

Inputs to CERD General Recommendation 37

Komisi Nasional Anti Kekerasan terhadap Perempuan
(Komnas Perempuan- Indonesian National Commission on
Violence Against Women)



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Online Private Consultation, 18 October 2023

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By

Komisi Nasional Anti Kekerasan terhadap Perempuan¹
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THE Indonesian National Commission on Violence Against Women or Komnas Perempuan (Komisi Nasional Anti Kekerasan terhadap Perempuan) is one of four national human rights institutions in Indonesia with a specific mandate to create conducive environment to eliminate all forms of violence against women.

We welcome and support the draft of general recommendation No. 37. Responding to the draft, Komnas Perempuan would like to:

First, inform you that the Constitution of Indonesia upholds the principle of nondiscrimination² for the fulfillment of all human rights, including the right to health.³ The constitution extends its guarantee on the right to be free from discrimination on any basis by mandating special measures⁴ for equality and justice. Following the ratification of CERD⁵, Indonesia issued the Law on the Elimination of Racial and Ethnic Based Discrimination that has a specific regulation on right to health as part of the economic, social and cultural rights.⁶ Furthermore, equal rights to health is also guaranteed in the recently issued the Law on Health that specifically prohibits racial and ethnic based discrimination in health service.⁷ However the implementation is still facing numerous challenges due to conflicting policies and societal aspect.

Second, we recommend the Committee to extend the deliberation on State obligation to fulfill the rights to autonomy in controlling one's health and body by highlighting the interlinkages of rights to be free from racial discrimination in the enjoyment of the right to health with the rights to be free from gender discrimination, right to freedom of religion and beliefs, marital and citizenship status.

Whilst realization rights to health service to general public in Indonesia is progressing with the improvement of universal health coverage system, gaps are still apparent. The archipelagic geographical spread of Indonesia is a persisting challenge, as well as the availability of adequate facilities and medical practitioners. Komnas Perempuan has been receiving complaints from specific groups facing difficulty in accessing the health service, including

1 Oral intervention delivered by Andy Yentriyani, Chairperson of Komnas Perempuan

2 Article 28I (2) Indonesian Constitution

3 Article 28H(1) and 34 (3) Indonesian Constitution

4 Article 28H (2) Indonesian Constitution

5 Law No. 29 Year 1999

6 Explanation of Article 9, Law No. 40 Year 2008 on Elimination of Racial and Ethnic Based Discrimination

7 Law No. 17 year 2023 on Health, Article 2, point J, rules out that the health development should not discriminate on the basis of religion, gender, **race, ethnicity, sub-ethnicity, skin colour**, physical condition, social status and other groups. In Article 28, sub article 4, the Law orders the provision of primary and continued health service to reach out for vulnerable groups and to practice non discriminatory inclusive principle. Amongst vulnerable groups are those marginalized socially due to their religion/faith, **race or ethnicity**, sexual orientation, gender identity, disease, citizenship status and those living in disadvantaged, remote, outer most and border areas, including indigenous people.

- ❖ Indigenous women from communities retaining their ancestral beliefs who face particular difficulty in accessing health service due to their administrative status. At least 3 cases have been reported to Komnas Perempuan of which elderly women adherent to ancestral belief faced difficulty in accessing health service due to their administrative status. Furthermore, according to Indonesian Law, contraceptive is only available to married couple⁸ proved with their marriage certificate. However, the regulation on administering marriage limits their access to gain the necessary document.
- ❖ This limitation also applies to religious minority groups labelled as heretic, such as Ahmadiyya. In several regions in Indonesia they can only gain their marriage documentation shall they agree to perform “purification” ritual to defy their ahmadiyya beliefs.
- ❖ Komnas Perempuan also takes special notice to the living situation of women IDPs and refugee. In Lombok, members of Ahmadiyya community has been living in IDPs site for almost two decades.⁹ They could access the nearest health facility but their living condition with limited access to clean water, sanitation, and in poverty is detrimental to their health condition.
- ❖ Meanwhile, host to more than 12,000 refugees from various countries,¹⁰ Indonesian health system does not cover refugee. Refugees live dependently on the aid provided by the UN and international organizations. Although Indonesia has reproductive health program covering twelve women’s reproductive rights, refugee women are not a target of the program. Hence, they find difficulties in accessing sexual and reproductive health service, including when they become victims of sexual violence.

Third, Komnas Perempuan recommends the Committee to highlight state’s responsibility to ensure availability of quality health service in conflict situation with racial dimension, to conduct accountable thorough monitoring mechanism of the health service ecosystem, including in access to information and health awareness raising campaign with specific strategies to combat conflict-related prejudices.

This recommendation is based on Komnas Perempuan’s concern about the situation in Papua. For decades this region has been suffering from high rate of maternal mortality rate,¹¹ malnutrition and stunting, HIV/AIDS as well as sanitation and mental health¹² related condition. Disparity of quality service in this region in comparison to the rest of Indonesia is highly influenced with the uneven distribution of health facility and limited transportation infrastructure, and is worsened by the rampant corruption. The ongoing and intensifying armed conflict has also significantly deleterious effects on health service, as well as many other public services. Furthermore, the racial tension in 2019 has been heightening the distrust against Indonesian government, resulting in also increasing reluctance of Papuan communities to access the provided health service, such as evident in the rejection of vaccine or test during Covid-19 pandemic. Serious and specific measure to respond to conflict situation with its racial dimension in Papua is pivotal to improve health situation there, particularly for Papuan women who are enduring multiple discriminations.

8 Law No. 52 Year 2009

9 The IDPs site was started subsequent to the attack against Ahmadiyya community in 2005. The IDPs share the building, mostly to 1,5 x 2 m square for hosting each family. At least 17 babies has been born and growing up there.

10 UNHCR Indonesia Monthly Statistical Report, January 2023, recorded 12, 805 refugees. Registered refugees are refugees and asylum seekers that are registered within UNHCR Indonesia’s database. There are around 48 countries of origin of the refugee, but mostly they come from Afghanistan, Somalia, and Myanmar. From the population, twenty seven percent or 3,457 are refugee children (below 18 years old) with 1,625 of them are girls and 1,832 are boys. While 26% or 2,364 of the adult population (71%) are adult refugee women and one person is an elderly woman (above 59 years old). Refugees living in Indonesia are subject to minimum access for health facilities as a result of inability to purchase. Refugees are not included in national based insurance/free healthcare mechanisms while they are not allowed to work to obtain income. There are no special mechanisms for refugees as well provided by the State’s healthcare system and policy to provide affordable health facilities for refugees.

11 Indonesian Statistic Bureau 2020-2022, Papua is at highest rank of MMR with 565 per 100.000 birth, followed by west Papua at the rate of 343. According to Ministry of Health Data 2023, post natal care in Papua and West Papua Province is less than 60%, and support for nutrition through school is less than 4 times a year.

12 There are only two mental health facilities in all Papua and west Papua Provinces, located in Jayapura and Manokwari. Both with limited capacity, and support for medication is difficult due to lack of transportation infrastructure. Many cannot access medication and facilitation because of their administrative status or because they have been neglected by the family.

Lastly, we would like to suggest the Committee to also consider:

- ❖ Highlighting the importance of integrated services of health and respond to violence against women (VAW). Whilst the situation of health service in Papua is comparatively less than the rest of the country, it is still much better developed than infrastructure to respond to VAW, which is very rampant experienced by Papuan women. By positioning VAW as part of health issues, besides criminal offence, it can also reduce stigma against Papua where VAW is mostly considered as a common cultural practice.
- ❖ integrating of adopting affirmative action/special measure in the right to education in the draft as part of the state obligation on the operationalization *of the legislation against racial discrimination in the enjoyment of the right to health*. In situation like in Papua, the prolonged conflict with deep rooted racial tension has resulted in the prejudices of Papuan people from accessing the provided health services. If the gaps of racial inequalities in number of medical practitioners can be closed, it will build the confident in the conflict affected community to access the service. The state may have installed quota system in scholarships for medical practitioners as affirmative action, and like in Indonesia, compulsory of 6 years education. But the State needs to strengthen the provision of accessible quality education since elementary level so that the targeted student can access the quota scholarship for medical practitioner.
- ❖ Encourage documentation and publication of traditional medications as a possible strategy to reduce racial tension because it may increase public appreciation to the knowledge of particular communities that are racially and ethnically marginalized.

We thank you for the opportunity to raise our concerns.

