cow. The principle of best interest of the child in paedophilia cases, therefore, is often alienated and the children's view are drawn by the parents' or other adults' decision. In this occasion, the ALRC and JPAKP wish to highlight that more than simply an issue of violence against children, the issue of paedophilia in Bali entails the issue of poverty.

10. The reluctance to report child molestation cases is also partly caused by the lack of understanding from the victims' family and the society in general on paedophilia and the negative impacts caused by such crime. A very narrow definition of paedophilia, that is, a sexual intercourse between an adult and a minor, is what is commonly understood by the society in general. It is yet to be widely understood that groping of children or children stripped naked by adults also fall within the category of paedophilia and equally leave trauma to the children.

11. Given the above, the ALRC and JPAKP request the intervention of the Human Rights Council and its expert mechanism in order to urge the government of Indonesia to:

- Fully cooperate with and invite the UN Special Representative of the Secretary-General on Violence against Children to hold country visits to Indonesia, particularly in Bali region where the issue of paedophilia is alleged to be widespread. The cooperation of the Indonesian government with the Special Representative is one of indicators to measure Indonesia's credibility on its assertions made during the UPR where it committed to make further efforts to protect children's rights and to continue to strengthen its capacity in addressing the issue of violence against children;
- Design and implement a comprehensive plan to prevent child molestation in any parts of Indonesia. This shall include the establishment of shelters for paedophilia victims and the raising of awareness in the society and law enforcement officials on the issue and dangers of paedophilia. The government has to ensure that both society and law officials understand the broad definition of paedophilia, which is much more than simply sexual intercourse between adults and children. The government also has to take measures to improve the living standard of its citizens across the country, particularly those living in areas that are vulnerable to be targeted by paedophiliacs;
- Seriously investigate complaints on child molestation. Law enforcement officials should be pro-active in finding out evidence and have to ensure any withdrawal of complaints is not conducted under threats, intimidations, bribes or any other type of interventions that are not in the best interest of the child. Law enforcement officials have to ensure that children's views are heard and the investigation process are conducted in a sensitive and child-friendly manner.

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