

SERI DOKUMEN KUNCI 19

LAPORAN DAN PROSES ADVOKASI

Komisi Nasional Anti Kekerasan Terhadap Perempuan

KEPADA MEKANISME *TREATY BODIES*

Komnas Perempuan Response to the List of Issues and State Party's Reply of Indonesia to The Committee on the Rights of Persons with Disabilities (CRPD), 2022

Komnas Perempuan Response to the List of Issues and the State Party's Reply of Indonesia to The Committee of The International Covenant on Economic, Social and Cultural Rights (ICESCR), 2024

Independent Report by Komnas Perempuan to The Human Rights Committee, Updated Information for the 2nd Indonesian Periodic Review on The International Covenant on Civil and Political Rights (ICCPR), 2024

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Kepada Mekanisme *Treaty Bodies*

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(Komnas Perempuan), 2024

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Dokumen asli berupa materi laporan dalam terbitan ini ditulis dalam bahasa Inggris. Naskah yang tersedia bukan terjemahan resmi dari Perserikatan Bangsa-Bangsa. Komisi Nasional Anti Kekerasan terhadap Perempuan (Komnas Perempuan) memegang penuh hak cipta atas penerbitan ini. Seluruh atau sebagian dari penerbitan ini dapat digandakan atau dikutip untuk upaya pendidikan dan pemajuan hak-hak konstitusional warganegara dan hak-hak asasi internasional lainnya, upaya menghapuskan diskriminasi, kekerasan khususnya berbasis gender terhadap perempuan dan demokrasi. Setiap pengutipan atau penggandaan wajib mencantumkan sumber dan menginformasikan kepada Komnas Perempuan.



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INDEPENDENT REPORT

**CONVENTION ON THE
RIGHTS OF PERSONS
WITH DISABILITIES (CRPD)**

Submission by
The National Commission on Violence Against Women



No : /KNAKTP/Pimpinan/IV/2022

Subject : Komnas Perempuan Response on List of Issues and State
Party's Reply

To:

Committee on the Rights of Persons with Disabilities

Human Rights Treaties Division (HRTD)

Office of the United Nations High Commissioner for Human Rights

(OHCHR) Palais Wilson - 52, rue des Pâquis

CH-1201 Geneva (Switzerland)

Dear Madam/Sir,

The Indonesian National Commission on Violence against Women (Komnas Perempuan) is a national human rights institution (NHRI) in Indonesia with a specific mandate to create a situation conducive to the elimination of all forms of violence against women in Indonesia and to advance women's rights. As an independent body, Komnas Perempuan is established by a Presidential Decree No. 181/1998, and then strengthened through President Regulation No. 65/2005.

In relation to the Indonesian report to the Committee, please find the attached submission from Komnas Perempuan as a response to the List of Issues and state party's reply. In preparing this response, Komnas Perempuan conducted several consultations with various partners and stakeholders. These included consultations with CSOs, service provider institutions for women victims of violence and representatives from governmental institutions. These consultations were conducted to enrich and sharpen the findings and provide greater participation of the relevant parties to also raise their concerns on this periodic review.

We sincerely hope that this submission would contribute to the process of the consideration of the State Party report in the coming session. Should you have further needs for more information or clarification, please do not hesitate to contact us through our staff, Sondang Frishka, at frishka@komnasperempuan.go.id

Looking forward to collaborate more with you in the future.

Sincerely Yours,

Andy Yentriyani

Chairperson

The Convention on the Rights of Persons with Disabilities (CRPD)
Komnas Perempuan's Response to the List of Issues and the
State Party's Reply
Written Contribution for 27 Sessions
(15th August 2022–9th September 2022)

This submission is prepared by The Indonesian National Commission on Violence Against Women (Komnas Perempuan, Komisi Nasional Anti Kekerasan terhadap Perempuan), a national human rights institution in Indonesia with a specific mandate to create a conducive environment to eliminate all forms of violence against women and fulfil the women's rights.¹ Besides referring to data gathered through our monitoring, facts finding, documentation and strategic studies, Komnas Perempuan conducted series of consultation with relevant parties, including CSOs, particularly women with disabilities groups, for this submission.

Articles 1-4: Purpose and General Obligations

1. Following the issuance of Law No. 8/2016 on Persons With Disabilities, more regulations at both national and regional levels are utilizing the term "disabilities". However, since article 148 on the Law 8/2016 directs the interpretation of the term "penyandang cacat" in other regulations as persons with disabilities (PwD), there is no mechanism installed to speed up the harmonization of law and regulation to CRPD, such as seen in the absence of revision of Social Welfare Law within the national legislation priority agenda 2020-2024.
2. Since 2019, there are at least 12 provincial and district regulations on PwD. The participation of organization and individual of disabilities were varied in the legislation process, depend on the commitment and awareness of the local government and the active leadership of civil society, particularly of disability organizations. Hence, the quality of the regulations is also varied; although some are considerably similar that even raised another concern

¹ Komnas Perempuan was established in responding to rape tragedy experienced by the Chinese women during the May 1998 and regulated by the Presidential Decree No. 181 of 1998 which was later amended with the Presidential Decree No. 65 of 2005. Komnas Perempuan has tasks to conduct monitoring, fact-finding, research, policy reviews, public education and cooperation at all levels, as well as to provide policy recommendations.

of a possible copy-paste process rather than thorough and participatory deliberation based on the specific condition of disabilities at the respective area.

3. Government Regulation No. 70 of 2019 concerning the Master Plan for Disability Inclusive Development (RIPD, Rencana Induk Penyandang Disabilitas) has been followed up with the technical regulation, namely the Ministry of National Development and Planning (Bappenas, Kementerian Perencanaan Pembangunan Nasional) Regulation No. 3 of 2021. These regulations mandated a National Action Plan on Persons with Disabilities (RAN PD, Rencana Aksi Nasional Penyandang Disabilitas) with 7 disability mainstreaming strategies at central and regional levels and from across sectors. Approximately 12 regions have begun to develop provincial-level Regional Action Plans for Persons with Disabilities. Considering the size of Indonesia, this means up only few regional apparatus organizations and civil society organizations that have an understanding of RIPD, RAN PD, and the Regional Action Plan for Persons with Disabilities (Rencana Aksi Daerah Penyandang Disabilitas). Furthermore, the planning is still treated as piloting project of Bappenas.

Recommendations:

- a. The Government of Indonesia (GOI) to carry out measurable and systematic public dissemination of the term *penyandang disabilitas* (persons with disabilities) and to expedite the revision of Social Welfare Law and other related Law to meet the standard of human rights of people with disabilities;
- b. GoI to cooperate with organizations for persons with disabilities to develop monitoring systems for the implementation of Government Regulation No. 70 of 2019 to advance the commencement of National Action Plan on Persons with Disabilities through mainstreaming 7 strategies on disability at central and regional levels across sectors.

Article 5: Equality and Non-Discrimination

4. Komnas Perempuan appreciates the Indonesian Government efforts to issue a number of policies, laws and regu-

lations to advance the rights of PwD, including to prioritize persons with disabilities as one of the target groups in the National Human Right Action Plan on Human Rights (NAPHRs) 2021-2025.² However, NAPHRs Working Groups in many regions still have limited understanding in mainstreaming disability's rights in legal and human rights protection.

5. Komnas Perempuan finds that there is still a discrepancy between Law No. 8/2016 and regional bylaws, in which a number of regional bylaws still use a social welfare approach, categorize persons with disabilities as “persons with welfare problems”, and use the derogatory term of *Penyandang Cacat*.³ This condition demonstrates that the principle of inclusive equality, which is the basis of the CRPD, has not been fully understood by policy makers in the regions.⁴ Even more so, the understanding of the vulnerability faced by particular type of disability and the multi layered discrimination faced by person with disabilities that is linked with their other identities, such as those from minority groups or women with disability. This condition also shows the need to strengthen current national mechanism to ensure nondiscrimination principle is performed in the formulation of bylaws.
6. PwD who experience discrimination can refer to the Law No. 13/2006 jo. Law No. 31/2014 on Witnesses and Victims Protection (WVP Law) to access legal protection in addressing their case. However, unlike the Law on Elimination of Ethnic and Racial Based Discrimination that stipulates the right to redress for any loss resulted from the discrimination, Law 8/2016 does not regulate explicitly rights of remedies of the PwD experiencing discrimination. WVP Law allows PwD to access restitution,

2 Human Right Action Plan 2021-2025 is regulated under Presidential Regulation No. 53 of 2021 on Rencana Aksi Nasional Hak Asasi Manusia

3 Komnas Perempuan's study on reproductive health services and village fund allocation in 5 (five) kabupaten (districts) found that 3 (three) kabupaten, namely Bekasi, Cirebon and Kupang still use regional regulations that use the term *cacat* and categorise persons with disabilities as persons with social welfare problems.

4 The result of Komnas Perempuan's consultation with organizations for persons with disabilities. It was stated that regions formed regional government regulations on disability, however the articles in the regulations do not refer to Law No. 8 of 2016 and the CRPD.

compensation and other forms of redress only when they are victims of terrorism, trafficking, sexual violence and grave assaults.

7. The Supreme Court Regulation No. 3/2017 on Guideline to Trial Cases of Women Before the Law is expected to guide judges in the regional courts and supreme court to formulate breakthroughs in remedies that meet the specific needs of women with disabilities who experience discrimination and violence. Specific monitoring regarding the implementation of this regulation on PWDs' rights is yet to be performed.

Recommendation:

- a. GoI to expedite the agenda of NAP HRs to review/evaluate and revise regional bylaws in accordance with Law 8/2016 in order to mainstream legal protection and the fulfilment of the rights of PWDs;
- b. The Government in cooperation with organizations for PwDs disseminates the Presidential Regulation on the NAP HRs 2021-2024 at provincial and regional level more substantive and consistent in implementation;
- c. GoI to strengthen the above step with performing more training for officials at both national and local levels to ensure the implementation of Law on PwDs;
- d. GoI to develop database on a) disaggregated data on PWDs according to sex, geographical location, types of disabilities, education and other relevant information necessary to better prevent violence and layered discrimination against women with disabilities, and on b) sex segregated data on cases of discrimination and violence experience by PWDs, the process of addressing the cases, sanctions for perpetrators as well as remedies and redress accessed by the victims as a basis of information to have better policy on handling the cases

Article 6: Women and Disabilities

8. Women with disabilities are vulnerable to facing layered discrimination and gender based violence. Komnas Perempuan's monitoring of women with mental disabilities in psychiatric hospitals in Papua (2021) found that women with mental

disabilities experience layered discrimination, with the majority being victims of domestic violence and coming from underprivileged families. Negligence and stigma against women with disabilities has caused the deterioration of the living conditions and deprivation of basic human rights.

9. The Information and Consultation Center for Women with Disabilities (PIKPPD, Pusat Informasi dan Konsultasi Perempuan Penyandang Disabilitas) has been established by the Ministry of Women's Empowerment and Child Protection in 9 regions, but has not yet been connected to units for handling violence against women and children service units in these regions (provinces) and therefore not run optimally.⁵ The Ministry of Health has included disability friendly services and infrastructure as a standard for assessing basic health service providers, however in its implementation, many public health centers do not understand how to provide services for PWDs.
10. Whilst age of marriage has been revised to meet the HRs standard of children, the revision of Law No. 1 of 1974 has yet to be made to withdraw disability as a legitimate reason for polygyny (art. 4 subart. 2) or divorce (explanation of Art. 39, Subart. 2).
11. Komnas Perempuan notes that the Job Creation Law contradicts with the CRPD and Law No. 8/2016, still uses the derogatory term of *penyandang cacat*;⁶ add the condition of disability as legitimate reason to terminate employment,⁷ and permit the adoption of prerequisite to be "physically and mentally healthy" for job seekers that may result in per-

5 The Advocacy Center for the Disabled, Women, and Children (SAPDA, Sentra Advokasi Perempuan Difabel dan Anak) in a consultative focus group discussion with 6 organizations for women with disabilities on the 21st of March 2022.

6 Articles that contain the word *cacat* namely: Article 29 (a) item i:

Every hospital has an obligation

(i) To provide suitable public facilities and infrastructure, including parking facilities, waiting rooms, facilities for *cacat* (disabled) people, breastfeeding women....."

Accessibility is understood as physical facilities and does not cover the diversity of disabilities, among others.

7 Employment:

Article 153 (j) - in a state of permanent *cacat* (disability)

Article 154 A Paragraph 1 (2) concerning work termination "experience prolonged sickness or *cacat* (disability) due to a work accident and cannot carry out their work exceeding the 12 month limit".

sons with mental disabilities being vulnerable to being discriminated in employment.⁸

12. Multilayered discrimination can be also found in regional bylaws. For example, Lampung's Regional Regulation No. 17 Year 2014 on Exclusive Breastfeeding that obliges mother to provide exclusive breastfeeding instead of affirming the maternity rights. It violates women's fundamental right to freedom, and women with mental disability is further discriminated because they are referred as "mentally retarded" and hence, are dismissed to hold this obligation.⁹

Recommendations:

- a. Government amends legislations with discriminatory provisions against women with disabilities, in particular Article 4 (2) and explanation of Art. 39 subart. 2 of Law. No. 1 of 1974 on Marriage, on Job Creation Law and Lampung Regional Regulation No. 17 of 2014 on Exclusive Breastfeeding
- b. Government improves access to reproductive health care and awareness-raising programs specifically for women with intellectual or psychosocial disabilities
- c. Government equips health workers with a disability perspective.

Article 8: Awareness-raising

13. To combat stereotypes, prejudice and harmful practices against them in all aspects of life, awareness-raising campaigns on disability rights in Indonesia are run by both the government and organizations for persons with disabilities. Heavy load of bureaucracy, ad hoc approach and lack of creativity are identified as hindrance to the effectiveness of campaigns run by the government.

⁸ Article 168: Use of the term *jasmani rohani* (physically and mentally healthy) as a condition for certain positions. This phrase has the potential to discriminate against persons with psychosocial disabilities and even denies them as disabilities. "To be appointed as a member of the Supervisory Board from a professional element and a candidate for a member of the Board of Directors you must meet the following requirements: a. Be a citizen of Indonesia;... c. **be physically and mentally healthy.**"

⁹ Lampung's Regional Regulation No. 17 Year 2014 on Breastfeeding Article 4 verse (7b).

14. Government Regulation No. 70 of 2019 concerning Planning, Implementation and Evaluation of Respect, Protection and the Fulfilment of the Rights of Persons with Disabilities that is expected to be a reference for government institutions and ministries in developing program strategies has not been widely disseminated. Consequently, the regulation is not well implemented.

Recommendations:

- a. GOI needs to better plan and persistently carry out education and public campaigns relating to the rights of PWDs through various forms of media including TV, radio, online media and other media accessible for all levels of society
- b. GoI to conduct more and better monitored training for officials in ministries and regional governments, including to disseminate the responsibility to carry NAPHRs and RIPD

Article II: Situations of Risk and Humanitarian Emergencies

15. The increase in the incidence of violence against women and vulnerable groups during the pandemic was confirmed by quite a number of participants in Komnas Perempuan's consultations, especially in the Provinces of Central Sulawesi and Papua. In addition, there has been a decrease in availability of protection services for victims of violence, both in terms of affordability and the quality of services, and so due to challenges in adopting online services.¹⁰
16. During the COVID-19 pandemic the Government has issued a number of policies, including health protocol implementation policies. However, most of the policies are not disability friendly, and there are particular obstacles in observing the policies by the PwDs. Deaf people find mask-using policies hinders them from communicating by reading lips. Policies to maintain distance is particularly difficult to be followed by persons with severe disabilities who rely on other people to carry out daily activities. Wheelchairs users

¹⁰ Source: Jitupasna - the Indonesian National Board for Disaster Management (BNPB, Badan Nasional Penanggulangan Bencana), the United Nations Development Program (UNDP) Red-R, YEU, the SRI Institute, MCS and Sinau GIS.

find it difficult to observe the wash-hand policy due to the inaccessible infrastructure. PwDs also are disproportionately disadvantaged by the economic impact of the pandemic, particularly because many of them are working in informal sectors, especially women with disabilities.

17. PwDs' access to available supports during pandemic is still problematic. Many has not been able to access social safety net program because they are not registered or do not possess ID card to be eligible in accessing the support. PwDs face barriers in accessing health services due to limited quotas for health services and also the inaccessibility of health infrastructure in accordance to specific needs of PwDs. In Komnas Perempuan's consultation with NGOs, it is also identified that in relation to the pandemic:
 - ✓ Some policies and regulations are progressive, but the implementation is weak due to the limited commitment and understanding of the officials at both national and local levels on the rights of PwDs;
 - ✓ PwDs are yet to be actively included in the preparation, implementation and monitoring of disaster management efforts including to ensure better protection for PwD experiencing multilayered vulnerabilities, including gender based violence experienced by women with disabilities.
 - ✓ Data collection especially during disaster are not segregated according to gender, age, types of disabilities and the special needs of disabilities, and thus, hinders the government from having better intervention policies and programs;
 - ✓ Gender integration is included in featured programs and activities at the BNPB, including Destana (Disaster Resilient Villages, Desa Tangguh Bencana), but yet to be completed with the Gender Analysis Pathway (GAP) and the Gender Budget Statement (GBS).
 - ✓ Social norms and patriarchal culture that are still strong in society contribute to the weak gender transformative approach in formulation and implementation of disaster management programs to also benefit equally women with disabilities

Recommendations:

- a. GoI to earnestly and sustainably cooperate with organizations for persons with disabilities to carry out education and training on disaster management that is disability and women friendly in all sectors including at the family level;
- b. The Government conducts firmer monitoring and evaluation of the implementation of various regulations related to disaster management to ensure the optimal benefits for PwDs, with affirmative action to perform gender equality and justice.

Article 12: Equality Before the Law

18. In July 2020, Presidential Regulation No. 39 of 2020 on Decent Accommodation for Persons with Disabilities in Judicial Proceedings was issued to provide required services, facilities and infrastructure necessary for PwDs to access the legal processes. The provision will follow the result of personal assessment, that implicitly require awareness on specific needs and vulnerability of women with disabilities in order to enjoy equality before the law. To date, the implementation of this regulation is mainly available in big cities in Java Island.¹¹
19. There are still many cases that are refused by law enforcement officers.¹² The legal process for women with disabilities who are victims of violence is still slow due to the stigma and the reluctance of law enforcement officers and families related to their limited awareness on gender issue and disabilities.
20. Thus, Komnas Perempuan welcomes the issuance of Sexual Crime Law that ensures equality before the law for PwDs who are victims of sexual violence, by amongst other to reinforce (1) the rule of evidence to account the testimony of disabilities and mental disabilities, (2) the state responsibility to ensure the strengthening of mechanism resources for handling cases of sexual violence to also meet requirements for decent accommodation for women and children with disabilities.

11 Indonesian Women with Disabilities Association (HWDI, Himpunan Wanita Disabilitas Indonesia) in an online consultative focus group discussion on the 22nd of March 2022.

12 Online consultative focus group discussion on the 21st of March 2022 with organizations for persons with disabilities.

21. Article 9 of the Law on Persons with Disabilities guarantees the rights of persons with disabilities in accessing banking and non-banking financial services. Derivative policies have been issued by the Financial Services Authority (OJK, Otoritas Jasa Keuangan) and Bank Indonesia¹³ regarding access for persons with disabilities to be able to conduct financial transactions with banks and state and private owned insurance corporations, including ensuring the inheritance rights of women with disabilities. However, PwDs still experience barriers in accessing banking, owning a bank ATM card and to apply for insurance.¹⁴ The lack of confidence of financial institution in the capabilities of women through the fact that MoU between a women disabilities organization (HWDI- Himpunan Wanita Disabilitas Indonesia) in West Java and a Government-owned banking institution for business capital assistance for Micro, Small and Medium Enterprises of Persons with Disabilities has still not come into realization after two year of the signing.¹⁵

Recommendations:

- a. GoI to allocate adequate resources for the implementation of Presidential Regulation No. 39/2020 on Decent Accommodation for Persons with Disabilities in Judicial Proceedings and also breakthroughs regulated in the

13 Article 9 of the Law on Persons with Disabilities and several derived regulations including Presidential Regulation No. 114 of 2020 concerning the National Strategy for Financial Inclusion (SKNI, Strategi Nasional Keuangan Inklusif) for the revision of Presidential Regulation No. 82 of 2016 concerning the National Strategy for Financial Inclusion, the Financial Services Authority (OJK) Circular No. 31/SEOJK.07 of 2017 concerning Implementation of Activities to Increase Financial Inclusion in the Financial Services Sector; OJK Regulation No. 76/POJK.07 of 2016, in which Article 15 explains that the scope of financial inclusion includes the provision of various facilities for the special needs community to access products and financial services; Bank Indonesia Regulation No. 16/1/PBI of 2014 concerning Consumer Protection Payment System Services, OJK Regulation No. 1/POJK.02 of 2013 concerning Consumer Protection, in which Article 24 states that service providers are required to provide special services for customers with special needs. Regarding guardianship issues, the Ministry of Law and Human Rights, through the Technical Service Unit of the Inherited Property Board (Balai Harta Peninggalan), acts as the guardian of adults with mental disorders.

14 HWDI in an online consultative focus group discussion on the 24th of March 2022.

15 Ibid.

Sexual Crime Law and to ensure these regulations is implemented with gender lens and are followed also in rural and remote areas;

- b. GoI to monitor and reinforce policies providing equality before the law in economic and finance aspect, i.e. banking, insurance and accessing loans
- c. Government takes effective ensures to eliminate discrimination against women with disabilities in carrying out bank transactions and accessing business capital for Micro, Small and Medium Enterprises.

Article 13: Access to Justice

- 22. Komnas Perempuan expects the Sexual Crime Law to provide better protection against sexual violence, that mostly experienced by women and children, particularly those with disabilities. The law regulates 9 crimes of sexual offences, provides breakthroughs on rule of procedures and elaborate rights of victim, with efforts to respond to the vulnerabilities related to disabilities. It is noteworthy that the Law relies on revision of Penal code to adopt better definition on rape, which current regulation reduce the possibility of victims of rape to access justice due to its limited definition and prerequisite evidence.
- 23. Komnas Perempuan's monitoring found that women with disabilities victims of violence still encounter various barriers in addressing their cases. Many regions have no derivative regulation on decent accommodation on judiciary process. Thus, needed assistance may not be accommodated, such as sign language interpreters, psychologists and psychiatrists.¹⁶ MoUs between social services and law enforcement officers are mostly limited to the provision of sign language interpreters and disability aids, instead of a full provision based on personal assessments, even more so with a gender perspective to specific need to women with disabilities.¹⁷
- 24. Personal assessment to identify needed assistance for PwD to access the legal processes, as stipulated in of Presidential

¹⁶ The Center for Improving Qualified Activity in Life of People with Disabilities (CIQAL) focus group discussion on the 21st of March 2022.

¹⁷ HWDI in an online consultative focus group discussion on the 24th of March 2022.

Regulation No. 39 of 2020 on Decent Accommodation for Persons with Disabilities in Judicial Proceedings, has been partially implemented. Supreme Court effort to train judges to be more familiar with this regulation is commendable. However, the absence of technical regulation and adequate allocation of budget to provide the needed assistance have been the major hindrances for the Police to implement it. There are 3 Directorate General Decrees in the judiciary institutions to follow up this regulation and will effectively be applied in in civil cases. Meanwhile, in criminal cases, the courts can only request the prosecutor to carry out a personal assessment after the case is filed. Financial support for legal aid is provided only for those who have Kartu keluarga Sejahtera, a certification of family living in poverty. Financial assistance mostly does not cover DNA tests nor Visum et repertum psychiatricum (VeRP).¹⁸ The mechanism to access special allocation fund (DAK: Dana Alokasi Khusus) provided by KPPPA for the protection of persons with disabilities remains restricted.

Recommendations:

- a. GoI to ensure provision of rape in the revision of Penal Code reflects the experience of women victims of rape, particularly those with disabilities;
- b. GoI to allocate adequate resources to expedite trainings for law enforcers and service providers for women victims of violence with disability rights perspective;
- c. GoI to provide adequate resources to ensure needed assistance, as obliged in Government Regulation 39/2020, according to the personal assessment in order to remove barrier of access to justice for women with disabilities who are victims of sexual violence, including the financial aid to conduct VeRP and free DNA test.

¹⁸ VeRP is a mental health specialist's statement in the form of a letter as a mental health examination on a person in a health service facility for the sake of law enforcement. Article 1 (2) of Ministry of Health Regulation No. 77 of 2015 concerning Guidelines for Mental Health Examination in the Interest of the Law.

Article 14: Liberty and Security of the Individual

25. Whilst policies are available to stop confinement of persons with disabilities,¹⁹ confinement is still widely practiced. Study by Basic Health Research (Risidakes, Riset Dasar Kesehatan, 2018) found that 14% families still confine their family members with mental disorders and 31.5% of confinement cases occurring in the last 3 months.²⁰ The Healthy Souls Association (Perhimpunan Jiwa Sehat) reported that there are approximately 13,000 persons with disabilities including women with disabilities enduring deprivation of their freedom.²¹ Some are locked up in social care centers without their consent just because they have mental disabilities. Segregated data on PwDs losing liberty according to the type of disability and other relevant information is not available.²² Whilst thorough monitoring of confinement cases at societal level is challenging, a working group (P5HAM) to monitoring of social care centers has been set up²³ but no budget is available yet to conduct its tasks.²⁴

Recommendations:

- a. GoI to provide adequate resources for the implementation of policies and the tasks of P5HAM working group, including to develop regularly updated segregated data to monitor the progress of efforts to reduce confinement of PwDs.

19 Law No. 23 of 1966 concerning Mental Health; Ministerial Decree of the Ministry of Home Affairs No. PEM.29/6/15, dated the 11th of November 1997, addressed to the Governor of the Head of Level I Regions throughout Indonesia to ask the society to not confine people with mental disorders and to raise public awareness around handling over care for patients in psychiatric hospitals. This decree also contains instructions for sub-district heads and village heads to actively take initiatives and steps in dealing with patients in their area.

20 Erti Ikhtiarini Dewi, et al. 2019. Stigma Against People with Severe Mental Disorders (PSMD) With Confinement. NurseLine Journal Vol. 4 No. 2 November 2019 p-ISSN 2540-7937 e-ISSN 2541-464X. P. 132.

21 Komnas Perempuan online focus group discussion with persons with disabilities on the 22nd of March 2022.

22 This data is disaggregated by gender and types of disabilities experienced.

23 Keputusan Kementerian Hukum dan Hak Asasi Manusia No. M.HH-01.HA.04.02 Tahun 2021 tentang Kelompok Kerja Penghormatan, Perlindungan Pemenuhan, Penegakan dan Pemajuan

24 Ministry of Law and Human Rights Decree No. M.HH-01.HA.04.02 of 2021 concerning Working Group Respect, Protection, Fulfilment, Enforcement and Promotion of Human Rights for Persons with Mental Disabilities.

Article 15: Freedom from Torture

26. Komnas Perempuan recognizes the efforts of national campaign against shackling in following up The Law 18/2014 that prohibits shackling against persons with mental disabilities and/or mental disorders. However, in many regions data on cases of shackling is not available, particularly in remote areas.
27. Komnas Perempuan notes that whilst number of public health center (puskesmas) that provide services for mental health patients is increasing, but mental health facility is rare in various regions. This condition is also portrayed with the fact that there is only one mental health hospital to serve the whole Papua and West Papua Province. Hence, cases of women with mental or psychosocial disabilities abandoned in the street are still commonly reported. Many public health centers are also not equipped with adequate medication and some needed medication is not provided free of charge.²⁵ There is also a shortage in number of psychologist and psychiatrist, while many health workers are not familiar and have the needed skill to serve PwDs, even more so with gender sensitivity. The lack of facilities and skilled health worker, particularly in villages and remote areas, has resulted in a prolonged torture and other ill treatment experienced by women with disabilities, particularly those enduring violence.
28. Komnas Perempuan's monitoring of rehabilitation centers and psychiatric hospitals (2018) concluded that some psychiatric hospitals and rehabilitation centers still carry out torture practices and ill treatments against patients with disabilities, including overcrowding, physical confinement and sanctions, and psychological abuse. Torture-alike practices that was documented in this monitoring include: (1) Patients were smeared with carbolic acid and sulfur for the treatment of scabies itching, because they are heap and considered effective in treating scabies (2) restraining movement with iron chains; (3) isolation and placed in room without a bed or mattress.
29. Since 2018, 5 independent institutions including Komnas Perempuan established a Cooperation to Prevent Torture

²⁵ Online consultative focus group discussion on the 22nd of March 2022 with organizations for persons with disabilities.

(KuPP). Aiming to endorse ratification of Optional Protocol on CAT (OPCAT), this cooperation is considered as an initiation of a national preventive mechanism. This cooperation brings strategic partners, i.e. Ministry of Human Rights, Ministry of Health and Ministry of Social Welfare because issue of detention alike condition and ill treatment, including against PwDs, is part of the attention of KuPP.²⁶

Recommendations:

- a. GoI to develop work plan with clear timeframe to eradicate shackling and other form of torture and ill treatments against PwD
- b. GoI to increase number of psychiatrist hospitals, rehabilitation centers and service providers of mental health with priority to areas outside of Java and with sufficient space to respond to the condition of overcrowding, train health workers with gender and disability perspective, and distribute free of charge needed medications in rural and remote areas.
- c. GoI to speed up the process for ratification of The Optional Protocol Convention Against Torture

Article 16: Freedom from Exploitation, Violence and Abuse

30. Komnas Perempuan's annual compilation of reported cases of violence against women in the period of 2017-2021 documented at least 342 cases of violence against women with disabilities. More than half, or 59% is experienced by women with mental and intellectual disabilities. Up to 65% of reported cases are sexual violence, mostly are rape, that occurs in both personal and public domain, including incest and rape by teachers. Economic and psychological dependency, and the lack of social security scheme other than support from family raise the vulnerability of women with

26 KuPP- Kerjasama untuk Pencegahan Penyiksaan or Cooperation for Prevention of Torture was established by Komnas Perempuan with National Commission on Human Rights, National Commission on Child Protection, Ombudsman, and Victims and Witness Protection Agency. Joint program related to disabilities will be one of the focuses on the 2nd term of this cooperation (2022-2027), KuPP has conducted Webinar "the Protection and Prevention of torture and ill treatment of Persons of Mental Disability", in 24 March 2021

disabilities to become victims of domestic violence.²⁷ Komnas Perempuan also concerns that online sexual violence against women with disabilities is underreported, considering the trend is increasing dramatically.

31. Thus, Komnas Perempuan appreciates the issuance of Sexual Crime Law that integrate explicitly perspective on the vulnerabilities and rights of women with disabilities. It is noteworthy that facility of safe abortion for women victims of rape is still rare and many medical practitioners still refuse to perform the service. Whilst the lack of sexual and reproductive rights education for women with disabilities raised their vulnerability to sexual violence and their unawareness to pregnancy as impact of sexual violence or activities.
32. Komnas Perempuan's study on regional regulation on services for women victims of violence (2020) found that only around 10% of 128 regional regulations adopting integrated service concept has a provision of special treatment for women with disabilities. As many as 42 regional regulations that have explicit provision of psychosocial service for women victims of violence. Furthermore, the implementation remains a challenge due to the available infrastructure and resources. Hence, Komnas Perempuan concerns that the situation may aggravate the mental condition of women with disabilities who are victims of violence, and raise the risk of women victims of violence to mental disability, as exemplified by the findings of Komnas Perempuan's monitoring to mental health hospital in Abepura/Papua that most of the women patients are victims of violence.

Recommendations:

- a. GoI to immediately oversee the implementation of Sexual Crime Law and regulation of decent accommodation in judiciary process for PWDs, with specific attention to the vulnerabilities of women with disabilities, particularly intellectual disability;
- b. GoI to a) expedite the setup of free and safe abortion service for women victims of rape and other forms of sexual violence, b) strengthen regional regulation to provide

27 HWDI in an online consultative focus group discussion on the 24th of March 2022.

- special treatments according to the needs of women with disabilities who are victims of violence; c) conduct sexual and reproductive rights education for women with disabilities as an integral strategy to prevent and handling sexual violence and d) provide adequate and appropriate support for victims' recovery;
- c. GoI to ensure prohibition of forced abortion is included in the revision of penal code.

Article 17: Protecting the Integrity of the Individual

33. GoI has issued policies and guidelines regarding Reproductive Health services for persons with disabilities in 2017 as a follow up to the issuance of the Disability Law in 2016. However, forced abortion, forced contraception and forced sterilization are reported to be still practiced. Most cases of rape and sexual exploitation against women with disabilities are revealed when the pregnancy is noticeable due to striking physical changes. Hence, the forced abortion, forced contraception and forced sterilization are commonly considered by the family to put relief for the victim who are perceived not able to take care of neither themselves nor the baby resulted from the rape or sexual exploitation. Komnas Perempuan's monitoring report published in 2019²⁸ found that forced contraception and forced sterilization of women with disabilities is practiced in a number of government-owned rehabilitation centers and psychiatric hospitals. These practices were even carried out without informed consent on the grounds that women with psychosocial disabilities are unable to give their consent or they do not have families who can give consent.²⁹

28 Komnas Perempuan Monitoring Report 2019: Punishment Without Crime, Dimensions of Torture and the Cycle of Violence Against Women with Psychosocial Disabilities in Locations Similar to Prisons (Psychiatric Hospitals and Rehabilitation Centres).

29 All women residents at Margo Widodo Social Care Centres in Semarang, if of childbearing age are immediately implanted with the family planning implant, while women patients at Dr Amino Regional Psychiatric Hospital undergo a tubectomy. If the patient is escorted by their family, then consent is requested from the family, but for residents who were dropped off by the Civil Service Police Unit (SATPOL PP, Satuan Polisi Pamong Praja) after carrying out raids on the streets, the contraceptive insertion procedure is carried out without informed consent from those concerned. Meanwhile, at the Bina Karsa Psychiatric Hospital in Medan, all mental patients must take a pregnancy test when entering the psychiatric hospital (before

34. These medical actions violate human rights, not limited to the right to dignity and privacy, but also right to health, to information, and to be free from violence and discrimination. Hence, Komnas Perempuan welcomes the Sexual Crime Law that prohibit forced contraception and forced sterilization. Noteworthy, prohibition on forced abortion will be governed according to the revision of Penal Code and this raises a concern of possible reinforcement of criminalization of women performing abortion to unwanted pregnancy.

Recommendations:

- a. GoI to develop a national campaign to eliminate forced contraception and forced sterilization against women with disabilities
- b. GoI to ensure revision of penal code integrates prohibition of forced abortion and withdraw criminalization of abortion as integral protection of the rights of women with disabilities.

Article 21: Freedom of Expression and Opinion and Access to Information

35. Provision of disability-friendly public information is mandatory according to the Law on Person with Disabilities, but many public institutions have not being able to observe the obligation. Various public facilities such as places of worship, traditional markets, bus terminals and public service places, particularly those located in remote areas, still do not provide information accessible for persons with sensory disabilities (the deaf and blind communities) or persons with intellectual disabilities. Many websites of public institutions are inaccessible for persons with disabilities, by providing audio feature to accommodate the need of blind people

receiving treatment). According to the hospital, these steps are taken as a precaution. For example, sometimes there are patients who walk outside the hospital without the staff being aware of it and can be raped and fall pregnant as a result of the rape. In addition, to anticipate the effect of medications that are feared to disturb pregnancy. Theoretically, the consumption of psychotic medications will affect the condition of a person's pregnancy. Thus, patients who are pregnant, when they enter the hospital, must sign an agreement beforehand that if there is a disruption of the pregnancy, it is not the responsibility of the hospital. As stated by the staff of the Bina Karsa Psychiatric Hospital "Don't let it happen if you have a disabled pregnancy, the hospital is not responsible and should not be blamed".

or subtitled video content to enable deaf people to access information.

36. As for Komnas Perempuan, the state budget allocated is not adequate to be able to perform the obligation regarding rights of disabilities. Komnas Perempuan also unable to provide decent accommodation for employment although two of the commissioners are disabled. Nor our website is disability-friendly. Nevertheless, the effort to provide as such information can be observed in Komnas Perempuan's attempt to have sign language interpretation during its public event, to have its video campaign material subtitled, and to advocate for better budget allocation to improve its website and working accommodation.

Recommendations:

- a. GoI to allocate adequate budget for state and public institution to build their website, other campaign materials and avenue, as well as activities to disability-friendly in accordance to CRPD's mandate on public information.

Article 24: Education

37. Komnas Perempuan is aware of the challenges in implementing Presidential Regulation No. 13 of 2020 concerning Suitable Accommodation for Students with Disabilities. Obligation to established disability service unit in all level of education is in accordance to the existing bureaucracy on education, and thus, resource mobilization of this unit at particularly elementary to senior high school level is heavily relied on the awareness, commitment and priority of regional authorities.³⁰ Komnas Perempuan received report that special needs schools managed by the Government still require additional fees, a limited number of inclusive and special needs schools, and very few public schools that follow the regulation of suitable accommodation students with disabilities, including provision of information for parents, availability of teacher assistants, and accessible infrastructure.³¹

30 THWDI in an online consultative focus group discussion on the 24th of March 2022.

31 HWDI in an online consultative focus group discussion on the 24th of March 2022.

38. Whilst segregated data is unavailable, Komnas Perempuan concern that approximately 17% of children with disabilities never been enrolled to school and around 8% are dropped out.³² Stigma against disability and economic condition has deter many children with disabilities, especially girls, to enjoy education, besides the lack of education facility. This is situation in a long run would result in limited access to employment and higher risk of impoverishment. Since national data shows the existing gender gap in education, it is expected that more girls are not accessing education in comparison to boys with disabilities.
39. Another concern is related to the very rare presence of sexual and reproductive education for students with disability as a mean to prevent sexual violence. In response to this situation, Komnas Perempuan has developed a training module on this matter that has been tried out in 5 provinces where Komnas Perempuan has been working with disability groups to advocate for better implementation of CRPD with gender perspective.

Recommendations:

- a. GoI to develop action plan with clear target and timeline to implement Presidential Regulation No. 13 of 2020 concerning Suitable Accommodation for Students with Disabilities, including to equipped education practitioners and state apparatus relevant to education system at all levels with disability perspective.
- b. GoI to integrate sexual and reproductive education in the curriculum with disability perspective
- c. GoI to enhance monitoring of the implementation of the Presidential Regulation 13/2020, including through developing segregated data in accordance to sex, age and type of disability related to access in education

Article 25-26: Health, Habilitation, Rehabilitation

40. Komnas Perempuan's monitoring notes that stigmas and stereotypes against women with psychosocial disabilities in families and communities have been depriving them of their autonomy, such as by not allowing them to consensually

³² GoI's response to Lol, 2021

determine when they must be treated in a psychiatric hospital or rehabilitation center.³³ Meanwhile, there are still workers in psychiatric hospitals and rehabilitation centers who do not have disability perspective. Based on Ministry of Health Regulation No. 290/Menkes/PER/III of 2008, consent for medical treatment can only be given by competent patients, namely those who are not a child,³⁴ whose psychological awareness is not disturbed, is able to communicate properly, does not experience mental retardation and does not suffer from illness and can therefore make their own decisions. Patients can also be represented by their closest family (husband, wife, father, mother or caregiver). However, family members do not always convey the patient's interest as they may feel burdened to have to care for a person with psychosocial disabilities. Therefore, Komnas Perempuan considers it important for patients to be accompanied by special assistants according to the level of psychosocial barriers in order to obtain genuine consent.

41. The Presidential Regulation No. 70 of 2020 concerning Habilitation and Rehabilitation Services for PWDs requires regional government regulation at the provincial level as an umbrella for regional government regulations at the city/district/village level for resource mobilization for its implementation. Although there are regional government policies, their implementation is still constrained technically and in terms of substance.³⁵ Budgets are also prioritized for non-disability programs and the Covid-19 situation has also increased the barriers and vulnerabilities of persons with disabilities in accessing health services such as carried

33 In Komnas Perempuan's monitoring (Punishment Without Crime, 2018), in a number of psychiatric hospitals and rehabilitation centres, violations of human rights were found in the form of, among others, Being Deprived of the Right to Make Decisions, Feeling Dumped and Experiencing Exile, in other words "being denied as a subject, feeling differentiated, not having ones voice and decisions heard, for example, suddenly being forced into a car to be taken to a psychiatric hospital or being rehabilitated without consent" (p. 54).

34 A child who is married is considered as adult

35 Komnas Perempuan, Living in Vulnerability and Abandonment: The Urgency of Fulfilling the Right to Reproductive and Sexual Health Services for Women with Disabilities and the Elderly, Results of Initial Mapping in Kabupaten Bekasi, Kabupaten Cirebon, Kabupaten Kulon Progo, Kabupaten Situbondo and Kabupaten Kupang, 2021. p. 38-43.

out by the Health Social Security Administration Agency.³⁶ There is also a limited number of psychiatric hospitals, and the quality of mental health services is quite low in many areas in Indonesia.³⁷ In fact, in Papua and West Papua there is only one psychiatric hospital, namely Abepura Psychiatric Hospital³⁸ and there are no available rehabilitation centers that are affordable for those living in small towns or villages.

42. The lack of policies and understanding as well as the capacity of reproductive health services has resulted in a number of cases of forced sterilization and abortion for women with disabilities on the medical grounds of the possibility of giving birth to babies with disabilities.³⁹ Hospitals and health service centers are still not friendly and equal in quality of services, including access to reproductive health.⁴⁰ In addition, women with disabilities are also vulnerable to becoming victims of sexual violence.⁴¹ Barriers regarding the

36 Organisations for persons with disabilities networks' inclusive Covid-19 response; Komnas Perempuan's focus group discussion with disability networks on the 22nd of March 2022.

37 As of 2017, there were 34 Government-owned psychiatric hospitals, 9 privately-owned psychiatric hospitals and 1 drug addiction hospital in each of 28 out of 34 provinces in Indonesia. There were 6 provinces that did not have any psychiatric hospitals, including the Riau Islands, North Kalimantan, Central Sulawesi, Gorontalo, West Sulawesi and West Papua.

38 Komnas Perempuan's visit in November 2021 regarding disability monitoring. Every day, Abepura Psychiatric Hospital handles approximately 60-70 outpatients and 60 inpatients with only 3 doctors and no rehabilitation centres that can be a referral partner for patients who are already declared to be well. Rehabilitation centres are intended for patients with mental disorders who have recovered and need to be prepared to achieve their normal social function.

39 Komnas Perempuan Study on the urgency of the fulfillment of the sexual reproductive health services for women with disabilities and elderly women, 2021.

40 For example, women with physical disabilities experience difficulties registering at the hospital. Women with disabilities also do not receive knowledge on how to bathe and handle babies after giving birth at hospitals, or practice pregnancy exercises. Komnas Perempuan Sexual and Reproductive Health Team. 2015. Proceedings of the Workshop on Preparation for the Development of Sexual and Reproductive Health Policy Brief. Komnas Perempuan. Jakarta; Komnas Perempuan Sexual and Reproductive Health Team. 2015. Results of Field Visits to Yogyakarta and Bandung. Komnas Perempuan. Jakarta; Komnas Perempuan focus group discussion with disability networks on the 22nd of March 2022.

41 CATAHU (Komnas Perempuan's Annual Notes) 2021 noted 77 cases of violence against women with disabilities with 55 of those cases being women with intellectual disabilities (who are the most vulnerable to sexual violence), followed

rehabilitation of women with mental disabilities include the inability of families to care for their family members with disabilities, limited knowledge, conditions of the elderly, loss of villages due to conflict or family who can no longer be contacted.

Recommendations:

- a. The Government ensures regional and national policies which guarantee access to reproductive health services for persons with disabilities.
- b. The Government ensures an increase in the number of psychiatric hospitals and rehabilitation centers in small towns and remote areas.
- c. The Government ensures access to rehabilitation services in all hospital institutions.

Article 27: Work and Employment

43. In line with the gap for girls and women with disabilities in accessing all levels of education (see article No. 24 on Education), women's participation in education is low and is getting lower at the secondary and higher education levels. In the education sector, women with disabilities who have a high school diploma/equivalent total 9.21%, while men with disabilities who have a high school diploma/equivalent equal 16.88%. This situation affects employment access for women with disabilities.
44. The participation of women with disabilities in the workforce is about half that of the labour force participation rate of men with disabilities. According to the Central Bureau of Statistics (BPS, Badan Pusat Statistik, 2020), in 2019, the labour force participation rate of men with disabilities was recorded as 60.06%, while the labour force participation rate for women with disabilities was only 33.96%. With this situation, most persons with disabilities or 72% (approximately 1.37 million people) work in the informal sector (SMERU, 2020). Even

by 22 cases of women with sensory disabilities; SADPA. 2021. Reproductive Health Services Need to be More Reachable and Disability Friendly. sapidajogja.org/2021/06/layanankespro-perlu-lebih-menjangkau-remaja-disabilitas/. Accessed on the 13th of December 2021.

though the Government has issued a policy for a quota of 2% workers with disabilities in government institutions and 1% in private institutions, Komnas Perempuan's monitoring still finds discrimination against women with disabilities. The lack of detailed and systematic mechanism to monitor the implementation of these quota policies and the absence of sanctions for government and private institutions that violate the disability quota seems to perpetuate discrimination against women with disabilities in employment sector.⁴²

45. Furthermore, there is still discrimination of PWDs in the recruitment process due to the meaning of the requirement to be "physically and mentally healthy", in which this requirement is often based on the condition of a person's disability. As explained above related to Art. 6, the Job Creation Law also still discriminates against workers with disabilities and women workers with disabilities.

Recommendations:

- a. GoI to expedite implementation of quota policies for workers with disabilities in state institutions and private sector and encourages accessibility for workers with disabilities in the work environment with the availability of suitable accommodation for them, including the use of disability-friendly technology.
- b. GoI to develop firm and consistent monitoring mechanisms for ensuring the implementation of laws regarding labour quotas for persons with disabilities
- c. GoI to revise the Job Creation Law to ensure the fulfilment of rights of PWDs, including maternity rights and better protection for women workers with disabilities.
- d. GoI to develop inclusive schools by integrating the use of digital technology for students with disabilities in order to increase work participation.

42 Like the case of DH, who had schizophrenia who worked in a state ministry and was fired due to psychosocial problems that had relapsed for a while, while DH was one of the outstanding workers in the ministry where he worked. This case was reported to Komnas Perempuan in March 2022 and received strong protests by organisations for persons with disabilities in the country.

Article 33: National implementation and monitoring

46. Komnas Perempuan supports the establishment of the National Commission of Persons with Disabilities (Komisi Nasional Disabilitas/KND). During the preparation of the establishment, Komnas Perempuan shared our experience in developing our institution as a national human rights institution (NHRI) with a specific mandate. Komnas Perempuan also elaborated our works in a sharing session with the elected commissioners and discussed the crucial issue of independence within the current bureaucracy setting. Komnas Perempuan looks forward to work more closely with KND in ensuring the creation of conducive environment to eliminate all forms of violence against women with disabilities and to advance the rights of women with disabilities

Recommendation:

- a. GoI to allocate adequate resources for both Komnas Perempuan and KND to perform their role as NHRI individually and to develop join programs necessary to eliminate all forms of violence and discrimination against women with disabilities

**The Committee of The International
Covenant on Economic, Social and
Cultural Rights (ICESCR), 2023**

**RESPONSE TO THE LIST OF
ISSUES AND THE
STATE PARTY'S REPLY OF
INDONESIA**

Submitted by
The National Commission on Violence Against Women
(Komisi Nasional Anti Kekerasan terhadap Perempuan
— Komnas Perempuan)



January 12, 2024.

No : 03/KNAKTP/Pimpinan/I/2024

Subject : Komnas Perempuan Independent Report

To:

Committee on Economic, Social and Cultural Rights

Human Rights Treaties Division (HRTD)

Office of the United Nations High Commissioner for Human Rights
(OHCHR)

Dear Madam/Sir,

The Indonesian National Commission on Violence against Women (Komnas Perempuan) is one of the human rights institutions in Indonesia, which is established based on Presidential Decree No. 181/1998 and then strengthened through President Regulation No. 65/2005. Komnas Perempuan's mandate is to work for the fulfilment and strengthening of women's rights and to create a situation conducive to the elimination of all forms of violence against women in Indonesia.

Regarding Indonesia second review on the implementation of the International Convention on Economic, Social, and Cultural Rights, hereby Komnas Perempuan submit our independent report. In preparing this report, Komnas Perempuan conducted several external consultations with various partners and stakeholders. These report updates our submission for the List of Issues that we send in 2022 and highlights certain issues discussed during the online briefing between NHRIs and Committee in the pre 70th pre sessional working group of the Committee on Economic, Social and Cultural Rights (CESCR).

We understand that all submission requested to be posted through online system, but we face technical difficulty to register our report under NHRI section. Hereby we submit this report directly to the CESCR secretariat and also through online system which registered as submission from "other".

We sincerely hope that this submission would contribute to the process of the consideration of the State Party report which will be held on 75 session (12 Feb-01 March). Should you have need for further information or clarification, please do not hesitate to contact us through our staff, Sondang Frishka, at frishka@komnasperempuan.go.id

We are looking forward to collaborate more with you in the future.

Sincerely yours,

Andy Yentriyani
Chairperson

Introduction

1. This response to the List of Issues and State Party's reply is prepared by Komnas Perempuan or the Indonesian National Commission on Violence against Women, a national human rights institution with a specific mandate to develop a conducive environment for the elimination of all forms of violence against women and the promotion of women's rights in Indonesia.ⁱ Komnas Perempuan has the tasks to increase public awareness; conduct monitoring, fact-finding, and reporting on situations of violence against women as violations of human rights; review laws and policies and conduct strategic research; provide suggestions and considerations on policies to government agencies and community organizations; and develop cooperation at national, regional and international levels. This response is based on Komnas Perempuan's monitoring and received complaints related to violence against women cases in the field of economic, social, and cultural rights.

A. Law and Regulation: Discriminatory Laws

2. Komnas Perempuan in 2022 recorded at least 305 discriminatory bylaws in the name of religion and public morality in the context of regional autonomy in Indonesia. Amongst those are 72 policies obliging attire according to a particular interpretation of the religion adhered by the majority of the population, namely Islam. These policies put women as the primary target of their implementation. In Komnas Perempuan consultation with community of survivors (2023), women objecting to this regulation face discrimination, administrative sanctions, losing their jobs, being ridiculed, ostracized, and even violence and persecution. Victims and their families endure stress, fear, depression and some even have suicidal thoughts.

3. Aceh province with its special autonomy to enact *syariah* based bylaw requires specific attention. Besides obligation to wear veil, its local regulation of *Qanun Aqidah* sanctions with public canning of any person who converts from Islam. Another regulation, *Qanun Jinayat*, also applies public canning for crime of *khalwat*, two persons of opposite sex who are not in the wedlock and caught for being together in a considerably secluded area that may rise suspicion of having sexual intimacy; as well as for the crime of showing intimacy in public (*ikhtilath*), consensual extramarital sex (*zina*) and homosexuality. These regulations infringe

freedom of religion and belief, the rights to privacy and freedom of expression. Komnas Perempuan are concerned that women due to gender construction face disproportional disadvantage in the implementation of such policies.

4. Komnas Perempuan appreciates the effort of the Government of Indonesia (GoI), particularly the Ministry of Women Empowerment and Child Protection (MoWE) and the Ministry of Human Rights and Law (MoHRs) to expedite review of the discriminatory bylaws and to strengthen preventive measures. Also the Ministry of Home Affairs (MoHA) to implement the authority to assist and supervise regional regulations through the E-Perda (Electronic-regional regulations) system and the Ministry of Education (MoE) to supervise regulations at education institutions to prohibit such obligation. Nevertheless, reduction of discriminatory bylaws since the Universal Periodic Review for Indonesia (2022) yet to be observed.

5. In relation to this, Komnas Perempuan in 2022-2023 received 5 (five) complaints from women of religious minority groups, namely in the cases of violent attacks against Ahmadiyya mosque in Sintang Regency; the burning of the houses of Buddhist residents in Mareje, West Lombok; the rejection of the establishment of the HKBP Maranatha Church in Cilegon; land dispute and discrimination against the Sundanese Wiwitan indigenous community, Cisantara Village, Cigugur District, Kuningan Regency, and the rejection of the establishment of church in Aceh Singkil. Local discriminatory policies against religious minority has been deployed to justify these incidents.

6. Thus, Komnas Perempuan recommends a) GoI to ensure the implementation of recommendations from the Cycle V UPR Session regarding the elimination of discriminatory regulations in the form of control over women's bodies and those that violate freedom of religion and belief which have a direct or indirect impact on women's and other religious minority groups' access to employment, economic resources, public services and community/society social cohesion; and b) GoI to ensure the protection of the right to freedom of religion and takes firm action against anyone who obstructs the fulfilment of this right.

B. National Human Rights Institutions (NHRIs)

7. Komnas Perempuan appreciates GoI's commitment to the strengthening of NHRIs as recommended by the UPR Cycle IV,

and particularly for the National Commission on Violence Against Women as a National Human Rights Institution (Recommendation No. 140.193). While we are still looking forward to the increase in the number of staffs and levelling up of its secretariat's authority in administrating budget, there has been an increase of budget and facility for Komnas Perempuan in the year of 2023 and 2024. Nevertheless, whilst Indonesia has multiple national human rights institutions, the state bureaucracy system has not been able to accommodate their institutional needs adequately.

8. Recommendations for GoI include a) to fully implement the UPR Cycle IV recommendations by supporting efforts to strengthen NHRIs' institutional capacity, including the availability of sufficient budget and quality human resources, particularly of Komnas Perempuan; b) to expedite the follow up of recommendations from NHRIs, including Komnas Perempuan's recommendations on prevention and handling of cases of violence against women and other forms of gender based violation of human rights against women, and c) to improve the state bureaucracy system to accommodate specific characters of NHRIs in order to increase their independence and optimal roles.

C. Multiple Discriminations

9. **Women and Disability:** Women with disabilities have multiple layers of vulnerability to gender-based discrimination and violence. According to the Annual Record (CATAHU) of Komnas Perempuan in 2023, there are at least 79 cases of violence against women with disabilities, 7 (seven) of those reported directly to Komnas Perempuan. Most of the violence is committed by the members of family or intimate person. This number does not reflect the actual reality of their experience because many of the cases are not reported due to various reasons, particularly due to the lack of access despite the presence of the Government Regulation no. 39/2020 concerning the Adequate Accommodation for Persons with Disabilities in Conflict with the Law. Other obstacles experienced by women victims with disabilities in accessing justice are: (1) the limited perspective and knowledge on disability issues discourage law enforcers to follow up the report of women victims with disabilities, especially if the victim has an intellectual disability or psychosocial disability; (2) the lack of evidence because many of the violence, especially sexual violence, are often committed without eye witness; and particularly victims with intellectual disabilities and psychosocial

disabilities do not understand what is happening unless their pregnancy is recognized by others, (3) Minimal availability of expert or trained officer to accompany person with disability in the legal processes; (4) decision to use customary practice such as paying fines or marrying of victim to the perpetrator of rape to resolve cases of sexual violence against women. Such decision is mostly made by the victims' family, particularly with a belief that people with disabilities are unfit to stand before the law.

10. Indigenous Women. Komnas Perempuan's monitoring on the implementation of restorative justice (2023) show that indigenous women have experienced multiple layers of discrimination in access to justice. Particularly for those living in rural areas and remote islands, their access is mostly limited to customary mechanism because of the lack of justice infrastructure in their area. Some of their cases, including sexual offences, are referred by law enforcers who claim that the customary mechanism is more suitable to be settle the case according to the aspiration of the community and the family of victims as well as the victims themselves. However, most of the customary mechanisms are very patriarchic, do not recognize woman as an independent and eligible subject to speak for herself, or even to be allowed to take part in the process. Hence, the result is very likely to overlook the rights and the need of women victims. Komnas Perempuan recalls that the commitment of GoI to support the recommendations of the UPR Cycle IV Session regarding the recognition and protection of indigenous peoples, including indigenous women and their resources (Recommendation No. 243 etc.).

11. Sexual Minorities: There are at least 12 (twelve) regionsⁱⁱ and 2 (two) universities^{iii&iv} that have discriminatory policies against non-conforming gender expression and heteronormativity, such as in Bogor, Makasar, Bandung City, Medan City, Garut Regency, West Sumatra Province, Tarakan City, Bekasi City, Kota Pekanbaru, Karawang District, and Parigi Muntong District. For example, one of the bylaws prohibits couple who are not married to each other and those of the same sex, namely lesbian, gay, bisexual and transgender to be in a room of boarding houses and/or rooms of rented houses, hotels, guesthouses.^v In 2022, acts of violence against transwomen occurred in Tangerang^{vi} and Kupang. Komnas Perempuan's annual report 2023 also recorded various forms of gender-based violence against transwomen, namely threats to distribute content with sexual act-

ivity of the victims, sexual torture, being forced to drink alcohol, electrocuted, and being forced to sleep with their hands hanging. In addition, transwomen face (a) bullying, (b) expulsion from home or their communities.^{vii} (c) difficulty in accessing residence administration, (d) experiencing obstacles in applying for jobs at formal offices; (e) stigma as they are considered socially undesirable, social disease, and the cause of the spread of HIV/AIDS. Komnas Perempuan appreciates MoWE and MoHRs for following up on Komnas Perempuan's recommendation letter by confirming in a joint recommendation that the above regulations are discriminatory. To date, response from the Ministry of Home Affairs has not been observed.^{viii} In the UPR Cycle IV Session, the Indonesian Government supported the recommendations regarding the need for legal provisions to protect sexual minorities against discrimination or oppression based on their gender, sexual orientation, ethnicity and gender or other reasons (recommendation 140.70 etc).

12. Recommendations for GoI to : a) to provide sufficient resource allocation, including for the provision of adequate accommodation for women with disabilities in accessing, b) to issue regulation for ensuring the implementation of customary law in resolving violence against women cases meets the human rights standard and is complementary to the criminal justice system, c) to pass the Indigenous Peoples Bill, which provides recognition and protection for indigenous communities, including women, and their natural resource, d) to organize gender-based human rights education for customary institutions and social/religious institutions or similar institutions regarding restorative justice in order for the to be able to properly handle violence against women cases, e) to revise discriminatory regulations based on nonconformity of gender expression and sexual orientation, f) to ensure the fulfilment of economic rights, employment and the right to be free from violence and discrimination against transwomen, as they are part of the constitutional rights of all citizens.

D. Employment

13. Employment in the formal sector. From 2019 to 2022, Komnas Perempuan received 378 direct complaints of violence at work.^{ix} The type of violence is varied, including gender-based violence and maternity rights violations. Sexual violence toward women's labour occurs due to bad conditions of work, and outsourced workers are the most vulnerable. Poor working

conditions at PT AFI (Bekasi, West Java), for example, allegedly resulted in the miscarriage of 18 female workers throughout 2019 (Komnas Perempuan's CATAHU 2020). This situation shows that even though Indonesia has ratified many labour regulations to protect labour in the formal sector, the employment protection scheme has not yet guaranteed comprehensive protection for women workers from gender-based discrimination, violence and harassment in the workplace. Ratification of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in lieu of Law Number 2 of 2022 on Job Creation into Law also alienates the protection of women workers since there is no protection from violation of maternity rights, gender-based violence and harassment in the workplace. Impact is yet to be observed from the implementation of the Ministry of Manpower's regulation on the Prevention of Sexual Violence and Harassment at the workplace that is issued to respond to the Law on Sexual Violence.

14. In response to this, **recommendations** for GoI are to: a) ensure that the due diligence principle is applied in reviewing the Law on Job Creation, b) strengthen the corrective measures and to provide remedies to women workers who are victims of gender-based violence (GBV) at work and c) ratify the ILO Convention No. 190 and Recommendation No. 206 to prevent gender-based violence against and harassment of women workers at work.

15. Domestic Workers. The Bill on Domestic Workers Protection has been delayed for 19 years. Since there is no regulation to protect domestic workers, many of them experience i.e. unpaid wages, being fired without reasons, reduced wages when they are sick or unable to work, no access to health insurance when sick, and no severance pay. During the pandemic, their condition is even worse.^x This condition happens because employers treat domestic workers often as their property.^{xi} In response to this situation, Komnas Perempuan urges the Indonesian Parliament to expedite the issuance of the Law on Domestic Workers Protection as mandated by the Concluding Observation CEDAW Committee in 2021. Komnas Perempuan also urges the Indonesian Government to ratify the Domestic Workers Convention No. 189 and Recommendation No. 201 to prevent gender-based violence and harassment of women domestic workers in their place of work and to prosecute and punish the perpetrators.

16. Home Worker. The number of home workers in Indonesia is not yet known with certainty. This is because the type of homework is informal, irregular and changing. Female workers dominate homework, and nationally, there is no nomenclature for data collection on home workers. The Central Statistics Agency does not have a category for homework. Based on data collection conducted by the Trade Union Rights Center (TURC), there are at least 4,279 women home workers in seven provinces.^{xii} Komnas Perempuan's mapping in 2022 showed that women home workers experience exploitative working conditions, gender-based violence, minimal fulfilment of maternity rights and lack of employment guarantees.^{xiii} These findings show that women home workers experience multiple layers of vulnerability of injustice, as women and as workers. An effort for a judicial review of the employment law to gain recognition for home workers was carried out in 2022 but was rejected by the Constitutional Court through Decision 75/PUU-XX/2022. However, the Constitutional Court recommended that the Indonesian Government, through the relevant ministries, make special regulations to protect women home workers. Hence, Komnas Perempuan strongly recommends the Indonesian Government is to follow up the Constitutional Court view to ensure recognition and protection for homeworkers who are predominantly women.

E. Women Migrant Workers

17. Abuse and other forms of human rights violations in the context of migration against Indonesian women migrant workers are still commonly reported amidst efforts to implement Law No. 18 Year 2017 on Protection of Migrant Workers and Their Family. Cases reported include physical, psychological and sexual violence, such as sexual harassment, rape, and forced prostitution. Also, cases of human trafficking, debt bondage, threats and extortion, violations of the right to information, manipulation of documents, and confiscation of documents, all of which occur from the recruitment process to repatriation. There are indications of the practice of torture against women migrant workers who are in shelters during placement process (Komnas Perempuan's monitoring, 2022). This condition is regrettable considering that Indonesia has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) through Law Number 5 of 1998. Recalling Gol's commitment in UPR Cycle IV, Komnas Perempuan endorses

GoI to a) develop mechanisms to monitor legal and institutional frameworks relating to migrant workers and protect the rights of migrant workers and their families b) accelerate the procedures for ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, c) carry out intensive supervision on the implementation of shelters of migrant workers, including enforcing strict sanctions for those who commit violations of existing laws and regulations, d) ensure SOPs/guidelines/internal regulations for preventing sexual violence comply with Law No. 12 of 2022 concerning Crime of Sexual Violence and ILO Convention 190 concerning the Elimination of Violence and Harassment in the workplace, and e) provide adequate remedies and support for accessing justice for women migrant workers experiencing violence and abusive working situation.

F. Marriage

18. Child Marriage. Whilst the increase of the marriage age from 16 to 19 years old has been applied since 2019 (Law No. 19), child marriage is still rampant. This is observable through the high rate of cases of marriage dispensations in the religious courts, although it has been decreasing in the last three years.^{xiv} Unwanted pregnancies among girls is one of the reasons for the dispensation. Child marriage is resulted in systematic impoverishment of women as it has negative psychological, social, economic and health impacts on them, particularly on the sexual reproductive health of girls. In the UPR Cycle IV, Indonesia noted the recommendation (140.218) to take additional steps to eliminate exemptions on the prohibition of child marriage, including addressing judicial dispensations and conservative religious interpretations of marriageable age, while avoiding bride kidnapping by ensuring the consent of all women in all marriages. However, Indonesia also supports the recommendation regarding continuing efforts to eradicate violence against children and women, including child marriage.

19. Hence, Komnas Perempuan recommends the GoI to a) strengthen the synergy across governmental agencies and collaborate with religious leaders, Adat/customary/community leaders to campaign on the dangers of child marriage, b) strengthen collaboration across governmental agencies for economic empowerment, providing social assistance to low-income families with daughters of school age to pay for their education costs, and c)

provide opportunities for girls who are victims of child marriage to enable them to develop their potential with measurable and effective programs, including but not limited to fulfilling their right to education.

20. Interfaith Marriage, Minority Religious Marriage and Polygamy: In 2023, the Supreme Court issued a discriminatory policy prohibiting access to legally document interfaith marriage (Circular Note No. 2/2023 concerning Instructions for Judges in Hearing Applications for Registration of Marriages Between Religious People of Different Religions and Beliefs). Komnas Perempuan is the view that this Circular Note is hindering the State in performing its constitutional obligation to human rights, and also in contradiction to the state obligation to the Law on Population Administration that direct the State to ensure access for marriage certificate without discrimination. Difficulty in accessing marriage certificate is also faced by religious minorities, particularly those labelled as heretic or from indigenous faith without legal organization status. Not having marriage certificate is particularly disadvantageous for women because they will suffer from the stigma of being promiscuous for having sexual relation and/or to have birth out of wedlock and to be easily involve in polygamous marriage of their husband since their marriage is not considered as legally binding. Since the 2023 Penal Code prohibit cohabitation, which is living together as couple without wedlock, the absence of marriage certificate put women and their spouse at risk of criminalization. In addition, the Law No. 1 of 1974 on Marriage also have discriminatory article against women with disability since disability is an eligible reason for divorce and polygamous marriage.

21. Recommendations for GoI on this matter include: a) Supreme Court to immediately revoke Supreme Court Circular Note No. 2/2023 in order to fulfil the State obligation in the protection of rights to be equal subject before the law and to marriage, b) government to develop program to curb structural obstacles of registering interfaith marriages, mixed marriages, as well as marriages carried out by members of minority religions and beliefs, and c) to revise the Marriage Law, including an article that regulates the wife's "disability" as a legal reason for polygamy.

G. Violence against Women (VaW)

22. Sexual Violence: Whilst the Law No. 12 of on Sexual Crime is commendable for its focus on the rights of victims, the follow up is considerably slow for to date none of derivative regulations has been issued. The 4 (four) national human rights institutions of Indonesia (LNHAM), namely National Human Rights Commission (Komnas HAM), Indonesian Child Protection Commission (KPAI), the National Commission on Disabilities (KND) and also Komnas Perempuan are in collaboration in preparing recommendations for the Draft of Government Regulation on the Coordination and Monitoring of the Law.^{xv} Komnas Perempuan welcomes the establishment of task force to prevent and handle cases of sexual violence at campuses of both public and religious based universities, and also the regulation from Ministry of Manpower to form similar task force in all working places. However, the strengthening of police unit to handle the cases by establishing specific directorate is yet to be observed.

23. VAW and the Archipelagos: The findings of Komnas Perempuan's monitoring (2023) show that the geographical conditions of the Indonesian archipelago put a specific challenge in the growth of service infrastructure, budget provision to support victims, and judicial process of complaints of sexual violence because victims have to travel to the main island which is far away and expensive. Although the number of Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA) is increasing, these units are still concentrated on Java island and urban areas. Furthermore, few professional services, such as clinical psychologists, are still available throughout the country.

24. Women Human Rights Defender (WHRD). Presence of WHRDs is important to assist victims in accessing justice as well as in recovering, including those performed by community service advocates or paralegal. They often experience threats, physical and sexual violence (offline and online), as well as legal risk despite the Sexual Crime Law provide immunity right to those supporting victims in reporting their cases. In addition, many WHRDs have to financially support themselves to assist victims of violence in the absence of the Government's financial support, disrupting the management of their family income. Many of them do not have health and employment insurance. This situation has contributed to the burnt out and other health issues among WHRDs.

25. Restorative Justice: The results of monitoring by Komnas Perempuan in 2023 show that there are 5 (five) substantive problems in resolving gender-based violence against women, which are related to the implementation of current policies related to restorative justice mechanism, namely a) relying on procedural involvement; b) opening loopholes for impunity and repetition of crime; c) ignoring the victim's recovery; d) prioritizing a false image of harmony; and e) minimal accountability. Komnas Perempuan has identified 4 (four) main factors that allow this practice to continue: a) the current policies are still ambiguous and partial; b) the lack of qualified human resources to perform the mechanism; c) the scarcity of supervision; and d) the persistent culture of patriarchy and feudalism adopted in the administration of restorative justice.

26. In response to this, Komnas Perempuan recommends the GoI to a) issue derivative regulations for concrete implementation of the Sexual Violence Law overcome socio-cultural and structural barriers to victims' access to justice; b) strengthen the capacity of law enforcement officials, c) expand the accessibility of the victims to service providers in remote, outermost and island areas, d) provide protection and health insurance for WHRDs who work to assist victims of violence, e) to improve policies regarding restorative justice to include e1) evaluation of the implementation of internal police/prosecutor/court policies regarding their complaints handling approach relevant to cases on gender-based violence against women that use restorative justice mechanism; (e2) issuance of specific policies and adopting the good practice to resolve GBVAW cases using restorative justice mechanism and its supervision procedures; and (e3) increasing the capacity of police/prosecutor/court officers, especially those who are directly taking complaints from women and children, implementing restorative justice mechanism to resolve gender-based violence against women cases; and (e4) carrying out supervision after the implementation of restorative justice.

H. Sexual and Reproductive Health and Rights

27. Safe Abortion Services as a Reproductive Health Right. Provision of safe abortion services in Indonesia are only intended for victims of sexual violence and women suffer from medical emergencies. Komnas Perempuan annual report documented 22,286 cases of sexual violence that occurred between 2016-2021, with 10,235 of them being rape cases with a possible

risk of having unwanted pregnancy.^{xvi} The provision of safe abortion service is stated in Law on Health and subsequently, there is a Government Regulation No. 61 of 2014 concerning Reproductive Health on the provision of safe abortion services. It is also strengthened by the revised Penal Code 2023. However, to date limited number of health facilities provided by the Indonesian Government that perform safe abortion services to fulfil this legal mandate, especially for the victims of rape. Previously, the eligibility to access this service is up to 40 days of the gestational age. However, the lengthy bureaucracy makes it difficult for the victims of rape to access this service. The revised Criminal Code Law 2023 and Health Law 2023 extend the eligibility period to 14 weeks of pregnancy but will only be effective in 2026. Regardless of the issue of the gestational age restriction, as a party to CEDAW and other international human rights instruments, the Indonesian Government is obliged to provide safe abortion services to fulfil the reproductive health rights of women who are victims of rape. Komnas Perempuan underlines that the Indonesian Government supports recommendation (140.135) of the UPR Cycle IV Session, namely changing and harmonizing laws and policies to guarantee access to safe abortion services.

28. Hence, Komnas Perempuan recommends GoI to: a) accelerate the preparation of guidelines to provide safe abortion services for victims of rape and other victims of sexual violence in Indonesia, b) develop training modules to increase the number of trained professionals to implement safe abortion services as specified in the existing policies, and c) ensure the availability and readiness of health facilities to provide comprehensive, safe abortion services at every level, from national to regional, through a tiered referral scheme.

I. Harmful Traditional Practices

29. Female Genital Mutilation/Cutting — Komnas Perempuan observes that Minister of Health Regulation (Permenkes) No.6 of 2014, Article 1 confirms that Female Genital Circumcision/Cutting (FGM/C) has no medical benefits. But, article 2 gives authority to the Health and Sharia Advisory Council (Fatwa on Health and Religious Considerations) to issue guidelines regarding the facilitation of a practice that would ensure the safety and the health of women who are circumcised but prevented from experiencing female genitals mutilation. These contradictory articles contribute to the continued practice of FGM/C.

Hence, the prohibition of FGM/C has always arisen in various reviews of Indonesian performance on human rights, such as in the previous cycles of UPR sessions, as well as CEDAW and ICCPR. The Ministry of Health has been careful in issuing this regulation because it has been revoked 2 (two) times. The fatwa is intended to regulate respect for a belief in carrying out female circumcision as a result of pressure from some religious based communities. It is noteworthy that the Indonesian Women's Ulema Congress (KUPI)^{xvii} declares that FGM is haram (forbidden), and the mass-based muslim organization, Muhammadiyah, also does not recommend it. However, this practice is supported by the Assembly of Muslim Clerics (MUI) that is mostly referred by the public. A study by Komnas Perempuan shows that in 2017-2018, FGM/C was still carried out in 17 (seventeen) districts of 10 (ten) provinces. The 2021 Women's Life Experience Survey (SPPHN) showed that 33% respondents experienced female circumcisions as it is believed as a religious practice. Studies suggest that the perpetrators of FGM/C are the not only traditional healers but also midwives, health workers who have received recognition from the National Government. The practice of FGM/C is generally carried out across rural-urban areas, socio-economic conditions and educational and occupational backgrounds.

30. Based on these findings, Komnas Perempuan encourages the Indonesian Government to implement strategic programs to overcome this problem, especially to increase awareness among religious leaders and the community that all forms of FGM/C are a form of violation of women's human rights. Komnas Perempuan also supports the implementation of national roadmap and action plan prepared by GoI for preventing FGM/C practices in Indonesia, which is expected to eliminate P2GP practices by 2030 and contribute to achieving SDG Goal 5

31. Bride Kidnapping. Komnas Perempuan's monitoring in 2021 and 2022 showed that the bride kidnapping is still practiced in Eastern part of Indonesia. According to the Penal Code, bride kidnapping is a crime and according to the 2023 Law on Sexual Crime, bride kidnapping is part of the forced marriage that is prohibited. Considering the harm posted by this practice to women, including hindering women from enjoying their rights to freedom in entering marriage consensually, Komnas Perempuan is concerned that the local governments at four districts in Sumba island where the practice is observable have not taken any concrete action to develop systematic measure to prevention. Noticing

that at the UPR Cycle IV Session, the Indonesian Government was in “take a note” position on the recommendation (140.202) concerning the prohibition of traditional practices that are harmful to women, including cutting/injuring women’s genitalia and forced marriage, Komnas Perempuan recommends the GoI a) to conduct more research on the relationship between women’s vulnerability to harmful practices in the name of tradition, cultural spaces and traditional norms, and b) to develop programs to address bride kidnapping and other harmful traditional practices in order to promote gender equality and justice in the realm of tradition and culture.

J. Natural Resources Conflicts and ECSR

32. There were 11 (eleven) cases of gender-based violence in the contexts of natural resources based conflict and land dispute in relation to spatial planning of national strategic projects ^{xviii} that were directly reported to Komnas Perempuan in 2022. Komnas Perempuan noted that the conflict over natural resources could go on for a very long time, ranging from half a decade to more than a decade, which means it spans generations. It is very rare to resolve natural resource conflicts from the perspective of the constitutional rights of citizens and women. The accumulation of the impacts of ongoing conflicts over natural resources has prompted Komnas Perempuan to characterize this type of conflict as a form of serious human rights violation. Some conflicts of natural resources are even layered with armed and social conflicts of the past, such as in Papua. According to Komnas Perempuan’s monitoring, impacts of natural resource-based conflicts on women in their rights to economic, cultural and social rights include: (1) impoverishment due to the loss of livelihood for women because they cannot access the area or because of the deteriorating condition of the land, rivers, and air that resulted in the continuous decline of crops or livestock production; b) psychological burden because they are the keepers of local knowledge which include the economic, cultural and spiritual resource, such as making woven bamboo, herbal medicines, traditional food, and ritual materials, (3) destruction to the water sources causing the increase in women’s workload and deterioration of their health conditions, including mental and reproductive health; (4) women are more vulnerable to becoming victims of human trafficking and sex workers. (5) women are more vulnerable to domestic violence due to economic pressure and damaged living environment.

33. Komnas Perempuan strongly recommends the GoI to a) prioritize the sustainable development perspective, taking into account the principles of respecting and fulfilling women's human rights and engaging with the affected women in accordance with the UN principles on *Free and Prior Informed Consent*, including in their national strategic projects, as a basis for a solid foundation to ensure society enjoys all human rights, b) improve further gender-responsive budgeting in the national and regional policy planning and c) implement the National Business and Human Rights Action Plan, and d) ensure remedies available indiscriminately for women suffered from natural resources based conflict, land dispute and environmental deteriorating condition due to the operationalization of national strategic projects.

K. Mental Health

34. Komnas Perempuan monitored 72 media news on cases of women committing suicide between October 2022-November 2023 and found that various factors caused 70 cases of women committing suicide. *First*, female suicide is committed by different age groups, from teenagers to the elderly regardless their education levels, occupations and socio-economic classes.^{xix} *Second*, the most common causes of suicide are the life pressure/burden of life/household or family problems/household economic pressure and depression; bickering over with husbands and depression; ongoing illness; cheating husbands; and for being accused of cheating, being in debt; love-life problems; boyfriend refused to get married despite having had sexual relation; and the pressure of educational costs. Komnas Perempuan also found that from 136 suicide reports in 2023, 12 (twelve) cases indicated the women were victims of GBVAW.^{xx} In general, the women do not have a *support system* to address their grievances when they said they wanted to commit suicide. Some of them have attempted suicide several times and were successfully averted. Their families also did not respond to their mental health needs. Mental health services are still concentrated in Java, especially in big cities. Society does not view mental health as something serious unless it creates disturbance to public order.

35. Recommendations for the Indonesian Government include a) to strengthen the community outreach to nearby mental health and drug services through the Social Security Administering Agency (BPJS) scheme, b) to provide accessibility and assistance of health services, including for groups in remote and

unreachable areas to remote areas at the Community Health Center level, c) to ensure quality physical and psychological recovery services for women who are victims of GBVAW, and d) to develop a mental early warning system at the village level and raise awareness of mental health prevention at all stages of its condition, from mild to acute.

L. Leadership and Work Participation

36. Gender equality in the economic sector has progressed in recent years. In the *2023 Global Gender Gap Index* released by the *World Economic Forum*, however, the economic participation and opportunity in Indonesia globally scored at only 0.666 (66.6%) and, on average, was ranked 87th from the 146 countries measured.^{xxi} This decline in the world economic index cannot be separated from the persistent perception of patriarchy, gender stereotypes and discrimination against women. The ongoing minimal participation of women in managerial positions is also caused by the low level of women's education qualification, which is still dominated by the basic education level, forcing them to work in low positions.^{xxii} Awareness of women's economic rights, such as the right to work and earn a decent living, is increasing with efforts to address gender discrimination in the workplace and ensure that women have equal access to economic opportunities. Women's leadership in the workplace can contribute to increasing access to decent work without gender discrimination. The proportion of women in managerial positions demonstrates that women can participate fully and receive equal leadership opportunities at all workplace decision-making levels. Female managers provide unique characters from their male counterparts in exploring business opportunities and widening the business potential for better company performance. Women's leadership can also create more egalitarian leadership, motivating other female colleagues to step up to more leadership roles in their professional sphere. Komnas Perempuan recalls that the Indonesian Government supported the recommendation (140.176-179) of the UPR Cycle IV Session regarding the improvement of programs that support women's meaningful participation in the workplace, to increase the role of women in decision-making and women's representation at the decision-making level, and to advance women's rights and wellbeing, economic opportunities and to eradicate discrimination against women. Hence, Komnas Perempuan recommend the Indonesian

Government to a) encourage women to continue their education up to the tertiary level, as several jobs require higher education as a precondition for employment in higher position and b) collaborate with the private sector and civil society to create an inclusive work environment integrating gender perspectives and provide opportunities for women to develop their employable skills and abilities.

Endnotes

- i Komnas Perempuan was established through Presidential Decree No. 181 of 1998, which was then reinforced by Presidential Regulation No. 65 of 2005 in response to the demands of civil society (particularly women's groups) on the Government. These demands called for the state to take responsibility for cases of sexual violence against women, particularly the sexual violence experienced by women in the May 1998 riots aimed at the ethnic Chinese in Indonesia.
- ii Regional Regulations of the Bogor City Government concerning Prevention and Deviance in Sexual Behavior and Regional Regulations of Parigi Moutong Regency, Central Sulawesi Number 3 of 2022 concerning Peace, Public Order and Community Protection.
- iii Dian Hadiyatna, "Itera Rejects LGBT Campaign in Campus Environment," Antara News, 2023, <https://lampung.antaranews.com/berita/699285/itera-to-lak-kampanye-lgbt-di-lingkungan-kampus>
- iv Reuters in the campus environment
- v With the threat of a maximum imprisonment of 4 (four) months or a maximum fine of IDR 30,000,000 (thirty million Rupiah).
- vi M. Chaerul Halim & Akhdi Martin Pratama, "Motive for the Murder of a Transwoman in Tangerang: The Perpetrator Revenges Because He Wasn't Borrowed Money," 2023, <https://megapolitan.kompas.com/read/2023/11/14/15485181/motif-pemkillan-transwoman-in-Tangerang-perpetrators-of-revenge-for-not>
- vii Transvestite Beauty Contest in Polewali (2021); Transwoman Fashion Contest in Surabaya (2022); disbandment of the ASEAN Queer Advocacy Week event (2023);
- viii Letter dated March 31, 2022.
- ix Komnas Perempuan received 62 cases (2019); 64 cases (2020); 114 cases (2021), and 136 cases (2022) of direct complaints, including violations of maternity rights (menstruation, pregnancy, health facilities), termination of employment (PHK) of pregnant female workers, violations of occupational safety and health and cases of harassment committed by superiors or co-worker to rape by work superior; and the condition of repatriated migrant workers who do not receive optimal services from the state.
- x Komnas Perempuan monitoring data shows that during 2013-2019, there were at least 29 cases related to domestic workers reported to Komnas Perempuan, consisting of economic, physical, sexual and psychological violence.
- xi CATAHU 2019 National Commission on Violence Against Women. CATAHU 2017 recorded 106 types of KtP in the realm of domestic violence/RP based on Service Institutions. CATAHU 2018 recorded 140 cases, and CATAHU 2019 as many as 20 cases (PN 2 cases, UPPA 1 case, RS 1 case, WCC/OMS 16 cases). CATAHU 2020 recorded 9 cases (PN 2 cases and WCC and LSM 17 cases), and CATAHU 2021 recorded 11 cases (PN 2 cases, LSM 5 cases, P2TP2A 4 cases). Direct complaints to the National Commission on Violence Against Women recorded 4 cases of domestic worker ID in 2017, 3 cases in 2018, 3 cases in 2019, and 17 cases in 2020, while in 2021, there was 1 case recorded.

xii Report on the Human Rights Conditions of Women Home Workers: Initial Mapping in 6 Provinces in Indonesia. 2022. National Commission on Violence Against Women.

xiii *Ibid.*

xiv Report on the Human Rights Conditions of Women Home Workers: Initial Mapping in 6 Provinces in Indonesia. 2022. National Commission on Violence Against Women.

xv Komnas Perempuan noted that KSBE increased by more than 1600% from only 97 cases in 2018 to 1697 cases in 2022 #. The speed of the number of KSBE cases is not commensurate with the speed of handling them. Infrastructure for handling cases is not yet available at every level of the police, only at the Polda level. Also, cross-coordination (between police and Kominfo) regarding the account takedown process to fulfil the right to be forfeited has not been established adequately. Changes to the ITE Law in December 2023 also do not eliminate the potential for criminalization of KSBE victims.

xvi Komnas Perempuan receives complaints of cases of forced abortion, although it is not limited to rape cases. There were 33 cases of forced abortions recorded in 2016 and 107 cases of forced abortions from 2017-2021. Although CATAHU Komnas Perempuan records an increase in the number of rape cases every year, official data is not yet available on the number of female rape victims who need access to safe abortion services.

xvii KUPI is the abbreviation of the Indonesian Women's Ulama Congress. A meeting activity for consolidation, discussion and sharing of experiences and knowledge about the work of Indonesian women ulama in fighting for Islamic, national and humanitarian values. KUPI was initiated by people who care about Islamic issues and gender justice in Indonesia.

xviii National Commission on Violence Against Women, Catahu 2023.

xix Most were housewives aged 19-58 years (25 cases); female students (14-22 years); elderly aged 62-69 (4 cases); working women aged 25-59 years (5 cases); widows aged 27-41 (4 cases), domestic workers aged 24 years (1 case) and the remainder aged 17-44 years without information about employment/status (12 cases).

xx Namely, 9 cases of violence against wives, 1 case of unwanted pregnancy, 1 case of neglect of a sick domestic worker, and two victims of non-consensual distribution of intimate content.

xxi Namely, 9 cases of violence against wives, 1 case of unwanted pregnancy, 1 case of neglect of a sick domestic worker, and two victims of non-consensual distribution of intimate content.

xxii BPS data that records the educational level of women who become managers is mostly diploma I/II/III graduates at 42.54%, followed by elementary school graduates and below 40.82%, junior high school graduates 33.99%, vocational high school graduates 31.01%, universities 30.38%, and general high school graduates 27.65%.



The National Commission on Violence Against Women
(Komisi Nasional Anti Kekerasan terhadap Perempuan
— Komnas Perempuan)

A NATIONAL HUMAN RIGHTS INSTITUTION'S INDEPENDENT REPORT

Submission to
The Human Rights Committee
5 February 2024

Updated Information for the 2nd Indonesian Periodic Review on
the International Covenant on Civil and Political Rights (ICCPR)



February 5th, 2024

No. : 021/KNAKTP/Pimpinan/II/2024
Subject : NHRI Independent Report

To:

Human Rights Committee (CCPR)

Human Rights Treaties Division (HRTD)

Office of the United Nations High Commissioner for Human Rights
(OHCHR)

Dear Excellencies,

The Indonesian National Commission on Violence against Women (Komisi Nasional Anti Kekerasan terhadap Perempuan or Komnas Perempuan) is one of the national human rights institutions (NHRI) in Indonesia. It is established as an implementation of Constitutional guarantee of nondiscrimination principle and to uphold human rights, as well as the Law No. 7 year 1984 ratifying CEDAW and Law No. 5 Year 1998 ratifying CAT. Following the Paris Principles for NHRIs, Komnas Perempuan's independence and mandates are authorized through the Presidential Decree No. 181/1998, which was then strengthened through President Regulation No. 65/2005 and later by Presidential Regulation No.8/2024. Komnas Perempuan's works are focusing on the fulfillment and strengthening of women's rights and on creation of situation conducive to eliminate all forms of violence against women in Indonesia.

In relation to the Indonesian second review on the implementation of the International Convention on Civil and Political Rights (ICCPR), please find the attached independent report from Komnas Perempuan to provide you updated information from our previous report and response to LoI. In preparing this report, Komnas Perempuan also have conducted several consultations with various partners and stakeholder and also field visits to update

several concerning issues. These included consultations with CSOs, service provider institutions for women victims of violence, representatives from governmental institutions.

We sincerely hope that this submission would contribute to the process of the consideration of the State Party report in the 140 session (4 – 28 March 2024). Should you need further information or clarification, please do not hesitate to contact us through our staff, Sondang Frishka, at frishka@komnasperempuan.go.id.

Sincerely yours,

Andy Yentriyani
Chairperson

A. Introduction

1. This information is submitted by the National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan terhadap Perempuan* - Komnas Perempuan), one of the national human rights institutions (NHRIs) in Indonesia for the 2nd periodic review of the Indonesian implementation of the International Covenant Civil and Political Rights (ICCPR).ⁱ

B. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

2. Komnas Perempuan appreciates GoI's commitment to strengthening NHRIs as recommended by the Universal Periodic Review (UPR) Cycle IV (Recommendation No. 140.193). GoI recently passed the Presidential Regulation (Perpres) No.55/2023 and Perpres No. 8/2024 to increase the number of staff and facilities for Komnas Perempuan. With the continuously increasing number of cases of gender-based violence against women (GBVAW) casesⁱⁱ and their complexity that require comprehensive intervention including fulfilling the victim's right to recovery, the State's continuous support for Komnas Perempuan's capacity is pivotal.ⁱⁱⁱ This includes the support at the bureaucracy aspect to strengthen its independence and performance of mandates.

3. Komnas Perempuan recognizes the support of GoI for NHRIs' initiative to form Cooperation for the Prevention of Torture (KuPP). Established in 2016, currently there are six institutions member of KuPP and since 2023 Komnas Perempuan has been serving as the coordinator.^{iv} Advocating for the ratification of OPCAT and endorsing the establishment of National Preventive Measures (NPM) against torture, KuPP performs regular visits to detention centers and prisons, capacity building activities, policy dialogues, and public campaigns.

4. Recommendations: GoI to a) continue its commitment to support NHRIs, including by improving the state bureaucracy system to accommodate specific characteristics of NHRIs to increase their independence and optimal roles, c) support KuPP, including by following up its recommendations.

C. Progress on Human Rights Conditions and Implementation of CCPR in Indonesia

I. Legal Measures (Article 2)

5. **The Criminal Code (KUHP) was revised through the Law No. 1 Year 2023** and will come into full force in 2026. Komnas Perempuan commends the Criminal Code for its correction to improve women's access to justice,^v including revision of rape definition to meet international standard, and extension of the eligibility of safe abortion for women victims of sexual violence. However, several articles potentially infringe human rights, including those that are disadvantageous for women, such as the overcriminalization of consensual intimate relationships outside wedlock through extension of eligible party to report the case and the prohibition of cohabitation and also through implementation of discriminatory living la. There is also a concern raised by women of minority groups on the rights to freedom of beliefs/ religion and by women's human rights defenders (WHRDs) concerning the rights to freedom of speech.^{vi} The Criminal Code still applies the death penalty although it also regulates the provision of commutation.

6. Recommendations: GoI to a) formulate guidelines for the interpretation of the Criminal Code that minimizes the reduction in guarantees for the protection of constitutional rights with special attention to women's layered vulnerabilities, including the rights to freedom of expression, association, religion and belief, the right to life, the right to be free from discrimination and torture, and other basic rights, b) strengthen monitoring mechanisms for the implementation of the Criminal Code, including by NHRIs, particularly Komnas Perempuan.

7. **Discriminatory Laws and Policies.** Komnas Perempuan recognizes GoI's effort, particularly the Ministry of Women Empowerment and Child Protection (MoWE-CP) and the Ministry of Law and Human Rights (MoLHR) to expedite the review of discriminatory bylaws in the name of religion and public morality in the context of regional autonomy in Indonesia. Also, to strengthen preventive measures, including those performed by the Ministry of Home Affairs (MoHA) through implementing the authority to assist and supervise regional regulations through the E-Perda (Electronic-regional policies) system, and the Ministry of

Education (MoE) to supervise regulations at education institutions to prohibit such obligation. Hence from 421 discriminatory policies identified back in 2016, the number reduced to 305 in late 2022 as reported in the UPR Cycle IV. However, efforts to accelerate the prevention and handling of discriminatory policies still face serious challenges in the structural, cultural, political, and substantive/conceptual aspects. Hence, the reduction in number of discriminatory bylaws after UPR Cycle IV is yet to be observed, including of the 72 policies obliging attire according to a particular interpretation of the religion adhered to the majority of the population. Since these policies put women as the primary target of their implementation,^{vii} women objecting to this regulation face discrimination, administrative sanctions, losing their jobs, being bullied, ostracized, and violence and persecution. Victims and their families endure stress, fear, depression and some even have suicidal thoughts.^{viii}

8. At the national level, there is a need to expedite the revision of laws potentially hinder the fulfillment of the rights guaranteed in the ICPPR, as well as to issue the law or regulation to promote the advancement of human rights, with specific impacts on women, among others:

- 8a. **Law No. 8 Year 1981 on the Criminal Procedure Law (KUHAP)** has not been improved to better prevent torture as well as access to justice for victims of sexual offences as required by the law No. 12/2022 on the Sexual Crime Law (UU TPKS).
- 8b. **Law No. 1/1974 on Marriage.** This law is still in effect and contains discriminatory provisions against women in the family, particularly by allowing the condition of a wife's "disability" as a legal reason for polygamy or divorce, and also gender-based positions that lead to inequality between husband and wife.
- 8c. Derivative regulation of **Sexual Crime Law 2022.** To date, only one derivative regulations that has been issued, namely on capacity building. This commendable law for its adoption of victims-centred approach needs set of derivative regulations to ensure optimal implementation.
- 8d. Derivative regulations of **Health Law.** The revised Health Law 2023 reaffirms reproductive health rights, including

the right to access health services and recovery for the victim of sexual violence, which is in line with the Sexual Crime Law and Penal Code 2023. Its derivative regulations need to add services and recovery for women victims of violence (physical, psychological, economic, sexual) in line with the Anti Domestic Violence Law 2004, as well as on gender-based cyber violence and on specific contexts, such as during and post-disasters. Provision of legal and accessible abortion service facilities needs to be established immediately to ensure dignified services.

- 8e. **Expansion of Labour Law.** Despite the presence of Law on Job Creation, domestic work remains not legally recognized, leaving at least 5 million domestic workers, of which the majority are women, are at risk of exploitation abuse and discrimination.^{ix} The advocacy for Domestic Workers Protection Bill (RUU PPRT) has been ongoing for almost two decades, as well as to manifest GoI's commitment to ratify ILO Convention 189 concerning Decent Work for Domestic Workers and Recommendation 201 to recognize domestic workers and the obligation to protection. ^x Likewise, the situation of home workers, of which the majority is also women. Komnas Perempuan study shows that the lack of legal protection leads to poor and harmful working condition, vulnerabilities to exploitation, discrimination and violence and deterioration of women's lives. Follow up of the Constitutional Court's decision (2022) suggesting specific regulation to cover home workers is yet to be observed. The absence of protection on both domestic workers and home workers potentially create degrading and inhuman situation for workers.
- 8f. A coherent national regulation on **Restorative Justice** is needed to enhance the existing regulations by the police, prosecutor, and Supreme Court to ensure the achievement of the goal of restorative justice concept. Komnas Perempuan's monitoring in 9 provinces and 21 districts/cities finds that restorative justice is mostly performed without gender justice perspective and thus, distances victims from access to justice and remedy. Subsequently, the victims feel aggrieved and revictimized;^{xi}

9. Recommendations: GoI to expedite a) review to correct the existing discriminatory Law and bylaws; b) issuance of derivative regulations of the TPKS Law and Health Law to strengthen the prevention, treatment, and recovery of victims of gender-based violence against women, c) revision of Criminal Procedure Law, d) ratification of ILO Convention 177, 189, 190 and Recommendation 201, e) issuance of the Protection of Domestic Workers Bill. Also to f) increase capacity of the law enforcers on gender justice in applying restorative justice in handling violence against women

2. Non-Discrimination (Article 2, 19, 20 and 26)

10. Women of **Religious Minorities**. Discrimination against religious groups and minority beliefs continues due to the preference for 6 religions adhered by the majority of the population, as an impact of the existing Law **Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/or Defamation**. One of affected groups is the Ahmadiyya congregation (JAI). In several areas, JAI mosques were sealed by the local government, and female congregants were the most vulnerable during attacks at home and in the mosque.^{xii}

11. Another affected group is adherents to indigenous beliefs. Whilst progress has been observed regarding the protection of their rights following the issuance of joint ministerial regulation^{xiii}, discrimination is still experienced, such as in registering their marriages and performing faith subject in the formal education system. Only those that have registered organizations can have the authority to register marriage and to develop educational materials.^{xiv} Without a marriage certificate, women are in a vulnerable position for they bear the stigma of having children out of wedlock or when they divorce.^{xv}

12. Other affected religious minority groups are including Baha'is, Sikhs, Taoists, and Jews who still face discrimination in public administration that leads to discrimination in other fields. These groups must choose between one of the official religions in Indonesia or faith to avoid stigma as non believers by having a (-) mark on their identity cards. This situation influences their accessibility to marriage registration services, family cards, birth certificates, and other services.

13. **Sexual Minority Groups.** Komnas Perempuan appreciates the steps taken by the MoLHR in providing e-identity cards (e-KTP) services for sexual minorities since 2021, which is in line with the fulfillment of constitutional rights in the 1945 Constitution. Better handling of perpetual violence, stigmatization and discrimination against sexual minority^{xvi} is needed, including to revoke policies directly discriminate against them, particularly transwomen.^{xvii}

14. On issue of prostitution, in 2023 at least there are 108 regional regulations or policies with multi-interpretation articles that place women sex workers or those suspected as sex workers vulnerable to legal sanction.

15. **Women with HIV/AIDS.** During 2015-2022, there were 347 cases of VAW with HIV/AIDS, of which 9 cases were committed by health workers, in the form of psychological violence, namely stigma and discrimination, as found by the Positive Indonesia Network (JIP) on their visit to various health centers in Jakarta, West Java, and Banten. This situation lead the reluctance of people living with HIV/AIDS (PLWHA) to access health services. In Merauke, Papua, JIP reported the occurrence of restrictions on services for PLWHA. The problems of stigma and discrimination experienced by PLWHA should not be treated solely as issue of services, but also a fundamental issue related to the understanding and capacity of health workers.^{xviii} There have also not been many studies regarding the relationship between violence against women and HIV/AIDS^{xix} that lead to the absence of integrated services for victims of violence with HIV/AIDS who need referral system, counseling, and safe house services.

16. Recommendations: GoI to a) revise discriminatory regulations that directly or indirectly impact the access of women and other minority groups to civil and political rights, b) increase the capacity of local governments and parliaments to integrate women's rights perspectives and due diligence for fulfilling human rights, c) revise the policy on formal recognition of 6 religions and ensure that adherents of minority religions can easily access all public administration services (birth certificates, identity cards, etc.) without any direct or indirect discrimination, d) revise the Joint Ministerial Regulation (PBM) of the Minister of Home Affairs and the Minister of Religious Affairs regarding the establishment

of worship buildings as well as education to guarantee equal enjoyment of the rights of any religious group, and e) take more corrective action and steps to address the root causes, factors, and impacts of discrimination and violence against sexual minority groups and other marginalized groups.

3. Counter Terrorism (Article 2, 4, 7, 9, 14)

17. Komnas Perempuan welcomes the National Action Plan for Preventing and Combating Violent Extremism that Leads to Terrorism and the Guidelines for Protecting Children from Radicalism and Criminal Acts of Terrorism, which involve women in the radical circles, including “brides” in acts of terrorism. There are also policies related to countering terrorism and victims of terrorism at the national and regional levels.^{xx} However, this policy does not include adequate gender perspective in the handling of deportees, returnees, and foreign terrorist fighters, which is particularly needed in the issue of women’s involvement and their impact in terrorist networks.

18. It was found that women were involved as suicide bombers, as recruiters and targets of recruitment to be indoctrinated to be martyrs by committing violence. Women’s involvement cannot be separated from the unequal gender relations and hierarchies with the assumption that they can be more militant. However, women have complex positioning and diverse bargaining power within the group, not solely submissive and obedient as mostly assumed. Provision of immediate assistance to victims, long-term recovery efforts, such as psychosocial recovery for victims are still insufficient and it is linked to the limited coordination between central and regional governments.

19. Recommendations: GoI to a) increase the capacity and empowerment of women who are vulnerable to radicalism, indoctrination, and exploitation, b) implement comprehensive conflict resolution and strengthen peace education in educational institutions, c) provide adequate resources for ongoing periodic and thematic studies with gender sensitivity and d) develop programs more effective way to prevent and tackle violent extremism, e) as well as to provide immediate and long terms assistance and remedies to the victims.

4. Impunity and the Settlement of Past Abuses (Article 2, 6, 7, 14)

20. In response to the Presidential Decree No. 17/2022 on the Establishment of the Team for Non-Judicial Settlements of Past Gross Human Rights Violations (PPHAM Team),^{xxi} Komnas Perempuan is of the view that this policy should not replace judicial settlement and should adopt comprehensive measures with inclusive approach to ensure the victim's right to justice, truth, recovery, and guarantee of non-recurrence.^{xxii} Komnas Perempuan is also concerned^{xxiii} that the absence of a clear and accountable victim protection policy hinders many women victims of past abuses, particularly of sexual violations, from accessing the non-judicial programs.

21. Komnas Perempuan supports the government's plan to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Thus, we have submitted a recommendation paper to the relevant ministry and parliament on the importance of the ratification for women, including sisters, daughters, parents, and wives of victims.^{xxiv} Komnas Perempuan recorded the suffering endured by women resulting from the delay in progress in the investigation into the 1997-1998 activists kidnapping cases and other past abuses where their loved ones are missing, including the May 1998 riot case in which rape and sexual assaults against Chinese women also occurred. Since deliberation of our view before the parliament in June 2023, schedule for ratification is yet to be informed.

22. Komnas Perempuan welcomes the report of Aceh Truth and Reconciliation Commission (KKR Aceh), launched in late 2023.^{xxv} For this report, 5,195 testimonies about abuses occurred in the period of 1976-2004 were collected, around 17% or 1,916 were from women. From 8,029 victims recorded, 165 are victims of sexual violence, with almost half are women. The report has set of recommendations to be followed up by both the national and provincial government and other relevant institutions, with specific attention to victims of sexual abuses. Previously in 2021, the KKR has issued recommendations for urgent reparations from the Aceh government through the Aceh Reintegration Agency (BRA). In January 2023, urgent reparations in the form of social assistance were provided to 245 victims, 58 of them were women.

23. In 2020, the Komnas Perempuan conducted a dialogue with Papuan People's Assembly (Majelis Rakyat Papua-MRP), encouraging further monitoring on the implementation of the Perdasus No. 1/2011 to better handling of women victims of violence and other forms of human rights violations. However, the follow-up of the recommendation is yet to be seen. The perpetual violent and armed incidents, the political decision to establish four new provinces, and the election of MRP members, are some of the contributing factors to the delay in the follow up.

24. Recommendations: GoI to a) resolve the past human rights violations in an integrative and comprehensive manner through efforts to reveal the truth, to break impunity, to provide reparation for victims and to guarantee non-repetition, b) ratify International Convention for the Protection of All Persons from Enforced Disappearance, the Rome Statute, and revise Law No. 2000/Human Rights Court, c) establishing Truth and Reconciliation at the national level and in Papua, d) issuing regulations with a gender perspective to adjudicate cases of violence related to gross violations of human rights, and e) provide adequate support for local regulations and mechanisms to handle past violations, not limited to KKR Aceh and MRP.

5. Gender Equality

25. Whilst GoI's efforts to promote women's leadership and substantive participation are commendable, Komnas Perempuan is concerned about the implementation of affirmative action policy of 30% quota for women representation in the coming election of 2024. The quota has not met in the composition of the General Elections Commission (KPU), as well as its monitoring Body (Bawaslu). Furthermore, there is a reluctance of the General Elections Commission (KPU) to correct Article 8 sub-article 2 of Regulation No. 10/20023 on Nominations of Members of the House of Representatives (DPR), Provincial Representative Council (DPRD Provinsi), and Regency/City Representative Council (DPRD Kabupaten/Kota). This regulation is concerning round-up approach of votes that hinders the achievement of affirmative action policy of 30% for women's representation. The needed correction has been instructed by the Supreme Court through its decision concerning the judicial review requested by women's group. Following up the Supreme Court's order, the

Election monitoring Body (Bawaslu) has reviewed and ordered KPU to correct 267 candidates in order to meet the 30% quota of women. Both orders are yet to be followed up by KPU.

26. Komnas Perempuan observes delightfully the growing women's leaderships at executive sectors, such as shown in the ministerial level and head of districts and villages, as well as in the NHRIs. However, limited number of women representatives are evident in various public institutions, including of judges at Supreme Court and Constitutional Court.

27. Recommendations: GoI to a) encourage the General Elections Commission to implement the Supreme Court's decision by correcting Article 8 sub-article (2) PKPU No. 10/2023 along with its technical rules concerning the round-up of votes and the instruction of Bawaslu to correct the candidate lists, b) support the Elections Monitoring Agency (Bawaslu) and Election Organization Ethics Council (DKPP) in conducting their supervisory role, and c) develop strategic partnerships to implement programs to promote women's leadership in various institutions and levels.

6. Violence against Women and Domestic Violence

28. **The Sexual Crime Law No. 12 Year 2022**, as mentioned in par 8c. is commendable for being victims-oriented and adopting an integrated criminal justice system that enables victims to receive support since the case is informed, to provide legal immunity for reporting cases, and to push for judicial processes for most of the cases. These breakthroughs are necessary to respond to the rampant cases of sexual violence: at least 12,916 cases of sexual violence was reported in the period of 2020-2022, 67% are committed by members of family or intimate partners. Almost 37% or 4,824 cases are rape including marital rape (651) and incest (869), and forced sexual intercourse by others (2.207). Sexual harassment are second largest cases reported, comprises 17% or 2,205 cases, and the increase of report is evident following the issuance of Sexual Crime Law. Whilst formulation of derivative regulations is ongoing, development of needed infrastructure, such as strengthening, service units, referral system and safe house is also taking place. The Law request independent monitoring by NHRIs^{xxvi} and an updated report three years after its issuance. To date, only regulation on capacity building has been passed and the establishment of directorate for strengthening police unit for handling cases of women and children has not been realized.

29. **The Anti Domestic Violence Law** has been in effect for twenty years with significant progress but also persisting challenges. The increasing number of reports, comprising the majority of annual reports on GBVAW,^{xxvii} to some extent shows the raising awareness, confidence and accessibility of victims to report their cases. However, the implementation of the Anti DV Law is still not optimal. Although there has been numerous trainings and campaigns against DV, many still believe that DV is a personal matter and better handled through non judicial process. This perspective is evident also amongst law enforcers and service providers and strengthened by the lack of effective response to the reasons for women victims of DV withdrawing their report. Immediate protection as mandated by the law is rarely performed by the law enforcers, which is linked to the lack of capacity of the unit for handling cases of women and children (UPPPA). Without provision of adequate supports, victims find difficulties to be independent from the perpetrator psychologically, economically and socially. It is noteworthy that according to Komnas Perempuan's study of 128 local regulation of integrated services for women and children victims of violence, less than 30% regulates provision of safe house and of comprehensive remedies. Rehabilitation program for perpetrator is rarely available, leaving the women to deal with the recurrence and intensification of the violence after they were mediated. Mediation performed by service providers, restorative justice mechanism conducted by police and customary mechanisms often overlook gender dimension, such as found in Komnas Perempuan's monitoring in 9 provinces (2023). As result, not only the perpetrator could break the agreement and repeat the violence, the remedies for victims are mostly ignored.

30. There is Government Regulation No 4/2006 on the Implementation and Cooperation for the Recovery of Victims of Domestic Violence that is mostly referred to by service providers. For law enforcers, particularly police, there is a need to have a comprehensive guidance to interpret the Law sufficiently for optimal implementation of the Anti DV Law regardless of the status of marriage, in relation to rule of evidence, and the understanding of the category of cases between public and private offense.

31. Recommendations: GoI to a) accelerate the issuance of derivative regulations for Anti Sexual Crime Law; and b) derivative

regulations on the the Anti DV Law to overcome socio-cultural-structural obstacles for victims in accessing justice and recovery, c) strengthen law enforcer for the implementation of both laws with the approach of the Integrated Criminal Justice System for Handling Cases of Violence against Women (SPPT PKKTP), d) expand the accessibility of service providers to domestic violence victims including in remote, outermost, and island areas, e) establishing a Women and Children Protection (PPA) Directorate in the Indonesian National Police (POLRI) institution and f) provide coherent national policy on restorative justice with specific attention to address gender power imbalance that may infringe the victims' rights to justice and recovery;

32. **Services for women with disabilities and elderly women.** CATAHU 2022 records 127 cases of violence against elderly women and 42 cases against women with disability in the domestic, public and state spheres.^{xxviii} Gender discrimination and dependence on their families cause elderly women with disabilities to be the most vulnerable group to violence.^{xxix} Komnas Perempuan's study ^{xxx} in 2021 showed that some women with disabilities have been denied access to their civil and political rights because they do not have Population Identification Number (NIK) and identity cards. Subsequently, they face difficulty accessing public services and programs , such as those available for poor people or other social welfare programs.

33. Recommendations include GoI to a) accelerate the provision of disaggregated data for person with disabilities and the elderly, b) accelerate formulation of derivative regulations of the TPKS Law regarding accessibility to reproductive health services and health and special needs assistance for women with disabilities and elderly women, and c) ensure the implementation of the Elderly Welfare Law regarding social welfare aspects, i.e. health, employment, education and training services; ease of use of public facilities including inclusive digitalization of administration; social protection and legal and social assistance.

34. To eliminate **Female Genital Mutilation/Cutting (FGM/C)** MoWE-CP has prepared a Road Map and National Action Plan for Preventing FGM/C in 2021, deliberating roles and duties of each party such as Ministries/Institutions, Civil Society Organizations, Religion-Based Organizations and religious lead-

ers. This is also to respond to the perpetual recommendations on FGM/C to Indonesia by various human rights mechanism, including previous review cycle of UPR and CEDAW. However, the implementation of this Road Map has not been optimal. The 2021 Women's Life Experience Survey (SPPHN) showed that 21.6% of women aged 19-45 years still practice FGM/C, while 33.1% do it symbolically.^{xxxii} Studies suggest that the perpetrators of FGM/C are not only traditional healers, but also midwives, health workers who have received recognition from the National Government. It is generally carried out across rural-urban areas, socio-economic conditions and educational and occupational backgrounds.

35. Contradiction within the Minister of Health Regulation No.6/2014 is one of the contributing factors of the persisting practice of FGM/C. Whilst the Article 1 confirms that FGM/C has no medical benefits, Article 2 authorize the Health and Sharia Advisory Council in the name of respect to religious belief to provide guideline to “perform female circumcision while ensuring the safety and health of the circumcized women and without mutilating the female genital”. This contradiction is due to the strong opposition of the Indonesian Council of Ulama to prohibit female circumcision, although amongst muslim communities there are different opinion, such as the Indonesian Women's Ulema Congress (KUPI) ^{xxxiii} which declares that FGM is *haram* (forbidden), and the mass-based Muslim organization, Muhammadiyah, does not recommend the practice.

36. Recommendations regarding FGM/C: GoI to a) continue implementation of the National Roadmap and Action Plan to prevent FGM/C practices in Indonesia, which is expected to eliminate FGM/C practices by 2030 and contribute to achieving SDG Goal 5, b) implement strategic programs to overcome this problem, especially to increase awareness among religious leaders and the community that all forms of FGM/C are a form of violation of women's human rights.

7. Voluntary Termination of Pregnancy and Reproductive Health and Rights

37. In conjunction with the issuance of Anti Sexual Crime Law, the revisions of Penal Code and Health Law reaffirm the access to legal and safe abortion for both cases of medical emergency and cases of sexual violence. The revisions even extend the

legitimate period of accessing the service from 12 to 14 weeks of the pregnancy. However, they maintain the criminalization of abortion in general^{xxxiii} and hence, discourages health workers to perform the service fearing legal sanction. Whilst derivative regulation from the revised Health Law on safe abortion is in process of formulation, health practitioners can refer to Minister of Health Regulation No. 3/2016 on the Training and Conduct Abortion Services based on Medical Emergency and Pregnancy due to rape. Nevertheless, victims of sexual violence still find difficulty in accessing the service due to the lack of information of this right when they report the case, the prolonged procedure to access the service and perspective against abortion amongst both law enforcers and health practitioners. Updated information regarding guidelines to perform the service as well as the curriculum module on training for the health practitioners and law enforcers regarding this matter is yet to be obtained.

38. Adolescents with disabilities experience more obstacles in obtaining information and education on sexuality and reproductive health rights. Limited companionship or services available for special needs services related to contraceptives that accommodate the specific need according to their disability. Contraceptives are usually provided by their families, even without their consent and with coercion, especially for people with mental and intellectual disabilities.^{xxxiv}

39. Recommendations: GoI to a) accelerate issuance of derivative regulation to provide safe abortion services for victims of sexual violence, b) ensure the development and implementation of training curriculum module and guideline to perform the needed service, and c) ensure adequate budget allocation and infrastructure for the provision of safe abortion services and reproductive rights, d) ensure provision of affirmative measures to ensure people with disability could enjoy fully the sexual and reproductive health rights.

8. Right to Life (Article 6)

40. **Death Penalty.** Komnas Perempuan appreciates the Presidential Decree No. 1/G Year 2023 on 13 March 2023 providing clemency for MU who has been on the death row for more than 22 years. With this clemency, there are at least still another 10 women and 389 men on death row as recorded by The Directorate General

of Corrections (Ditjen PAS) in 2021. Including, MJV, a woman victim of trafficking in person for the purpose of drug trafficking. Komnas Perempuan welcomes GoI's plans to hold coordination meetings in January 2024^{xxxv} to prepare the process for testimony of MJV following the approval of the Philippine government of MJV's testimony. The testimony process is in accordance with the Mutual Legal Assistance in Criminal Matters (MLA) which is carried out in written interrogatories. The progress to annul death penalty is also evident in the revision of Criminal Code 2023 that regulates commutation of death sentences. The implementing regulations are yet to be issued. Komnas Perempuan's visits to women prisoners on death row in 2023 found the urgent need to provide mental health assistance, which is rarely available.

41. **Femicide.** Gender-based murders of women reported by police as general crimes and disaggregated data is not available. Komnas Perempuan's online media monitoring (2022) recorded 307 cases of murder of women, and 84 were suspected to be cases of femicide by intimate partners (husbands or former partners). A total of 73 intimate partner femicides occurred in the victim's private space or residence and 10 cases were outside home and one was unidentified.^{xxxvi} Monitoring by Komnas Perempuan also noted that ignoring and/or protracted handling of domestic violence cases has the potential to lead to suicide which is a form of indirect femicide.

42. Recommendations: GoI to a) regulate procedures for implementing the commutation of the death sentence accompanied by policy steps for the complete and immediate abolition of the death penalty, b) ensuring access to mental health services for the psychological and psychological conditions of death row inmates on waiting lines by providing guarantees of assistance specifically for experts, c) encourage the Indonesian police to sort gender-based murder data and develop indicators of femicide cases along with resource allocation through the establishment of the Police PPA Directorate, d) review legislation related to articles on homicide to also consider femicide cases, e) develop early warning system in handling domestic and sexual violence of cases that potentially lead to suicide; f) provision of comprehensive mental health assistance and restitution services for families of femicide victims and establishing a femicide watch.

9. Right to be Free from Torture (Article 7 and 10)

43. Condition of Women Detainees/Convicts. Komnas Perempuan commends the Law No. 22 Year 2022 on Correction that has a specific attention to women in her reproductive function. It regulates the implementation of rights to maternity where the child up to three years can stay with the mother in a specific facility, and also dispensation from solitary cell when the women detainees or prisoners are having their menstruation, pregnancy, delivering child or breast feeding. However, in Komnas Perempuan's visit to several female prisons and/or detaining center, we found that the conditions are generally overcrowding, with poor lighting and air circulation. Women prisoners/detainees are complaining about (1) scarcity of clean water that lead to skin and groin itching, 2) having to buy their own drinking water and sanitary napkins; (3) limited medicines in prisons, including for common disease like malaria; (4) in certain institutions, absence of places of worship according to their religion; (5) obstacles in accessing information related to remission and fulfilling remission rights; (6) limited number of female prison officers so that women's cells are guarded by male prison officers that increase the risk of sexual violence; (7) unavailability of medical and psychological services women prisoners/detainees who are also victims of violence, (8) limited support for maternity rights including provision of only one sanitary napkin per day, lactation rooms and specific facility or room for mothers and children.

44. Recommendations: GoI to a) ratifying the OPCAT, b) integrate prevention of torture into the revision of Criminal Procedure Law, c) carry out capacity building for law enforcers in carrying out case investigations without using torture based on the principles of integrity, legality, and implementing investigations based on science and technology (Scientific Crime Investigation) d) better implementation of Bangkok Rules related to fulfilling the rights of women prisoners/detainees, and e) support the initiative of NPM through strengthening KuPP.

45. Komnas Perempuan recognizes the efforts of national campaign against shackling in following up The Law 18/2014 on Mental Health that prohibits shackling against persons with mental disabilities and/or mental disorders. However, in many regions data on cases of shackling is not available, particularly

in remote areas. Hence, Komnas Perempuan recalls the recommendation of ICRPD Committee to GoI to (a) Prohibit the use of shackling, seclusion and all forms of restraints in all settings, including within families and in social care institutions, and develop and promote non-coercive, community-based mental health supports and services; and (b) establish an independent monitoring, safeguards and complaints mechanism that is accessible to all persons with disabilities in all settings, to receive complaints, investigate and sanction institutions, centers and perpetrators of harmful and forced practices, violence, neglect, cruel and degrading treatment.

46. Corporeal Punishment. Komnas Perempuan is concerned about the persisting conduct of public caning as a legitimate form of punishment in Aceh Province since 2003 that was strengthened in 2014 through the Islamic Criminal Law (Qanun Jinayat). Whilst the conduct of caning is claimed to be focusing more on making the convicts ashamed than physically suffered, the impacts are different from man to woman. Since the law is on moral crimes and women are considered as the symbol of morality, the psychological impact of facing the punishment before the public and subsequently being ostracized by the community. Komnas Perempuan also objects the adoption of both public caning and chemical castration as forms of punishment for sexual violence as regulated under Qanun Jinayat and Law No. 17 Year 2016 on child protection. Komnas Perempuan strongly advocates annulling both forms of corporeal punishment from the Indonesian legal system.

10. Migration and Refugees

47. Migration. The Indonesian Migrant Workers Protection Law (PPMI Law) promotes the protection and fulfillment of the rights of Indonesian migrant workers. However, the Law no. 11/2020 on Job Creation and its implementing regulations including Government Regulation Number 5/2021 on the Implementation of Risk-Based Business Licensing hinder its implementation. Lack of supervision and licensing of the Indonesian Migrant Worker Placement Companies (P3MI) led to potential exploitation and violence against Indonesian migrant workers. Also, Decree of the Head of the Indonesian Migrant Worker Protection Agency (BP2MI) No. 214/2021 on Guidelines for

Implementing the Exemption of Placement Fees for Indonesian Migrant Workers has violated the mandate of placement fees exemption as guaranteed in Article 30 Paragraph (1) of the PPMI Law that advocate for zero-cost policy.

48. Abuse and other forms of human rights violations experienced by Indonesian women migrant workers are still commonly reported amidst efforts to implement PPMI Law. Cases reported include physical, psychological, and sexual violence, such as sexual harassment, rape, and forced prostitution. Also, cases of trafficking in persons, debt bondage, threats and extortion, violations of the right to information, document manipulation and/or confiscation, all of which occur from recruitment process to repatriation. The indications of torture practice against women migrant workers also found in shelters during placement process (Komnas Perempuan's monitoring, 2022). This condition is regrettable considering that Indonesia has ratified the Convention against Torture through Law No. 5/1998.

49. Recalling GoI's commitment in the UPR Cycle IV, Komnas Perempuan recommend GoI to a) strengthen the mechanisms to monitor legal and institutional frameworks relating to migrant workers and their families protection; b) carry out intensive supervision on the implementation of migrant workers settlement, including enforcing strict sanctions for those who commit violations of existing laws and regulations, c) ensure standard operating procedures for preventing sexual violence comply with Law No. 12/2022 on the Sexual Crime and ILO Convention 190 concerning the Elimination of Violence and Harassment in the Work Sphere, and d) provide access to justice and remedies for women migrant workers experiencing violence and abusive working situations.

50. **Internally Displaced Persons (IDPs).** Komnas Perempuan continue to monitor the situation of women who are internally displaced due to various reasons, including in the context of forced expulsion of 7,000 members of the Gafatar Group from Mempawah, West Kalimantan in 2016^{xxxvii}; in the aftermath of earthquakes, tsunami, and land liquefaction in Palu, Donggala and Sigli, Central Sulawesi in 2018-2019^{xxxviii}; and relation to armed conflict in Nduga, Papua in 2019, and members of Ahmadiyya community who have been displaced for almost two decades. The

monitoring reconfirmed the vulnerability women IDPs to various violence, including sexual assaults and trafficking, various forms of discrimination in accessing basic services and impoverishment for losing their assets. Assistance for handling gender based violence is rare and may resulted in prolonged suffering of the victims.

51. **Refugees.** Indonesia is a transit for refugees awaiting placement to destination countries, although we have not ratified the 1951 Convention and Protocol 57 yet.^{xxxix} However, the right to seek asylum is recognized by the Indonesian Constitution Article 28G (2), Article 28 of Law No. 39/1999 on Human Rights Law. In 2016, Presidential Regulation No. 125/2016 on Handling Foreign Refugees^{xl} was issued. Although the regulation leads to positive developments with a structured mechanism to receive and manage refugees, it does not include the specified and straightforward clause regarding protection to rights of refugees in Indonesia.

52. Komnas Perempuan's preliminary findings through monitoring in 2 districts in West Java (2023) show that women refugees are very prone to legal matters occurring in the community. They experience sexual abuse (domestic, physical, and mental abuse), violation of non-refoulment principle, reproductive health rights, and private law matters (religious marriage and divorce). They also felt depressed and some of them had constant allergies, migraines, and reproductive health problems such as irregular menstruation, cyst, etc. They still must take care of their children, husband, and parents while having several medical conditions. Refugees living in Indonesia are subject to minimum access for health facilities because of inability to purchase. Refugees are not included in national based insurance/free health care mechanisms while they are not allowed to work to obtain income. Other obstacles include language barriers, administrative obstacles related to civil documents, considering that most of their marriages are undocumented marriages. Consequently, women victims do not have any other documents/certificates such as birth certificates. Moreover, they worry, it will hinder the resettlement process when entering the legal process.

53. Amidst the distressing situation faced by Rohingya refugee that are facing rejection to land in Aceh since end of

2023, Komnas Perempuan regrets the attacks and forced removal from temporary shelters by a group of students in Aceh against Rohingya refugees, experienced by majority of women and children.^{xii} This attack shows that the refugees are not only being under constant threat of persecution due to their conditions, but also living under the threat of violence, whether perpetrated by authorities or community members. Violence also happened within their family, including but not limited to trafficking in persons and sexual violence.

54. Recommendations: GoI to a) ensure the availability of services for fulfilling the basic rights such as education, health including women's sexual and reproductive health, as well as handling violence against women and children in refugee camps, b) immediately strengthen coordination across sectors and regions in ensuring comprehensive steps in responding to the conditions of refugees, and c) provide access to remedies services for refugee women who are victims of violence (domestic violence and sexual violence).

II. Access to Justice, Independent Judiciary, and Fair Trial

55. **Women's Access to Justice.** The GoI has developed a national legal aid system to implement the Legal Aid Law. Between 2022-2024 period there are 619 legal aid organizations that are verified and accredited and can access legal aid funds.^{xiii} The budget is applied mostly to women suspects, and the case cost is calculated without considering different rate of cost according to geographic location. Hence, it is more difficult for poor women in areas outside Java and the islands to access the aid.

56. Komnas Perempuan appreciates issuance of Supreme Court Regulation (Perma) No. 3/2017 on Guidelines for Trying Cases of Women Before the Law and Attorney General's Guidelines No. 1/2021 on Access to Justice for Women and Children in Criminal Prosecution, which provides guidance for judges and prosecutors in fulfilling women's rights to justice. However, there are no similar guidelines at the police level that are actually the front keeper of access to justice.

57. Komnas Perempuan's research (2021) on the Implementation of Perma No. 3/2017 on Guidelines for Trying Cases of Women Before the Law in five regions, namely the Riau Islands,

Central Kalimantan, Jakarta, Central Java, and Maluku identified obstacles for its implementation. Amongst which are the limited capacity building programs, availability of budget, facilities and infrastructure for assistance, such as for the provision of psychologists, translators or assistants for disabilities, and difficulty in multi-stakeholders coordination, particularly when the case is tried in the military justice system.

58. Komnas Perempuan observes the impact of current practice of judicial review process at the Supreme Court to women's access to justice. Unlike the Constitutional Court, Supreme Court does not regulate process that enable parties to substantively participate in the debate of the regulations requested to be reviewed. The disadvantageous impact can be observe in the decision of Supreme Court to annul joint regulation of Ministry of Home Affairs, Ministry of Education, and Ministry of Religious Affairs to prohibit obligation to wear religious attire at educational institutions. The joint regulation was issued as a response to complaint made by non muslim female student who was forced to wear veil according to the school regulation in reference to the present of similar regulation at municipality level.

59. Recommendations: GoI to a) encourage the police to issue specific guidance for investigate cases of women before the law, b) increase legal aid budget to support both suspects/defendants and victims' rights to justice, c) provide adequate budget with affirmative approach based on geographical situation, c) update the Criminal Procedural Code, d) revise the law to enable private crime conducted by military personnel to be tried in public court, and e) encourage more accountable and participatory judicial review mechanism at the Supreme Court

60. **Access to Justice for Women with Disabilities who are Victims of Sexual Violence.** Most of violence against women with disabilities is committed by the members of family or intimate person.^{xliii} The reported number does not reflect actual reality of their experience because many of the cases are not reported due to various reasons, including lack of access to report despite the presence of the Government Regulation No. 39/2020 on the Adequate Accommodation for Persons with Disabilities Before the Law. Evenmoreso for women with intellectual disabilities and mental disabilities who are victims of sexual violence due to a)

the absence of companion according to their special needs, b) law enforcers perception regarding the impact of their disability to their legal capacity, c) unavailable financial assistance to gather evidence, such as to perform DNA test, and d) limited support from the family who may feel ashamed and therefore cover up cases of sexual violence, such as to marry women with psychosocial disabilities who are victims of sexual violence with the perpetrators.

61. Recommendations: GoI to a) implement Government/ Presidential Regulation derived from the TPKS Law regarding assistance according to the special needs of women with disabilities who are victims of sexual violence, free DNA testing, and reproductive health education, b) expand access to mental health assistances in remote areas and small towns outside the island of Java.

12. Freedom of Conscience and Religious Belief (Article 2, 18, 26)

62. As mentioned in par 11 of this report, infringement of the rights to freedom of religious belief and discrimination against religious groups and minority beliefs continues due to the preference for 6 religions adhered by the majority of the population, as an impact of the existing Law **Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/or Defamation (Religious Blasphemy Law)**. The discriminations are evident in regulation related to state's position on particular belief such as in the case of Ahmadiyya and Syiah, as well as public administration aspect through the differentiation of treatment in registering religion/beliefs experienced by religious/faith minority groups. These situation leads to the reduction, if not denial, in other civil, political, economic, social and cultural rights that is linked directly to public administration. Women experience specific impacts, particularly in relation to the access to register their marriage.

63. Whilst supporting Gol's effort to strengthen religious tolerance through various programs, Komnas Perempuan in view that the regulation on requirements for building house of worship has disadvantageous impact to the religious/minority groups. Besides difficulty of having house of worship, threat to experience attack is immanent. Komnas Perempuan records the impacts

women suffered from attacks to their religious/faith minority community, including sexual and physical violence, but also their concern related to their role to be duty bearer for passing the teachings of values and their faith practices to their children.^{xliv} Komnas Perempuan records also that many of the complaints on difficulty to build house of worship are not resolved, including those that have acquired court decision of legal right to build one.^{xlv} In addition, the political resolution being reached may not reflect the aspiration of the most affected community, leaving the deep frustration in the community^{xlvi} to the state's commitment to uphold the vision of governing Indonesia as a state according to law and principle of non discrimination. Furthermore there is a concern on the situation in Aceh that with its special autonomy authority to enact sharia bylaws, there is a local regulation prohibiting conversion from Islam and additional requirement heavier than national regulation for establishing house of worship for other religions than Islam.

64. Recommendations to GoI to : a) prioritise revision of laws and regulations that has been identified to infringe freedom of religion, not limited to the Religious Blasphemy Law, regulation on Ahmadiyya and on requirement to build house of worships; b) improve mechanisms to provide access to public administration with principle of non discrimination, including based on faith/ religion, and c) develop programs for comprehensive recovery of victims of religious intolerance, with specific measures to women's needs and vulnerabilities.

13. Freedom of Expression

65. Revision of Law Number 11 of 2008 concerning Information and Electronic Transactions (IET Law) is important to strengthen the protection of the rights to expression. However, Komnas Perempuan shares the concern with civil society organisations about the lack of transparency and meaningful public participation in the process.^{xlvii} Hence, it is arguable affected the quality of the revision, including the retaining potential of infringing freedom of expression, over-criminalizing and neglecting the obligation to fulfil victims' rights. Komnas Perempuan recorded at least 4.8749 cases reported on online sexual violence, particularly through the non-consensual distribution of intimate images that resulted in deep psychological impact to the victims

and in possible criminalization of the victims under the IET Law 2008 and Anti Pornography Law. Komnas Perempuan regrets that the revised article did not respond to this problem. Likewise the article on defamation that is utilised to criminalize women victims who in their frustration advocate for their case through online measures.^{xlviii}

66. **Women Human Rights Defenders (WHRDs).** The retaining potential of over criminalization and infringement to rights of expression in the dame of defamation within the amended IET Law post a specific risk to WHRDs. As observed in the previous years, article with multiple interpretations of the EIT Law particularly Articles 27 and 28 were often used as a basis for criminalizing WHRDs.^{xlix} Attacks on WHRDs were also occurred through cyber, such as doxing, hacking, stalking, persecution, slander, and denial-of-service attacks on WHRDs' organizations or online media that report or highlight cases of violence against women. Law enforcers often ignore the context occurs in criminalization efforts carried out by interested parties.

67. In the period 2013-2023 there were 101 reported cases of violence against WHRDs which directly targeting body, sexuality or gender identity of WHRDs as a woman, occurring directly or even using social media or other internet media. WHRDs are increasingly vulnerable when dealing with Papua issues.¹ Komnas Perempuan^{li} has published a Security Protection Manual for WHRDs to develop protection strategies, provide knowledge and tools for WHRDs to increase understanding of safety and protection for both themselves and their institutions. In December 2023, Komnas Perempuan, Komnas HAM, and LPSK signed a Memorandum of Understanding (MoU) regarding a Rapid Response Mechanism for HRDs Protection including WHRDs, in response to the absence of protection policies for them.

68. Recommendations: GoI to a) review and improve the amendment of IET Law by taking into accounts all concerns raised, particularly to reduce over-criminalization and to endorse fulfilment of victims' rights b) moratorium of legal cases against WHRDs and conduct thorough review of the cases, c) encourage the Police to prevent all forms of violence against WHRDs, dutifully convicts both state and non-state actors perpetrating violence against WHRDs, d) develop remedies for WHRD victims

of violence, and e) immediately issues policies on protection to WHRDs, including freedom of speech and provision of support for recovery.

69. Implementation of the Pornography Law. Komnas Perempuan's study of the implementation of the Pornography Law between 2008-2014 and 2014-2021 through 78 court decisions across Indonesia found that this law has potential to make women victims of sexual exploitation and non-consensual distribution of intimate images vulnerable to be criminalized. The law has been heavily protested for being infringing freedom of expression in relation to show publicly parts of body considered as violation to public decency, and to criminalize the distribution of sexual content without evaluating the power inequalities in both the production or distribution of the content. The revision of Criminal Code adopts the provision of Anti Pornography Law, including the provision of sexual exploitation that is contradictory to the provision of similar crime according to Sexual Crime Law. Since the Anti Pornography Law is commonly used in conjunction with IET Law, the revision of both laws is necessary to ensure the protection of freedom of expression as well as rights to legal protection.

14. Minority Rights

70. Findings of Komnas Perempuan 2023 Annual Report that women of indigenous people is one of the vulnerable groups that suffered the further impact of the delay on the recognition and protection of indigenous people. The development and expansive infrastructure policy has the tendency to neglect the due diligence procedures to ensure the fulfilment of women human rights and consequently, contributes to various forms of violation and discrimination toward women indigenous people. One of the cases is experienced by women of indigenous community in relation to development of dam as national strategic projects. Whilst agreeing on the need to have a dam, the unthorough consultation process neglected the concerns of women of indigenous groups. One of the concerns is the change of land ownership scheme: the government solution to compensate the land in accordance to the size of land and crops attend by each family is not compatible with the long tradition of collective rights that governs the identity of Nagakeo indigenous community. There

is also a concern regarding the loss of site of worship according to the indigenous belief, fear of bad karma for destruction of or not being able to attend to ancestral graves, besides loss of sources of livelihood due to the project. Women of indigenous community who are the duty bearer to pass the wisdom of indigenous faith, language and system of thoughts and values are deeply worried with the long-term impact of such arrangement.

71. Komnas Perempuan's concern on women's situation, who are enduring multiple discriminations, such as seen in Papua where women suffers from high maternal mortality rate,^{lii} malnutrition and stunting, HIV/AIDS as well as sanitation and mental health issues.^{liii} The uneven distribution of health facilities and limited transportation infrastructure, lack of integration services on HIV and GBV, worsened by the rampant corruption are factors that influence the quality of life of Papuan women. 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 the national government, and all the accumulation of disappointment led to the high reluctance of Papuan communities in accessing the health services, for example, rejection to vaccine or test during Covid-19 pandemic.

72. Recommendations: GoI to a) issue the Indigenous Peoples law to better recognize the existence of indigenous communities and promote human rights-gender based approaches in conflict resolution efforts and substantive participation in order to ensure the fulfilment of constitutional rights of individual indigenous people and as a community; b) review the policy for securing national strategic projects and strengthen the consultation process with affirmative measure to address the concerns of indigenous women, c) avoid using the excessive force by law enforcers and security personnel; c) prioritize the sustainable development perspective, respecting and fulfilling women's human rights and engaging affected women in accordance with the UN principles on *Free and Prior Informed Consent*, including in their national strategic projects, d) encourage peace dialogue to respond to conflict situation in Papua and e) expedite measures to substantively assist the life condition of Papuan Women.

Endnotes

- i Komnas Perempuan is established as an implementation of the Constitutional guarantee of non-discrimination principle and to uphold human rights, as well as the Law No. 7 year 1984 ratifying CEDAW and Law No. 5 Year 1998 ratifying CAT. Following the Paris Principles for NHRIs, Komnas Perempuan's independence and mandates are authorized through the Presidential Decree No. 181/1998, which was then strengthened through President Regulation No. 65/2005 and later by Presidential Regulation No.8/2024. Komnas Perempuan's works are focusing on the fulfillment and strengthening of women's rights and on creation of situation conducive to eliminate all forms of violence against women in Indonesia. In preparing this report, Komnas Perempuan consulted with various stakeholders, such as CSOs, service provider institutions for women victims of violence, and representatives from governmental institutions, and conducted field visits to update several concerning issues.
- ii The cases reported to Komnas Perempuan have increased significantly by 323% from 1,353 cases in 2016 to 4,371 cases in 2022, equivalent to 17 cases per day.
- iii Komnas Perempuan is currently operating with 15 commissioners. Since 1998, it is supported by 45 staff who are led by a Secretary General. With the new regulation, Komnas Perempuan can add another 50 staff to support its work and expects to have an increase in budget.
- iv KuPP's members are the National Commission on Human Rights (Komnas HAM), Komnas Perempuan, the Indonesian Child Protection Commission (KPAI), the Witness and Victim Protection Agency (LPSK), and Ombudsman (ORI) and in 2023 also joined by the National Commission on Disabilities (KND)
- v The new Criminal code (1) expands the definition of rape that is not limited to penile penetration and considers the specific vulnerabilities of women to sexual violence; (2) expands access to legal termination of unwanted pregnancies for women victims of all sexual violence; (3) reduces the criminal sanction for women who throw away their children shortly after birth because they are afraid that the birth of the child will be known to others, (4) explicitly refers to the Sexual Violence Crime Law (TPKS Law) in the handling of cases of sexual crime to ensure victims can enjoy their rights as regulated in the TPKS Law; (5) reforms the regulation of prison sanctions, among others, is to prevent over-crowding of prisons/remand centers, conditions that place women prisoners, especially pregnant women prisoners, mothers and breastfeeding babies, increasingly vulnerable to violence, inhumane treatment and neglect of maternity rights. The purpose of the reforms are (a) Prevention of criminal acts; (b) Correctional/rehabilitation; (c) Conflict resolution, restoration of balance and creation of a sense of security and peace; (d) The growth of the convict's remorse.
- vi These concerns were conveyed by Komnas Perempuan in its letters to various human rights mechanisms and to the Indonesian government as of 22 November 2022, as well as the public through press release during the deliberation of the Bill.
- vii Information confirmed in the consultation to prepare submission for Call for input to the report of the Special Rapporteur on human rights defenders to the General Assembly on the challenges faced by women human rights defenders working in conflict, post-conflict or crisis-affected settings (May 2023)
- viii Komnas Perempuan, 2021.

ix Komnas Perempuan Annual Notes on Violence against Women (CATAHU) 2017 recorded 106 types of violence against women in the realm of domestic violence/ personal relations based on GBV Service Institutions. CATAHU 2018 recorded 140 cases, and CATAHU 2019 as many as 20 cases (District Court (PN) 2 cases, Women and Children Service Unit of The Police (UPPA) 1 case, Hospital 1 case, Women's Crisis Center (WCC)/Civil Society Organizations (CS)) 16 cases). CATAHU 2020 recorded 9 cases (PN 2 cases and WCC and CSO 17 cases), CATAHU 2021 recorded 11 cases (PN 2 cases, CSO 5 cases, Integrated Service for Women and Children Empowerment (P2TP2A) 4 cases). Direct complaints to Komnas Perempuan recorded 4 cases of violence against domestic workers in 2017, 3 cases in 2018, 3 cases in 2019, and 17 cases in 2020, while in 2021 there was 1 case recorded.

x The commitment was stated by Gol's acceptance to recommendations for the ratification made by various international human rights mechanisms, including in the Cycles 2 and 4.

xi According to Komnas Perempuan's study, this situation is due to 1) the weak policies that do not accommodate gender perspectives and understanding of power relations; 2) the limited capacity of law enforcement officials in implementing restorative justice with a victim perspective, for example many cases of violence against women reported to the police are returned to be resolved using social mechanisms, through traditional institutions and village authority; 3) remedy for victims is still understood to be limited to compensation and apology since no remedy's SOP or regulation in place yet; 4) many traditional leaders do not understand restorative justice and there is no capacity strengthening for implementers or members of traditional institutions to handle cases of violence against women; 5) not all government's service providers on GBV understand restorative justice, it is understood only as mediation; and 6) the family situation, education, economy and status of the victim influence the victim's choice and decision to use the restorative justice mechanism.

xii Komnas Perempuan receives complaint reports regarding cases of obstacles to activities at mosques (houses of worship), including in the areas of Garut, Sukabumi, Sintang, Depok, Papua, etc.

xiii Joint ministerial regulation of Ministry of Home Affairs and Minister of Culture and Tourism no 41/43 year 2009 on Guidelines to Provide Service to Adherents of Beliefs.

xiv Because marriages of adherents of beliefs can be registered with the requirement that the belief's leaders be registered with an organization authorized by the state. Organizing is a right that cannot be enforced, while the diversity of forms and structures of indigenous communities has not been uniformly accommodated in the form of organization required by the state. This arrangement has an impact on obstacles to registering marriages of adherents. This arrangement is outlined in Article 39 of Presidential Regulation No.40 of 2019. To obtain marriage registration, women adherents must join organizations, which is actually a right. However, with these requirements, organizing becomes an obligation for adherents, a condition that is not applied to citizens who adhere to other religions. Barriers to marriage registration for women have a further impact on important documents (birth certificate, family card, etc.) which also have an impact on access to public services such as health, education, politics, etc. which require the necessary documents.

xv Komnas Perempuan received information that more than 80 Sundan Wiwitan women do not have registration data (marriage certificate, birth certificate). Monitoring results of Komnas Perempuan, Cigugur Kuningan, July 2022.

xvi Komnas Perempuan received complaints from transwomen in Bekasi and North Aceh in 2018. The incidents in North Aceh started with raids on several beauty salons in Lhoksukon Village and Panton Labu Village, Jamboe Aye District, North Aceh Regency. North Aceh Police, Wilayatuh Hisbah (WH) and the Public Order Agency (Satpol PP), as well as a number of residents arrested seven transgender. The police also took actions outside their authority as law enforcement officers. In responding to the complaint, the police transferred members of the police in question. On 23 November 2018, two transgender victims in Bekasi were stripped naked, beaten with an iron rod on the back, kicked on the right arm and waist with shoes, and punched in the mouth, temples, eyes and chest. Victims also experienced psychological violence as they were threatened to be burned, verbally abused, and accused as the cause of disasters. This persecution was carried out by around 60 people from an unknown community organization. In 2018, a transman was arrested because he was considered to have attempted the murder of the child he gave birth to. He was sentenced to prison, and separated from the child without information of his child's being adopted. In 2020, a transwoman was burned alive by a group of people because she was thought to have committed theft. Due to this incident, Komnas Perempuan asked the police to investigate it thoroughly, and the National Police Commission (Kopolnas) carried out monitoring of police performance. The perpetrator was arrested and jailed. (<https://www.thejakartapost.com/news/2020/04/06/trans-woman-burned-to-death-in-north-jakarta.html>). Komnas Perempuan in 2021 recorded 1 (one) case of Conversion Therapy in the form of rape against a woman with the aim of correcting her sexual orientation.

xvii In Komnas Perempuan's documentation, 18 policies are recorded that directly and indirectly contain discrimination and even the potential for criminalization/punishment simply because of the sexual minority status attached to them. One of which is Bogor Regional Regulation No. 10 of 2021.

xviii From a meeting with the Papua District Health Office at the end of 2021, information was obtained that the health office had developed disaggregated data based on indigenous Papuans and non-Papuans. However, this data has not been disaggregated by gender to show its accuracy.

xix Komnas Perempuan began recording data on women victims of violence with HIV/AIDS regarding their access to services in 2020 through CATAHU.

xx Law No. 5 of 2018 on the Criminal Act of Terrorism, Government Regulation No. 35 of 2020 on Amendments to Government Regulation No. 7 of 2018 on Provision of Compensation, Restitution and Assistance to Witnesses and Victims, as well as Presidential Regulation on the National Action Plan for Prevention and Countering Violent Extremism that Leads to Terrorism in 2020-202. In the regions there is a Governor's Decree Regulation for integrated teams, but not in all provinces. In East Java and West Java there are teams to handle terrorists. Komnas Perempuan consultation with the National Counter-Terrorism Agency (BNPT), January 2022.

xxi The team consists of practitioners, academics, and non-active military members to implement the Presidential Decree. There are 12 gross human rights violations to be responded by the team, including the Tragedy of 1965-1966, mysterious shootings in 1982-1985, Talangsari incident in Lampung in 1989, Rumoh Geudong and

Pos Sattis incidents in Aceh in 1989, forced disappearances in 1997-1998, riots in May 1998, Trisakti and Semanggi I and II in 1998-1999, the murder of witch doctors in 1998-1999, Simpang KKA in Aceh in 1999, the Wasior incident in Papua in 2001-2002, the Wamena incident in Papua in 2003, and the Jambo Keupok incident in Aceh in 2003. The responses according to the recommendations are 1) To express recognition and regret for past serious human rights violations; 2) Carry out actions to re-arrange history and formulate events as the state's official version of a balanced historical narrative while taking into account the human rights of those who have been victims of the events; 3) Restore the rights of victims of other serious human rights violations that are not within the scope of the PPHAM Team's mandate; 4) Carry out data collection on victims; 5) Restore victims' rights in two categories, namely constitutional rights as victims; and rights as citizens; 6) Strengthen the fulfillment of state obligations towards the recovery of victims specifically on the one hand and strengthening national cohesion more broadly on the other hand. It is necessary to develop alternative efforts for cultural harmonization of the nation; 7) Carry out resocialization of victims with the wider community; 8) Create state policies to ensure that incidents of human rights violations do not occur again; 9) Build memorabilia that is based on adequate historical documents and is a warning so that similar incidents will not happen again in the future; 10) Carry out efforts to institutionalize and instrument human rights. These efforts include the ratification of several international human rights instruments, amendments to laws and regulations, and the enactment of new laws; 11) Develop a mechanism to implement and monitor the implementation of recommendations submitted by the PPHAM Team.

xxii This view is based on experience of several victims community. For instance, in the case of Talangsari incident 1989. Komnas Perempuan recorded that in early 2019, provision of medical and psychological assistance was given to 11 victims following a peace declaration initiated by the integrated team to handle past abuses under Coordinating Ministry of Politics, Law, and Security and attended by representative of the Lampung Legislative Council (DPRD), the Coordinating Ministry for Political, Legal and Security Affairs, Komnas HAM, and LPSK. This initiative received protest. In its review, the Indonesian Ombudsman considered the initiative is a practice of mal-administration with exclusion to some victims and not in accordance with the Law No. 26 of 2000 on Human Rights Court. <https://ombudsman.go.id/news/r/ombudsman-deklarasi-damai-kasus-talangsari-maladministrasi>. Also complaints from victims communities and human rights groups in Aceh about the limited substantive participatory process in relation to the event of kick off of the non-judicial program in June 2023.

xxiii This concern has been raised to Coordinating Minister on Politics, Law and Security who led the non-Judiciary team in two separate events in October and November 2023.

xxiv Komnas Perempuan also noted that there were no further developments regarding the recommendations from the Truth and Friendship Commission, Indonesia - Timor Leste, especially regarding the establishment of a Missing Persons Commission whose task was to carry out searches and reparations for children who were forcibly disappeared in 1975-1999. However, alternative efforts have been made to meet (reunite) stolen children with their families in Timor Leste. This activity was initiated by Asia Justice and Rights (AJAR) which is supported by the governments of both countries. To date, around 86 adult children (12 girls and 74 boys) have met their families in Timor Leste. However, their problems relating to discrimination,

trauma, and psychological disorders as well as economic, social and cultural difficulties have not been adequately addressed. <https://asia-ajar.org/press-release/indonesiatimor-leste-the-eighth-civil-society-led-reunion-to-reunite-timor-lestes-stolen-children/>

xxv https://kk.acehprov.go.id/media/2023.12/buku_laporan_peulara_damee1.pdf

xxvi Four Indonesian NHRIs, including Komnas HAM, KPAI, Komnas Perempuan, and KND, synergistically prepared recommendations for the Government Regulation Draft on Coordination and Monitoring of the TPKS Law and ensured the spirit of Article 26 of the Covenant on the right to equal legal protection without discrimination (on the basis of gender) is integrated.

xxvii In the last 3 years (2020-2022) data in Komnas Perempuan Annual Compilation Report (CATAHU) showed that domestic violence is the highest among violence against women cases reported. There are 895.698 (99%) domestic violence cases out of 904.340 GBV. The details form of violence reported to Komnas Perempuan and service institutions, there is a significant increase from 7,884 cases in 2020 to 10,187 cases in 2022. The highest number is violence against wives (10,927), followed by dating violence (7,208), violence against children (3,066), ex-boyfriend violence (2,614), ex-husband violence (480) and violence against domestic workers (29) and other violence (1,1517). Relating to child marriage there is an increasing number of marriage dispensations by 3 times, namely 23,126 cases (2019) to 64,211 cases (2020). Likewise, the number of cases of cyber (online space) gender-based violence reported directly to Komnas Perempuan increase sharply (1600%) from 940 cases in 2020 to 1697 cases in 2022. In the personal domain, complaints of domestic violence cases to Komnas Perempuan show that domestic violence continues in the form of criminalization of victims, exploiting the vulnerability of mothers' immigration status in terms of mixed marriages and childcare conflicts.

xxviii From 127 elderly women who were victims of violence including those experienced in the domestic domain (100 people), the public domain (24 people), and 2 people in the state domain based on CATAHU 2022.

xxix Data from the Indonesian Ministry of Social Affairs (2022) shows that the majority of elderly people live with their families or with three generations in one house. In detail, 40.64% of elderly people live with three generations in one house; 27.3% live with family; 20.03% live with a partner, and 9.38% live alone.

xxx The study conducted in collaboration with partners in 5 districts and 4 provinces supported by UNFPA and the Government of Japan is entitled "Hidup dalam Kerentanan dan Pengabaian: Urgensi Pemenuhan Hak Layanan Kesehatan Reproduksi dan Seksual terhadap Perempuan Penyandang Disabilitas dan Lansia".

xxxi This survey confirms the study by Komnas Perempuan back in 2017-2018 that FGM/C was still carried out in 17 (seventeen) districts of 10 (ten) provinces.

xxxii KUPI was initiated by prominent muslims scholars and community leaders who share the belief of gender justice as part of the essence of Islam teaching. In formulating its *fatwa*/guidance, KUPI deploys an accountable process of text interpretation within the tradition of Islamic law in its search for Islamic, nationalistic and humanitarian values.

xxxiii The right to obtain safe abortion services is excluded for victims of sexual violence that results in pregnancy in accordance with Law No. 1 of 2023 on Criminal Code Article 463:

(1) Every woman who has an abortion is punished with a maximum imprisonment of 4 (four) years.

(2) The provisions as intended in paragraph (1) do not apply if the woman is a victim of a crime of rape or other crime of sexual violence that causes pregnancy whose gestational age does not exceed 14 (fourteen) weeks or has indications of a medical emergency.

xxxiv For people with certain disabilities, they experience difficulty when putting on and taking off condoms; when taking hormones due to other drugs being consumed and so on, information, skills and support need to be provided. Komnas Perempuan received information of cases of people with mental (psychosocial) and intellectual disabilities experiencing forced sterilization. Komnas Perempuan. 2019. *Risalah Kebijakan Perempuan dan Disabilitas: Apakah Kami Aseksual?*. Jakarta.

xxxv Komnas Perempuan has been struggling for the release of MJV and MU from the death penalty. In the MJV case, Komnas Perempuan held meetings with the government, experts and victim assistance organizations to explore legal opinions for the MJV case, both outside and inside the judiciary. In August 2021, there was a meeting with the Ministry of Foreign Affairs, Ministry of Law and Human Rights and the Presidential Staff Office to ensure that the MJV testimony process for trafficking cases in the Philippines could be carried out online in Indonesia.

xxxvi This means that 86.9% of femicides occur in the private domain and this shows women's vulnerability to the risk of femicide even though they are at home, a space that is "constructed" as the "safest" place for women.

xxxvii Being labeled as heretic and subversive, members of Gafatar community were evacuated out of West Kalimantan after their homes were attacked and burnt down. Before being forcibly evicted, the previous night there was a sweeping by a group of people wearing white marks on their arms.

xxxviii <https://www.liputan6.com/news/read/3677328/bnpb-total-kerugian-dan-kerusakan-akibat-gempa-tsunami-di-sulteng-rp-1529-t>, accessed on 27 October 2018. Komnas Perempuan monitored displacement due to the 2019 earthquake in Central Sulawesi. 41 cases of child marriage were recorded, 73 cases of gender-based violence, domestic violence and wives experiencing mental disorders because their husbands were away (Madani Hospital); 30 cases of divorce; 12 cases of abuse of women by IDPs (North Palu, Kayu Maluwe); cases of marriage and pregnancy among children who are victims of dating violence and attempted trafficking and forced migration; 5 cases of sexual assault against child (Buluri) and the obligation to wear a veil.

xxxix According to the latest data provided by the United Nations High Commissioner for Refugees Indonesia (UNHCR Indonesia), Indonesia has been a place for 12,805 registered refugees. They mostly come from Afghanistan, Somalia, and Myanmar or any other conflict country. Approx. 48 countries are also identified as origins of the refugees. From the population, 27% or 3,457 are child refugees (below 18 years old) with 1,625 of them are girls and 1,832 are boys. While 26% or 2,364 are women refugees and 1% is an elderly woman (above 59 years old).

xl This Presidential Regulation regulates stakeholders roles on the identification & reception, shelter, security, and supervision of refugees who arrive in Indonesia. Although, the regulation is acknowledged as the procedure applied during the emergency reception situation; As mandated by the Presidential Regulation, the Government of Indonesia through the Coordinating Ministry of Politics, Law, and Human

Rights and the Ministry of Internal Affairs has formed a Special Task Force on national, provincial, and regency level. This further helps all stakeholders to coordinate and implement the legal mechanism to receive refugees on arrival in accordance with legal frameworks mentioned above;

xli <https://reliefweb.int/report/indonesia/rohingya-refugees-facing-hostile-reception-aceh>.

xlii The legal aid budget continues to decline, for the 2022 budget year only Rp36,383,520,000. Based on the existing budget, there is still subordination of women victims who try to access justice. It is possible for victims to receive legal aid funds in the form of case consultation fees of Rp200,000 and non-litigation assistance Rp770,000, while for suspects/defendants it reaches Rp8,000,000.

xliii According to CATAHU of Komnas Perempuan in 2023, there are at least 79 cases of violence against women with disabilities, 7 (seven) of those reported directly to Komnas Perempuan.

xliv Komnas Perempuan annual report until 2022 beside specific reports on freedom of religion (2013)

xl For instance, the complaints in Singkil, on Filadelfia Church in Bekasi

xlvi As conveyed by women of GKI Yasmin Congregation regarding the political resolution initiated by Bogor Municipality

xlvii Komnas Perempuan has provided submission to the parliament during the deliberation process of revising the respective law. Komnas Perempuan's opinion of the revised law can be read at <https://komnasperempuan.go.id/pernyataan-sikap-detail/pernyataan-sikap-komnas-perempuan-and-13-and-10-terhadap-pengesahan-revisi-kedua-uu-informasi-transaksi-elektronik-uu-ite>

xlviii For example, the case experienced by a former honorary teacher at SMAN 7 Mataram who was the victim of sexual harassment by the principal at her place of work. She was found guilty of the crime of "transmitting or distributing indecent content" even though she made a recording of the conversation with the aim of providing evidence that she had been harassed and as a precautionary measure if something bad happened in the future.

xlix Article 27 Paragraph (3) concerning Dissemination of Information and/or Electronic Documents that violate morality. Article 27 Paragraph (4) concerning insults and/or defamation through electronic media. Article 28 concerning insults and/or defamation

I These include trolling, cyber hacking, impersonation, surveillance, cyber stalking, illegal content, online defamation, sexual messages, sexting, cyber harassment, and publication of personal information/doxing. A WHRD, was recorded as having experienced a terror attack linked to elements of her race, religion, and gender in 2021. She experienced gender-based cyber violence, in the form of hate speech targeting her sex and/or gender as a woman (gender hate speech), as well as various forms of cyber violence. Attacks were also aimed to her family. All these attacks are intended to pressure her to stop her activism.

li Komnas Perempuan. 2022. Manual Perlindungan Keamanan Perempuan Pembela HAM di Indonesia. In cooperation with Protect International/Yayasan Perlindungan Insani Indonesia (YPII).

lii 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.

liii 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.



SERI DOKUMEN KUNCI KOMNAS PEREMPUAN

LAPORAN DAN PROSES ADVOKASI

Komisi Nasional Anti Kekerasan terhadap Perempuan KEPADA MEKANISME *TREATY BODIES*

Sebuah laporan mekanisme Hak Asasi Manusia (HAM) internasional, seperti yang rutin dilakukan oleh Komisi Nasional Anti Kekerasan terhadap Perempuan (Komnas Perempuan), memiliki tujuan dan arti strategis: sebagai bentuk akuntabilitas lembaga menyampaikan kemajuan dan kemunduran isu-isu HAM perempuan di Indonesia kepada publik nasional maupun internasional termasuk Perserikatan Bangsa-Bangsa (PBB); mengkontribusikan pengetahuan yang diperoleh dari berbagai temuan khususnya berkaitan dengan pola-pola baru kekerasan terhadap perempuan; mereformasi kebijakan nasional melalui berbagai rekomendasi yang dihasilkan dalam laporan, maupun rekomendasi yang disampaikan melalui mekanisme HAM internasional/PBB kepada Indonesia dengan dasar laporan tersebut, hingga memperkaya, memperluas, dan memberi makna baru pada norma HAM internasional sebagai bagian dari kontribusi Komnas Perempuan pada perlindungan HAM perempuan secara global.

Seri Dokumen Kunci (SDK) Komnas Perempuan ke-19 ini mengangkat tiga dokumen berbahasa Inggris terkait pemenuhan dan perlindungan HAM Perempuan yang dikirimkan pada mekanisme *Treaty Bodies*. Ketiga dokumen tersebut adalah: (a) Komnas Perempuan Response to the List of Issues and State Party's Reply of Indonesia to The Committee on the Rights of Persons with Disabilities (CRPD), 2022; (b) Komnas Perempuan Response to the List of Issues and the State Party's Reply of Indonesia to The Committee on Economic, Social and Cultural Rights (ICESCR), 2024; (c) Independent Report by Komnas Perempuan to The Human Rights Committee, Updated Information for the 2nd Indonesian Periodic Review on The International Covenant on Civil and Political Rights (ICCPR), 2024.