

# Violations of Rights of Children With Stunting in Indonesia

*Pelanggaran Hak Anak Stunting di Indonesia*

**Yohanes Leonard Suharso**

email: yohanesleonard12@gmail.com

Master of Health Law, Soegijapranata Catholic University Semarang

**Abstract:** Every child, including children with stunting, has the right to grow and develop. It has been stated in the Convention on the Rights of the Child and agreed upon by all participating countries, including Indonesia. The rights of children with stunting must be seen as the same rights as the rights of children who grow up healthily and optimally. Therefore, the state and parents are obliged to respect, protect, and fulfil the child's rights. Community Health Centers (Pusat Kesehatan Masyarakat/Puskesmas), health service providers owned by the government, are responsible for-realizing the rights of children with stunting. The problem found is that the prevalence of children with stunting in Indonesia in 2018 was 30.8% which is considered high (the WHO recommended prevalence limit is 20%). In addition, the lack of seriousness in stunting management also occurred in the work area of the Pegang Baru Community Health Center, Pasaman Regency, West Sumatra Province. Many stunting management programs are not carried out based on Standard Operational Procedure (SOP) which is considered only as a formality. In writing this conceptual article, a normative juridical approach was used by using secondary legal sources. The current state of stunting in Indonesia shows a violation of the right to grow and develop as well as the right to obtain proper health services for children with stunting by the state through the health centre as a functional unit.

**Keywords:** Children with Stunting; Rights; Violation; State; Community Health Center

**Abstrak:** Setiap anak, termasuk anak stunting, mempunyai hak untuk tumbuh dan berkembang. Hal ini telah tertuang dalam Konvensi Hak Anak dan disepakati oleh seluruh negara peserta, termasuk Indonesia. Hak anak stunting harus dilihat sebagai hak yang sama dengan hak anak untuk tumbuh sehat dan optimal. Oleh karena itu, negara dan orang tua wajib menghormati, melindungi, dan memenuhi hak-hak anak. Pusat Kesehatan Masyarakat (Pusat Kesehatan Masyarakat/Puskesmas), penyedia layanan kesehatan milik pemerintah, bertanggung jawab untuk mewujudkan hak-hak anak stunting. Permasalahan yang ditemukan adalah prevalensi anak stunting di Indonesia pada tahun 2018 sebesar 30,8% tergolong tinggi (batas prevalensi yang direkomendasikan WHO adalah 20%). Selain itu, kurang seriusnya penanganan stunting juga terjadi di wilayah kerja Puskesmas Pegang Baru, Kabupaten Pasaman, Provinsi Sumatera Barat. Banyak program penanganan stunting yang tidak dilaksanakan berdasarkan Standar Operasional Prosedur (SOP) yang dianggap hanya sekedar formalitas. Dalam penulisan artikel konseptual ini digunakan pendekatan yuridis normatif dengan menggunakan sumber hukum sekunder. Kondisi stunting di Indonesia saat ini menunjukkan adanya pelanggaran terhadap hak tumbuh dan berkembang serta hak memperoleh pelayanan kesehatan yang layak bagi anak stunting yang dilakukan oleh negara melalui puskesmas sebagai unit fungsional.

**Kata kunci:** Anak Stunting; Hak; Pelanggaran; Negara; Puskesmas

## INTRODUCTION

Children are a gift from God Almighty, so their rights to grow up and develop must be protected according to their nature. As the next generation of the nation, children must acquire better access to health services. The values embedded in children are used as

universal norms because children stand as whole human beings, so protection of the rights of the child is obligatory.

This view makes adults have to take full responsibility for their children in the world. Such child protection is part of the implementation of human rights universally protected since December 10th, 1948, when the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR). The Rights of the Child identified in Article 25 paragraph (2) of the UDHR stated that "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."

Among all human rights that must be respected by states, one of the rights that becomes a priority is health issues. Health right is a priority besides educational right in the Convention on the Rights of the Child because children must have good nutrition and proper health care. Therefore, children can grow up and develop according to their milestones. Stunting appears as one of the child's nutrition problems on which the United Nations has focused for a long time.<sup>1</sup>

Stunting often goes unrecognized in communities and is a condition of failure to thrive due to chronic malnutrition and psychosocial stimulation as well as exposure to repeated infections, especially in the first 1,000 days of life, from fetus to two years old.<sup>2</sup> Children are classified as stunted if their length or height is below minus two standard deviations (-2 SD) for their age.<sup>3</sup>

Indonesia ranks third with the highest prevalence of stunted children among all nations and fifth with the highest number of children under five experiencing stunting in the Southeast Asia Regional (SEAR) region. The average prevalence of stunting under five in Indonesia from 2005-2017 was 36.4%. The stunting rate fell from 37.2% in 2013 to 30.8% in 2018 based on Riset Kesehatan Dasar/ Riskesdas data. The decline did not occur significantly every year. Overall, the percentage of stunting in Indonesia is still considered high. One of the areas with the highest prevalence of stunting in Indonesia is West Sulawesi Province reaching 41.6%, the second highest in Indonesia.<sup>4</sup>

One of the concrete problems that show the lack of seriousness in stunting management by health service providers is the high number of stunting cases identified in the work area of the Pegang Baru Community Health Centre, Pasaman Regency, West Sumatra Province. From the results of in-depth interviews, document review observations, and Forum Group Discussions (FGD) conducted in this study, it was found that there was minimal funding for stunting nutrition intervention programs. Moreover, many projects were not carried out based on existing guidelines or Standard Operating Procedures (SOP). The SOP is said to be only a formality and administrative completeness.<sup>5</sup>

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<sup>1</sup> Fadlyansyah, Muhammad Haddad, *Analisis Konvensi Hak Anak Dalam Menjamin Perlindungan Kesehatan Anak di Indonesia*, Universitas Trunojoyo Madura, Volume 1 No. 1 Oktober 2020, pp. 1

<sup>2</sup> Haryanti, T., & Nurhayanti. (2019). Penegakan Hukum Hak Asasi Manusia Bagi Anak Penderita Stunting (Enforcement of Human Rights Law For Children With Stunting). *Ham*, 10(2), pp. 249–260.

<sup>3</sup> Direktorat Jenderal Kesehatan Masyarakat Kementerian Kesehatan, 2018, *Pedoman Strategi Komunikasi Perilaku dalam Percepatan Pencegahan Stunting di Indonesia*, pp.18

<sup>4</sup> Kementerian Kesehatan Republik Indonesia. (2018). Situasi Balita Pendek (Stunting) di Indonesia. *Buletin Jendela Data Dan Informasi Kesehatan*, 1, pp. 1–56.

<sup>5</sup> Muthia, G., & Yantri, E. (2019). Evaluasi Pelaksanaan Program Pencegahan Stunting Ditinjau dari Intervensi Gizi Spesifik Gerakan 1000 HPK Di Puskesmas Pegang Baru Kabupaten Pasaman. *Jurnal Kesehatan Andalas*, 8(4), pp. 100–108

The concrete conditions above are very concerning and cause the enormous impact of stunting both in the short and long term for the individual sufferer and the country. Article 28 B paragraph (2) of the 1945 Constitution of the State of the Republic of Indonesia clearly states that every child has the right to survive, grow up, develop, and be protected from violence and discrimination. Related to children's rights, it is also mentioned in various laws and regulations such as Law Number 4 of 1979 concerning Child Welfare, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2002 concerning Child Protection, and even regulated in Law Number 36 of 2009 concerning Health.<sup>6</sup> The potential human rights violations committed by health service providers and the state on a large scale will be the focus of this study.

## RESEARCH METHOD

The author uses normative research with qualitative descriptive analysis methods that seek solutions to the problems by describing and analyzing legal problems found in literature studies and linking them with existing laws and regulations.

## ANALYSIS AND DISCUSSION

### A. Overview of Stunting Management at the Pegang Baru Community Health Center

The prevalence of stunting under five years of age in the work area of the Pegang Baru Community Health Center (Pusat Kesehatan Masyarakat/ Puskesmas), Pasaman Regency, West Sumatra Province from 2015 to 2016 was 17.3% and 26%, respectively. In 2016 there was an increase in the percentage exceeding the WHO limit, 20%. The lack of attention from the community health centre and local government in managing specific nutrition interventions for the first 1000 days of life is seen in,

- a. There is no specific funding for nutrition intervention activities.
- b. Human resources are minimal. There is only one clinical nutritionist with a Diploma III (DIII) education level.
- c. In-depth interviews showed that Standard Operating Procedures and Guidelines for specific nutrition interventions are said to be only an administrative formality.<sup>7</sup>

### B. Human Rights Perspective on Stunting Cases Management by Community Health Center

Human rights are natural rights that belong to all human beings at all times and in all places by virtue. From the womb to the end of life, human rights will always be inherent in humans. The same is true for a child, including those with stunting. They have the right to health care, food/nutrition, and welfare.<sup>8</sup> These rights were enshrined in international regulation, the Convention on the Rights of the Child, and in national regulations starting from the highest to the lowest hierarchy which is the 1945 Constitution of the State of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2002 concerning Child Protection, and Law Number 35 of 2014 concerning Amendments to Law Numb. 23/2002.<sup>9</sup>

Indonesia as a large nation must be fully aware of the importance of the future that will depend on its healthy young generation. Therefore, Indonesia fully supports the Convention

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<sup>6</sup> Haryanti, T., & Nurhayanti. (2019). *Op. Cit.*

<sup>7</sup> Muthia, G., & Yantri, E. (2019). *Op. Cit.*

<sup>8</sup> Haryanti, T., & Nurhayanti. (2019). *Op. Cit.*

<sup>9</sup> Fadlyansyah, Muhammad Haddad. *Op. Cit.*

on the Rights of the Child as one of the international legal arrangements that discuss the state's responsibility for children's rights in the health sector. This support appears in the form of ratification of the convention through Presidential Decree (Keputusan Presiden/Keppres) Numb. 36/1990 concerning Ratification of the Convention on the Rights of the Child. In addition, Indonesia's support for the Universal Declaration of Human Rights is not only an addition to international instruments but also an acknowledgement of the state's responsibility to continue striving for the fulfilment of children's rights and protection.<sup>10</sup> Concisely, there are three obligations of the state to fulfil the human rights that every child has,

a. Obligation to respect

The state is obliged not to interfere with every citizen who encourages rights. The state is prohibited from taking all forms of actions that could restrict each individual with stunting in fulfilling human rights.

b. Obligation to protect

The state is obliged to protect every child, including children with stunting, from all actions that have the potential to violate human rights.

c. Obligation to fulfill

The state is obliged to make active efforts both in the form of legislative, administrative, and formulation so that every citizen, including children with stunting, can enjoy every right.<sup>11</sup>

Article 6 paragraph (1) of the Convention on the Rights of the Child stated that "States Parties recognize that every child has the inherent right to life". One of the rights attached to every child is the right to live a healthy life, so every state must always respect, protect and fulfill these rights. Additionally, Article 24 paragraph (1) of the Convention on the Rights of the Child explicitly stated that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and 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." Pegang Baru Community health center as an extension of the state and government is not serious enough in managing the stunting cases carried out through specific nutrition intervention programs.

This situation could be interpreted as neglect of responsibilities. Based on the perspective of the Convention on the Rights of the Child which has been ratified in the national regulation, the form of recognition of the health rights of a child with stunting must include actions to respect, protect, and fulfill these rights. In conclusion, what has been done by the Pegang Baru Community Health Center as part of the functional component of government in the health sector violates the articles of the Convention on the Rights of the Child.

### **C. Potential Violations on the Rights of the Child with Stunting by the State on A Large Scale**

The high number of children with stunting in Indonesia makes Indonesia ranks third with the highest prevalence of stunting in Southeast Asia. This condition encourages the government to formulate various legal products that become the basis of legality in making policies to

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<sup>10</sup> Annashy, A. N. F. (2018). Tanggung Jawab Negara terhadap Perlindungan Hak-Hak Anak di Bidang Kesehatan. *Lex Et Societatis*, 6(10), 154–161.

<sup>11</sup> Ashri, M. (2018). *Hak Asasi Manusia: Filosofi, Teori dan Instrumen Dasar*. Makassar: CV. Social Politic Genius

overcome stunting problems threatening the nation's future. The legal products provided by the government are as follows:

**Tabel 1:**  
**Legal Products that protect the Rights of the Child with Stunting**

1945 Constitution of the State of the Republic of Indonesia	<p><b>Article 28 B Paragraph (2)</b> Every child has the right to survive, grow up, and develop and has the right to be protected from violence and discrimination.</p>
Law Numb. 36 of 2009 concerning Health	<p><b>Article 142 Paragraph (1) and (3)</b> (1) Efforts to improve nutrition are carried out in the entire life cycle from the fetal period to the elderly period with priority to vulnerable groups: a. Babies and toddlers b. Teenage girl c. Pregnant and lactating mothers (3) The government is responsible for fulfilling adequate nutrition for poor families and in emergency situations.</p> <p><b>Article 143</b> The government is responsible for increasing public knowledge and awareness about the importance of nutrition and its effect on improving nutritional status.</p>
Law Numb. 18 of 2012 concerning Food	<p><b>Article 12 Paragraph (1) and (4)</b> (1) The Government and Regional Governments are responsible for Food Availability. (4) Food supply realization has to be done to meet the needs and consumption of Food for the community, households, and individuals in a sustainable manner.</p> <p><b>Article 58 Paragraph (1)</b> The Government and Regional Governments are responsible for the supply and distribution of Staple Food and/or other Food under the needs for people both with impoverished and vulnerable to food and nutrition, as well as in an emergency situation.</p>
Presidential Regulation Numb. 42 of 2013 concerning the National Movement for the Acceleration of Nutrition Improvement	<p><b>Article 6 Paragraph (1)</b> The National Movement for the Acceleration of Nutrition Improvement is carried out through the following activities: a. national and regional campaigns b. cross-sectoral and cross-institutional advocacy and outreach c. dialogue to garner cooperation and contribution d. training e. discussion f. direct nutrition activity intervention (specific) g. intervention of indirect (sensitive) nutrition activities, and h. other activities.</p>

Presidential Regulation Numb. 72 of 2021 concerning the Acceleration of Stunting Reduction	It is a hierarchical law that has just been enacted on August 5, 2021. In the considering section, it is stated that the formulation of this Presidential Regulation is based on Presidential Regulation Numb. 42 of 2013 which has not been able to accommodate stunting reduction effectively. So that Presidential Regulation Numb. 72 of 2021 revoked Presidential Regulation Numb. 42 of 2013.
Regulation of the Minister of Health Numb. 29 of 2019 concerning Overcoming Nutritional Problems for Children Due to Disease	<p><b>Article 2</b></p> <p>(1) The central government and regional governments are responsible for the implementation of the management of nutrition problems for children due to disease in an integrated and sustainable manner.</p> <p>(2) The management of nutritional problems as referred to in paragraph (1) is prioritized for diseases that require special efforts to save lives and have the greatest impact on the incidence of stunting.</p> <p>(3) Diseases, as referred to in paragraph (2), include:</p> <ol style="list-style-type: none"><li>at risk of Failure to Grow;</li><li>Malnutrition or Malnutrition;</li><li>Very Premature Babies;</li><li>Very Low Birth Weight Babies;</li><li>Cow's Milk Protein Allergy; and</li><li>Congenital Metabolic Disorders.</li></ol> <p><b>Article 3</b></p> <p>(1) The management of nutrition problems for Children as a result of the diseases as referred to in Article 2 paragraph (3) is carried out through:</p> <ol style="list-style-type: none"><li>Nutrition Surveillance; and</li><li>Case finding and management.</li></ol> <p>(2) If the discovery and management of cases as referred to in paragraph (1) letter b requires special efforts, the provision of Processed Foods for Special Medical Purposes (<i>Pangan Olahan untuk Keperluan Medis Khusus/ PKMK</i>) is carried out.</p>

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From the table above, it could be understood that there are regulations quite complete from the Constitution, Laws, Presidential Regulations, and Regulations of the Minister of Health concerning children with stunting. However, to this day no law specifically discusses and regulates stunting prevention. In general, these regulations only focus on efforts to protect and fulfil the rights of children with stunting by carrying out activities or programs aimed at increasing the nutritional intake of pregnant and nursing mothers, toddlers, school-aged children, adolescents, and young adults.

To carry out the orders of laws and regulations and also fulfil the rights of Indonesian children, the government has issued several programs to overcome the problem of nutrition/food intake which is the main factor causing stunting. These consist of,

- Providing non-cash food assistance through the Ministry of Social Affairs.
- Program Keluarga Harapan/PKH through the Ministry of Social Affairs.

- c. Distribution of Rice for Poor People (Beras Miskin/ Raskin)/ Prosperous Rice (Beras Sejahtera/ Rastra).
- d. Provision of Supplementary Food (Pemberian Makanan Tambahan/ PMT) for pregnant women through the Ministry of Health.
- e. Providing food assistance from the local government, NGOs, and others.<sup>12</sup>

Although the regulations and programs formed are quite complete, the government is still not serious about fulfilling and protecting the rights of children with stunting. It could be recognized from several concrete problems of food aid which identified,

- a. The data collected by the authorities about impoverished people is lacking. It often causes misdirection of food distribution.
- b. Poor supervision of food distribution provided by the government. An example of a case quoted from Suara.com is that there was a swap between non-cash-food-assistance (Bantuan Pangan Non-Tunai/ BPNT) rice with Bulog-branded for impoverished people and more low-grade quality rice packaged in the same packaging.<sup>13</sup>
- c. Distribution of low-quality rice with Bulog branded to the impoverished people. The decline in rice quality was due to poor rice storage systems in warehouses which were influenced by many factors of humidity, temperature instability, and storage for too long (up to 3 years).<sup>14</sup>

A technical regulation has also been passed to specifically address nutritional problems caused by certain diseases suffered by children. It is stated in the Regulation of the Minister of Health Number 29 of 2019 concerning Nutritional Problems Management for Children Due to Disease. The list of certain diseases that have the potential to cause stunting problems is regulated in article 2 paragraph (3) which includes the risk of failure to thrive, malnutrition or poor nutrition, very premature babies, very low birth weight babies, cow's milk protein allergy, and congenital metabolic disorders. To overcome these nutritional problems, the implementation of health services focuses on nutritional surveillance and case finding and management which is conducted with the provision of PKMK. The holder of the responsibility for the provision of these services is explained in Article 2 paragraph (1) that "The central government and local governments are responsible for the management of nutrition problems for children due to disease in an integrated and sustainable manner." It demonstrates that the government is fully responsible for managing stunting children with certain diseases. However, the high rate of stunting in Indonesia indicates that the government neglects the responsibilities that have been written in the article. The rights of children who are at risk of stunting are not fulfilled by the state. As previously explained, the government as the holder of power and authority is obliged to fulfil these rights as part of the fulfilment of the Human Rights of Children with Stunting.

The increase in the prevalence of stunting in Indonesia is a consequence of the state's lack of seriousness in helping to fulfil the nutritional intake of mothers and children from underprivileged families. Previous studies have also shown that stunting children have higher

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<sup>12</sup> Kementerian Kesehatan Republik Indonesia. (2018). *Op. Cit.*

<sup>13</sup> Supriyatna, I. Terungkap! Ini Alasan Beras Bantuan untuk Orang Miskin Kualitasnya Jelek. Cited on 21 November 2021 from <https://www.suara.com/bisnis/2019/09/20/152451/terungkap-ini-alasan-beras-bantuan-untuk-orang-miskin-kualitasnya-jelek>

<sup>14</sup> Jannah, S. M. Beras Bulog Turun Mutu: dari Kualitas Gudang sampai Birokrasi Buruk. Cited on 21 November 2021 from <https://tirto.id/beras-bulog-turun-mutu-dari-kualitas-gudang-sampai-birokrasi-buruk-gbw5>.

morbidity/illness rates and mortality/death rates than healthy children.<sup>15</sup> Article 46 of Law Number 35 of 2014 concerning Child Protection states that "The State, Government, Regional Government, Families, and Parents are obliged to ensure that children born are protected from diseases that threaten their survival and/or cause disability". The children's right to life as part of human rights that are fundamental and non-derogable must be protected by various parties mentioned in the article. The phrase "obliged to ensure" in the article shows that the children's right to life must be fulfilled. In conclusion, the government's lack of seriousness in this matter has threatened children's rights to life and children's rights to avoid disability due to stunting.

It is an undeniable fact that the government has failed to carry out its obligations to protect the human rights of a child. This failure should be used as a basis for prosecution in court against the state to participate in the responsibility for losses suffered by the community, especially families of stunting sufferers. However, Indonesia as a sovereign country holds the highest power so that it can impose its will and authority without regard to other parties. Therefore, prosecution of the state in court can be assumed as a futile step. The appalling condition of stunting in Indonesia is clear evidence of violations of children's human rights by the state. The state has violated the most fundamental human right, the right to life, and violated the human right to proper health care.

## CONCLUSION

Protection of children with stunting is part of the implementation of Human Rights. In the Convention on the Rights of the Child, health is one of the priorities apart from education which includes the provision of good nutrition and proper health care for achieving optimal growth and development of children. The Pegang Baru Community Health Centre, a functional component of the government in the health sector, has violated the rights of stunting children related to the right to life and the right to health. Meanwhile, the state on a large scale has violated the right to grow and develop children with stunting and violated the right to life, and the right to avoid disability. This condition is very alarming so more optimal efforts are needed both in terms of protection and fulfilment of stunting children's rights as well as improving health service facilities.

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Muhammad Haddad Fadlyansyah, *Analisis Konvensi Hak Anak Dalam Menjamin Perlindungan Kesehatan Anak di Indonesia*, Universitas Trunojoyo Madura, Volume 1 No. 1 Oktober 2020, 1

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Universal Declaration of Human Rights