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This thesis entitled “THE PRACTICES OF INDONESIAN GOVERNMENT OF BALI IN IMPLEMENTING THE REGIONAL LAW OF BALI NO 6 YEAR 2014 AS THE RESPONSE TO THE CONVENTION ON THE RIGHTS OF THE CHILD TO COMBAT CHILD SEX TOURISM (2011-2015)” prepared and submitted by Inesa Margaretha Br Pelawi in partial fulfillment of the requirements for the degree of Bachelor of Arts in International Relations in the School of International Relations, Faculty of Humanities has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Cikarang, 24 January 2017

Recommended and Acknowledgement by,

Drs. Teuku Rezasyah, M.A., Ph.D

Thesis Adviser
DECLARATION OF ORIGINALITY

I declare that this thesis, entitled “The Practices of Indonesian Government of Bali in Implementing the Regional Law of Bali No 6 year 2014 as the response to the Convention on The Rights of The Child to Combat Child Sex Tourism (2011-2015)” is to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, 24 January 2017

Inesa Margaretha Br Pelawi
ABSTRACT


The case of Child Sex Tourism as a form of Commercial Sexual Exploitation of Children is no longer just a discussion topic between government and related institutions. It has affected human life in very significant way. It harms children, including their physical health, mental, soul and their future. Indonesia is a vulnerable country for this case because of the weak law and security enforcement.

This case is a threat for human security especially in the tourism industry of Bali where the rights of children are being violated by the perpetrators. To apply the concept of human security means to give all attention to the interests of children in order to give protection and the world fit for children as the application to the principles of human security which are freedom from fear and freedom from want.

It is why government and all civil society, private sector, the educated people, and all the related institutions have to cooperate in order to protect children from any kind of violation, and to protect children as the future of the nation. In the response to combat child sex tourism in Bali, the Local Government and the Parliament of Bali has issued a Regional Law No 6 year 2014 concern on Child Protection. The whole attention in this Regional Law is addressed to the protection for children to avoid any kind of violations, including child sex tourism in order to create peace and welfare for children.

Keywords: human rights, violation, human security, child sex tourism, convention, Regional Law of Bali, government, civil society, Indonesia
**ABSTRAK**


Permasalahan kasus Pariwisata Seks Anak sebagai bentuk dari Eksplotasi Seksual Komersial Anak bukan hanya sebagai topik pembahasan antara pemerintah dengan institusi terkait saja, Kasus tersebut telah mempengaruhi kehidupan manusia secara signifikan. Pariwisata seks anak akan sangat membahayakan anak-anak sebagai korban kasus tersebut, termasuk kesehatan fisik, mental, jiwa, dan masa depan mereka. Indonesia adalah negara yang rentan terhadap kasus ini karena penegakan hukum dan keamanan yang rendah.

It is why government and all civil society, private sector, the educated people, and all the related institutions have to cooperate in order to protect children from any kind of violation, and to protect children as the future of the nation. In the response to combat child sex tourism in Bali, the Local Government and the Parliament of Bali has issued a Regional Law No 6 year 2014 concern on Child Protection. The whole attention in this Regional Law is addressed to the protection for children to avoid any kind of violations, including child sex tourism in order to create peace and welfare for children.

Kasus ini adalah ancaman bagi Keamanan Manusia terutama pada industri pariwisata di Bali dimana hak asasi anak telah dilanggar oleh para pelaku kejahatan. Untuk mengaplikasikan konsep keamanan manusia berarti untuk memberikan seluruh perhatian untuk kepentingan anak-anak dengan tujuan memberikan perlindungan dan dunia yang layak bagi anak-anak sebagai bukti aplikasi dari prinsip keamanan manusia yang adalah kebebasan dari rasa takut dan kebebasan keinginan.


Kata Kunci: *Hak Asasi Manusia, pelanggaran, keamanan manusia, pariwisata seks anak, konvensi, Peraturan Daerah Bali, pemerintah, masyarakat, Indonesia.*
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This thesis research is dedicated to Jesus Christ and my family and friends as the sources of my strength from the beginning of my university life until now. Through all the processes and steps I have experienced during this thesis period, all the challenges that have happened so far, finally this thesis research is done.

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<tr>
<td>CHS</td>
<td>Commission on Human Security</td>
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<tr>
<td>CRC</td>
<td>Convention on The Rights of the Child</td>
</tr>
<tr>
<td>CSEC</td>
<td>Commercial Sexual Exploitation of Children</td>
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<tr>
<td>CST</td>
<td>Child Sex Tourism</td>
</tr>
<tr>
<td>ECPAT</td>
<td>End Child Prostitution, Child Pornography, and Trafficking of Children For Sexual Purposes</td>
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<td>ILO</td>
<td>International Labor Organization</td>
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<tr>
<td>IPEC</td>
<td>International Programme on the Elimination of Child Labor</td>
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<td>INGO</td>
<td>International Non-Governmental Organization</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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CHAPTER I
INTRODUCTION

1.1 Background of Study

The world is now turn into the globalization era, where people become more excited to chase current development among the morality crisis which very apprehensive. In the midst of busy world nowadays, tourism sector becomes one of people’s choices. It becomes the way for people to be entertained, relax, and to refresh their mind and body.

As stated by current President of Indonesia, Joko Widodo in His program named “Nawacita”, tourism sector becomes one of government concerns nowadays as a development strategy. With its natural wealth, tourism sector in Indonesia is developing. Tourism prospects are getting brighter. Strategic position that carried within the framework of national development and improvement of competitiveness are getting stronger to be able to attract the growth of tourist arrivals and also higher investment interest in Indonesia.¹

As a developing country, the tourism stakeholders of Indonesia, which are: government, tourism industry, and the society are now more concern on tourism sector as now it becomes one of the biggest contributors to the national revenues through foreign exchange.² This sector is contributing in economic growth, create jobs and also eradicate poverty in the tourism sector. Its contribution on employment is to the direct labor, indirect labor, and induce labor in the tourism sector. The total of direct, indirect, and the induce labor are calculated from the total labor force absorbed in the sector of economy as a result of tourism activities, either directly, indirectly, or induce. Job creation has started since

travelers will depart (workforce travel services), arrived at the airport (labor carriage), and during the activity and travel (tour guides and lodging).  

The number of tourists or visitors are increasing year by year, especially in the certain places, concern in Indonesia for instance: Bali, Lombok, Batam, North Sumatera, Bangka and Belitung Islands as tourism destinations. Those tourism destinations are mostly visited by the nearby country. For instance: the foreign tourists who come to Bali are mostly Australian, so does in Batam, this destination is mostly visited by Singaporean. The tourist is not only from international or other country, but also domestic tourist.

Tourism sector not only includes of economic growth, but also security and social or moral sectors. However, government attention in security and social sector is still in the stage of pioneering or struggling. The national and international law are now in the stage of struggle to be implemented because people’s awareness and government’s attention remains low. This security problem is now affecting Indonesian society with the emergence of human rights violations, for instance the case of sexual exploitation which mostly happened to the women and children as the vulnerable group.

The vulnerable groups are the main target of sexual exploitation. As stated by International Labor Organization, there are several forms of commercial sexual exploitation, such as: trafficking, prostitution, pornography, and sex tourism.  

International Labor Organization (ILO) defined Commercial sexual exploitation of children (CSEC) as:

“the exploitation by an adult with respect to a child or an adolescent, female or male, under 18 years old; accompanied by a payment in money or in kind to the child or adolescent (male or female) or to one or more third parties”.

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Commercial sexual exploitation of children is one of the worst forms of child labor and modern slavery. It could harm children not only in physical, but also in psychological. As data informed by Ministry of Culture and Tourism of the Republic of Indonesia, The Directorate General of Tourist Destination Development, there are 40 villages in six provinces in Indonesia that become tourist destinations in doing sexual exploitation with children, namely: “Bali, West Nusa Tenggara, Riau Islands, Central Java, West Java, and East Java”.

Child sex tourism (CST) is the commercial sexual exploitation of children that performed by people (middle aged or adults) who do travel from their origin place to the tourism destination in order to have sexual contact with children. As defined by United Nations, child sex tourism is “an organized tourism that facilitates the commercial sexual exploitation of anyone under the age of 18 years”. Child sex tourists can be they who categorized as situational sex tourist, preferential child sex tourist, and the paedophile.

As a form of commercial sexual exploitation of children, child sex tourism is categorized as a threat for human security which require the role of government, Non-governmental organization, private sector, related industries, and the civil society to be more apparent. Human Security concept by Barry Buzan is applying the concept of people centered, and also the principle of freedom from fear, and freedom of want. Human Security exists to ensure the full protection for all human lives in the way to create freedoms that are essence of life.

Due to the emergence of child sex exploitation in Indonesia and as the threat for human security, this country has signed and ratified the convention under United Nations regarding Children Rights which is Convention on the Rights of Child (CRC) on September 5, 1990 and issued the National Law No 23 year 2002 and the Regional Law of Bali No 6 year 2014 concern on Child Protection.

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The Convention on the Rights of Child (CRC) expressly recognizes the rights for children, including the civil rights, political, socio-economic, and cultural rights. This convention is an advanced tool for assessing standards of international children’s rights and to implement the changes. By ratified CRC, Indonesia and the other state parties have committed to implement protection for the safety of children through the national and regional law and socialization of children protection, and also obliged to make the implementation report in every five years.9

The response of Indonesian government in the national level is through the Law no23 year 2002, in the Regional level of Bali there is Law no 6 year 2014. The Regional Law of Bali No 6 year 2014 point 4 stated that this Regional Law is issued due to the National Law No 23 year 2002 concern on child protection. It still refers to the Law No 23 year 2002 in relation to give the special protection to child victims of sexual violation referred in Article 21 paragraph (1) letter b Regional Law of Bali on Child Protection.

The Regional Law of Bali is applying the principles of CRC to create the protection for children. Convention on the Rights of the Child emphasizes that the rights of children are guaranteed and protected by the State with the principles of non-discrimination; the best interests for the child; right to life, survival and development; respect for the child's opinion. The child also has the right to a family environment; basic health and welfare; education, leisure and cultural activities; special protection and civil liberties.10

1.2 Problems Identification

Child Sex Tourism issues become more widespread in the world, especially in Indonesia as the country with thousands of islands, wonderful areas, and the natural wealth as an attractive tourist destinations. Besides of the advantages of tourism development, there is also the negative impact of tourism sector. This

thesis research will focus on the case of child sex tourism as one of the negative impact in the tourism sector.

Concern in Bali, there are numbers of tourists that come from several countries with some businesses or purposes, and not rare of them take the advantages of tourism facilities by having sexual contact with children in Bali. The data from ILO defined that the commercial sexual exploitation toward children is one of the worst form of child labor. There are 40 up to 50 percent children from 1.39 million people who works in CSEC. The number of child victims is increasing in a significant way. In 2011 to 2015 there are about 2956 child victims of sexual exploitation in Indonesia. The numbers are increasing significantly in Bali where the cases up to nearly 100 percent from 2011 to 2015. There were about 13 cases exposed in 2013 and became 25 cases in 2014 and still increasing up to 2015.11

There are actually several cases of child sex tourism, however not all of them are being exposed to public as this case is known as an iceberg phenomenon (the real number of cases are bigger than the cases that been exposed). This statement is stated by Inspector General Sugeng Priyanto, the Chief Police of Bali:

“sexual exploitation on the holiday island as an iceberg phenomenon: some offenders appear on the surface, but the real number is much larger”.12 The statement above, described that in fact, the number of child sex tourism cases is higher than the reported figures.

The worst case which take high attention of mass media, society, and the government happen lately, where there was a seventy years old Australian tourist named Robert Andrew Fiddes Ellis who known as Robert Ellis, exploited about 11 girls under the age of 18 (recorded until May 2016). The residence of Robert Ellis is located in Tabanan, Bali. Tabanan is a regency in Central Bali, where most of the children there are less educated.

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Robert Ellis allegedly lured the children by giving them clotches, money in amount around Rp 100.000 to Rp 300.000, food, and presents for the children, moreover, there are some tourists who even pay the child victims lower than Rp 100.000. He also promising education for the children. Mostly of child victims are they who live in poverty and low education. In order to survive and to fulfill their needs, the children work in the sexual tourism sector. The child victims were mostly lured by Robert Ellis in Kuta beach, and they were taken to his house in Tabanan regency. The children were bathed by him before then have sexual contact with him. Some other tourists, take the children to their residence or hotel. This case does not only harm the child victims, but also damage the image of Bali as tourist destination and affecting the national income of Indonesia because it may affect the decline number of visitors to Bali. The case of child sex tourism is also damage the imagery of children as the hope for the future of nations.

Thus, the case of sexual exploitation by Robert Ellis and Indonesian children can be categorized as violation to the law. Even though the offenders of child sex tourism gave the children some gifts and money, this action is totally categorized as violation toward the rights of children, and the offenders should get penalty in order to give protection and empowerment to the children base on the Regional Law of Bali no 6 year 2014 on Child Protection. This thesis research will discuss on how does the government of Bali implements the Regional Law of Bali to combat the case of child sex tourism in Bali.

1.3 Statement of the Problem


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Ibid

1.4 Research Objectives

To give an overview for everyone who travel, the tourism workers, government officials, Non-Governmental Organizations’ (NGO) staff members who are interested, and every individual who has an interest to the issue of child sex tourism. This thesis research also aims to describe an appropriate action to be taken by all related actors in this case in order to combat child sex tourism in Indonesia, particularly in Bali.

The specific research objectives are as follow:

a. To analyze how the government of Bali had implement the Regional Law of Bali no 6 year 2014 concern on Child Protection as the response to the Convention on the Rights of the Child.

b. To elaborate the response of Bali government to the case of child sex tourism in Bali.

c. To show that protection and empowerment through the Regional Law of Bali no 6 year 2014 with the principles of CRC is needed for children protection.

1.5 Significance of the Study

This research has several points of study that hopefully will be significant for:

1.5.1 Academic Community

- As the literature or reference for the reader who has interest in the case of child sex tourism in Bali (2011-2015).
- Provide the analysis on the implementation of Regional Law of Bali Number 6 years 2014 towards child sex tourism in Bali.
- To help the reader to be familiarized with the justification of human security in analyzing CST.
- To give more understanding for the reader why commercial sexual exploitation of children (CST) is not only categorized as violation on human rights, but also as human security threats.
1.5.2 Government of Indonesia

- To contribute in analyzing on how child sex tourism has damaged Indonesian children as nation’s asset and future generation, as the reference for government to take more actions in this case.
- To contribute in giving evaluation about the role of Indonesia in cooperation with Non-governmental institutions to support protection for children and the successful implementation of CRC and the Regional Law of Bali against Child Sex Tourism.

1.6 Theoretical Framework

1.6.1 Human Security

In 1945 through the "UN Charter" human security concept has ratified and followed by the "Universal Declaration of Human Rights" in 1948. The concept of human security emphasizes the importance of the centrality of human beings as individuals and groups in the entire security framework. Security is including any kind of protection, such as: protection from disease threat, protection from hunger, unemployment, crime, any social conflict, the political repression, and environmental issues.\(^5\)

At first, there was traditional security which concerns on how to maintain and protect the security of a country from the threat of other parties, especially with regard to the military threat from another country. In its development, there has been a shift in the traditional security concept to non-traditional security. The concept of non-traditional security associated with cases of human trafficking or exploitation. Non-traditional concept more concerns on human security (human rights). It concerns to the safety of human beings from any kind of insecurities. Feeling of insecurity is arising more from every human being. It is about how to

gional_dan_Global_
survive, how to fulfill their consumption, will they become victims of violence or war because of their gender, religion, and ethnic.\textsuperscript{16}

Barry Buzan, an emeritus professor of International Relations at the London School of Economics stated that “International security issues are no longer just talking about national security, but also related to human security”. In the book titled “Human Security: What It Means, and What It Entails” Barry Buzan pointed out that:

\textit{“Human security is a concept that is problematic, especially used as part of the analysis of international security. This form of security has different agendas that make an issue of international security can be found in the understanding of traditional political-military security. In this context, the national security is always associated with survival. Meanwhile, the identity is the key to understand the security of a nation”}.\textsuperscript{17}

In this globalization era, human exploitation become a very complex phenomenon and overlap one another. Women and children as the vulnerable groups are the most victims of exploitation at the present time, with the purpose for the benefit of sexual industry certainly ignore the interests of victims and treat them not as human being in general, but tend to be commodities. Human Security concept considers to the conditions which threaten people’s survival, livelihood, and dignity.

This concept is based on two components which are: freedom from fear and freedom from want as part of the right that recognized by the United Nations which means free from fear of physical violence and the freedom to get something that is basic requirement. Thus, human security includes various dimensions of security, such as economic security (poverty and unemployment), food security (famine and hunger), health security (malnutrition and infectious diseases), environmental security (environmental degradation and natural disaster), personal security (terrorism and physical violence), community security (inter-ethnic and


religious tensions), and political security (human rights and political repression). The case of Child Sex Tourism is covered in economic security because it focus on poverty and political security which focus on human rights issue.

United Nations Development Program’s publication on Human Development Report explained that Human security has the people-centred approach. People-centred means that the individual is the centre of analysis, in order to strengthen the resilience of people. UNDP also has reported that human security is a concept of protection for human from harm and disruption in daily life. Human security is increasingly being adopted as a doctrine to guide foreign policies and international development assistance, as well as a policy tool for programming in the fields of security, development and humanitarian work. The perspective of human security is supporting and also related with the Convention on the Rights of Child.

The components of human securities are linked with the national security. James Wyllie, an Observer in International Relations and Director of the M.Sc. Strategies studies at University of Aberdeen made a statement on the normal condition of national security, which is “state shall secure its territory, sovereignty, population, culture, and economic prosperity from destruction or major damage”. It explains how the concept of national security is dependent on how human security is asserted. As pointed out in UNDP’s Report in 1984: “The world will never be secure from war if men and women have no security in their homes and in their jobs”

Human security emphasizes that every individual should be detached from the threat of direct violence or structural violence which is the responsibility of the Government as an actor to protects citizens as in the 1945 Constitution.


thesis research, the author will elaborate on how government of Indonesia implement CRC to create protection and empowerment for reinforcing human security.

1.7 Literature Review

1.7.1 Introduction

This part will elaborate and present the reviews from numbers of reliable sources, such as: book, publications, handbook, internet, and an interview of the thesis topic. The part of literature review will contribute to help the author to gain knowledge and information from any different perspective, concept, understanding, approaches, and theory.

The purpose of the author in providing literature review is to present that the information and data given in this research are proven, taken from the related and reliable sources. There are some factors used by the author in writing the literature review, such as: make the conclusion or the positive and negative of the journal, methodology that used in the journal (primary or secondary sources), the approach used in the journal, the arguments from experts, and the relevance of the literature and the thesis topic. All related data and informations will be described and elaborated in detail.


The book of “Dialog Interaktif Pemerintah Indonesia dengan Committee on Rights of the Child” is a form of response from the government of Indonesia as a State Parties of CRC to the Committee of CRC as obligated in the convention that all State Parties have to submit their report periodically. This book provides Interactive Dialog to discuss the implementation of CRC in Indonesia.

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This book elaborated the contents of CRC which are the principles of children rights protection, and the basic rights of children. There are 54 articles contained in CRC which separated to civil rights and freedom, family environment and alternative care, basic health and welfare, education, utilization of spare time, art and cultural events, and special protection. This official book also explained the Optional Protocol on the Rights of the Child on Sale of Children, Child Prostitution, and Child Pornography which ratified by Indonesia through Law No 10 year 2012.

The interactive dialog of Indonesian Government and Committee of CRC which elaborated in this book has guided the government of Indonesia to take strategic steps to create programs, policy, and activities which explained in the periodic report. One of the responses from Indonesia toward the case of children rights violation is through the National Action Plan and the Regulation of Government Number 38 of 2007 which obligated the protection for child for all district and provincial.

This book provides the principles of CRC as the basic of National Program which are non-discrimination; concern on the best interest of the child; concern on the right to life, survival, and development; and the respect for the view of the child. This book also provided the explanations of Children in situations of exploitation such as: economic exploitation (child labor in prostitution), drug abuse, sexual exploitation and sexual abuse (case of child sex tourism), Sale, trafficking and abduction, other forms of exploitation.

The relevance of the explanation in this book and the thesis topic is found in the discussion of sexual exploitation. In order to implement the Law of Child Protection, there are several required steps, such as: Protection, prevention, recovery, rehabilitation and reintegration, child participation, coordination and cooperation. Government also work to against child labor through the “National Plan of Action for the Elimination of the Worst Forms of Work for Children and the Child Labor Reduction Programme”.

12

CRC is the first international treaty by United Nations which cover all aspects for the protection of children at all times in everywhere. It covers the aspects of political, civil, economic, social and cultural rights of children. This article explained that the convention on the rights of the child (CRC) is aligning the rights of all children without distinguished by differences in religion, gender, ethnicity, local language, and other status. There is no right which is more important, all rights are similar, they are linked. The convention has four general principles, such as: “Non discrimination, best interest of the child, right to life survival and development, and right to be heard.


This research is the project of Innocenti Research Centre of UNICEF which is known as the International Child Development Centre with the aim to improve international understanding on children rights issues and also as the contribution in supporting United Nations Convention on the Rights of Children and also governments in industrialized and developing countries.

The explanation in this book covered all aspects of the second Optional Protocol in CRC, including of the prevention by promoting public awareness by giving informations through education and training, legal assistance, law reform and enforcement as a significant efforts in combating sale of children, child prostitution, and child pornography, it also discuss about the implementation of the Optional Protocol, the role of States Parties, government, and the NGO, the monitoring systems and mechanisms for data collection.

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This handbook provides the explanation of CRC as the first international treaty which obliges all the States Parties to protect every child from sexual exploitation which possible to occur in every country in the world, and also provides clear explanation of Optional Protocol (OPSC) and the related discussion topic. The book explained that the important tools in implementing CRC and the Optional Protocol are the General principles and the general measures of implementation.

There are also other International instruments that related with the thesis topic besides of Optional Protocol which is elaborated in this journal, the first is the ‘Convention on the Protection of children against Sexual exploitation and Sexual abuse’, the next is Convention on International Labour Organization concern on ‘Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. 182 of 17 June 1999), and ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children which known as Palermo Protocol of 15 November 2000’ (UNGA,2000).


This report provided information regarding to the discussion of CRC implementation in Indonesia from the year 1997 up to the year of 2009. This journal is discussing policy, legal, and the situation of children rights in Indonesia if viewed from the side of children’s interests. From the day of its ratification through the Presidential Decree No 39 of 1990, Indonesia was obligated to be responsible for the protection of children, and have to submit the implementation report and have a dialog with the Committee on the Rights of child.

The mission in combating child sex tourism in Indonesia is supported by several ratified international Human Rights instruments and national documents,


As written in UUD 1945, the amendment of article 28B paragraph 2: “every child has rights to survival, life and growth and the rights to be protected from violence and discrimination”. Based on the review of this journal, Indonesian constitution is covering the rights of children to survive, to life, to growth, and to be protected, however it does not recognize the General Principles of CRC which is “to hear and respect the opinion and interest of children”. So, this journal concluded that Indonesia has not apply all the principles yet.

This publication presents structured explanation and detail analysis in the specific topic which is Commercial Sexual Exploitation of Children, particularly the case of child sex tourism in some different areas. Child sex tourism is the form of commercial sexual exploitation on children (people under the age of 18) by adult or people who travel from their home country to the tourism destination for the purpose of having sexual contact with children. It explains on how child sex tourism could appear, where the case take place, and explaining on some regional overviews.

This literature also elaborated the other forms of commercial sexual exploitation of children besides of child sex tourism, such as: child trafficking, pornography, and child marriage which more burgeoning nowadays. Tourism sector can also create the negative impacts to the society. As stated in this publication, tourism is the biggest industry sector in the world which incorporating many sectors such as industries related to hospitality and employs more than 8 percent of world’s workforce and contributes more than other industries in the global economy.

Here explained that ECPAT (INGO that concern in children rights violation issues) has written the importance of raising the awareness in facing this case. In upholding children rights protection, this literature also has done a research on the importance of “Extraterritotial legislation and enforcement of domestic legislation”, and also “The Code of conduct for the protection of children from Sexual Exploitation in Travel and Tourism” which are suitable to ensure that certain countries do not become a place to stay or become a haven for child sex tourists. Not only giving information, this study also provides service to receive variety of informations and reports from society regarding children rights violations that occurred in the area around them to follow up by ECPAT.

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As a form of its resistance, this literature describes ways to tackle child sex offenders by enforcing laws to prosecute child sex tourists, such as: arresting the offenders or child sex tourists, and also the offenders can be tried and punished by the authorities in the destination country of sex tourism or in their own home country for crimes committed abroad.

The author of this literature acknowledges that there is a slight deviation by public in treating children than it should be. For instance: violation of children rights which is lack of attention to children despite of the fact that children’s rights admitted special needs and the vulnerabilities of children which must be separated from the situations of adult. Another deviation which recorded by the author is the tourism sector which actually has the relation with human rights where it can also be detrimental to the safety of children in the tourist area.

1.7.1.6 Kelly M. Cotter. (2009). “Combating Child Sex Tourism in Southeast Asia”. This journal elaborated commercial sex industry that became more widespread and profitable for people who are involved, which now become threats for women and children. The largest effects of development in commercial sex industry is children that brought to the sexual industry. This journal discussed the demand of sex tourism and the steps that can be taken in national and international steps. It explained the analysis of the casual factor of sex workers stated by David Batstone which are poverty, armed conflicts, rapid industrialization, and rapid population growth.

Modernization is used as one of the causes sector that explained in this journal, which has brought pressure to the poor family, that is why children are mostly asked by their parents to work in order to support family’s economic situation. Sexual exploitation industry has a big contribution in economic sector. This journal explained that in Indonesia, the sex industry generates $1.2 billion to $3.3 billion income per year.

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The National and International Law, the role of Government, NGOs, and also public awareness are the most prominent actors in protecting children rights. Some strategies that explained in this book in order to combat such case are through having prosecutions, police training, and advertising efforts (in Cambodia airport, there is a poster with slogan: “Abuse a child in this country, go to jail in yours).

Further efforts to combat child sex exploitation is through enforcing the current laws and strengthening the law in legislative way. The cooperative action by NGOs are also take a prominent part to combat such case. If associated with Indonesia, this country has Law No 35 year 2014 as amended from Law No 23 year 2002 as the national law in children rights protection. Convention on the Rights of the Child (CRC) and its Optional Protocol as the International treaty that applied in Indonesia.


The journal explains protection and empowerment as two prominent concepts in achieving human security’s goal. In the concept of “protection”, there are some threats beyond people’s control. States, regional and international organizations, civil society, NGOs, and the private sector are having a vital role in protecting people from threats. In the other hand, “empowerment” enable people to develop their ability in facing threats, and also help them to find way and

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solutions to attain human security. The author elaborated that protection and empowerment cannot be separated, they are reinforcing each other.

The author of this journal is using primary sources through research and analysis on the report from Commission on Human Security (CHS). It explained the theory of human security which complements state security and also strengthens and enhances human rights and human development. Human security is not intended to supersede state security. However, they are complementary. In 2005, based on the result of World Summit by General Assembly stated that it is prominent to raise awareness and interest in the concept of human security.

In this journal, the statement from Commission on Human Security, as the commission under UN Secretary-General’s call at the 2000 world Millenium Summit stated that: “human security and state security are mutually reinforcing and dependent on each other. Without human security, state security cannot be attained and vice versa” (CHS.2003).


This academic journal elaborated that as the most important industries that is growing rapidly in current time, tourism sector give big contribution to countries development, particularly in economic sector of countries. However, the tourism sector also has the dark side or risks that is possible to cause harm and adverse effects for human security and national security. This journal is discussing the advantage that provided by the tourism sector such as creating job opportunities, reducing poverty and unemployment, increases the earnings opportunity which create economic growth. However, tourism sector also has the disadvantages contribution to the society which is the raising of child sex tourism.

There are several types of child sexual. The first is situational child sex tourists that doing sexual tourism allured by the opportunity, there is also preferential child sex tourists who doing travel with the straight purpose to have

sexual intercourse with child. The last type of child sex offender is paedophiles which categorized for tourists with sexual arousal against children under the age of 18 years old.


This journal elaborated three conceptions of human security. First is the natural rights on the conception of law which stand in the assumption of fundamental liberal of the obligation of international community to promote the individual rights to ‘life, liberty, and the pursuit of happiness’. Second is humanitarian concept in strengthening international law regarding genocide and war crimes. Third is the concept of ‘the state of the global economy, forces of globalization, and health of environment’ in order to how they affect individual security.

Human security defined by the experts, Alkire (2002) “human security aims to safeguard the vital core of all human lives from critical pervasive threats, and to do so without impeding long-term human flourishing”. The Commission on Human Security defined “to protect the vital core of all human freedoms and human fulfilment”. The author of this journal defined human security as the protection of fundamental right to freedom of each individual and the survival in economy, politic, social, environmental, military, and cultural systems of every individual.


In this article, Human security was defined as a response to the opportunities for development, dealing with conflict to against threats of human security. Human security is the concept of security which is people centered, and not on states. Human security aims to complement state security, to strengthen human development, increase human rights, and to protect people from threats.

Based on the UN Secretary General, human security prioritize the concept of peace, security, and development. Human security is reinforcing the human dignity. The key point to describe human security is categorized into several points, such as: human security concerns on the interests of individual and community, threats to human security does not always classified as state security, to achieve human security does not only to protect people, but also to empower people to defend for themselves.

Human security contributes to protect and empower people in order to achieve human dignity and peace. Human security depends on the state security and vice versa. This article explained that human security, human development, and human rights are complementary. Human security concept connects to several types of freedom, it is freedom from want, and freedom from fear. The main key point in human security in order to protect people is through upholding the rights and freedoms of people through the application of protection and empowerment.

1.8 Scope and Limitations of the Study
This research is discussing the case of child sex tourism by Australian tourist in Indonesia which categorized as human rights violation on child sexual exploitation. The limitation of the study is the year among 2011-2015 because there was specific case between Australian tourist named Robert Ellis and several Balinese children.

This research will focus on Convention on the Rights of Child by United Nations which has been ratified by 195 countries as the most rapidly ratified international human rights treaty which contribute to change the way children are viewed and be treated. It is a legally-binding international treaty contributing in the civil, political, social, cultural, and economic rights of children. This research will also analyze how the government of Indonesia have implementing CRC, specifically the Government of Bali through the Regional Law of Bali number 6 years 2014. Indonesia is participated in the conventions which require the government to extensively combating the issue. Furthermore, this research will analyze how is the change of child sex tourism in Indonesia since the ratification of the convention.
The limitation information that used in this thesis research are coming from government, Non-governmental organizations (NGOs), International Non-governmental organization, and other human rights institutions that also concern in this issue.

1.9 Research Methodology

Research methodology will provide informations and procedures to describe, explain, analyse, and make a conclusion in the research question. This thesis research will use the method of Qualitative Research which concerns on the qualitative phenomenon that engage with human behavior. Qualitative research is used to provide the description of procedures, beliefs, and the knowledge in depth.

This method is not using the mathematical models, it provides the explanation of case studies, action research, observation, discussions, reports, and interviews. It provides the complex textual explanations on the research issue. It describes the research of human and their relation with the research topic in the social way. This research method will lead into the better understanding of social relationship and it will use the observation and case studies to have a results of descriptive and narrative practices.

This type of research methodology will benefit the author to analyze the correlation of variables, the influence of the cases to the society and state, and also discussion of response and action from government to handle the cases of child sex tourism, particularly the case of child sex tourism by Australian tourists in Bali, Indonesia.

The application of this method in this research is to analyze the implementation of Convention on the Rights of the Child and the Optional Protocol in combating the case of child sex tourism focusing in Bali from the perspective of human security.

1.9.1 Research Time and Place

Place of Research:

- Adam Kurniawan Library, President University
- Ministry of Women Empowerment and Child Protection
- Ministry of Foreign Affairs, Directorate of Human Rights and Humanitarian Affairs
- President University Student Housing

Time of Research: September – December 2016

1.9.2 Research Instruments

In providing informations and analyzing data, the author of this thesis research used several instruments, such as:

Book. It is used as the reliable sources written by the experts or the officials in order to get ideas and critical thinking. The book that used is the official book from reliable sources which has the relevance with this thesis. Internet. This is the main instrument that used in this thesis research. Internet is the easiest tool which provide all datas and informations not only from domestic, but also from the international.

Publications. Publications are also the important sources in this research. This tool really help the author through the data and information that provided. Report. The author also obtain data and information from the reports mostly provided by Government and the INGO regarding the data of reported cases, the perpetrators and the victims, and also current situation of the case.

1.10 Definition of Terms

The following are the definition of terms associated with the Commercial Sexual Exploitation on Children that will be used in the research:
A. Child Sex Tourism: commercial sexual exploitation of children by a person or persons who travel out of the area, geographic region or country of origin to have sex with children by promising various grants or gifts. Child sex tourists can be domestic travelers or international travelers.

B. Commercial sexual exploitation of Children: The commercial sexual exploitation of children is a process where child is treated as a sexual and commercial object and is a form of coercion and violence against children, and lead to forms of forced labor and modern slavery.32

C. Convention: an agreement or treaty between countries in particular matters.

D. Exploitation: treatment or political utilization that arbitrarily of something for personal gain or interest without considerationof decency, justice and welfare.

CHAPTER II
Commercial Sexual Exploitation of Children.
The case of Child Sex Tourism in Bali, Indonesia.

2.1 Introduction
Commercial sexual exploitation is a fundamental breach or an exceptional crime towards children. As defined in a declaration and agenda for action against commercial sexual exploitation of children (CSEC), CSEC is “Sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons”. It is a coercion and violence against children and forms of forced labor and modern slavery. Significant attention and a specific intervention from the world community is needed in handling this case.33

Based on the Law No. 23 of 2002 regarding Child Protection in the Article 1 paragraph 1 about the definition of child, child is “every human being under the age of eighteen, including those still in the womb.” Child has right to survival, get education, to growth, develop and to be protected.34 Instead, according to the data from International Labor Organization (ILO), there are 1.39 million people who involved in commercial sexual exploitation, and forty up to fifty percent are children. The ILO defined that commercial sexual exploitation toward children is one of the worst forms of child labor. An estimated data from UNICEF, there are between 40,000 and 70,000 of Indonesian children that being victims in the sexual exploitation industry.35

Commercial sexual exploitation categorized as a violation toward the rights of children, where there is a commercial transaction with one or more parties will be benefited. The party known as the third party or the agent who promoting and

providing children in the form of exploitation for the sexual transaction with the tourists.

Based on the information by ECPAT (the INGO concerns in the case of child sexual exploitation), mostly of child victims are not willing to work in the sexual tourism industry, they are sexually engaged before the determined age. The economic situation of their families from the limited income of their parents (poverty) become the factor of children to work at the age where they suppose to be at school for education.

Due to that factor, some of parents are consciously sell their children to the brothel owners or the merchants in order to support the family’s economic situation. The other factors such as: drug addiction, discrimination against children in the family, children the victims of disaster, homeless, materialistic greed, and also inadequate laws. However, some of the child victims consented to this activity because they are seduced and promised by various prizes and rewards.36

In order to address this case, the most important strategy is conducting cooperation and coordination between government and non-government organizations and also the participation of the society. In the year of 2000, there were several Non-governmental organization that cooperated to against the case in Indonesia and created a National coalition named the ‘End Child Prostitution and Trafficking (ECPAT)’.

Someone who exploit children is not necessarily a pedophile. Pedophile is defined for the adults who have strong interest in children, it refers to the children of pre-pubescent. Indeed, pedophiles are involve inchild sexual exploitation, however, people who commit sexual exploitation of the child can be referred as child sex offenders.37

Based on the research and information from the ECPAT, there are several types of child sex offenders: Situational child sex offender, which is people who do sexual contact with children based on the occasion. They exploited children because the tourists have entered into a situation where the children is easily accessible while on holiday and may develop into a long-term pattern of exploitation. Prefential child sex offender is people who has a definite sexual preference for children. They can potentially exploit children because of their desire and intention.38

Besides of those type of child sex offender, the tourists for child sexual exploitation choose children as their object because of health reason, the prostitution supplier promotes that children are safer from all sexually transmitted diseases because of their experience in prostitution is still minimal. So the chances of these children have contracted sexually transmitted diseases is still low. Another reason why tourists prefer to have sexual contact with children is because their belief to the myth that having sexual intercourse with a virgin will facilitate business and for anti-aging. Another reason is child can be paid cheaper than the adult prostitute, they can be teased with some gifts and presents. Most of child sex offenders are tourists who capable in material. They are capable to pay the security forces or police, village officials, families of victims, and the child victims.

2.1.1 Forms of Commercial Sexual Exploitation of Children

Commercial sexual exploitation of children lately growing in several tourism destinations. This phenomenon of children’s rights violation consists of several forms, such as: Child prostitution, Child trafficking for sexual purposes, Child pornography (creation, promotion, and distribution), Early and forced marriage, and Child sex tourism.

Child Prostitution – An international child sponsorship NGO that was established in Geneva in 2008 with the purpose of “the well-being of children

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worldwide” and also participating in United Nations Volunteers program, named ‘humanium’ defined child prostitution as “the use of children for sexual activities in exchange for remuneration or another form of retribution (gifts, food, clothes, etc)”39.

Prostitution is the act of obtaining or offer sexual services of a child who has not reached 18 years by a person or to another person in exchange for money or other rewards. As stated by Deputy of Child Protection of the Ministry of Women’s Empowerment, Dr. Surjadi Soeparman MPH, there are estimated 30 percent prostitutes or sex workers carried out by children under the age of 18 years old.

There are two types of prostitutions: the first is reported prostitution which obtain permits in the form of localization of the local government through the Department of Social Security assisted the police and cooperate with the Health Department. The permission is granted with the provision that every actor should do a health check to a doctor or health case in order to avoid various kinds of diseases prostitution. The second is prostitution which is not registered. In this group, prostitution carried a dark and closed, both individuals and organized groups.40

Child trafficking for sexual purposes – UNICEF defined child trafficking as “the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation”.41 It is violation toward children’s rights, their well being, and denial of opportunities for children to achieve their potential. Children who are sexually trafficked will be put into prostitution, used as pornography objects, trapped into early marriages, and also can be involved into child sex tourism.

Child pornography – this form of commercial sexual exploitation of children are closely related to the media, especially the internet. The criminal code defined it as

“a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity”.

Children are presented in naked and seductive images for the sexual interest of people that provided by the third party that will be benefited. The image or video of the children will be published online and also directly printed and spread to the customer of sex commercial. It also can be found in the form of digital publication (CDs or DVDs).

Early and forced marriage – child marriage is the early marriage of children under the age of 18 years. This form of CSEC mostly happen to the girls. This is a threat for children’s rights, because once children are getting married, they will lose the status as children and will automatically lose their rights as children. Child marriage can be happen in order to gain benefit or to support the family.

Child sex tourism – the form of commercial sexual exploitation that will be elaborated and explained clearly in the next sub-chapter.

2.2 Child Sex Tourism as a form of Commercial Sexual Exploitation of Children.

In accordance with the program of national development, tourism sector is one of the important points of the realization. Tourism development is benefit for national economy. The economic benefits of the tourism sector that continues to grow contributes in helping to improve economic conditions in the area where children live, but it can also expose children to the potential child sex offenders,

because the tourism sector which is increasing rapidly can open up access for rich tourists to visit locations of children who lives in poverty.

Based on data researched by the Police Criminal Investigation of Indonesian Republic, predicted that the prostitution profit reached up to Rp 29.7 trillion every year. The national or regional government and the private sector is responsible to ensure that children rights protection are really added to the tourism development agenda. The management of the tourism sector which less control and only a short-term orientation can trigger the appearance and increase in negative impact on the social and cultural life, both directly and indirectly, including for sexual exploitation against children. This case is now has gained the worldwide attention.

Child Sex Tourism is a form of commercial sexual exploitation of children which performed by people who are travel, generally known as tourist from various regions or countries to have sexual contact with children in the tourism destinations. Sex tourism preys on sexual inequality and contribute to the demand for sexual exploitation trade, and trapping children.

Tourism industry is not a main factor of sexual exploitation on children, however sexual exploitation of children take the advantage of tourism facilities that offered by tour companies, hotels, resorts, restaurants, airlines, and also several transportation companies as destinations for sex exploitation of children as well. In the other hand, tourism industry is an important actor and a valuable ally in the protection of children from sexual exploitation in tourism sector.\(^\text{44}\)

The perpetrators of child sex tourism is not restricted from some of the traits, however they can be anyone that come from every different walks of life, whether they are married or not, youth or parent, man or woman, domestic and also international tourists. They also come from different economic status, from poor or rich, or the mediocre tourists. More of sexual tourists choose the tourism destinations in order to have sexual contact with children to the place where sex exploitation is “culturally acceptable”, low security enforcement, and weak law enforcement. There are around two million of children that have been forced in

the sex industry around the world, and ASEAN countries have the more percentage compared with other countries in the world.

2.3 Child Sex Tourism in Indonesia, specifically in Bali.

Indonesia as a country with thousands islands and wonderful natural wealth has become one of tourist destinations from over the world. Tourism attraction in Indonesia has led Indonesia to be chosen as the only South East Asia country in Internationale Tourism Bourse (ITB). ITB is the oldest and the biggest event in the tourism in the world. According to the Head of the Indonesian Tourism Promotion Board (ARDI), Indonesia gained an honor to be chosen become the first Southeast Asian country who was appointed as Official Partner Country (OPC) in the Internationale Tourism Bourse in Berlin on 5 to 10 March 2013.\(^45\)

According to Central Bureau of Statistics Indonesia as seen from the number of arrivals through the entrance of the airport, ‘Ngurah Rai’ airport is the most visited by foreign tourists foreign and the number continues to increase every year. Most of the tourists having visit to Bali for sexual purposes for children, known as the form of Child Sex Tourism. Child Sex Tourism has become an interesting issue in the tourism destinations in Indonesia nowadays. Child sex tourism is quite developed rapidly, especially in the region or country that has a tourist attraction such as Bali in Indonesia.

Based on data from Ministry for Culture and Tourism of the Republic of Indonesia, there are 40 villages in six provinces of tourist destinations in Indonesia that reported as the top destinations of child sex tourism in Indonesia, such as: “Bali, West Nusa Tenggara, Central Java, West Java, East Java, and Riau islands”. Sex tourism activities can be found in the prostitution locations, karaoke, massage parlors, malls, and other places.\(^46\)

Based on the information from Ministry of Tourism of Republic Indonesia, there is no specific statistic data of Child Sex Tourism in Indonesia because this


case is mostly done in private and confidential, so it is not known by local government or the security forces and the society. Tourists who come to Indonesia for child sexual purposes are coming from several different countries, such as: Bali and Lombok usually visited by European tourist, South Korea, Japan, and Australia. Jakarta, Bandung, Surabaya, and other Java cities are mostly visited by tourists from America and Middle East. The areas in Sumatera island, such as Medan, Batam, and Lampung are mostly visited by tourists from Singapore, Malaysia, and Thailand.47

Bali as one of the icons of Indonesian tourism sector has become one of the familiar destinations for having sexual exploitation with children. This wonderful island of Indonesia becomes the great example of the development of tourism in the country. But it must be recognized that a variety of issues ranging from poverty, unemployment, urbanization, social inequalities, degradation of the culture, to the environmental problems can be easily found there. Trafficking and sexual exploitation is also growing among the twisted hospitality industry in Bali. As stated by the Commission of Child Protection in Indonesia, Bali is in the top ten of regions with the highest rate of child exploitation. Somehow, the case of sexual exploitation on children which allowed by their parents are the cases where actually their children are promised jobs by a person or groups without giving the explanation of the specific jobs that will be given to the children, where actually the children are taken to the field of prostitution.48

Nyoman Parta, the member of commission IV of Regional People’s Representative Assembly in Bali Province, stated the case of child sex tourism as the iceberg phenomenon where the real specific data or total of this case is not known. There is an information from the founder of an institute in Bali, named ‘Suryani Institute L.K’, stated that the cases of child sex tourism in Bali are increasing because the child sex offenders are exchanging the informations among them with the statement that Bali is a promising place. The rise of villa and cafe

becomes one of supporting factor for the activities of pedophiles in having the sexual activity in Bali. Moreover, there are several places that found in the backwoods and rarely get control from the security officers.49

2.4 Case of Child Sex Tourism in Bali before 2011 and the responses Government towards the case (the year of research case)

In 2001, there was a reported case of child sexual tourism in Bali which done by Mario Manara, a tourist from Italia who exploited nine children in Buleleng Regency, Bali. The mode of Mario Manara to attract the children were by giving them money and clotches in order to have sexual contact with them. He was arrested for the punishment of nine months in jail.

In the beginning of 2001, from January up to June, there was a man named Michael Rene Heller from France. He exploited three teenagers in the age of 14 years old. The activity of sexual exploitation in the form of child sex tourism by Michael took place in Karang Asem, Bali. As the reward of his action, the children as victims being adopted by him to be his children. As the response of government towards this case, the penalty given by regional government of Bali for him was three years in jail.

In 2004, a former diplomat of Australia named Tony William Stuart Brown exploited two children with the initials names IB and IM. They are sixteen and fourteen years old teenagers in Bali. He teased the children with money and food. On may 2004, the National Court of Karangasem sentenced him with thirteen years in jail. According to the report, a day after been sentenced Mr.Tony William Stuart Brown had committed suicide in prison located in LP Ambapura, Bali.

In 2005, a citizen of Netherlands named Max Le Clerco exploited a child whose initials K in the age of nine years old that time. The child was exploited in the Buleleng Regency in Bali. The child sex offender seduced the child victim

with his profession as the one who was sponsoring the football activities of children in Lovina area. He lured the child by giving money, football shirts, and football shoes. Then, he was arrested on July 29, 2005. He was sentenced based on chapter 82 the Law of The Republic of Indonesia year 2002 concern on child protection.\textsuperscript{50}

As explained before in this research, the sex offenders of child sex tourism is not only international tourist, but also tourist or traveler come from domestic level. In 2006, Indonesian tourist with initials name MH. A 37 years old man, a staff in the company of refill water from Sidoarjo, East Java. In exploiting the children, he threatened the children who refuse or complain on his action and paid them with Rp 1,000. This action was happened in Tabanan, Bali. This case was reported because one of the victims was caught stealing money and admitted that the child was never given money by MH lately. MH was sentenced with maximum 15 years in jail or fined with the amount of Rp 300 million.\textsuperscript{51}

In 2008, an Australian tourist named Grandfield Philip Robert who exploited children of junior high school and senior high school students. The total of children that been exploited by Philip is nine people during 2008 in Singaraja, Bali. He lured children by providing billiard in his house in Singaraja, then he paid the child victims with money in the amount of Rp 25,000 up to Rp 30,000. However, until now the penalty imposed for Philip was not clear yet.\textsuperscript{52}

A lawyer from Bali, Siti Sapurah acknowledges that she handles many cases of pedophile and child sexual exploitation which still continuing since 2011. From her statement, the attention from regional government and the society in Bali is still low. Base on the fact that, there will be found many children roaming along


the streets and willing when they are asked by the tourist to go and in fact, they are tricked for the sexual purposes.

In 2014 up to 2015, an Australian tourist named Robert Andrew Fiddes Ellis has exploited approximately eleven children in Bali. He did the action in his room in Tabanan, Bali. Robert Ellis admitted that he paid the children with money around Rp 100,000 up to Rp 300,000, and also clutches. He was sentenced 15 years in jail with allegations damaging children as the future of nation, and also stained the image of Indonesian tourism sector, especially Bali. Based on Terres Des Hommes (the International organization concerns to fight against Child Exploitation), there are estimated around 40,000 up to 70,000 children in Indonesia are sexually exploited.33

2.4.1 The Impact of Child Sex Tourism (CST) towards child victims in Indonesia.

The benefit gained by the children as the victims of commercial sexual exploitation, specifically in the form of child sex tourism is only the small amount of money, the presents or gifts, and the facilities that given by the child sex offenders. The rest, they will only get the disadvantages of sexual exploitation. The child victims of sex tourism can be harmed physically, mentally, and psychologically. Child sex tourism or CST could weaken the mental condition of the victim and the child may experience difficulties or deficiencies in socializing in the community. They will have the possibility of delays in growth and development compared to the other children in their age.

There can be also the possibility of children with desire for revenge to the other children. For instance in Bali, there is a child victim of sexual exploitation that when she has getting older and become an adult, she works as an intermediary (agent or the third party) for people who need children as an object to have sexual contact with them.

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2.5 Chapter Summary

Tourism industry has a big role in the case of Child Sex Tourism (CST). The perpetrators of CST take advantages of tourism facilities, so as the development of tourism sector, the case of child sex tourism is also increasing. The perpetrators of child sex tourism is categorized into three types which are: situational offender, preferential offender, and paedophiles. Not all of child sexual offenders are called as paedophile, they are defined by the reason of having sexual contact with children. This case could happen because of poverty, low education, low awareness of children and their parents, natural disasters, urbanizations, discrimination, and social gap (inequalities).

As mentioned above, this case is increasing year by year, who then the perpetrators have to be given penalty and further response by government in cooperation with the society and the related institutions. Based on the Regional Law of Bali Number 6 year 2014 Chapter XIII there is also stated the Criminal Provisions (penalty) for the perpetrators. Even though the child victims are given some gifts and money by the perpetrators, the rights of child victims are violated. This kind of action is the real violation to the rights of children. This case could harm children mentally and physically. It violated the concept of human security to be free from violation, and free to get the basic needs. The interest of every children is the concern and the main concept of human security. The concept of human security will be applied base on the Regional Law of Bali no 6 year 2014 concern on Child Protection in order to give protection and empowerment for children as two important concepts to show the responsibility of government in cooperation with the civil society and the related institutions to avoid the increasing number of child sex tourism.
CHAPTER III
THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC) AND THE REGIONAL LAW OF BALI NO 6 YEAR 2014

3.1 Introduction

In accordance with the topic research in this thesis, Convention on the Rights of the Child will be explained as well, as independent variable which affecting the dependent variable that already elaborated in the second chapter, which is: Commercial Sexual Exploitation on Children in the form of Child Sex Tourism. Already explained in chapter 2 that the case of child sex tourism has increasingly rife in many countries, and now it attracts the world’s attention to fight against this case because it is threat for human security. Convention is basically an agreement that posed a right and duty as the consequence. Specificity of the treaty in the field of human rights is the states (which ratified the treaty) between the mutually pledge to each other to give rights to all human beings residing within their jurisdictions.

The Convention on the Rights of the Child (CRC) is a human rights treaty under United Nations which concern on protecting children’s rights in all ways, such as: civil, political, economic, social, health, and cultural rights of children. This convention was first became a legally binding international instruments in 1989 to reinforce the rights of all children. The United Nations General Assembly has adopted the Convention on November 20th, 1989 as part of Resolution 44/25. This convention is the most ratified international human rights treaty in the world, which ratified by 195 countries (including Indonesia). The treaty are monitored by the human rights treaty body named Committee on the Rights of the Child

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(CRC). The Committee will monitor the implementation of the Convention and the Optional Protocols.\textsuperscript{55}

The Convention contains the possibility for all children to develop themselves to the full potential, protection for children from neglect, abuse, and exploitation in the context that all children have the equal rights and equal importance, and so do to the children to respect their parents. The role of parents are the most important to support the growth and development of children because family is the fundamental group of society. the way their parents response the children, answering the questions, giving advise, and all actions of parents will influence children’s behaviour.\textsuperscript{56}

The Convention obliged all the States parties to respect and ensure all rights that established for children. CRC is the only international treaty on children rights that address all aspects of the rights of children. It covers all aspects of children rights to be protected by the States that ratified the Convention. It consists of 54 articles that concern to all aspects of children rights, including the rights for the children in special needs, minority children, and also the refugee children, moreover for the case of children who are sexually exploited. The 54 articles consisted in the Convention are divided into the rights of: civil and freedom, family environment and alternative care, basic health and welfare, education, utilization of spare time and art and cultural events, and special protection.

Based on the explanation from UNICEF, there are three power as the fundamental strengths contained in the Convention, such as: the first as a legal instrument, which expressly define government responsibility for the children within their jurisdiction. The second is a system for the obligations borne by various actors at various levels of society to react to the privileges or rights of children, and it helps us comprehend the learning, abilities, assets or power

expected to satisfy those obligations. The third is an ethical statement: to reflect and build human values on the commitment to collectively give the best protection for children in the world.\textsuperscript{57}

The Convention on the Rights of Child defined child as “\textit{a person under 18 years of age}”. The influential to maintain the growth and development of children as stated in the convention are the parents of children, family, and also the State. The convention consists of four basic rights of children, such as: Survival rights, Development rights, Protection rights, and the Participation rights.

Survival rights cover the rights of life for children in fulfilling the nutrition needs of children, shelter, and access for medical services. Development rights means the rights of children to get education, play, freedom of aspiration, religion, and a good environment to support the development of children. Protection rights is to ensure the children are safe from all forms of violation and abuse, neglect and exploitation. It also gives the protection for refugee children, children in the criminal justice system, children in employment or child labor, and also provides rehabilitation for children as the victims of exploitation and abuse. Participation rights provide the opportunity for children to participate in public associations and society, assemble peacefully, and also freedom of expression.\textsuperscript{58}

The Convention on the Rights of the Child has four general principles to cover all the contents, such as:

A. Non-discrimination (article 2)

The convention guarantees the equal right for every child in every aspect of life. The equal rights for children of different religions, beliefs, ethnic, local language, tradition, children of mixed marriages, social disparities, and also different economic status in order to create a world that is comfortable for children.

B. Best interests of child (article 3)


\textsuperscript{58} Ibid
Integrated into policies of housing and residential development. this principle aims to provide an adequate housing for children who come from poor families.

C. The right to life, survival, and development (article 6)
To provide a conducive environment to support the maximum development of children in physical, mental, spiritual, moral, and social development. This principle aims to create an independent children who ready to face competition in the globalization era.

D. Respect for the views of the child (article 12)
Children are given the rights of freedom to express their opinions and views. To express and participate in public activities.59

Indonesia as the State Party has signed the Convention on the Rights of the Child on 26 January 1990, and has ratified it on 25 August 1990 through the Presidential Decree No 36 year 1990. Indonesia has also ratified the Optional Protocol on the Rights of the Child on Sale of Children, Children Prostitution, and Child Pornography through the Law No 10 year 2012.60

3.2 The 54 articles of Convention on the Rights of the Child
The convention consists of 54 articles that concern to protect all aspects of children rights. The 54 articles contain of : Article 1 explains about “Definition of the child” which is the person under 18 years old. The second article discusses about one of its principle which is “Non-discrimination” principle which means the equality for every children. The third article explained on the next principle of the convention, which is “Best Interests of the child” means all decisions are considered to the safety or welfare of children. Article 4 discusses about “Protection of Rights” which means that government are responsible to respect children rights in all aspects.

Article 5 of the convention is about “Parental guidance” which has the important role in protecting children and educating children to learn about how to use their rights properly. The next is article 6 which explains about “Survival and Development” for children. Article 7 protects the rights of children in “Registration, name, nationality, and care” which means they have all the rights to register their name to the government, to get their nationality, and to be cared by the government, society, and their parents.

Article 8 of the Convention explains on “Preservation of identity” which protects the rights of children for their name, nationality, and family. The next in the article 9 about “Separation from parents” which emphasizes children to live with their parents as long as it is safe for them. Article 10 protects the rights of children in “Family reunification” which means to give the children their rights to stay with their parents and family. Article 11 protects children from “Kidnapping” as the obligation for government to guarantee the rights of children to feel safe and prosperous. Article 12 about “Respect for the views of the child” in every situation, the opinion and arguments of children can be considered for having a decision on something.

Article 13 about “Freedom of Expression” which means there is the opportunity and rights for children to express and also respecting other. The next in article 14 protects the right of children in “Freedom of thought, conscience and religion” which means every children have their rights to think about something with conscience and also to decide and follow the religion”. Article 15 about “Freedom of association” is the rights for children in getting involve in public or in any group or organisations.

Article 16 protects children in the “Right to privacy” which means children have to be protected by the law for their welfare, their families, and their homes. In article 17 of the convention, it protects children in “Access to information; mass media” which is the right for children to get information from media and also books. The next is article 18 about “Parental responsibilities, state assistance” is the responsibility for every parents to provide what is good for children.
Article 19 is about “Protection from all forms of violence” which means children should be protected from every threats that could harm physically or mentally. In article 20 protects about “Children deprived of family environment” which means children should be looked after by people or the caretakers who respects their life in case if their family could not protect their children because of any conditions. Article 21 about “Adoption” which means there is also full protection for children who are adopted. Article 22 about “Refugee children” which is the protection for children as the refugee as stated in this convention.

Article 23 about “Children with disabilities” which provides special rights, care, support, and protection for children in disabilities. Article 24 is the protection for “Health and health services” to guarantee a good health service for children. In article 25 there is protection on “Review of treatment in care” for the children who are looked after by their local authorities should be treated based on their interests. Article 26 about “Social security” is the protection for children even if they live in poverty. The next in article 27, there is protection for children of “Adequate standard of living” which protects the rights of children to meet their need physically and mentally.

Article 28 about “Right to education”, every children is provided a free charge to get primary education, and the school must be protected and respect the rights of children. in article 29, there is “Goals of education” which amis to develop personality of every children to grow as people with full of talents and skills. Article 30 is about “Children of minorities/indigenous groups” to have the rights in learning and developing their own culture. Article 31 is about “Leisure, play, and culture” which is the rights for children to be relax and play.

Article 32 protects “Child labour” from harmful and exploitative jobs, the safety of children is the priority. In article 33 protects children from “Drug abuse” which is the obligation for government to protect children from any harmful drug. Article 34 is about “Sexual Exploitation” as the obligations and responsibility for government to protect children from any kind of sexual abuse and exploitation.
Article 35 is the protection from “Abduction, sale and trafficking” either to business purposes or sexual purposes.

Article 36 is about “Other form of exploitation” which protects children from any forms of exploitation. In article 37 is the protection from “Detention and punishment” about protection for children from any kind of punishment or cruel. Article 38 protects children from “War and armed conflicts” as the responsibility for government to take care and protect children in any kind of armed conflicts. The next in article 39 protects children from “Rehabilitation of child victims” for the children as the victims that are neglected or abused and exploited.

Article 40 is about “Juvenile Justice” for the children who break the law are given the rights for help and get fair treatment in a system of justice. Article 41 about “Respect for superior national standards” which means this convention respect and support any National Law for the protection of children. Article 42 about “Knowledge of rights” which is the responsibility for government to socialize or spread the Convention to adults and children. The next is article 43-54 which explain about “Implementation measures” as the reference for government and international organizations to ensure every children are protected and respected in the society. 61

All articles of the convention are fully supporting the protection of children’s rights, however there is a specific article that concern to the case of commercial sexual exploitation of children in the form of child sex tourism. It is found in the article number 34 about protection of child form sexual exploitation.

Article 34 of Convention on the Rights of the Child is

“Governments should protect children from all forms of sexual exploitation and abuse. This provision in the Convention is augmented

by the Optional Protocol on the sale of children, child prostitution and child pornography”. 62

The article 34 contains the obligation for all State parties to protect the rights of children in every country, particularly protection from all forms of sexual exploitation and sexual abuse. In order to prevent some cases of sexual action toward children, government response is an important role. Not only in the national scope, government have to take the bilateral and multilateral measures.

Some cases that should be avoided by the role of national and international government are: “the inducement of child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices, and the exploitative use of children in pornographic performances and materials”. As pointed out by UNICEF, there are several provisions that become the responsibility for the government of the States Parties as the steps of policy making and implementation based on the Convention and the Committee of the Rights on the Child, such as:

“Develop a comprehensive national agenda for children, develop permanent bodies or mechanisms to promote coordination, monitoring and evaluation of activities throughout all sectors of government, ensure that all legislation is fully compatible with the Convention, make children visible in policy development processes throughout government by introducing child impact assessments, carry out adequate budget analysis to determine the portion of public funds spent on children and to ensure that these resources are being used effectively, ensure that sufficient data are collected and used to improve the plight of all children in each jurisdiction, raise awareness and disseminate information on the Convention by providing training to all those involved in government policy making and working with or for children, involve civil society including children in the process of implementing and raising awareness of child rights, and set up independent statutory offices-ombuds persons, commissions and other institutions to promote children’s rights”. 63

3.3 Indonesia as a State Party to the Convention on the Rights of the Child.

The convention on the Rights of the Child laid the normative framework and providing the basis for cooperation between countries in order to promote and protect children’s rights. State parties are obligated to create and amend laws and policies in order to implement the Convention. To become a State party, Indonesia has signed and ratified the Convention. The convention was signed on 26 January 1990 in New York, United States and was ratified on 5th September 1990.

By ratifying the convention and become a State party, Indonesia and all State parties have to be fully responsible to the provisions and statutes contained in the Convention. Not only to protect and respect the rights of children, the State Parties are also have to adopt and change the laws and policies that needed to be implemented. The Convention stated the State Parties to use the Convention as a guidance of policy making and implementation. Article 44 of the Convention has obligated Indonesia and all States Parties to submit report of the situation on children rights in each state to the treaty body which is the Committe on the Rights of the Child firstly in the second year after the ratification, and the periodic report in every five years.64

UNICEF has pointed out there are seven main stages for the government of the States Parties to make the report of the convention to the Committee of the Rights on the Child. The seven main stages are: “Preparation of the initial report, Pre-sessional working group, Government response to a list of issues, Plenary session, Follow up to the concluding observations, Requests for additional informations, and Periodic reporting. Based on the article 34 and 35 of the Convention, children should be protected by the government of all States Parties from all forms of violation toward children rights, particularly in the forms of sexual exploitation (including the case of child sex tourism as the forms of

commercial sexual exploitation on children), sexual abuse, and protect children from being sold for sexual or non-sexual purposes.\(^{65}\)

Indonesia as a party of the convention should be a State that safe for children in all aspects of their rights since the convention itself has covered all aspects of children’s rights to be protected. Particularly in several articles, for instance in the article 19 concerns on the protection for children from all forms of violence, including sexual exploitation on children in the form of sexual tourism as the main concern in the thesis topic of this research. If based on the contents of the convention, there are still many shortcomings and task to be accomplished by the government of Indonesia.\(^{66}\)

3.4.1 The response of Indonesian Government to the Convention

By ratify a convention means that the State party agree to all obligations and provisions of the convention. In the Convention on the Rights of the Child, Indonesia as a state party have to fulfill the civil rights that are guaranteed, at the same time have to guarantee the fulfillment of economic rights, social, and cultural rights which are recognized. In the Convention on the Rights of the Child, children (people under 18 years old) are considered and recognized to have rights, while the State is obliged to fulfill and guarantee the fulfillment of children’s rights as recognized in the convention.\(^{67}\)

Indonesia as a state party to the convention is working on the responsibility to submit report on the situation of children rights in Indonesia periodically. Convention on the Rights of the Child emphasizes the nature of the mechanism of cooperative and non-confrontational even within the framework of international mechanisms. The State Parties also have dialog with the committee of the rights on child as the treaty body.

\(^{66}\) Ibid
\(^{67}\) Farid, Mohammad. Article of “Konvensi Hak Anak – Pengalaman di Indonesia”. Retrieved December 6, 2016 from https://seputarfarid.wordpress.com/2015/03/15/konvensi-hak-anak-pengalaman-di-indonesia/
The delegation of Indonesia in having dialog with the committee regarding to the implementation of the convention are the officials from: Ministry of Women Empowerment and Child Protection, Ministry of Law and Human Rights, Ministry of Religious Affairs, Coordination Ministry for People’s Welfare, Ministry of Manpower and Transmigration, Ministry of Health, Ministry of Home Affairs, Ministry of Social Affairs, Ministry of Foreign Affairs of Republic of Indonesia, Education attache of Indonesian Embassy in Paris and Integrated Services Center for Protection against Women and Children from DKI Jakarta Province and West Sumatera, Indonesian Child Protection Commission. According to the Periodic Report on the Implementation of the Convention on the Rights of the Child, Government of Indonesia has taken strategic steps to translate the Committee’s recommendations into policies, programs, and activities.68

3.4 Regional Law of Bali Number 6 year 2014

As the response from the Local Government and the Regional Parliament of Bali as the response to the National Law No 23 year 2002, there is issued the Regulation of Bali Province Number 6 Year 2014 on Child Protection as stated in the point number 4 of this Regional Law. Instruction on National Movement Anti Sex Crimes Against Children, the Provincial Government of Bali, via the Board of Women’s Empowerment and Child Protection of Bali Province, issued a circular to urge district and municipal governments in Bali to take prevention measures, including socialisation and rehabilitation. Subsequently, the child protection policy was included in Local Regulation of Bali Number 6 Year 2014 on Child Protection.

Found in the chapter 1 point number 17 in the Regional Law of Bali No 6 year 2014 about protection of children focus on the children as victims of sexual exploitation, stated that: children in special needs are they who live in emergency situation, children who are confronted with legal, children from minorities and isolated, a child that being exploited economically and/or sexually, child victims

of narcotics abuse, alcohol, psychotropic drugs and other addictive substances (drugs), child victims of abduction, the child victims of physical and/or mental, disabilities, child and young victims of wrong treatment and neglect.

In the Chapter 2 article two of Local Regulation Number 6 year 2014 also focus to the protection for children from sexual exploitation. Chapter 16 about the program of compulsory education as the program to increase knowledge and awareness of children to the case of CST. The education program in the Law is issued as the way to increase the knowledge and the awareness of parents, society, and the children themselves.

The relation of this regional law with the convention is both concerning to the child protection in all aspects. The specific chapter about the protection toward child victims of sexual exploitation in the Regional law of Baliis stated in Chapter II, article 2 concern on the “Rights for Children” which is survival rights, to grow, participate, and to be protected from violations. The protection for children can not be achieved only by the program or the role of Government, but there is should be the cooperation with the related institutions, Board of Women Empowerment and Child Protection, The Local Working Units, The Local Commission for Child Protection and Supervision, family, civil society, and business sector.⁶⁹

### 3.5 Chapter Summary

Convention on the Rights of the Child (CRC) as the International treaty of human rights under United Nations which focus to protect every aspects of children rights. It is monitored by the Committee of the Rights on the Child. In this Convention, people that categorized as children are they who are under the age of 18 years. There are four basic rights of children which stated in this Convention. They are: Survival rights, Development rights, Protection rights, and Participation rights. The general principles of the Convention to protect children rights are non-discrimination, upholding the best interests of children, the right to

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survival and development, and to respect children’s opinion. The Convention provides opportunity and possibility for every children (without any distinction) to grow and develop.

Indonesia has signed the Convention on 26 January 1990 in New York and has ratifies the Convention on 5 September 1990. Indonesia as a State Party is obliged by some requirements in the Convention. Indonesia have to be responsible to the Convention. Either to protect and respect the rights of children and also to adopt and change the laws and policies that needed to be implemented guided by the Convention. The State Party have to submit report to the Committee on the Rights of the Child in the second year of ratification and the next in every five years.

Children rights are fully protected based on the Convention. More specific to the case, it could be found in Article 34 and 35 which stated that all the States Parties have to protect children from every forms of violation, including of child sex tourism. Article 19 of the Convention also concerns for the responsibility of the States Parties to protect children from all forms of physical and mental abuse, and sexual exploitation in a legislative, administrative, social, and educational way.

In Its response, Indonesia have submitted the report to the Committee and also has taken the strategic steps to translate the recommendations from committee into policies, programs, and activities. In combating CST in Bali, there is a Regional Law of Bali as the response of Regional Government to the ratification of the Convention as Indonesia already ratified. It is the Regional Law of Bali Number 6 year 2014 on Child Protection.

The Focus of Government to the child victims of sexual exploitation is specifically found in the Chapter 1 number 17, and Chapter 2 Article 2. The Government also provides the education program for children in order to increase the knowledge and awareness of society, parents, and children themselves. All the policies and programmes by the Government can not be implemented well without cooperation among civil society, parents or family, and government. It is important in order to create the city that safe for children as aimed in the Regional Law of Bali No 6 year 2014.
CHAPTER IV

4.1. INTRODUCTION

Indonesia is a state party to the Convention on the Rights of the Child. As explained in the previous chapter, it was signed on 26 January 1990 and was ratified on 25 August 1990. As a state party to the convention, Indonesia has to follow and implement the obligations specified in the Convention. In the national level, there is Law No 23 year 2002 concern on Child Protection as the response to the Convention on The Rights of The Child. This National Law is applying the Principles of the Convention, in Chapter II Article 2 about the Principle and Purpose, stated that “the organization of child protection based on Pancasila and the Constitution of the Republic of Indonesia in 1945 as well as the basic principles of the Convention on the Rights of the Child”.

In the Regional Level, there is Regional Law of Bali no 6 year 2014 concern on Child Protection as the response to the National Law No 23 year 2002 on Child Protection. In point number 4 of this Regional Law, stated that the Regional Law of Bali No 6 Year 2014 was issued due to the Law No 23 year 2002 on Child Protection “Mengingat Undang-Undang No 23 Tahun 2002 tentang Perlindungan Anak” (point number 4 of Bali Regional Law on Child Protection).

Arief Yahya (Minister of Tourism) stated that, Bali is acknowledged as the best tourist destination for Asia by TripAdvisor (World’s Largest Travel Site) allows for violations of children rights in every aspects, including sexual exploitation which is the case of Child Sex Tourism (CST). This chapter will elaborate the response of Indonesian Government as the National Level and the
Local Government of Bali as the Regional Level to combat CST after the ratification of the Convention.

Several obligations specified in the Convention for the Government of State Parties are:

“Recognizes the rights of children that are regulated under the Convention, Undertake legislative measures (to complete rules/regulations to conform with the principles and provisions of the Convention, or create rules or new legislation that is consistent with the Convention), Undertake administrative measures (to realize the rights of children, Undertake budgetair measures (to implement children’s rights, particularly economic rights, social and cultural rights), Conducting educational measures (to overhaul the social practices that are inconsisent with the principles and provisions of the Convention, and create an environment conducive to the fulfillment of children’s rights), Having International cooperations, bilateral and multilateral relations, Involve and cooperate with UN agencies, organizations, non-governmental organizations both at national and international level, Not to take any action relating to the rights that are negative (detain imprison children arbitrarily and violated legal procedures, causing fear, the torture, punishment cruel, inhuman and degrading, not intercept private lives of children)”.

As stated by Indonesian Child Protection Commission, child is the future assets of the nation. The total number of Indonesian children (people under the age of 18 years old) now reaches 30 percent of the population. Therefore, to face the future of Indonesia, child’s capability as the human resource is the most important besides of per capita income, economic growth, investment, and other macro indicators. Human resource is the determinant factor in a changing society. The inability of children, the dependence on parents or others, immaturity attitudes and thoughts, the ability of the physical, mental, intellectual as the factors of children as the vulnerable group. Those factors are the reason of children need to be protected, cared, nurtured, and guided by parents, families, communities, and nations. The role of government, parents, the caretaker, and the
society in giving attention to the children are the most important to the protection of children’s rights.\textsuperscript{70}

Based on data from UNICEF, there are 2 million of children around the world who are sexually exploited every year. 30 percent of the global estimates are found in Asian countries. An estimated 40,000 up to 70,000 of Indonesian children are victims of sexual exploitation.\textsuperscript{71}

This chapter will briefly explain the implementation of Regional Law of Bali No 6 year 2014 on child protection by the local government of Bali in order to combat the case of Child Sex Tourism.

4.2. Child Sex Tourism in Bali year of 2011-2015

Cases of physical violence, and sexual violence are rife in Bali. The majority of these cases is not revealed to the surface by the parents of child victims of sexual violence because the children are working to help family economy situation. It caused the increasing number of CST cases in Bali. That is why there is no significant number of child victims in CST case. The case of child sex tourism which happen rampantly in Bali could harms the children, their family, and Bali Islands as the destinations for child sexual exploitation. As stated by National Commission on Child Protection, Bali is extremely explained as a destination for child sex tourism or known as a heaven for sex offenders.\textsuperscript{72}

Data from Interpol in 2014, recorded that there were 750,000 child sexual offenders spread around the world. National Commission on Child Protection wrote about 2956 children become victims of sexual exploitation during the period of 2011-2015. Base on the Women and Children Service Unit Denpasar Police, a surge in sexual violence cases up to nearly 100 percent from 2013 to

2014. In 2013 there were 13 cases handled by Denpasar Police, and increased in 2014 became 25 cases.\(^{73}\)

According to the US Department of State through the report Trafficking in Person (2010), Bali is known as a haven for pedophiles to commit sexual activity, even newspaper Sydney Morning Herald (2014) of Australia indicated Bali as a destination for paedophiles who form an international network in Southeast Asia, Rampant cases of paedophile with the majority of the perpetrators are foreign tourists is the other side behind tourism in Bali (the.australian.com.au, 2011).

Indonesian Child Protection Commission (2013) received 3,023 complaints of child abuse cases. These numbers increased by 60% over the previous year only 1,383 cases. Of these 58% are sexual offense cases in children. Bali as a world tourism region is also referred to as the main location of interest of foreign citizens who suffer from pedophilia, this situation is even made Bali analogy as a safe haven for such illegal activity. (The Jakarta Post, 2016)

Population growth coupled migrants from outside the island, bringing many changes for the Balinese people, including a change of mindset from that previously have lifestyle agrarian - traditionally expressive - towards the community services - modern progressive who now have an impact on the outlook Bali residents who now lead to material, It is used by sexual offenders to make Bali as a destination for sexual exploitation of children by promising gifts and material in return.

There are several cases of child sex tourism in Bali, particularly since the year of 2001 until 2015. In 2001, there is sexual exploitation by Italian tourist to nine children and sentenced for nine months in jail. Still in January, there was Michael Rene Heller from France who sexually exploited 3 children and was sentenced for three years in jail. In 2004, Tony William Stuart Brown, a former diplomat of Australia who exploited children in Bali and was sentenced for 13 years in jail. In

2005, a tourist from Netherland named Max Le Clerco who sexually exploited children in Buleleng, Bali and was sentenced based on the Law of The Republic of Indonesia year 2002 chapter 82 concern on child protection.\textsuperscript{74} In 2006 an Indonesian with initial MH. A sexually exploited children and was sentenced for maximum 15 years in jail. In 2008, Grandfield Philip Robert from Australia exploited nine children in Singaraja and have not got a clear penalty on the case.\textsuperscript{75}

Until 2011, the case are increasing. Then in 2014 up to 2015, there was an exposed case of child sex tourism by Robert Andrew Fiddes Ellis from Australia who exploited around 15 children in Tabanan, Bali and was sentenced for 15 years in jail. The case of CST then referred to as the phenomenon of the iceberg, which actually has a greater number than the reported figures. The Integrated Services Center for Women and Children as the service agency under the regional government of Denpasar noted that since 2012 to 2015 the cases of sexual violence against children and women are steadily increasing.\textsuperscript{76}

The victims of child sex tourism often come from socio-economically disadvantaged backgrounds, children in poverty or low education. Many come from ethnic minorities, displaced communities, and other marginalized social groups. The victims are children who live in the tourism area and dependent on seasonal income, so in order to gain more income to help family economic situation, children have to work. With their low knowledge or education background, they only eligible to work in the low standard job, for instance in the sexual tourism industry.

Crime of child sex offenders in Bali could come from domestic tourist, but mostly come from the International sex offenders networks. Most of child sex offenders running crime by interacting with groups and organization among others.


\textsuperscript{75} Ibid

by exchanging informations. As stated by Andri Cahyadi, the Chairman of the Foundation Center for Street Children: the perpetrators of sexual crimes against children have network such as multi level marketing or tiered network to get child victims easily.

There was a Balinese girl named Sekar, the child victim of Robert Ellis. She works in the local food market and live with low education background. She witnessed that she was lured by Robert Ellis and was given clotching, bikes, and money. Then, the child victims are taken to the house or Robert Ellis and he sexually assaulted the children.

Sekar witnessed: “He gave me 100,000 Rupiah, the biggest was Rp 300,000 and I went there once and he gave me 250,000 (about $25). At Kuta beach I was showering and he asked me to go with him. I went to his house in the afternoon and didn't go home until the morning.”

The above situation adequately influences Indonesia to have roles as primary security actor for its citizens. Lots of efforts have been conducted, for instance by ratified several international instruments and issued some national law concerning children rights protection, Indonesia began to create programs in combating child sex tourism.


The explosive growth of population plus migrants from outside the island creates the competition live in Bali. Among other life issues, survivalitas has now become the main priorities. The developmental is changing the mindset of the people in Bali who previously had an agrarian lifestyle become modern progressive. The people is starting to be material-oriented. Caused by the poverty

and low education, children in Bali are willing to work in the sexual tourism industry in order to support family economic situation. It is why sexual exploitation of children is increasing year by year. It is not tourism industry that facilitates the sexual exploitation in tourism area, but child sex tourism that use and take advantages of tourism facilities.

Due to this case, the government of Bali has made several efforts to resolve the case of sexual exploitation by issuing the Regional Law of Bali No 6 year 2014 by the local government of Bali as the responses to the Convention on the Rights of the Child, legally issued by the Governor and the Regional Representative Council of Bali concerns on Child Protection. Child protection which referred in this regulation is mentioned in point number 9, which is:

“Child protection is all activities to ensure and protect children and their rights in order to live, grow, evolve, and participate optimally in accordance with the dignity and the dignity of humanity, as well as the protection from violence and discrimination.”

There are some considerations by the Government in issuing this Regulation; it is to create the survival rights of children, the rights to grow, and to be protected. The protection here includes protection from any kind of violations, exploitation, and discrimination. Based on those considerations, and also as the response to the National law which is also the response to the Convention on the Rights of the Child, the Local Government of Bali then issued the Regional Law of Bali no 6 year 2014 on Child Protection.

The Government measures by issuing the Regional Law of Bali No 6 year 2014 is the response to combat the threat of human security in Bali. Human Security exists since there was an increasing of insecurities, for instance the fear of human on survival, how to grow, how to be safe from any kind of violations, war and poverty. In his book, entitled “People, State and Fear”, Barry Buzan stated that human security refers to the live factors, health, position, wealth, freedom, poverty, and hunger, when it then threatened human.

Regional Law of Bali on Child Protection was issued due to the National Law No 23 year 2002 on Child Protection (stated in point number 4). Child protection in this Regional Law is supporting the concept of human security, as stated that the protection on child in this law is to uphold the rights of children and protection from any violations and discriminations.79

Human Security has the concept of people centered, where people or individual become the focus of the analysis. Concept of human security is now refers to fulfill human rights. All the response by government and cooperate with the civil society and the related institutions lead to the fulfillment of children rights.

Based on the Regional Law of Bali no 6 year 2014 on child protection, the local government of Bali established two programs as the commitment and response to combat child sex tourism. The programs are:

A. City Fit for Children (Kota Layak Anak)

The Government of Bali has issued a program as the response to the Law. The program named “Kota Layak Anak (City Fit for Children)” stated in the point 16 Article 1. It is also protected in Chapter 6 by the Governor of Bali. This program integrates the commitment and the government resources, society, and the business world, continuing with children rights mainstreaming strategy (prioritize the interests of children) as the concept of human security. The whole attention in the Law is reffered to the interest of children.

The application of “City Fit for Children” in Bali is fulfilled in the way of how to solve the problem of children, and provide wide access for children. There is also the activities such as supercamp, including of giving education for children who their parents are working in the traditional market and live in the low economic situation with the aims to educate children in order to be saved from any kind of violations.

In achieving the vision of City Fit for Children as regulated in the Regional Law of Bali No 6 year 2014, the local government is also working by having socialization and workshop for children to give the education on how to protect themselves from any violence, socialization for the teacher as the educator to educate their students, and also for the child victims in order to avoid further violations. There is also effort from government to upgrade the skills of creating web sites, create application programs on mobile phones, as well as create animated stories to provide the information that is fit for children. This program is also done by entered the race to enhance the creativity of children and fill their leisure time with positive activities.80

In the year of 2011-2013, Government of Bali achieved the award given for Bali as the City Fit for Children. The award came from the Ministry of Women Empowerment and Child Protection that given by President SBY on national children’s day. However, the award given for the government of Bali also means

as a challenge to increase the fulfillment of children’s rights, for instance to provide the creativity forum and education facilities. The award was given for the consideration that the Government of Bali has fulfill the rights of children. Not only protecting the children who grow up normally, but also for the children with dissability.  

In 2012, the government of Bali is developing the program to support the growth of children in special need and also awarded for fulfilling the five clusters of child rights that must be met, namely the civil rights and freedoms, family environment and alternative care, basic health, education, the use of free time, as well as special protection to children. In 2013 there was a socialization and seminar about the commitment of Local Government to the City fit for children, elderly, green and healthy city.

In 2014, there was established a circular letter of Governor about the Regional Movement of Child Protection. In 2015, the implementation of this program is aimed to support the National program for Indonesian children which emphasizes the rights and protection for children, the promotion of healthy life, qualified education, protection from violation, abuse and exploitation.

The implementation of this program is applying the principle of human security which is to get the basic needs of children. It is known as the principle of freedom from want. This program was also made to educate children on how they suppose to live in order to increase children’s knowledge and awareness to avoid any kind of violation (the principle of freedom from fear). In implementing the City Fit for Children, all the facilities and events provided by the Local Government is aimed to achieve the interests of children in the way to put the

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children in the center of government’s and society’s attention. City Fit for Children applies the concept of people-centered in human Security.

The response of Government is significant through the implementation of Bali Regional Law No 6 year 2014 concern on Child Protection. Besides of having a program of City Fit for Children, there is also the Home Social Protection of Children or Comfort Home (stated in Article 1 point 18) as the shelter which provided by Local Government of Bali.

**B. Forum of Local Children (Forum Anak Daerah)**

The next response of Government through this Regional Law is providing a forum as a place for children to participate which named as Forum of Local Children in order to increase the capacity or the capability of children to understand and knowing any kind of violation or criminals that could harm children. This forum is also to deliver child’s aspiration.84

The Forum of Local Children itself exists in every city or area in Bali. This forum is primarily focused on the cultural activities in order to enhance the preservation of culture, art, and traditions. The Forum of Local Children in Bali has the role to advocate the government to keep them involved in the process of planning. The meeting in this forum is held in every 3 months. The process begins with the formation of forum corresponded to the district and school, then opened registration via Internet in cooperation with all forum in Bali Province. It is an organization run by and for the children in order to minimizes violation or problem toward children. There are several annual activities in this forum, such as: the celebration of Children’s National Day, competition, socialization, and the election of children ambassador of Bali.

It uphold the principle of human security, where there is non discrimination and the principle of coordination. This response are run with the cooperation and

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coordination among the regional work unit, the university, Non-Governmental Organization, and mass media. In implementing the Regional Law of Bali on Child Protection also have challenges, such as to build the understanding of gender equality in order to strengthening the capacity of children to be able to answer the challenges of the future. The whole protection for children in the Regional Law of Bali no 6 year 2014 on Child Protection is ensured by the Governor of Bali and also run by the Board of Women Empowerment and Child Protection, Local Worker Union (SKPD), family, society, and business sector (Article 11).

This program is applying the standards base on the Regional Law of Bali on Child Protection to fulfill the rights for children to grow, such as: the rights of education, rights to play, rights to leisure, social, and cultural activities, and also the rights for the access to get information. It applies the principle of human security by providing this forum where the children are educated in the way it should be. The principles of human security are the principle to be free from violation and free to get the basic needs of children. It is found in this program by holding various activities and competitions to train the skills and intelligence of children. The basic needs of children that mentioned above, need to be protected through the cooperation among family, government, business sector, and the civil society (base on the Regional Law of Bali Part II Article 15). In Part IV Article 21 of this Regional Law, there is the provision of shelter for child victims of sexual exploitation which named as home social protection of children 85

Cooperation and coordination to realize the City Fit for Children and Forum of Local Children are the important role that should be taken not only by government, but also by the society as stated in Chapter VI about “The Role of Society”. It is specifically regulated that the role of cooperation by family, civil society, Desa Pakraman (designation for the indigenous people in Bali province), and also the business sector are important for child protection in the way of giving

attention and reporting the violations of children to the institutions that is responsible for it.

Besides of those two programs, the Governor of Bali is cooperating with the national government by sending yearly report of program and the implementation of protection to the Minister of Home Affairs and Minister of Women Empowerment and Child Protection (Chapter IX Article 29). This form of coordination could show how important is the human security for the local and national government. This issue does not only recorded, but also handled through the Law.

In this Regional Law on Child Protection, there is also the criminal provisions (penalty) as the response of government to combat this case that given to the perpetrators determined in Chapter XIII Article 33 of Bali Regional Law on Child Protection. The penalty or the provisions could be in the form of arrastment or fine. Criminal defined in this law is reffered to any kind of violation, including of sexual exploitation on children. As analyzed in this thesis, in the year of 2011-2015 there is the case of Robert Andrew Fiddes Ellis, the Australian man in about 70 years old that harm about 15 children in Bali, and sentenced for 15 years in jail based on the Regional Law of Bali No 6 year 2014 announced by the prosecutor office of Denpasar.\(^{86}\)

This case is violating the concept and principles of human security. It violated the principle of human security to protect the rights of children (freedom from want). This case dropped the interests of children in spite of upholding their rights. CST case is known as an iceberg phenomenon, as mentioned by Inspector General Sugeng Priyanto, the Chief Police of Bali. Means, there is no specific number of case and it could hamper the effectiveness of government performance.\(^{87}\)

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The Government of Bali through its Regional Law also provide the rights of education for child victims of sexual exploitation. It could be achieved in the program of home schooling, or move to the another school in order to protect child victims from ongoing violation or further exploitation. These all responses of government through the Regional Law of Bali no 6 year 2014 on Child Protection are aimed to reduce threat to human security and create welfare for children.\textsuperscript{88}

CHAPTER V
CONCLUSION

5.1. Introduction
This chapter as the last part of this thesis research will provide the reader about the elaboration of conclusion of this thesis research and to give a brief and clear explanation about the purpose of explanation from chapter 1 to chapter 4 of this thesis research.

5.2. Conclusion
There are several significant results of Bali government in implementing the Regional Law of Bali on Child Protection as the response to the Convention on the Rights of the Child (CRC) that shown by several events and programs that established since the implementation of Regional Law of Bali No 6 year 2014 concern on Child Protection as the response to the National Law no 23 year 2002 on Child Protection that was adopted from the Convention on the Rights of the Child. The results are shown through the program of City Fit for Children and Forum of Local Children which train the children and give them opportunity to grow well. Besides of those two programs, there are also shelter provided by the government in order to give the education and recovery for child victims.

Local Government of Bali provides sentence and fine for the perpetrators base on the Regional Law in order to create a deterrent effect to end the actions of violation. In this research during the year of 2011-2015 there is case of Robert Ellis which exploited about 15 children (reported) and he was sentenced base on the Regional Law of Bali on Child Protection to get 15 years in jail. In the other hand, there is also the education program for children to increase their knowledge and awareness to avoid the development of children rights violation in Bali.

However, the implementation of this Law can not be stopped here, it must be sustainable because the case of Commercial Sexual Exploitation of Children is going more widespread nowadays. Child sex tourism would not only harm the child victims, but also detrimental to the state or the location where the sexual
exploitation of children take place. It could damage the image of Bali as the destination for having sexual contact with children which also possible to decrease the number of tourist or visitor to Bali and possible to affect the decreasing amount of Bali local income which could create more unemployment and poverty. Child sex tourism occur because of poverty, lack of education, the children that are forced into prostitution because of debt bondage, weak implementation of the Child Protection Law, and child victims of natural disasters.

The entire response to this case based on the Regional Law of Bali no 6 year 2014 is the application to the concept of Human Security. As stated by Barry Buzan in the book of “Human Security: What It Means, and What It Entails”, the world nowadays is threatened by non-traditional security (threat for human security, such as trafficking and exploitation). All the response done by government in cooperation with the civil society and the related institutions lead to the fulfillment of children rights as the way to achieve the principles of human security, which is Freedom from fear (free from violence), and Freedom from want (free to get the basic needs which is the rights for children).

At last, the success of Bali Government in combating the case could not measure by the specific number of cases or the perpetrators that arrested, as this case is known as an iceberg phenomenon. Which means the number of the unseen cases are actually more than the seen cases in the surface. Thus, the success of Government in implementing the Regional Law of Bali No 6 year 2014 to combat this case could seen from the measure and the response of government year by year in participating to uphold and protect the children rights through the program and services as mentioned above to create welfare for children and for the people of Bali.
Bibliography


APPENDIX

Appendix 1. Convention on the Rights of the Child

The Convention on the Rights of the Child is a legal treaty for children rights protection under United Nations that is used in this thesis research.

Convention on the Rights of the Child

Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”,

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,
Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

**PART I**

**Article 1**

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

**Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.

**Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 4**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

**Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

**Article 6**
1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their
own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

   (a) For respect of the rights or reputations of others; or

   (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16
1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

**Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

**Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

**Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described hereofore, and, as appropriate, for judicial involvement.

**Article 20**
1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

**Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States Parties are parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

**Article 23**
1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child’s condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.
Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy.
(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute
a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

**Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights.

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

**Article 45**
In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any
amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

**Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

**Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

**Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

**Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.
Appendix 2. Regional Law of Bali Number 6 year 2014

GUBERNUR BALI
PERATURAN DAERAH PROVINSI BALI
NOMOR 6 TAHUN 2014
TENTANG PERLINDUNGAN ANAK
DENGAN RAHMAT TUHAN YANG MAHA ESA

GUBERNUR BALI,

Menimbang : a. bahwa anak anugerah Tuhan Yang Maha Esa yang merupakan generasi penerus bangsa dan dalam dirinya melekat harkat dan martabat sebagai manusia seutuhnya yang harus dipertanggungjawabkan keberadaannya, sehingga perlu dilakukan upaya terarah, sistematis dan bermakna untuk menghormati, melindungi serta menjamin terpenuhinya hak anak;

b. bahwa di Provinsi banyak anak yang perlu mendapat perlindungan dari berbagai bentuk tindak kekerasan, eksploitasi dan keterlantaran yang menjadi tanggung jawab Pemerintah Daerah, masyarakat dan keluarga;

c. bahwa dalam rangka memberikan arahan, landasan, dan kepastian hukum bagi Pemerintah Daerah, masyarakat dan keluarga dalam perlindungan anak perlu diadakan pengaturan tentang Perlindungan Anak;

d. bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, huruf b dan huruf c, perlu membentuk Peraturan Daerah tentang Perlindungan Anak;
Mengingat:

1. Pasal 18 ayat (6) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;
2. Undang-Undang Nomor 64 Tahun 1958 tentang Pembentukan Daerah-daerah Tingkat I Bali, Nusa Tenggara Barat dan Nusa Tenggara Timur (Lembaran Negara Republik Indonesia Tahun 1958 Nomor 115, Tambahan Lembaran Negara Republik Indonesia Nomor 1649);
3. Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 165, Tambahan Lembaran Negara Republik Indonesia Nomor 3886);
4. Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak (Lembaran Negara Republik Indonesia Tahun 2002 Nomor 109, Tambahan Lembaran Negara Republik Indonesia Nomor 4235);
5. Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 95 Tambahan Lembaran Negara Republik Indonesia Nomor 4419);
6. Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 125, Tambahan Lembaran Negara Republik Indonesia Nomor 4437) sebagaimana telah diubah beberapa kali, terakhir dengan Undang-Undang Nomor 12 Tahun 2008 tentang Perubahan Kedua Atas Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 59, Tambahan Lembaran Negara Republik Indonesia Nomor 4844);
7. Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82, Tambahan Lembaran Negara Republik Indonesia Nomor 5234);
13. Peraturan Menteri Dalam Negeri Nomor 1 Tahun 2014 tentang Pembentukan Produk Hukum Daerah (Berita Negara Republik Indonesia Tahun 2014 Nomor 32);
14. Peraturan Daerah Propinsi Bali Nomor 3 Tahun 2001 tentang Desa
Pakraman (Lembaran Daerah Propinsi Bali Tahun 2001 Nomor 29, Seri D Nomor 29) sebagaimana telah diubah dengan Peraturan Daerah Propinsi Bali Nomor 3 Tahun 2003 tentang Perubahan Atas Peraturan Daerah Propinsi Bali Nomor 3 Tahun 2001 tentang Desa Pakraman (Lembaran Daerah Provinsi Bali Tahun 2003 Nomor 11);

15. Peraturan Daerah Propinsi Bali Nomor 1 Tahun 2008 tentang Urusan Pemerintahan Daerah Provinsi Bali (Lembaran Daerah Provinsi Bali Nomor 1 Tahun 2008, Tambahan Lembaran Negara Republik Indonesia Nomor 1);

Dengan Persetujuan Bersama

DEWAN PERWAKILAN RAKYAT DAERAH PROVINSI BALI

Dan GUBERNUR BALI

MEMUTUSKAN:

Menetapkan: PERATURAN DAERAH TENTANG PERLINDUNGAN ANAK

BAB I

KETENTUAN UMUM

Pasal 1

Dalam Peraturan Daerah ini yang dimaksud dengan:

1. Daerah adalah Provinsi Bali.
2. Pemerintah Provinsi adalah Pemerintah Provinsi Bali.
5. Kabupaten/Kota adalah Kabupaten/Kota se-Bali.
6. Anak adalah seseorang yang belum berusia 18 (delapan belas) tahun, termasuk anak yang masih dalam kandungan.
7. Hak anak adalah bagian dari hak asasi manusia yang wajib dimajukan, dilindungi, dipenuhi, dan dijamin oleh orang tua, keluarga, masyarakat, pemerintah, dan negara.
8. Pengarusutamaan Hak Anak yang selanjutnya disebut PUHA adalah strategi perlindungan anak dengan mengintegrasikan hak anak ke dalam setiap kegiatan pembangunan yang sejak penyusunan perencanaan, penganggaran, pelaksanaan, pemantauan, dan evaluasi.
dari berbagai peraturan perundangan-undangan, kebijakan, program, dan kegiatan dengan menerapkan prinsip kepentingan terbaik bagi anak.

9. Perlindungan anak adalah segala kegiatan untuk menjamin dan melindungi anak dan hak-haknya agar dapat hidup, tumbuh, berkembang, dan berpartisipasi, secara optimal sesuai dengan harkat dan martabat kemanusiaan, serta mendapat perlindungan dari kekerasan dan diskriminasi.


11. Keluarga adalah unit terkecil dalam masyarakat yang terdiri dari suami istri dan anaknya, atau ayah dan anaknya, atau ibu dan anaknya, atau keluarga sedarah dalam garis lurus ke atas atau kebawah sampai dengan derajat ketiga.

12. Masyarakat adalah perseorangan, keluarga, kelompok, dan organisasi sosial dan/atau organisasi kemasyarakatan.

13. Dunia usaha adalah usaha mikro, usaha kecil, usaha menengah dan usaha besar yang melakukan kegiatan ekonomi.

14. Partisipasi Anak adalah keterlibatan anak dalam proses pengambilan keputusan tentang segala sesuatu yang berhubungan dengan dirinya dan dilaksanakan atas kesadaran, pemahaman serta kemauan bersama sehingga anak dapat menikmati hasil atau mendapatkan manfaat dari keputusan tersebut.

15. Satuan Kerja Perangkat Daerah yang selanjutnya disebut SKPD adalah Unit kerja yang tugas dan fungsinya menangani perlindungan anak yang berbentuk Dinas,Badan atau Kantor.


17. Anak yang membutuhkan perlindungan khusus adalah anak dalam situasi darurat, anak yang berhadapan dengan hukum, anak dari kelompok minoritas dan terisolasi, anak yang tereksposisi secara ekonomi dan/atau seksual, anak yang diperdagangkan, anak korban penyalahgunaan narkotika, alkohol, psikotropika dan zat adiktif lainnya (napza), anak korban penculikan, penjualan, dan perdagangan, anak korban kekerasan fisik dan/atau mental, anak yang menyandang cacat, dan anak korban perlakuan salah dan penelantaran.

18. Rumah Perlindungan Sosial Anak (RPSA)/Rumah Aman adalah tempat tinggal sementara, yang diberikan untuk memberikan perlindungan terhadap korban sesuai dengan standar yang telah ditentukan.
19. Forum Anak Daerah yang selanjutnya disebut FAD adalah wadah partisipasi anak dalam upaya untuk meningkatkan kapasitas anak dalam memahami permasalahan anak dan hak-hak anak, memahami proses penyusunan kebijakan dan peningkatan kapasitas dalam pengorganisasian kelompok anak dan penyampaian aspirasi anak.

20. Layanan kesehatan adalah pemulihan korban dari gangguan kesehatan yang dideritanya baik fisik maupun psikis.

21. Lembaga masyarakat adalah lembaga yang dibentuk oleh anggota masyarakat Warga Negara Indonesia secara sukarela atas dasar kesamaan visi, misi, profesi, fungsi dan kegiatan untuk berperan serta dalam pembangunan guna mencapai tujuan nasional dalam wadah Negara Kesatuan Republik Indonesia yang berdasarkan Pancasila, yang terdiri dari organisasi keagamaan, lembaga swadaya masyarakat, organisasi profesi, organisasi swasta, organisasi sosial, organisasi politik, media massa, dan bentuk organisasi lainnya.

BAB II

HAK ANAK

Pasal 2

Setiap anak berhak untuk dapat hidup, tumbuh, berkembang, dan berpartisipasi secara wajar sesuai dengan harkat dan martabat kemanusiaan, serta mendapat perlindungan dari kekerasan, diskriminasi, eksploitasi dan Trafiking.

BAB III

KEWAJIBAN ANAK

Pasal 3

Setiap anak berkewajiban untuk:

a. menghormati orang tua, wali, dan guru;
b. mencintai keluarga, masyarakat, dan menyayangi teman;
c. mencintai tanah air, bangsa, dan negara;
d. menuaikan ibadah sesuai dengan ajaran agamanya; dan
e. melaksanakan etika dan akhlak yang mulia.

BAB IV

PERENCANAAAN
Pasal 4

Gubernur mengintegrasikan kebijakan, program, dan kegiatan perlindungan anak ke dalam perencanaan pembangunan daerah.

Pasal 5

(1) Pengintegrasian kebijakan, program dan kegiatan pembangunan perlindungan anak di daerah dituangkan ke dalam:
   a. Rencana Pembangunan Jangka Panjang Daerah (RPJPD);
   b. Rencana Pembangunan Jangka Menengah Daerah (RPJMD);
   c. Rencana Strategis Satuan Kerja Perangkat Daerah (Renstra-SKPD);
   d. Rencana Kerja Pembangunan Daerah (RKPD); dan
   e. Rencana Kerja dan Anggaran Satuan Kerja Perangkat Daerah (RKA-SKPD).

(2) Pengintegrasian kebijakan, program dan kegiatan pembangunan perlindungan anak sebagaimana dimaksud pada ayat (1) mengacu kepada kebijakan nasional Perlindungan Anak.

(3) Ketentuan mengenai pengintegrasian kebijakan, program dan kegiatan pembangunan perlindungan anak sebagaimana dimaksud pada ayat (1) dituangkan di dalam Renstra SKPD.

Pasal 6

(1) Gubernur menjamin pelaksanaan pemenuhan hak anak melalui pengembangan kebijakan KLA.

(2) Gubernur mengkoordinasikan pelaksanaan kebijakan sebagaimana dimaksud pada ayat (1) dengan Kabupaten/Kota.

(3) Pengembangan kebijakan KLA sebagaimana dimaksud pada ayat (1) dilaksanakan oleh Kabupaten/Kota.

BAB V

PENYELENGGARAAN

Pasal 7

(1) Gubernur menjamin pelaksanaan penyelenggaraan perlindungan anak.

(2) Perlindungan anak dilaksanakan oleh Badan Pemberdayaan Perempuan dan Perlindungan Anak, SKPD, keluarga, KPPAD, masyarakat dan dunia usaha.

Pasal 8

Gubernur dalam menyelenggaraan Perlindungan Anak sebagaimana
dimaksud dalam Pasal 7 ayat (1) melakukan:

a. koordinasi pelaksanaan kebijakan, program, dan kegiatan perlindungan anak antar SKPD dan antar kabupaten/kota di wilayahnya;
b. koordinasi pelaksanaan kebijakan perlindungan anak di daerah yang diintegrasikan ke dalam KLA;
c. kerjasama dengan provinsi lain, dan kabupaten/kota di provinsi lain, serta fasilitasi kerjasama antar kabupaten/kota di wilayahnya dalam pelaksanaan kebijakan, program dan kegiatan perlindungan anak, sesuai dengan ketentuan peraturan perundang-undangan;
d. penguatan kapasitas kelembagaan PUHA untuk pelaksanaan kebijakan, program dan kegiatan perlindungan anak;
e. penyusunan sistem pendataan perlindungan anak;
f. fasilitasi dan penyediaan pelayanan perlindungan anak; dan
g. pelaksanaan aksi afirmasi perlindungan anak.

Pasal 9

(1) Penyelenggaraan Perlindungan anak meliputi:
   a. pemenuhan hak untuk bertahan hidup;
   b. pemenuhan hak terhadap tumbuh kembang;
   c. pemenuhan hak untuk berpartisipasi; dan
   d. pemenuhan hak mendapatkan perlindungan terhadap kekerasan dan diskriminasi.

(2) Setiap orang wajib melaksanakan perlindungan anak sebagaimana dimaksud pada ayat (1).

Bagian Kesatu

Hak untuk Bertahan Hidup

Pasal 10

Pemenuhan hak anak untuk bertahan hidup meliputi:

a. hak atas standar hidup yang layak;
   b. hak mendapatkan makanan bergizi;
   c. hak mendapatkan pangan, sandang dan papan; dan
   d. hak mendapatkan pelayanan kesehatan.

Pasal 11

Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha berkewajiban dalam pemenuhan dan menjamin terpenuhinya hak atas standar hidup yang layak bagi anak.
Pasal 12
Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha mengupayakan pemenuhan dan menjamin terpenuhinya hak untuk mendapatkan pangan dan gizi yang sehat dan seimbang, berkualitas dan aman bagi anak.

Pasal 13
Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha berkewajiban dalam pemenuhan dan menjamin terpenuhinya hak atas sandang, pangan dan papan yang layak bagi anak.

Pasal 14
(1) Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha menyediakan fasilitas dan menyelenggarakan upaya kesehatan dan kesejahteraan yang standar bagi anak sejak dalam kandungan;
(2) Penyelenggaraan upaya kesehatan dan kesejahteraan sebagaimana dimaksud pada ayat (1) meliputi perlindungan dan/atau pemenuhan terhadap:
   a. anak penyandang disabilitas;
   b. anak yang mengalami gangguan tumbuh kembang;
   c. pemenuhan layanan kesehatan; dan
   d. jaminan layanan sosial.
(3) Upaya kesehatan sebagaimana dimaksud pada ayat (2) meliputi upaya promotif, preventif, kuratif, dan rehabilitatif terhadap pelayanan kesehatan dasar maupun rujukan.

Bagian Kedua
Hak Anak Untuk Tumbuh kembang

Pasal 15
Pemenuhan hak anak untuk Tumbuh kembang meliputi:
   a. hak atas pendidikan;
   b. hak atas bermain;
   c. hak atas memanfaatkan waktu luang, aktifitas sosial budaya; dan
   d. hak atas akses terhadap informasi.
Pasal 16

(1) Gubernur mengupayakan penyelenggaraan pendidikan formal dan non formal bagi anak, didukung oleh peran serta masyarakat dan dunia usaha sesuai dengan tujuan pendidikan nasional.

(2) Gubernur menjamin terselenggaranya program wajib belajar untuk semua anak sesuai ketentuan peraturan perundang-undangan.

Pasal 17

Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha berkewajiban menyediakan sarana bermain sesuai dengan syarat kesehatan dan keselamatan terhadap anak.

Pasal 18

Gubernur, masyarakat dan Lembaga Masyarakat menyediakan sarana pemenuhan hak anak untuk pemanfaatan waktu luang dan aktivitas sosial budaya.

Pasal 19

Gubernur didukung peran serta keluarga, masyarakat dan dunia usaha mengupayakan dan membantu anak untuk bebas mengakses informasi lisan dan tulisan sesuai dengan tahapan usia dan perkembangan anak.

Bagian Ketiga

Hak untuk Partisipasi

Pasal 20

(1) Partisipasi Anak berupa bentuk keterlibatan anak dalam proses pengambilan keputusan dan menikmati perubahan yang berkenaan dengan hidup mereka baik secara langsung maupun tidak langsung, sesuai dengan usia, pemahaman, dan kematangan berpikir.

(2) Gubernur membentuk FAD dengan Keputusan Gubernur.

(3) Setiap anak berhak menjadi anggota FAD.

(4) Ketentuan mengenai tata cara pembentukan FAD diatur lebih lanjut dalam Peraturan Gubernur.

Bagian Keempat
Hak untuk Perlindungan Terhadap Kekerasan dan Diskriminasi

Pasal 21

(1) Pemenuhan hak anak atas Perlindungan Khusus meliputi:
   a. anak yang berhadapan dengan hukum;
   b. anak yang tereksplotasi secara ekonomi dan/atau seksual;
   c. anak korban traficking;
   d. anak korban penyalahgunaan narkotika, alkohol, psikotropika dan zat adiktif lainnya;
   e. anak korban penularan HIV/AIDS;
   f. anak korban penculikan;
   g. anak terlantar dan anak jalanan;
   h. anak korban kekerasan;
   i. anak korban bencana alam atau bencana sosial;
   j. anak penyandang cacat/disabilitas;
   k. anak korban perlakuan salah; dan
   l. anak dari kelompok minoritas yang terisolasi.

(2) Ketentuan lebih lanjut mengenai tata cara pemenuhan hak anak atas Perlindungan Khusus sebagaimana dimaksud pada ayat (1) diatur dalam Peraturan Gubernur.

Pasal 22

Gubernur dalam rangka memberikan perlindungan khusus sebagaimana dimaksud dalam Pasal 21 ayat (1) membentuk Rumah Perlindungan Sosial Anak (RPSA) dan/atau Rumah Aman.

BAB VI

PERAN MASYARAKAT

Pasal 23

(1) Keluarga, masyarakat, Desa Pakraman dan dunia usaha berhak untuk berperan serta dalam perlindungan anak termasuk melaporkan kekerasan dan penelantaran anak Kepada pihak yang berwajib dan/atau berwenang.

(2) Peran masyarakat sebagaimana dimaksud dalam ayat (1) dilakukan oleh orang perseorangan dan Lembaga Masyarakat.

BAB VII
KOMISI PENYELENGGARA PERLINDUNGAN ANAK DAERAH

Pasal 24

(1) Gubernur membentuk KPPAD.
(2) Keanggotaan KPPAD sebagaimana dimaksud ayat (1) diangkat dan diberhentikan oleh Gubernur setelah mendapat persetujuan DPRD Provinsi.
(3) Ketentuan mengenai struktur keanggotaan KPPAD diatur lebih lanjut dalam Peraturan Gubernur.
(4) KPPAD menyampaikan laporan setiap tahun kepada Gubernur.

Pasal 25

Fungsi dan Tugas KPPAD sebagaimana dimaksud dalam Pasal 24 meliputi:

a. memberikan masukan kepada pemerintah daerah dalam perencanaan program;

b. melakukan koordinasi, sosialisasi dan penyuluhan tentang perlindungan anak;

c. memberikan advokasi, pemantauan dan evaluasi perencanaan dan pelaksanaan perlindungan anak; dan

d. melakukan pencatatan dan pelaporan terhadap pelaksanaan program dan penanganan kasus perlindungan anak di daerah.

BAB VIII

PEMANTAUAN DAN EVALUASI

Pasal 26

(1) Gubernur melakukan pemantauan untuk menjamin sinergi, kesinambungan, dan efektivitas langkah-langkah secara terpadu dalam pelaksanaan kebijakan, program, dan kegiatan perlindungan anak.
(2) Pemantauan sebagaimana dimaksud pada ayat (1) untuk mengetahui perkembangan dan hambatan dalam pelaksanaan kebijakan, program, dan kegiatan perlindungan anak di Daerah.
(3) Pemantauan dilakukan secara berkala melalui koordinasi antara SKPD dan lembaga-lembaga menangani perlindungan anak yang di Daerah.
(4) Pemantauan dilakukan mulai dari perencanaan sampai dengan pelaksanaan kebijakan, program, dan kegiatan perlindungan anak.

Pasal 27
Gubernur melakukan evaluasi pelaksanaan kebijakan, program, dan kegiatan perlindungan anak dilakukan setiap tahun dan/atau sesuai kebutuhan.

Hasil evaluasi pelaksanaan kebijakan, program, dan kegiatan perlindungan anak digunakan sebagai bahan masukan bagi penyusunan kebijakan, program, dan kegiatan perlindungan anak untuk tahun berikutnya.

Evaluasi sebagaimana dimaksud pada ayat (1) dilaksanakan sesuai ketentuan ketentuan peraturan perundang-undangan.

Pasal 28

Gubernur melakukan pemantauan dan evaluasi pelaksanaan kebijakan, program, dan kegiatan perlindungan anak di kabupaten/kota.

BAB IX

PELAPORAN

Pasal 29


(2) Pelaporan pelaksanaan sebagaimana dimaksud pada ayat (1) dilakukan setiap tahun.

(3) Bentuk pelaporan sebagaimana dimaksud pada ayat (1) dilaksanakan sesuai ketentuan peraturan perundang-undangan.

BAB X

PENDANAAN

Pasal 30

Pendanaan pelaksanaan kebijakan, program, dan kegiatan perlindungan anak di daerah bersumber dari:

a. Anggaran Pendapatan dan Belanja Daerah; dan

b. sumbangan dan bantuan dari pihak ketiga dan/atau lembaga lain yang sah dan tidak mengikat.
BAB XI
PEMBINAAN DAN PENGAWASAN
Pasal 31
(1) Gubernur melakukan pembinaan dan pengawasan atas penyelenggaraan kebijakan, program, dan kegiatan perlindungan anak.
(2) Gubernur melakukan koordinasi dengan Bupati/Walikota atas penyelenggaraan pembinaan dan pengawasan sebagaimana dimaksud pada ayat (1).
(3) Gubernur dapat membentuk Tim dalam rangka penyelenggaraan pembinaan dan pengawasan sebagaimana dimaksud pada ayat (1).

BAB XII
KETENTUAN PENYIDIKAN
Pasal 32
(1) Penyidik Pegawai Negeri Sipil di lingkungan Pemerintah Provinsi mempunyai wewenang untuk menyidik pelanggaran tehadap ketentuan Peraturan Daerah ini.
(2) Wewenang Penyidik sebagaimana dimaksud pada ayat (1) meliputi:
   a. menerima, mencari, mengumpulkan, dan meneliti keterangan atau laporan berkenaan dengan tindak pidana di bidang Perlindungan Anak agar keterangan atau laporan tersebut menjadi lebih lengkap dan jelas;
   b. meneliti, mencari, dan mengumpulkan keterangan mengenai orang pribadi atau Badan tentang kebenaran perbuatan yang dilakukan sehubungan dengan tindak pidana Perlindungan Anak;
   c. meminta keterangan dan bahan bukti dari orang pribadi atau Badan sehubungan dengan tindak pidana Perlindungan Anak;
   d. memeriksa buku, catatan, dan dokumen lain berkenaan dengan tindak pidana di bidang Perlindungan Anak;
   e. melakukan penggeledahan untuk mendapatkan bahan bukti pembukuan, pencatatan, dan dokumen lain, serta melakukan penyitaan terhadap barang bukti tersebut;
   f. meminta bantuan tenaga ahli dalam rangka pelaksanaan tugas penyidikan tindak pidana di bidang Perlindungan Anak;
   g. menyuruh berhenti dan/atau melarang seseorang meninggalkan ruangan atau tempat pada saat pemeriksaan sedang berlangsung dan memeriksa identitas orang, benda, dan/atau dokumen yang dibawa;
   h. memotret seseorang yang berkaitan dengan tindak pidana
Perlindungan Anak;
   i. memanggil orang untuk didengar keterangan dan diperiksa sebagai tersangka atau saksi;
   j. menghentikan penyidikan; dan/atau
   k. melakukan tindakan lain yang perlu untuk kelancaran penyidikan tindak pidana Perlindungan Anak sesuai dengan ketentuan peraturan perundang-undangan.

(3) Penyidik sebagaimana dimaksud pada ayat (1) memberitahukan dimulainya penyidikan dan menyampaikan hasil penyidikannya kepada Penuntut Umum melalui Penyidik Pejabat Polisi Negara Republik Indonesia, sesuai dengan ketentuan yang diatur dalam Undang-Undang Hukum Acara Pidana dan Undang-Undang Sistem Peradilan Pidana Anak.

BAB XIII

KETENTUAN PIDANA

Pasal 33

(1) Setiap orang yang melanggar ketentuan sebagaimana dimaksud dalam Pasal 9 ayat (2) dipidana dengan pidana kurungan paling lama 6 (enam) bulan atau denda paling banyak Rp. 50.000.000,00 (lima puluh juta rupiah).

(2) Tindak pidana sebagaimana dimaksud pada ayat (1), merupakan pelanggaran.

(3) Selain ancaman pidana sebagaimana dimaksud pada ayat (1), dapat juga dipidana dengan pidana sesuai ketentuan peraturan perundang-undangan.

BAB XIV

KETENTUAN PENUTUP

Pasal 34

Peraturan Daerah ini mulai berlaku pada tanggal diundangkan.

Agar setiap orang mengetahuinya memerintahkan pengundangan Peraturan Daerah ini dengan penempatannya dalam Lembaran Daerah Provinsi Bali.
Ditetapkan di Denpasar pada tanggal 11 Agustus 2014

GUBERNUR BALI,

MADE MANGKU PASTIKA

Diundangkan di Denpasar pada tanggal 11 Agustus 2014

SEKRETARIS DAERAH PROVINSI BALI,

COKORDA NGURAH PEMAYUN