

**NATIONAL COMMISSION
ON VIOLENCE AGAINST WOMEN**

**It is not only at Home: Women's Experience of Violence in
Unequal Power Relation**

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Authors Team:

Asmaul Khusnaeny, Dahlia Madani, Diah Irawaty, Dwi Ayu Kartika, Iva Kasuma, Manna Nababan, Saherman, Soraya Ramli, Yulianti Muthmainah.

Data and Research Team:

Atiyatun Khomisah, Betty Sitanggang, Dian Girsang, Heru Prasadja, Yustina Rostiawati, Nenny Ayuni, Siti Nurjannah, Sri Candra Wulaningsih.

Discussion Team:

Arimbi Heroepoetri, Andy Yentriani, Yustina Rostiawati, Yuniyanti Chuzaifah, Kunthi Tridewiyanti.

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EXECUTIVE SUMMARY

This Annual Note of 2010 is a compilation record of Violence against Women (VAW) occurred all through 2009 (January to December). As usual, data in this annual note were compiled from partner institutions where there were 300 organizations responded to this matter.

The number of VAW handled by service provider institutions increases every year (from 2001 to 2008). In 2009, the number of VAW reached 143.586 cases or increased by 263% compared to last year's (54.425). In 2008, the number of cases increased mainly because of the easy access to obtain data from Religious Court as implementation of Head of Supreme Court Decree No. 144/KMA/SK/VII/2007 regarding Information Disclosure policy in court. In addition, this increase was believed to be related to several other factors that encouraged victims to be able to talk openly about the violence they experienced. There were many cases of VAW showed in media (electronic or printed media) lately. Most of the news focused on public figures widely known to society including celebrity, public officials, and state. The news relatively encouraged women to be brave to come forward and open up their experience of violence. Moreover, public in general was more sensitive to cases of VAW, and willing to accept (no longer forbidden/taboo to talk about it) when women file a lawsuit or talk about their experience of violence.

The most noticeable pattern of violence this year was sexual and psychological violence which occurred in three areas, they are personal relation, community and state. Women victims of domestic abuse were mainly wives (96%). The age of victims tended to be younger (age 13-18, children). The age of perpetrators was in productive age between 25-40 years of age, which was similar to last year's report.

Government had conducted several breakthrough actions on policy level, which were Amendment of Health Bill that acknowledged women's reproductive right, Indonesia National Police head's decree No. 8 Year 2009 regarding implementation of human rights standard on police code of conduct, Memorandum of Understanding between five government institutions in regard to victim witness protection. Based on information from service provider institutions, the number of institution using Elimination of Domestic Violence Law in handling cases increased this year, especially in the District Court and Religious Court.

FOREWORDS

Every year, National Commission on Violence Against Women (hereafter *Komnas Perempuan*) issues Annual Note about VAW that occurred through the year. For 2009, data were collected from all *Komnas Perempuan*'s partners that focused on directly helping women victims of violence or by referring them to other partners that had more capacity to handle the cases.

Since 2006, *Komnas Perempuan* has had standard application form to collect data, to monitor condition in service provider institutions, and to observe obstacles to data recording and handling cases. This application form will be evaluated every year in workshops held together with partner institutions that are used to filling up application, and even for service provider institutions that have not been partners yet. Besides getting valuable inputs for the most appropriate form, it is also meant to increase communication and cooperation among institutions. In 2009, workshops were held in two regions: Bali, including partner institutions in Bali, Java, Ambon and Papua, and Palembang (including partners in Sumatera).

During 2009, *Komnas Perempuan* received 166 cases of VAW where the perpetrators were public officials/ public figures. *Komnas Perempuan* has paid attention to this fact since 2006, where 557 cases out of 16.709 cases of domestic violence were conducted by public officials and government employees. In 2007, there were 552 cases, while throughout 2008 it reached 784 cases spread all over Indonesia.

Cases reported of VAW where the perpetrators were public officials/ public figures exist every year. *Komnas Perempuan* believes that still there are many victims hold their silence because the way of handling these cases, legally, socially, or policy, has not been well constructed. Patterns of denial, ignorance, or silence were found as response to victims who seek recourse in the courts, which led to revictimizing and push the process of justice further away.

Komnas Perempuan would like to thank to individuals in institutions mentioned above for their time, energy, and mind to complete the application form that we sent. Thanks also goes to data processor, writers, discussion team, and logistic support team who have worked until this very second to make sure this report available on schedule.

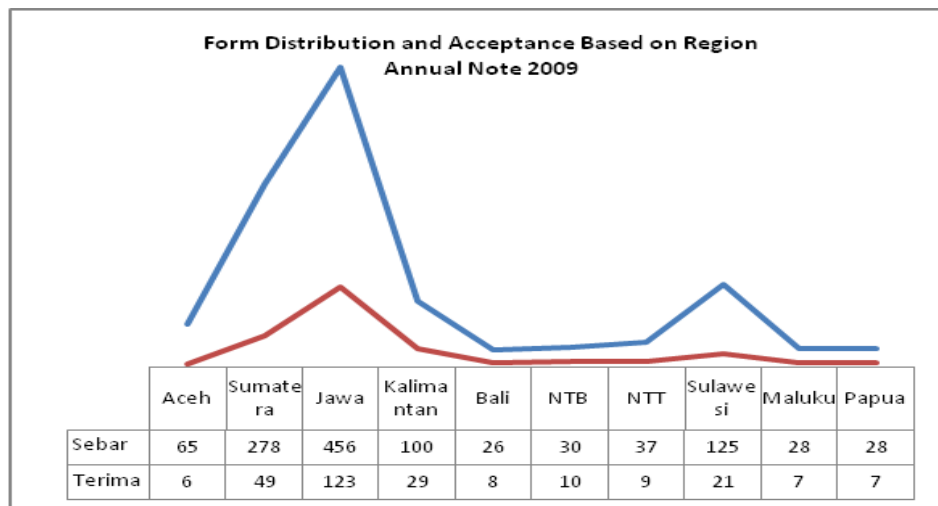
Finally, through continuous attempt to record cases on VAW we hope to identify the real measure and complexity of problem on VAW, which eventually can be used as a reference for this nation to evaluate its achievement of handling and coping with women rights violation.

METHODOLOGY

Komnas Perempuan's compiled data based on cases handled by service provider partner institution. From year to year, *Komnas Perempuan* invites partner institutions to participate by sending forms to partners and they respond by filling the forms and return them via airmail, fax, or email. *Komnas Perempuan* will verify the data by contacting partners by phone, and/ or email. Thus, the data compiled in annual report is the data that partners handle throughout the year.

Form Distribution and Response Rate

Sending/form distribution was late this year, which started in December 2009 and beginning of January 2010. It was due to technical problem toward the end of 2009, where *Komnas Perempuan* held national events about public responsibility and commissioner handover concerning the end of 2007 – 2009 periods. In addition, the use of APBN (state budget) needed adjustment (there was inconsistent date of account clearing with the time when the form sent to partners). However, forms were distributed to 1,173 partner organizations and generated respond from 300 organizations (23%). Similar to previous years, the main obstacle was responding, related to human resources limitation (numbers and capacity wise) and facilities that the partners owned. Another issue concerning this lateness was that partners often complained about how difficult it was to convert data they took and file them to *Komnas Perempuan's* form.



If we see the response per region, we know that partners in NTB and Bali responded to 33% and 31%. Whereas in Kalimantan, Jawa, Maluku, and Papua responded above 25%. While Partners in Sumatera, Sulawesi and NAD responded below 20%.

The rate of response according to partners is shown in the graphic below. Integrated Services Center for Women and Children Empowerment here after *P2TP2A* responded the most (69%), while RPTC responded the lowest (0). There were some partners that we didn't send

the form but they participated instead, such as Public Prosecutor in provisional and district level, Sharia Court, Local Government, High Court, and High Religious Court.

Like previous year, this year *Komnas Perempuan* also had the privilege to access data form court via websites. This was related to Head of Supreme Court Decree RI No. 144/ KMA /SK/VIII/2007, regarding information disclosure in court. With this regulation, many courts now allow access to obtain data through their websites.

Data Sources: Cases of VAW (Partners’ Note)

According to data reported by partners, cases of violence are generated from many different sources as shown in the following table. Most of the data came from victims who reported directly to partners (6,953), while cases referred from other institutions reached 1,725 cases, from witness /reporter 635 cases, by phone 227 cases, from other sources 360 cases, and from media follow up 85 cases.

Institution Category	Referral from other orgs. (n=1725)	Phone report (n=227)	Media follow Up (n=85)	Witness (n=635)	Victims (n=6953)	Others (n=360)
	%	%	%	%	%	%
Public Prosecutor	0.00	0.00	0.00	0.31	0.04	0.00
UPPA (police)	24.70	0.44	0.00	31.97	4.20	1.1
CSO	32.70	91.63	89.41	41.57	28.71	91.7
Integrated Services Center for Women and Children Empowerment) (P2TP2A)	3.71	3.96	0.00	1.42	0.16	7.2
Local Government	0.58	0.00	0.00	0.00	0.00	0.00
Religious Court	1.51	0.88	0.00	17.17	65.58	0.00
District Court	9.10	0.00	0.00	1.73	0.20	0.00
High Court	0.35	0.00	0.00	4.41	0.00	0.00
Hospitals	27.36	3.08	10.59	1.42	1.11	0.00
Total	100.00	100.00	100.00	100.00	100.00	100.0

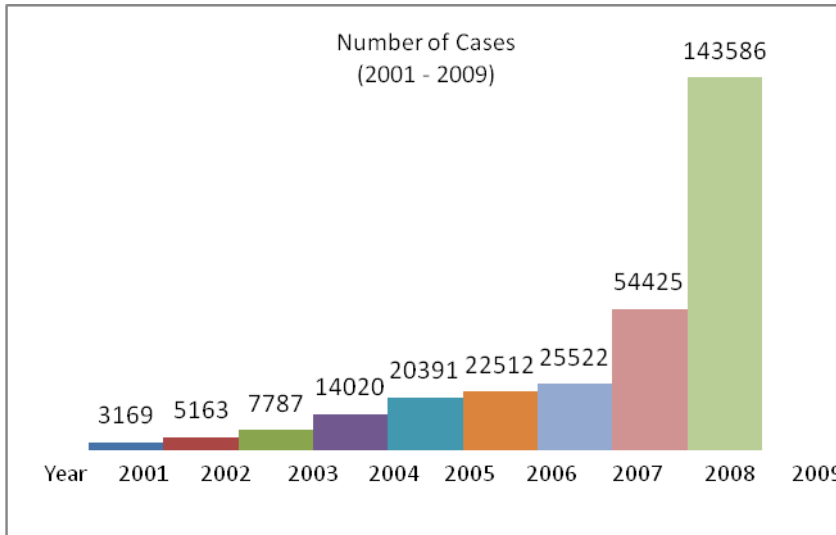
By looking at the information above, we can see that the possibility of cooperation between organizations increased compared to last year. As for the referred cases in particular, if we trace the data that we have gathered so far we notice that there were a number of organizations that received and perhaps accepted as well as referred cases to each other, which are: Service Unit of Women and Children in the Police office hereafter *UPPA*, CSOs, hospitals, and district courts.

As in last year, the data also showed that many victims themselves came directly to Religious Court (66% out of total victims who went to all institutions), and there were 29% of victims came to CSOs.

Many victims go to *Komnas Perempuan* every year even though they did not have mandate to handle individual cases. Therefore, since 2005, *Komnas Perempuan* has developed Complaint and Referral Unit (here after UPR/Unit Pengaduan untuk Rujukan) whose functions are to accept victims complaint and refer them to partners. This year alone, there were 923 victims came to report their cases to *Komnas Perempuan* and among those cases some were non gender-based violence. *Komnas Perempuan* has tried to provide support by referring them to related organizations to follow up their cases.

GENERAL OVERVIEW: VAW IN 2009

Numbers of Victims tended to Rise



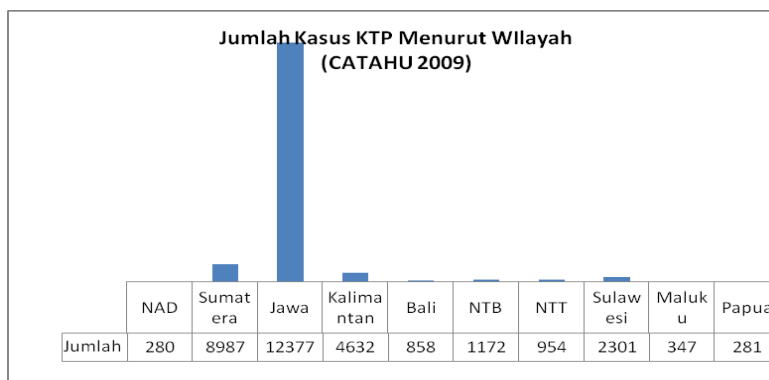
Number of victims of VAW this year was 143,586 (people). This increased 263% from last year (54,425)

If we see the data of victims taken care by partners, it seems that the number increased significantly from year to year. It was related to the method used to

collect data, and nowadays victims were likely to be more open and talked about the abusive treatment they received. As previously explained, technically, data from several institutions were now easier to obtain through websites or with any other way and it resulted in the more data can be recorded.

In recent years, we can see a lot of news regarding VAW in media, printed or electronic. Some of the news paid more attention to public figures, like celebrities, public officials, and more famous faces widely known by society. This encouraged women to open up and talk about the violence they suffered. In addition, generally, public are more sensitive to cases of violence and it was no longer taboo for women to press charge and open their experience of violence.

The following graph shows the number of victims per region. Most cases were found in Jawa (123,774) – East Jawa (88,836), DKI Jakarta (12,955), and DIY (10,560). The second largest number was in Sumatera (8,987), with Kalimantan following (4,632) and Sulawesi (2,301).



Based on the data received year by year, it was clear that most partners (which received forms and distribution and responded) were located in these three main regions (Java, Sumatera, and Kalimantan). The existence of these partners provided easier access to victims who needed help in any form, as revealed in data about the obstacle in handling cases. If we pay attention more closely, the very existence of these partners was significant: from average number of cases received by partners in Java, for example, it reached 1000 cases per institution, which was quite large if we compare to partners in Papua which only received cases between 40-45 cases per year.

Number of Victims Based on the form of violence

As in previous years, the number of victims in domestic violence or personal relationship was the highest (95%) compared to two other (Violence in community and violence by state). VAW within general community recorded almost 5% in 2009 and violence perpetrated or condoned by state was less than 1% (54 victims). By looking at the distribution of violence per region and its form we can see the following table.

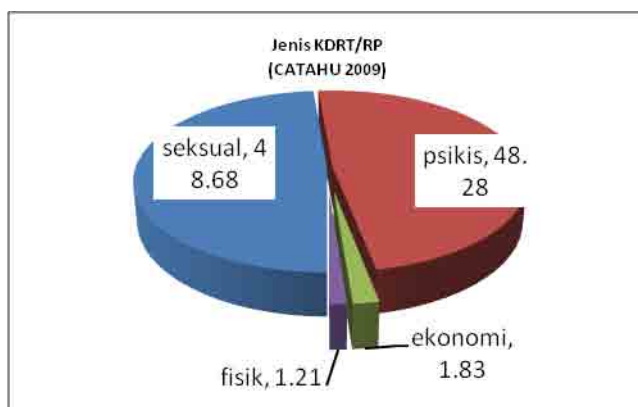
	DV/PR	COMM	STATE
NAD	228	50	2
Sumatera	7678	1305	4
Java	120326	3429	19
Kalimantan	4511	121	0
Bali	788	70	0
NTB	723	420	29
NTT	96	858	0
Sulawesi	1979	322	0
Maluku	248	99	0
Papua	272	9	0
	136849	6683	54

This table shows the distribution of violence per region and its form: in Java, most cases happened were domestic violence and personal relation (120,326) and in community (3,429). The second highest number of domestic violence was found in Sumatera where third in Sulawesi. While number of violence perpetrated or condoned by state was more than half happened in NTB.

Interestingly, in NTT more violence occurred in community than in domestic. The pattern of each domain is explained as followed.

DATA OF SEXUAL AND PSYCHOLOGICAL VIOLENCE IN 2009

Domestic Violence/Personal Relation: The most dominant cases



As previous years, domestic violence/ personal relation was the most dominant case of violence of all cases. The data showed the number of violence against wives was the most handled case. The rest included violence in dating, violence of ex husband or ex partners, and violence against domestic worker.

Contrary to the pattern of domestic violence and personal relation which was dominated by sexual and economic violence, this year sexual and psychological violence are shown in the graph above

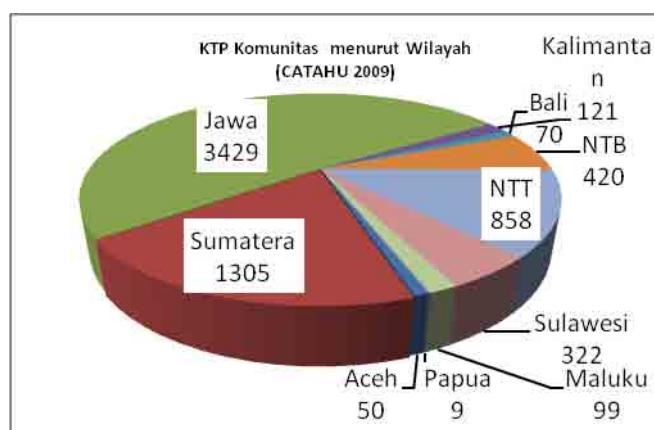
Sexual and psychological violence (more than 48% each), and economic violence (1.83%) and physical violence (1.21%)

Domestic Violence according to Institution	number	%
District Prosecutor	27	0.02
High Prosecutor	97	0.07
Police	844	0.62
CSO	3830	2.80
Integrated Services Center for Women and Children Empowerment (P2TP2A)	970	0.71
Local Government	66	0.05
Religious Court	41123	30.05
District Court	810	0.59
High Court	104	0.08
High Religious Court	87837	64.19
District Hospitals	529	0.39
Hospitals	612	0.45
Total	136849	100.00

The table on the left shows the number and percentage of violence in domestic domain and personal relation according to partners. As mentioned before, most data were collected from High Religious Court (hereafter Pengadilan Tinggi Agama) (64%) and Religious Court (hereafter Pengadilan Agama) (30%). Victims of violence in domestic domain and personal relation handled by CSOs reached almost 3%, while partners handled less than 1%.

Violence within General Community

Most cases of VAW within general community occurred in Java (50%), Sumatera (20%) and NTT (13%). The rest of it, violence in community was also found in other regions such as NTB, Sulawesi, Kalimantan, Papua, Bali, Aceh, and Maluku. The number of violence in each region was not more than 2%, except for NTB (6%) and Sulawesi (4%).

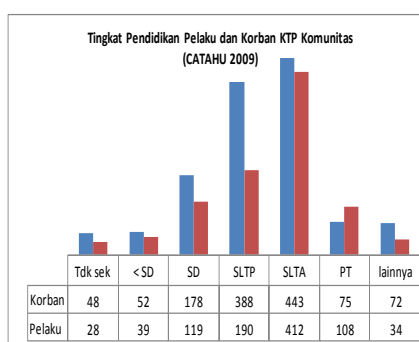
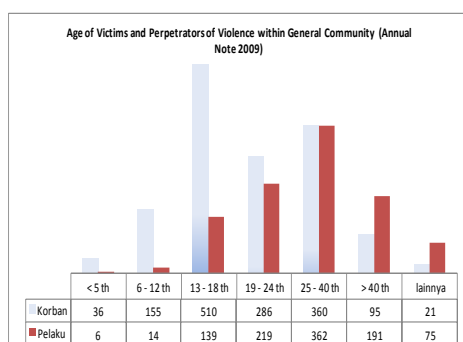


Institution	Number	%
CSO	4111	61.51
Hospital	779	11.66
Integrated Services System For Women and Children (P2TP2A)	501	7.50
District Court	492	7.36
Police	403	6.03
High Court	166	2.48
High Prosecutor	74	1.11
Prosecutor	73	1.09
Religious Court	66	0.99
Local Government	10	0.15
District Prosecutor	8	0.12
Total	6683	100.00

Violence within in general community includes a number of violent acts, among them are: sexual violence, children sexual exploitation, violence in workplace, violence against migrant worker and trafficking. Locus of violence also varied, such as workplaces, shelters (here after *PJTKI*), in public transportations (bemos, cars, boats), health facility buildings, cafés, animal cages, sidewalks, localizations, public offices, cemetery, classrooms, and many other places. Identified violators were employers/superiors/bosses,

head/village officials, the migrant workers agent/*PJTKI*, brokers, family driver, and family friends. CSOs handled most these cases (62%). Other partners that handled cases in community domain can be seen in the table.

Next graph will show the characteristic of age and education background of victims and violators of violence in community domain. Most victims were 13-28 years of age (children), and second were 25-40 of age, and third were 19-24 years. As violators, most of them were between 25-40 years, and then above 40, and some were children (age 13-18). From the graphic shown, we can see that victims and violators came from any group of age – victims tend to be in younger age, while violators were mostly at productive and older age (above 40).



Education background of victims and perpetrators can be seen in the graph above. Most victims were high school students, and then junior high, followed by primary school. For educational background it also showed that victims and violators were people from the lowest education level (uneducated) to highest education (university degree).

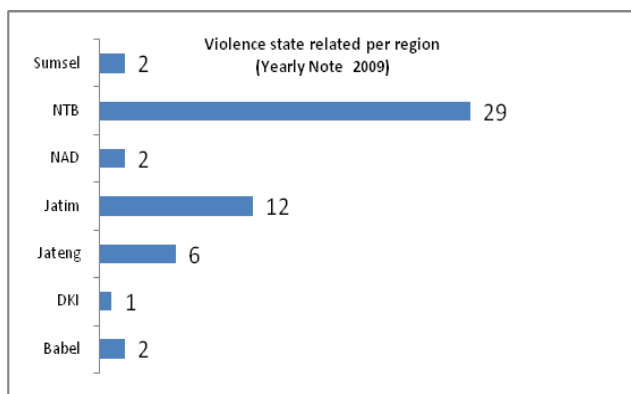
Victim Profession	Number
Housewife	131
Student	320
Trader	6
Farmer	14
Fisher	0
private employee	189
labor	4
entrepreneur	50
Government Employee	47
Police	10
security guard	1
pension	0
unemployee	118
others	60
domestic helper	35
café waitress	27
sex workers	14
migrant workers	10
Total	1036

Perpetrators Profession	Jumlah
housewife	5
student	89
trader	30
farmer	37
fisherman	7
private employee	230
employee	35
construction worker	3
labor	58
entrepreneur	53
government employee	29
professional	3
teacher	9
driver	9
ojek driver	24
village chief	6
Military	2
Police	12
Security Guard	3
pension	1
unemployee	84
others	39
religious leader	1
artist	1
sponsor	18
pimp	2
PJTKI	12
migrant worker	8
total	810

Most victims were college students, private employees, housewives, and unemployed, whereas most violators were private employee, unemployed, college students, workers, entrepreneurs. The more detailed data was shown in the tables above.

State Violence

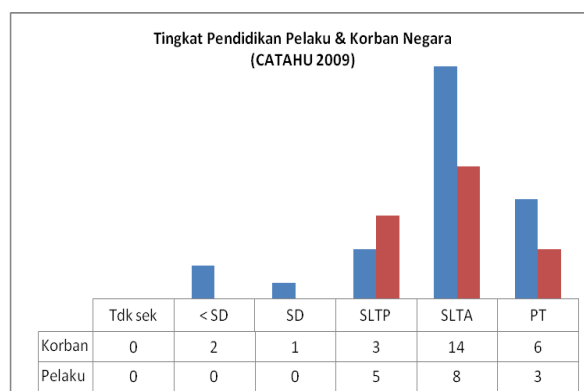
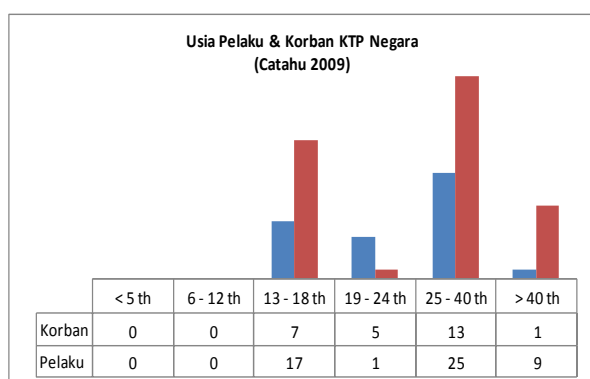
Violence perpetrated or condoned by state is physical, sexual and psychological VAW committed by state officials, or VAW occurred due to discriminative policy, or abandonment by state in any form.



Violence by state was reportedly handled by partners in several regions shown in the graph on the left. Partners that handled most cases were NTB (29 cases – 54% of total 54 victims). East Java was also another region handling these cases (12 victims = 22%), while Central Java handled 6 victims (11%). Partners in other regions (Sumatera, NAD, DKI, and

Bangka Belitung) handled less than 4%. Other regions that were not mentioned above did not have any record on violence perpetrated or condoned by state.

So far there are 7 institutions handling state violence, they are: Indonesian Migrant Workers Advocacy, Aceh Apik law enforcement authority, PBHI Jakarta, Samitra Abhaya Kelompok Perempuan Pro demokrasi, SP Palembang, SPEKHAM, and Service Unit of Women and Children (UPPA) in the regional Police of Bangka Belitung (Babel). Forms of violence including: intimidation, ignorance (no follow up), sexual workers raid, divorce with false witness, banned from national exams because of pregnancy, sexual harassment perpetrated by officials, and torture committed by officials. The violence took place in cars, office, schools, police department, and courts. Perpetrators were reported to be UPPA officials, division head, principles, judges, police officers, and District Civil Police (hereafter Satpol PP).



The characteristic of age and education level of perpetrators of violence by state are shown in the chart above. Most of the victims were in age between 25-40 years and 13-18 years. This is a quite different from the victims of violence within general community. It was also found victims above 40 years old. There were no victims with less than 13 years of age. Regarding the perpetrators, most of them were in group of age between 25-40 years, 13-18 years, and 19-24 years.

Victims Profession	Number
Housewife	0
students	8
trader	0
farmer	0
fisher	0
private	3
government employee	2
sex workers	6
police	2
unemployee	1
others	0
domestic helpers	2
Total	24

Perpetrators profession	number
students	1
Government Employee	11
Police	1
others	2
shelters/ <i>PJTKI</i>	5
employer	4
Total	24

If we see the education level of the victims, most of them came from high school and university degree level. Even though there were victims who only went to primary school, graduated or not, the number was quite small. From the table we can see that perpetrators were mostly from middle school, high school and university degree.

Two tables above shows the type of occupation both victims and perpetrators had. Most victims worked as commercial sexual workers, private employees, police officers, and domestic workers, while most perpetrators were public officials, migrant workers agent/*PJTKI*, employers/bosses, and even some of them were college students.

FORMS AND PATTERNS OF VAW

A. Demeaning Women's Right on Politics and Organizations

Supreme Court decree annulled article 214 Law No. 10 Year 2008 regarding General Election of DPR (House of Representatives), DPRD (Regional House of Representatives), and DPD (Regional Representatives Council) 2009 was an important year for Indonesians as this country held the second general election where people vote their leaders directly. General election was held on April 9, 2009 for legislatives, and in July 2009 to vote for president and vice president. In the realization, there were several violation on citizen's rights regarding dispute during the voters registration (DPT –Daftar Pemilih Tetap), especially during legislative election in April 2009. National Human Rights Commission hereafter *Komnas HAM* in 2009 annual notes had a few notes concerning those issues:

- a. Massive and systemic loss of voter's right both constitutional and civil (the setback was mainly related to the weak system of population record and General Election Commission) in the entire territory of Indonesia.
- b. The loss citizens's civil rights because it is not recorded in the population administration system.
- c. The loss of citizen's political right where voters lost their right to vote because government failed to facilitate certain groups to meet their rights, such as people who were physically challenged, people who lived in remote and isolated area, imprisoned, and the elimination of vote booths in some places like hospitals, and prisons.

General election in 2009 was also a historical milestone in women's access to politics. Through a long fight and struggle, women are able to ensure their involvement with special action (affirmative action) with 30% quote (article 52:2) and zipper system or alternate system which ideas could be seen in article 214, a, b, c, d, and e of Law No.10 Year 2008 regarding election for *DPR*, *DPRD*, and *DPD*. 30% quote was a number of minimal representatives for one group in order to be able to influent the policy process or to form alliances between groups¹ and zipper system was the follow up of the minimum quote to make sure that for every 3 elected

¹ Cetro study as excerpted in Kompas, June 17, 2001

candidates there is one woman. Both clauses then were pledged to Constitutional Court hereafter *Mahkamah Konstitusi* in the end of 2008 by stating that it was a violation to male citizen's right who became the members of parliament. In that court, case no. 22/PLaw-VII/2008, *Mahkamah Konstitusi* passed that article 55(2) did not contradict the constitution and was still binding. Article 55:2 was a clause related to temporary affirmative action which was conducive to create gender equality including women's right in politics. However, *Mahkamah Konstitusi* also decided that article 214 a, b, c, d, and e did not have any law enforcement that with open proportional system "*it wound the sense of justice and violates people's sovereignty in its substantial meaning*" because people should be free to choose and vote for the member of the parliament they desired, the members of parliament with the most vote and support from the people.

It is important to remember that in this regulation, one of the Judge in Constitution Court, Maria Farida Indrati had a dissenting opinion. Article 214 article a, b, c, d, and e did not contradict the constitution because they were part of article 52(2) and article 53 in creating affirmative action for women representation:

"...which a design of from upstream to downstream which means combining protections in internal mechanism of a party to choose its candidates, and party external mechanism as constituent support received by candidates (*DPR and DPRD*) through campaign in his/ her election area. To appoint candidates as regulated in clause 214, a quo is also an affirmative action for bigger chance for women to be elected; therefore, by replacing it with most votes will cause inconsistency to affirmative action itself.²

The General Election Commission hereafter *KPU* after *Mahkamah Konstitusi* regulation issued an idea about deciding elected legislative members by considering temporary affirmative action. As in press release in the end of January 2009, *KPU* planned to go with zipper system in deciding the candidates.³ With this system, if one party in one area gains 3 seats, one seat will be given to a women candidate regardless her loss to male candidates. This proposal was declined in *KPU* meeting in March 2009. *KPU* regulation no. 15 / 2009, which was ratified on March 16, 2009 in the hope to accommodate affirmative action for female candidates and in reality it did not accommodate zipper system either.

² Putusan no. 22-24/PLAW-VII/2008, accessed in di http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_22-24-PLAW-VI-2008.pdf. Words in italic as original text. Responding Constitutional Court decree, *Komnas Perempuan* sent a letter to President and General Election Commission on Jan 14, 2009 giving recommendation to take special actions to confirm effective and consistent application on Constitutional Court decree regarding affirmative action for women representation in politics

³ <http://www.detiknews.com/read/2009/01/23/114449/1073299/700/tanpa-perpu-zipper-system-penetapan-caleg-terpilih-rawan-gugatan>. 23 Januari 2009

If we compare to 2004 election, the number of women succeeding to have a position in parliament did show an increase: from 11% (male 89%) from 16 parties, in 2009 election it increased 7% (women gained 102 seats or about 18, 04%) from 9 parties participating⁴ (see table above). However, this increase can't be viewed as the implementation of clause 55 (2). In 2004, with 30% quote for elected candidates, there was not one party able to meet that 30% quote. As a matter of fact, in 2009 with *Partai Demokrat* as the winner of legislative election which contributed to significant rise of women candidates in *DPR*; 36,63% out of total 101 women candidates were from *Partai Demokrat*. Besides *Partai Demokrat*, there was no other party able to fulfill the 30% quota, even far less than 30%.

Table: Number of Women in *DPR-RI* General Election 2004 & 2009

No	Political Parties	Kursi Partai		Kursi Perempuan		Women Number (%)		% Perempuan Terpilih dari seluruh anggota DPR RI	
		2004	2009	2004	2009	2004	2009	2004	2009
1	Partai Golkar	128	107	18	17	14	15,89	29,03	16,83
2	PDIP	109	95	12	19	11	20,00	19,35	18,81
3	PPP	58	37	3	5	5,17	13,51	4,83	4,95
4	Partai Demokrat	55	150	6	37	10,52	24,67	9,67	36,63
5	Partai Kebangkitan Bangsa	52	27	7	7	13,46	25,93	11,29	6,93
6	Partai Amanat Nasional	53	43	7	6	13,46	13,95	11,29	5,94
7	Partai Keadilan Sejahtera	45	57	3	3	6,66	5,26	4,83	2,97
8	Partai Bintang Reformasi	14		2		15,38		3,22	
9	Partai Bulan Bintang	11		0		0		0	
10	Partai Damai Sejahtera	13		3		25		4,83	
11	Partai Persatuan Demokrasi Kebangsaan	4		0		0		0	
12	Partai Karya Perduli Bangsa	2		0		0		0	
13	Partai Pelopor	3		1		33		1,61	
14	Partai Keadilan dan Persatuan Indonesia	1		0		0		0	

⁴ Taken from: General Election Commission's Media Center (July 15, 2009, before MK decree)

15	PNI Marhaenisme	1		0		0		0	
16	Partai Penegak Demokrasi Indonesia	1		0		0		0	
17	Gerindra		26		4		15,38		3,96
18	Hanura		18		3		16,67		2,97
	TOTAL	550	560	62	101	11,27	18,04	100	100

I.1.2 Issue on dismissing Ministry of Women Empowerment and merging *Komnas Perempuan*

In 2009, *Komnas Perempuan* reckoned 2 important events related to two governmental institution that had authority regarding women and confirming and fulfillment of women's right, they were Ministry of Women Empowerment and *Komnas Perempuan* itself. First, there was an issue to eliminate or dismiss Ministry of Women Empowerment which was proposed by a researcher from LIPI in regard to reshaping the cabinet. Second reason was that Ministry of Women Empowerment changed its name to Ministry of Women Empowerment and Children Protection, which also showed that Indonesian government still adopted ideology of women as legacy of New Order, which settled women's role in its capacity as mothers.

The imperfections in understanding women's issues, especially women as citizens and human beings can also be seen in a proposal to merge *Komnas Perempuan*. This proposal, along with 38 other nonstructural institutions, was proposed by Minister of State Secretary in a meeting between Indonesian Secretary Office and Commission II in House of Representatives.⁵ The existence and hard work of *Komnas Perempuan* as an independent, unique and effective mechanism to establish human rights in a democratic country had not gained a proportional attention in the early study that was the background of the proposal.

B. Women Migrant Workers

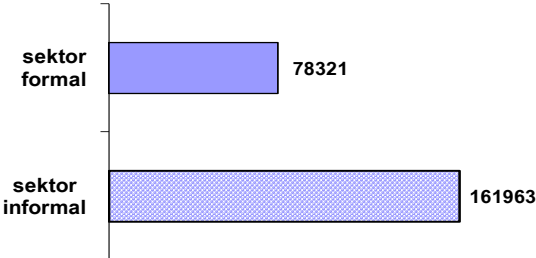
Global crisis in the beginning of 2009 affected migrant workers in foreign countries. During the crisis migrant workers overseas were still the main source of income for Indonesia. The amount of income gained from these workers had much contribution for family economy during this time when it was hard to find jobs.

Ministry of Manpower and Transmigration stated that in the beginning of February 2010 there were 2,679,536 migrant workers. From that number, the ratio from year to year since 1995 to 2008, 70-80.3% was women in informal sector, especially women worked as domestic workers. In addition, National Authority Body for the Placement and Protection of

⁵ Kompas, December 3, 2009

Indonesian Migrant Workers hereafter by abbreviation called *BNP2TKI* recorded that migrant workers placement reached 240,284 workers, distributed in Middle East and Asia Pacific 161,963 (67.40%) working in informal sector and 78,321 (32.60%) working in formal sector. The amount of income received from remittance that the workers sent until the end of 2009 was US\$ 6,615,321,274. The increasing number of migrant workers together with the increasing amount of income wasn't followed by the increasing protection of their rights. The number of violence cases they experience was also quite high and government policy so far has not directed toward the universal change.

Graph: Comparison of Migrant Workers in Informal and Formal Sector



BNP2TKI was one of the institutions responsible for controlling the traffic of placing migrant workers and make sure that the workers had their human rights protected. In 2009, *BNP2TKI* handled about 7,709 cases. The largest number of cases happened in Asia Pacific countries with 6,075 cases. There were 5,403 cases regarding workers deported from Malaysia, and 644 cases was regarding illegal termination which happened in Aljazair as an impact of global crisis. There were 1.634 cases in Middle East. With 7.709 total cases, 1.335 cases (17, 3%) are being resolved.⁶

With fewer placements, it did not lessen the number of cases that workers experienced. Migrant Care reported that the number of migrant workers died working in foreign countries in 2009 reached 1.018 people, 67% of them died in Malaysia. At least 2,878 migrant workers experienced violence in 2009. There were 554 migrant workers died in the previous year.

1. Policy portrait on migrant workers

On policy level, confirming migrant workers human right protection using UN ratified convention still has some issues. Government, Ministry of Manpower and Transmigration in particular still think that UN ratified convention in 1990 had not been a strategic thing for

⁶ Taken from www.bnp2tki.go.id, downloaded on March 5, 2010

migrant workers protection, whereas in fact it was signed and asserted in Human Rights Action Plan (RAN HAM) 2004-2009. There were several reasons why thing like this happened, one of them was because there was no continuous program from one period to other. Another one was there was no commitment from the president to protect migrant workers applied in concrete policy, and there was no coordination between interrelated department.

Ministry of Manpower released a statement which then advertised in national media that Migrant Convention 1990 would only benefit migrant workers in Indonesia and put more weight for government. Until now, Department will only adopt principles in the convention and arrange further study on the subject of direct benefit from this convention and its technical aspect.

Komnas Perempuan and *KomnasHAM* together with their partners, i.e. labor unions, and NGOs working for migrant workers like ATKI, SBMI, Aspek, Solidaritas Perempuan, LBH Jakarta, LBH APIK, IWORK and other partners in other regions, encouraged government to ratify UN 1990 convention by creating academic transcript of RLAW Convention Ratification 1990, and placing it into national legislation which will be discussed in DPR RI assembly in 2009-2010. However, this proposal had failed to be incorporated in national legislation list as Indonesian government had not considered migrant workers as a political priority

In fact, Law No 39 year 2004 amendment regarding Placement and Protection for Labor overseas had been placed in National Legislative Program (Prolegnas) 2010 due to support from institutions which had their own interest, economic wise or purely to support migrant workers. In another form of policy, we have to acknowledge that government had conducted several improvements for example was bilateral agreement with countries receiving labors from Indonesia.

Indonesian government had reached an agreement with Malaysia, together with the 5th Joint Working Group in Kuala Lumpur in 2009. They agreed on several important points, they are:

1. Domestic Worker holds labor's passport, previously passport was held by employer (in accordance with MoU 2004).
2. Giving weekly one day off.
3. Minimum wage is RM 800.
4. Salary cut by employers is not more than 50% of labor income. Malaysia also stated that this issue on salary cut will be put in their regulation change.

On September 14, 2009 Indonesian government sent a moratorium on migrant workers to Kuwait, considering the increasing number of violence against migrant workers there. Indonesian government initiated discussion about the agreement between the two countries

related to migrant workers yet so far it has not reached a significant development. It also applied to other host countries taking workers from Indonesia.

Existing policies regarding protection for currently working migrant labors is still limited to administrative reform and it has not reached the substance of protection itself. For example, citizen service program which has been run by several government representatives in placement countries administratively this contributes in simplifying the bureaucracy. While other needs such as shelters, mechanism how to handle cases, returning and victim's right recovery is yet optimal.

One of the devastating issues for migrant workers was the special terminal specialized in registering and returning migrant workers. In the end of 2009, the new government brought up an issue on giving option to migrant workers whether to pass through that special terminal or not. Until now, there is no clear information whether it has been legalized as a binding law.

With more female labors involved, it is expected that all policy should be pointed towards women and the fulfillment of their specific rights. So far, the existing policies are gender neutral either from departing, placement, or returning. Shelters became very urgent for women who experienced violence. Because victims who were not registered or escape from their employers are easy targets for human trafficking had not there been shelters which are accessible for them.

Even though in 2009 new government was established due to general election, these overlapping problems of policies and authority between *Depnakertrans* and *BNP2TKI* are yet to be resolved. Two doors of placing and returning migrant workers are still piling up on one another. In addition, registering system is still one of the main problems so that it is still difficult to get comprehensive and renewed data about placement, cases, and returning periodically.

2. Effective Protection for Women Human Rights Defender

Throughout 2009, *Komnas Perempuan* recorded that there were two women fighting for human rights who experienced violence during their effort conducting human right advocacy. One of the women from Papua filed a case of sexual harassment in district police office in Yapen (herafter *Polres Yapen* one of district in Papua) prison. The perpetrator was an officer on duty. A, caught with assault charge, along with his coworkers for they were considered present during the display of star flag in their village. This case of sexual harassment that the victim experienced was once filed by her family to *Polres Yapen*, until victims report the case to *Komnas Perempuan* there was no follow up to process the perpetrator.

The second woman was a woman who defended migrant worker's rights in NTB. In District Police/*Polres* Mataram NTB she was charged with offending H. SM then was convicted in case of migrant worker and now being assisted by an institution where she worked.

C. Cases of Natural Resources Conflict

Komnas Perempuan received three accounts on natural resources conflict that involved women as victims. Those three cases were (a) a report from Polo Village and Linamnutu Village assisted by Walhi Eksekutif Nasional, about women condition as an impact of deforestation by traditional society of Pubabu Besipae in Polo and Linamnutu Villages for a project called Movement of Forest Rehabilitation (*Gerakan Rehabilitasi Hutan dan Lahan-Gerhan*) in Timor Tengah Selatan District, (b) areal conflict between people in Dusun Suluk Bongkal, Desa Beringin and PT. Arara Abadi, a company that hold a license of Industrial Plantation Forest Concessions (*Hak Pengusahaan Hutan Tanaman Industri-HPHTI*), and (c) a case in Sukolilo, Pati, East Java, where the people say no to a plan on factory building of Semen Gresik in their area, for it was expected to damage their water resource.

1. Project of Gerhan, Polo and Linamnutu Villages, District Timor Tengah Selatan, NTT

The conflict was between Forestry Department of Timor Tengah Selatan District and a community of two villages who refused to burn down their forest, Pubabu Besipae, for *Gerhan* project. This refusal was because the forest was a tribal forest where they planted trees like tamarinds. The people of the two villages thought that rehabilitation in their forest was unnecessary. Several outcomes of burning down 6000 hectare forest are:

- The two villages will lose their spring water, consequently, they will have to get water from a further place.
- The duty to get water will be put on women and children
- Lack of fresh water will result in decreasing health, especially women reproductive health.
- Lack of water will cause skin disease and endemic diarrhea
- Women will lose their income because the trees were burned down.

2. Conflict in Suluk Bongkal, Riau

In January 2009, *Komnas Perempuan* received a case report on an attack to people in Dusun Suluk Bongkal, Desa Beringin committed by Police Department of Riau. Troops of Brimob Provincial Police/*Polda* Riau together with 500 Samapta troops and police officers from *Polres* Bengkalis marched into the village and forced the people to move out from the village for they were regarded to have stolen the area of *HPHTI* PT. Arara Abadi. The people believed that

their village was a rightful village of 4,856 ha wide based on administrative map of Dusun Suluk Bongkal signed by Bengkalis Regional Head on March 12, 2007 (stated in file of Bengkalis District Governance No. 0817-22 0817-31.0618-54 0616 63). The attack has caused:

1. Two children died, they were: a 2.6 year old child named Putri and a 1.6 month baby. Both of them died in the fire.
2. 58 people were imprisoned in District Police/*Polres* Bengkalis as suspects.
3. Around 50 people survived in the village were depressed.
4. Around 400 people who had time to flee to the forest were scattered.
5. People were arrested, 70 women and children were placed in Pinggir subdistrict office.

3. Conflict with Semen Gresik, Pati, Central Java

The quarrel between people and Semen Gresik resulted in an incidence in January 22, 2009, where villagers were attacked by Brimob Pati. On that attack, two women experienced sexual harassment, their clothes were dragged away, women also experienced physical violence, they were shoved and kicked. Central Java Provincial Police/*Polda* caught 9 people who were previously imprisoned in Subdistrict Police/*Polres* Pati. 75 women (mothers) were locked up by the police and 35 were locked up in Kamrin's house, one of the residents, in Puri Gedong, 25 people in Pak Suwono's house, and 15 people in a mosque. They were locked up for more than half hour. The women who reported this attack to *Komnas Perempuan* were also worried about prisoners because they were not allowed their family visit.

D. Unregistered Marriage

Throughout 2009, *Komnas Perempuan* received 49 cases related to unregistered marriage. Whereas registering a marriage is important for a bride to have a legal assurance of her marriage, as stated in Article 2 Law No.1 Year 1974 about marriage. Those cases on unregistered marriage occurred because of several reasons:

- a. Most husbands choose unregistered marriage because it would be easier for them to marry another woman, as second wife, third, and so forth.
- b. To overcome inter-religion marriage, for example: a catholic husband would marry a moslem woman.
- c. As a consequent of unregistered marriage, divorce cannot be processed in court. Husbands can divorce their wives with religious reasons even though their marriage children were born and assets were collected.
- d. Divorce happened because husbands did not return home for a long time and were out of contact. This situation left women unsure of their marital state, especially related to marriage confiscation and custody of their children. It makes it difficult for (ex) wives to remarry because they do not have any marriage or divorce certificate.

E. Women's Access to Justice, Education and Health Facility

1. Cases of Prita and Grandma Minah: Women in the eye of law

One of the most important events in 2009 related to women when dealing with law was Grandma Minah's case. District Court of Banyumas sentenced Grandma Minah guilty for stealing three cacao pods from to PT. Rumpun Sari Antan. Grandma Minah was a grandmother with teens of grandchildren. The company that owned a cacao plantation in Darmak Radenan Villages, Banyumas, Central Java, accused Grandma Minah of stealing 3 kilograms of cacao worth thirty thousand rupiahs. They pressed charge on Grandma Minah to give deterrent effect Grandma Minah stole the cacao pods and wanted to use them as seedlings.⁷ She was suspected to have violated article 21 and 47 Bill No 18 Year 2004 on Plantation which stated that not one person is allowed to spoil plantation nor to make use of the land so that it will disturb the production of the plantation.

Grandma Minah was one of the residents of the village and an illiterate one. When stealing the cacao, she was caught by the foreman She told him that she did not know and innocently apologized for what she had done. She returned the cacao pods back to Nano, the foreman, but it did not stop there. In the end of August 2009, Sub-district Police/*Polsek* Ajibarang called Grandma Minah in the matter of picking up 3 cacaos. In the middle of October the file was given to the Purwokerto district prosecutor. Grandma Minah then proceeded to court without any assistance from legal counselor. On Thursday, September 19, 2009, Judge of Purwokerto District Court punished Grandma Minah with one month sentence and three months probation without being imprisoned. This punishment was considered not having any sense of justice, not only for Grandma Minah herself, but also to public in general, knowing that poverty was still a problem and there were many other cases that have not been touched by law to this day.

2. Prita Mulyasari's Case

"I wish that no other human being will experience what I am facing now. Especially children, elderly, and babies. If you go to a hospital to find cure, be careful of the hospital's vanity and its international title, because the fancier the hospital, the smarter the doctors, the more they are likely to test patients, the more the sell medicine and injection. I'm not saying that all hospitals are like that but those happened to me in RS Omni International"

⁷(<http://berita.liputan6.com/hukrim/200911/251837/Kisah.Nenek.Minah.Belum.Sesuai.dan>
<http://berita.liputan6.com/hukrim/200911/251681/Curi.Tiga.Buah.Kakao.Nenek.Divonis.Satu.Bulan>)

That was the excerpts from an email that Prita wrote to RS Omni International at customer_care@banksinarmas.com. The letters entitled “RS Omni Gained patients from False lab test” complained the hospital’s service when she was hospitalized there. This letter ended up in court. The hospital then filed civil and criminal lawsuit against Prita for defamation.⁸

On May 11, 2009 the Tangerang District Court ruled in favor of the hospital in the civil lawsuit. Prita was guilty of defaming the hospital. The high court ruled in that Prita Mulyasari should pay Rp 204 million (US\$22,863) in material and non-material damages

As for criminal charge, Chairman of Panel Judges, Arthur Hangewa from Tangerang District Court said that “Hereby, Prita was released from charge of offending RS Omni International”⁹Public Prosecutor also stated that “I will think about it carefully and hope to settle this matter within 14 days. We will let Supreme Court judge Prita will be free of any charge.” He thought that wide support from public and politics elite had affected judges to make impartial decision.

Since this problem had become widely open to public, police and district prosecutor pointed at each other who was responsible for using article 27 (3) as a primary charge in Law No.11 2008 regarding Information and Electronic Transaction for Prita’s case. Prita was held at in Tangerang Women’s Prison for three weeks after she was named a suspect in the case, in Banten from May 13 until June 3, 2009. This had ignited public rage and quite a reaction from politics elites. Police Headquarters called Prita’s investigation team for from *Polda* Metro Jaya. Attorney General’s Office also took a similar step against officials handling Prita’s case.

3. Case of Devi, a woman victim of violence

Komnas Perempuan has paid attention to news in media related to cases of rape whose victims died because of minimal or no sufficient health care post after she was raped. This case started on Monday, February 26, 2009. A 20 year old woman was found in a devastating condition. The people of Gang Delima 1 who found her suspected that she was rape. For a week, she was only taken care in a small office where people there usually gathered around for night watch duty. They had reported this case the local police but the police did not respond. Right after news release in media then police came and took her to District Hospital Bhakti Husada Tangerang on Saturday, February 21 so that she could get a better treatment. On Monday, February 23 around 4 o’clock Devi was referred to RSU Tangerang, where she died three hours later.¹⁰

⁸ <http://www.tempointeraktif.com/hg/jakarta/2009/06/02/brk.20090602-179467.id.html>

⁹ <http://www.detiknews.com/read/2009/12/29/162435/1267957/10/hakim-nilai-email-prita-bukan-pencemaran-nama-baik>, Tuesday, 29/12/2009 16:24 WIB, “Judges did not regard Prita’s Email as Defamation”

¹⁰ http://metro.vivanews.com/news/read/33590-inilah_kronologis_kisah_pilu_devi, “Korban Perkosaan Meringang Nyawa di Pos Ronda, Inilah Kronologi Kisah Pilu Devi ,Selama sepekan Devi meringang nyawa di pos ronda Pamulang Timur.”

The fact that the local people who did take action instead of the police had proven the minimum interest from interrelated authorities. In Tangerang District alone, as part of Banten *P2TP2A* was set up based on Banten Governor's Decree No. 463/KEP-144HUK/2007. *P2TP2A* now can be found in Banten, Tangerang District, Tangerang City, Serang City, and Lebak District.¹¹ However, laws, instruments, institutions, are not enough to provide complete protection for women fall victims of violence. Further steps are much needed such as socialization in community and other law enforcement authorities are important to raise cooperation for the sake of protecting woman victims of violence. If people know that such Integrated Women Services are available to them as well as for police officers, there will be no other Devi who would suffer from this kind of problem.

F. Women's access to their rights of education and reproduction

Pregnant students are prohibited from taking National Final Examination (UAN)

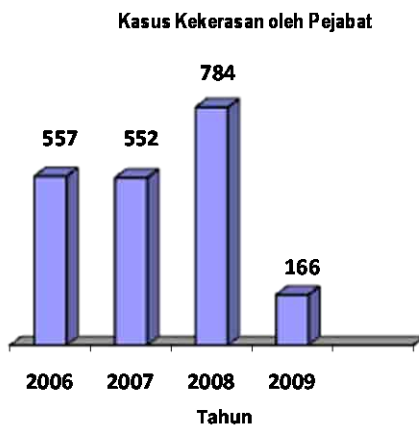
In April 2009, *Komnas Perempuan* received a letter from NGO Samitra Abhaya Kelompok Perempuan Pro Demokrasi (SA-KPPD). The letter was asking support from *Komnas Perempuan* for PCM, a student of SMKN 8 Surabaya, who was expelled from school. She was expelled and was not allowed to take her *UAN* because she was 7 months pregnant. She was considered to have violated educational values and school's regulation in SMKN 8 Surabaya. School suggested her to take special examination (kejar paket C), and she chose to turn down that recommendation.

Cases like these where students are pregnant their school age are not new in Indonesia and most schools would take similar action, which is to expel the students from school for they have broken the school's rule. Banning pregnant students from school and not allowing them to take their school test violates human rights to receive education and for not being discriminated, even for moral reason. Besides having had violated the constitution, in more specific term, the school also had violated Children's Right Convention which was ratified and passed as Children Protection Bill No. 23 in 2002. Moreover, discriminative treatment and this form of violation also go against Convention on The Elimination of All form of Discrimination Against Women (CEDAW) which was ratified in Indonesia as Bill No. 7 Year 1984 Ratification of Convention on the Elimination of All Forms of Discrimination Against Women.

¹¹ <http://radarbanten.com/mod.php?mod=publisher&op=viewarticle&artid=49854>, Program TeSA 129 launched By editor in chief Tuesday, 15-Desember-2009, 07:49:22

G. Violence by Public Officials and Public Figures

All through 2009, *Komnas Perempuan* received reports of 166 cases of violence committed by public officials/ figures.¹² From those 166 cases, 66 cases involved Government Officers (PNS), teachers 5 cases, religious figures 6 cases, members of Legislative (DPR) 6 cases, and Military and Police (TNI/POLRI) 83 cases. *Komnas Perempuan* has observed these cases since 2006. Out of 16,709 cases of Domestic Violence in 2006, 557 cases were committed by public officials and state. They were *PNS* with 391 cases of Domestic Violence, teachers 53 cases, *DPR* 7 cases, and *TNI/POLRI* 106 cases. Whereas in 2007 there were 552 similar cases, in specific, *PNS* 354 cases, teachers 35 cases, religious figure 1 case, members of *DPR* 6 cases, *TNI/POLRI* 156 cases. While in 2008, *Komnas Perempuan* received 784 cases that occurred all over Indonesia. Perpetrators were *PNS*, members of *DPR*, *TNI*, *POLRI* Attorneys, *Bappeda*, Judges, regional head, and educators.¹³



Number of reported cases of violence committed by public officials/figures keeps rising every year. *Komnas Perempuan* believes that still there are many victims hold their silence because treatment nor this kind of cases has not been made available for them. As for the perpetrators, or institutions where they work for, including public reaction, pattern of denial and ignorance is found as well as silencing victims which lead to revictimization and resolving these cases is far from justice.

H. Media Violence: Reality Shows about Intimate Conflict in Relationship

Komnas Perempuan sees that it is important to have the analysis of reality shows such as *Termebek Mebek* (aired on Trans TV) and *Masihkah Kau Mencintaiiku* (aired on RCTI) and to discuss them in this annual note. Some reasons for that are, first, *Termebek Mebek* and *Masihkah Kau Mencintaiiku* were pioneers in reality show programs on TV in Indonesia. Both shows also began the trend of television programs that show internal conflict in families including intimate relationships involving women.

¹² 166 cases were just direct reports to ke *Komnas Perempuan*

¹³ Annual Note VaW 2008, “ Women’s Vulnerability to Economic & Sexual Violence: At Home, Educational Institution and State Agency”. *Komnas Perempuan*, 2009

With many such reality shows, it can be perceived as the success of women movement in Indonesia in providing advocacy for issues like domestic violence. Law No. 24 Year 2004 regarding Elimination of Domestic Violence has raised public awareness on this matter. People started to think that talking about violence in personal relationship like domestic violence is no longer taboo or forbidden.

As for the reality show itself, this development in society is regarded more as a new business opportunity in television industry. Because the business side was deeper, reality show like *Termebek Mebek* more often than not exploited conflicts in personal relation. *Termebek Mebek* and *Masihkah Kau Mencintaiaku* (Do You Still Love Me) bombarded audience with catfight, raging anger, shed of tears, revengeful words and emotion. The more the better. In our analysis, these shows did not show enough human side, nor educate women to resolve family or personal issues. In this situation, solving problems has not touched the basic issue of violated rights from the victims in effort of to fulfill their rights.

In term of gender relation, in those reality shows, women were often portrayed as the parts to blame. In some episodes of *Termebek Mebek* and *Masihkah Kau Mencintaiaku*, women were portrayed as flirtatious, ones who were likely stole somebody's husband, and other similar stereotypes. As the part to blame, women did not have the same position as men to defend themselves. Moreover, in patriarch world or society, women were often reminded of society's ideal image of how women should behave, soft spoken, caring, faithful and submit to their husbands. Instead of giving solution to solve the conflicts, the reality shows preferred to bring up the gender based violence which ignored victim's rights, even by blaming the victim. Because reality shows were expected to be "based on reality or true story" as if presenting true story like *Termebek Mebek* and *Masihkah Kau Mencintaiaku* did was still an effective way for media to influence awareness and public opinion on gender inequality.

Considering the nation and government's commitment to eliminate all forms of discrimination against women, *Komnas Perempuan* push Indonesian Broadcast Commission hereafter *Komisi Penyiaran Indonesia/KPI* to participate in controlling the content of a show so that it will only be fair and just for women. Media also needs to be responsible for educating people and leading the change towards the more democratic society and put basic human rights as priority for all by not airing shows that belittle women's position and role, even less, blaming the women victims of violence.

A SETBACK FOR LAW ENFORCEMENT

Discriminative Regional Policy

“In order to maintain the spirit of *Bhinneka Tunggal Ika*; all discriminative regulations/policies should be abrogated; adjusting religion based regulation that went too far....”¹⁴

Those sentences above were said by President Susilo Bambang Yudhoyono in a presidential debate on tv on July 2, 2009. If he was to be elected for the second time, this issue would be in his 100 days program. This was a new hope to create law integrity, and concrete action from the government to resolve the problems in this nation related to discriminative regulation that keep coming up in many places including provinces and districts/cities.

According to *Komnas Perempuan's* monitoring, there were 30 new regulations that Indonesia had in the last 10 years¹⁵ which became a standing point to confirm the government steps to move forward to fulfill Women's Constitutional Rights in the future. Yet, at the same time *Komnas Perempuan* noticed that discriminating institution with these such regulations had become a national trend. By the end of 2009 with the end of 100 days program approaching, still there was no indication that those regulations were about to be called of, nor even to be reviewed. On the contrary, 13 Local regulations and 11 Local Regulations Draft were reestablished.¹⁶

In the grand design of Long and Middle Term National Plan (*Rencana Jangka Panjang dan Menengah Nasional - RJPMN*) which was designed for 2010-2014, the government stated “Making proportionate programs and synchronizing regulations within national or regional level so that implementation of development program can be carried out in harmony, among

¹⁴ Kompas, July 3, 2009

¹⁵ 12 national policies, 15 regional policies (15) dan 3 ASEAN regional policies

¹⁶ those 15 regional policies are: 1. *Qanun* Aceh tahun tentang Kompilasi Hukum Jinayat, 2. Perda Kota Tasik Malaya on gambling, 2. Perda Kota Tasik Malaya on Islamic Law, 3. Perda Kota Tasik Malaya on Islamic Law on Justice, 4. Perda Kota Tasik Malaya on Working relation majelis permusyawaratan ulama (MPU) with executive, legislative, and other institutions, 5. Perda Kota Tasik Malaya on Applying Islamic Law in Aqidah, Ibadah, dan Syiar Islam, 6. Perda on Community Illness no. 1 / 2009, Perda Prostitution Prohibition kab Jombang, (related to morality and religion); 7. Perda Zakat (tithe) kab Bekasi, 8. Perda Pendidikan al-Quran Prov Kalimantan Selatan, 9. Perda Pengelolaan Zakat (Tithe Management) Kab Batam, 10. Perda Pengelolaan Zakat kab Mamuju, 11. SK Walikota Palembang No. 177 Tahun 2009 tentang Kewajiban Membayar Zakat bagi PNS (The obligation to give tithe for state employees) of Kota Palembang, 12., 13. *Qanun* Aceh on Hukum Acara Jinayat Aceh. ---RANPERDA: 1. Ranperda Eradicating Prostitution, Kabupaten Kudus, 2. Ranperda Syariat Islam kab Madura, 3. Ranperda zakat Provinsi Nusa Tenggara Barat., 4. Raperda zakat prov Sumatera Utara, 5. Raperda zakat Kota Balikpapan, 6. Raperda zakat Kaltim, 7. Raperda zakat Kab Konawe, Raperda pemberantasan pelacuran kab Kudus, 8. Raperda miras (alcoholic beverage) Kota Surakarta, 9. Raperda kewajiban jilbab (obligation to wear veil) kab Bangkalan, 10. Ranperda kab Aceh Barat (pelarangan perempuan memakai celana jeans – not allowing women to wear jeans); 11. Ranperda Kota Tasikmalaya tentang khalwat/close proximity between unmarried women and men.

others is finishing study of 12,000 regional regulations at least by 2011".¹⁷ The fact was, in the realization of 100 days working program, based on *Komnas Perempuan* monitoring in related ministries only perda on tax and redistribution was it considered as a problem which then abrogated (714 regulations). While 154 local regulation with problems that *Komnas Perempuan* recommended to President were still legal in every region.

As a country that had ratified 6 international conventions, Indonesia was bound to apply and to have national mechanism that guarantee the fulfillment of women's rights. Therefore, a country in its function in accordance with mandate of constitution in executive, legislative, and judicative must play the role to protect women, fulfill their rights, and guarantee that they are free from all form of discrimination, and make laws that eliminate all form of discrimination. The element of discrimination in a policy can be referred to constitution stated in Article 1 a No. 39 Year 1999 regarding Human rights and Law No.7 Year 1984 regarding Ratification of Convention on The Elimination of All form of Discrimination Against Women.

As a constitutional state, the applying constitution on daily basis was a consensus of a nation as a foundation in building Indonesia that is independent, united, and prosperous. Disregarding a constitution is a huge problem for a nation and for the process of democracy itself. Discriminative policies are one indication of disregarding the constitution. The violation of citizen's constitutional rights by state apparatus left traumatic marks for the victims, as well as reminded them of the legal uncertainty in society due to the disagreement between national and regional rules and regulations. The suffering is even deeper for women victims and minority groups. In fact, the commitment to eliminate all form of discrimination against women in Indonesia has a strong constitutional foundation based on constitution 1945¹⁸ and 13 Law that come with it.¹⁹ If later on discriminative policies still come out, *Komnas Perempuan* believes that it is because the counseling and coordination function for establishing regulation are still weak.

(Draft) Qanun Jinayat and Code of Jinayat Procedural in Aceh

Since the beginning of 2005, *Komnas Perempuan* together with partners in Aceh have carried out some activities dan implementation study on applying Islamic sharia (Islamic law) in Aceh including its implication on violent act against women, especially those related to 4 local

¹⁷ Book 1 draft RPJMN 2010-2014

¹⁸ Indonesia is committed to protect its citizens from any discriminative act/treatment they are entitled to protection from any of those discriminative action. Article 281 (2), and to gain privilege and similar treatment in order to achieve equality and justice (article 28I H (2))

¹⁹ Law No. 7 Year 1984 of Convention on Eliminating All Forms of Discrimination Against Women, Law No. 5 Year 1998 on Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Law No. 29 Year 1999 on Convention of Eliminating All Forms of Racial Discrimination, Law No.39 Year 1999 on Human Rights, Law No.26 Year 2000 on Human Rights Court, Law No.23 Year 2002 on Children Protection, Law No.39 Year 2004 on Placement and Protection for Indonesian Migrant Worker Overseas, Law No.23 Year 2004 on Eliminating Domestic Violence, Law No. 11 Year 2005 on Ratification of International Covenant on Economics, Social and Cultural Rights, Law No. 12 Year 2005 on Ratification of International Covenant on Civil and Political Rights, Law No.13 Year 2006 on witness victim protection, Law No.21 Year 2007 on Citizenship, Law No.24 Year 2007 on Disaster Reduction.

regulation (Aceh have their own arabic term for local regulation called *qanun*). They were *qanun* regarding Islamic Sharia that regulate how to dress, *qanun* about *Khamar*/ alcoholic beverage, *Maisir*/ gambling, and *Khawat*/ close proximity between an unmarried woman and a man who is not her guardian. *Komnas Perempuan* notice a few problems coming out a result of these *qanuns* produced by legal authority. Not only that they did not have material foundation from higher regulation but also they contradicted other regulations meaning that conflicting norm between regulations was inevitable.²⁰ Besides, these *qanuns* had changed the face of law enforcement authorities which subject to national law and then appeared in their form as Sharia Court hereafter *Mahkamah Syari'ah* with its authority for presiding criminal cases, Sharia Police hereafter *Wilayatul Hisbah* with its responsibility to guide, control and conduct the advocacy of applying *qanun* and confirming Islamic Law and Islamic Sharia office as the executive organization that represents government in upholding sharia.

The validation of *qanuns* about *Jinayat* and Code of *Jinayat* procedural was conducted by Aceh House of Representatives regardless objection from Aceh government. These *qanuns* were in coordination with 3 previous *qanuns* and as addition to many forms of acts that were considered as criminal acts. As a result, the repeating controversy and problems as previous years keep coming out. The establishment of punishment such as stoning and exhortation are in contradiction with Constitution 1945 chapter X A article 18A-28J, Law No.39 Year 1999 about Human Rights, Law No.7 Year 1984 about Ratification of Convention on The Elimination of All form of Discrimination against Women, and Law No.5 Year 1998 on Ratification of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

With this *qanun* about *Jinayat* in Indonesian frame of policies is a given proof that government has failed its authority to study and keep contradicting local regulations away from national constitutions. Aceh as special district with its own custom covered in national constitution cannot be the foundation to justify and institutionalize discrimination and inhuman treatment to Indonesian citizens anywhere.²¹

Tasikmalaya's Five Local Regulations

In November 2009, Tasikmalaya's house of representatives (DPRD) passed five *Perdas*. One of them was working relation between MPU and executive, legislative and other institutions. Local regulation regarding gambling, Islamic law Judiciary, local regulation regarding Alcoholic beverage, local regulation about Islamic Law Conduct for Faith, Religious Service, and Spreading Islam. If we look close the content, aside from regulated punishment, it was mere copy from similar regulations in Aceh. These new *perdas* only added up a number of

²⁰ *Komnas Perempuan's* File of Dialogue for Policy Materials regarding Islamic Law Application in Aceh, October 10, 2005, *Komnas Perempuan*

²¹ *Komnas Perempuan* Pers Release; Ratification of *Qanun* *Jinayat*, The Government's failure in Upholding the Constitution, 15 September 2009

discriminative regulations that Tasikmalaya already had, which were 7 *Perda* in Tasikmalaya district.²² Despite the fact that further review on those seven *Perda* had not been done, five of them contributed in institutionalizing discrimination in Indonesian governing system.

Tangerang's Local Regulation No. 8 Year 2005 Regarding Prohibiting Prostitution: Wrong Arrest

Lilis Lindawati Mahmudah was a working mother who worked in a restaurant in Cengkareng. She became a victim of wrong arrest during the raid for sex commercial worker held by officers of Tangerang City's Officer on February 26, 2006. Lilis was caught together with 27 other women. The officers were conducting *Perda* No. 8/2005 that stated:

“Everyone whose acts or behavior is unnatural so that it raises suspicion that she is a prostitute is forbidden to be in public areas like public streets, parks, inns, motels, hotels, dormitories, houses or rented houses, coffee shops, pubs, movie theatres, corners of streets or hallways, or any other place that is visible by public”

On the same night, Lilis and the other women were arrested and went straight to jail. When in fact, according to law of criminal procedure, only suspect with more than five years sentence can be arrested. The next day, these women were tried in court and the agenda was Mild Criminal Act/*Tipiring*(*Tindak Pidana Ringan*). The only judge Barmen Sinurat Punish Lilis Lindawati to pay Rp 300,000 fine. Lilis whose husband was a school teacher refused to pay because she said “If I paid, I did admit that I was a prostitute. That, that much fine, no, I won't pay. Finally, I was brought to prison, arrested”

A few days after the arrest, Lilis was free, but the trauma of the arrest and being imprisoned was still there. Lilis then pressed charge for her material and moral loss. Lilis filed civil charge against Tangerang city apparatus for their act against law with Rp 500 million to the Tangerang Major and asked for public apology.

Nevertheless, Supreme Court objected Lilis charge. Supreme Court legislation stated that *Perda* No.8 Year 2005 was not in contradiction with constitution seen from procedural aspect. This was addressed by Supreme Court spokesperson, Djoko Sarwoko. This case was handled by three judges, Achmad Sukarja, (chief), Imam Soebechi, and Marina Sidabutar, and was legalized on March 1, 2007. Moreover, the judges thought that the *Perda* was a political implementation of Tangerang city government, which obviously was not a material that can be tried.

So far there are three stipulation from supreme court towards *Perda* Tangerang judicial review, but until now, the litigant and her counselor have not received any copy of that. Lilis Lindawati Mahmudah herself now has died. *Komnas Perempuan* heard the news in October 2009. One of Lilis daughters said that since the wrong arrest, Lilis and her family had moved four times because of the stigma Lilis got as a prostitute. This had caused Lilis to receive unpleasant treatment from her neighbors. Even her husband had to quit his job because the

²² Monitoring Report, For the sake of Regional Autonomy: Institutionalizing Discrimination in the order of Nation and State of Indonesia, *Komnas Perempuan*, 2009

school did not want to have bad reputation because one of the teachers had a prostitute wife. Because of those ill treatment Lilis was depressed and die in August 2008.

Operational Policy of District Civil Police (Satpol PP)

Observing the application of regional discriminative regulations, since the beginning of 2009, *Komnas Perempuan* has prioritized the importance of evaluating and reforming the function of *Satpol PP* related to violence report, blackmailing, and discrimination during their task. *Satpol PP* that became one of the spearheads to make sure regional regulations were obeyed had the authority to punish people or legal institution that disturb the peace and quiet within the community. They were also allowed to perform non *yustisia* repressive action against citizen or institution that violate the regulations. However, the operational policy frame of *Satpol PP*, one of them was law No.32 Year 2004 regarding Regional Authority, Government Regulation No.8 Year 2003 on Guidelines Regarding the Organization of the Region, Ministry of Home Affairs Regulation No. 26/2005 Regarding the Operational Guidelines for Procedure Permanent Civil Service Police Unit, and Ministry of Home Affairs Regulation No. 35 Year 2005 on Guidance Regarding the Office Clothing, Supplies and Equipment Police does not include the perspective to protect and respect for basic Human rights. This gives chance for repeating violence by *Satpol PP* in the field. *Komnas Perempuan* took notes of the repeating violence, some are:

A. Case of Vivi's death of drowning in a river

Vivi Aryani, a resident of Telagasari village in Mekarsari, Neglasari Tangerang, threw herself into Cisadane river when *Satpol PP* was doing a raid for commercial sex workers in Pintu Air Sepuluh Tangerang on May 18, 2009. Vivi was not able to swim and there was no one there to help. Vivi was drown and finally died in Cisadane river.

B. Case of female toddler died from being splashed by meatball broth

Siti Khoiyaroh (4 y.o.), a daughter of Sumariyah and Mat Naki of Batoparah village, Kedungdung, Sampang Madura East Java died after being hospitalized and received treatment for 7 days because of 67% burn (May 18, 2009). She was accidentally splashed by hot broth during the Side walk vendors raid in Jl. Boulevard Surabaya by *Satpol PP* on May 11, 2009. The officer associated with this case had been punished due to this carelessness.

POLICIES BREAKTHROUGH

Health Law No 36 Year 2009

After eight years of struggling, Health Law No.36 Year 2009 was legalized on October 13, 2009 and started to apply on October 30,2009. Since then, it officially replaced Health Law No. 23 Year 1992. Health law No. 36 Year 2009 was considered to be more progressive in some aspects such as:

- (1) it adopts health paradigm, which are health promotion and prevention;
- (2) it acknowledges reproduction health issues, stated in Part 6, article 71-77;
- (3) It broadens the scoop of legalized abortion for rape victims, where abortion is legal and it must be performed by health expert and based on counseling (article 75 article 2 and 3);
- (4) It arranges health expense, 5% of state budget (APBN), 10% of Local Budget (APBD) where 2/3 is assigned for prevention and health promotion activities (article 171) so that government and local authority are responsible for tackling health issues;
- (5) it encourages exclusive breastfeeding where the people and government have to support by providing the facilities needed (article 128). Consequently, the absent of these facilities will be punished with criminal charge for imprisonment and fine for violating health resources and health promotion (article 20);
- (6) It pays attention to teenage and elderly health; and
- (7) It guarantee civil rights of finding information and health protection (Chapter XIV).

By accommodating reproduction health issue, legal abortion, and rights to find information and health protection in this regulation, it has become an important part of accepting women's perspective.

Nevertheless, Law no. 36 Year 2009 does not completely accommodate women special needs. First of all, this regulation is still discriminative by not considering that a woman is fully entitled of her own body, for example, a married woman should ask for her husband permission to have abortion (article 75 paragraph 3). Second of all, the loss of legal assurance for everyone and the risk of ignorance as the result of discriminating one's right which should be individual has been reduced by her marital status. It is implied in Article 27a, which said that every person is entitled to live a healthy reproduction life as well as sex life which is safe, and free from any kind of force and/ or violence with his/her spouse.

Third, addressing reproductive health problem with some approach of mother and child health, family plan teenage reproduction health, prevention and treatment for venereal disease including HIV/AIDS and elderly reproduction health did not accommodate single and adult

women reproduction health. This is because in the practice, pap smear is required for married women. Fourth, the possibility of criminalizing and losing legal right and justice for traumatized victims of rape if pregnancy continues is put in the clause of criminal stipulation. For example, criminal stipulation Article 194 “Everyone who intentionally has abortion which is not in accordance with the stipulation as mentioned in Article 75 (2) will be sentenced to jail for the longest 10 years and pay the fine Rp 1,000,000,000 (one billion rupiahs). In this part of Health Law No.23 Year 1992, criminal stipulation is only applied to medical professionals who perform abortion. While in Health law No.36 Year 2009 is applied to all parties including women with only exception for (1) medical emergency and (2) traumatized rape victims, each requires the pregnancy is not more than 6 weeks.

The Beginning: Police of Indonesia Head Decree No.8 Year 2009 Regarding the Application of Human Rights in Police Duty

Creating conducive situation for women victims for their rights of freedom, justice, and recovery needs cooperation between interrelated institutions. This cooperation has succeeded to build Head of Police of Indonesia Decree No.8 Year 2009 on implementation of Principle and Human Rights Standard in conducting Police Duty, which was passed as law on June 22, 2009. Two things are put forward related to women’s vulnerability against violence, they are:

1. The stipulation from chapter II about Human rights Protection instrument, article 5 (1) point v regarding ‘right to be tortured’ and article 6 point e regarding ‘women’s special rights’;
2. The stipulation from chapter III about Standard Code of Conduct for Police Officers in Law Enforcement, article 11(1) point c regarding ‘sexual violence and sexual harassment on prisoners and crime suspects’; article 13 (1) point a regarding “members of Police are not allowed to intimidate, threaten, torture physically or sexually in order to gain information or confession; article 20 point a regarding ‘examination is performed at least by female officers or considering gender perspective’; article 20 point d regarding ‘special treatments; and stipulation from Article 29 regarding ‘police officer’s obligation to examine women, such as: (a) examined in special purpose room; (b) protection of private right not to be published; (c) right to assisted by social worker or other experts besides legal counselor; (d) the application of special procedure for protecting women.

MoU between Legal Aid Institute for Women Protection (LBH APIK) Jakarta and General Attorney

MoU between Legal Aid Institute for Women Protection hereafter *LBH APIK* and General Attorney is one of the significant breakthroughs in Law Enforcement Program. The MoU no.

001/MoU/LBH APIK Jkt/2009 on Training Program of Handling Cases of VAW and Children was signed by Indonesia's General Attorney and director of LBH APIK Jakarta on January 30, 2009. The main goal of signing this MoU was to guarantee that the program to reinforce gender perspective law will continue within the law enforcers themselves. Besides, it was also aimed to set priority for handling cases of VAW and children. Although the MoU was only for one year, both parties agreed to continue this MoU as needed.

MoU between 6 institutions including Komnas Perempuan and Witness and Victim Protection Institution (LPSK) regarding Victim Witness Protection

On December 3, 2009 *Komnas Perempuan* signed an agreement contract between 5 state institutions (Police of Indonesia, Komnas HAM, *Komnas Perempuan*, *KPAI*, and Lembaga Perlindungan Saksi dan Korban) on the subject of Secure Protection for Witness and Victim. The agreement was referred to providing secure protection for witness and victim. Among others were to create a system and mechanism in protection service, to provide facilities in order to enhance perceptive and ability to protect victim and witness so that providing a secure protection for victim and witness is no longer just a dream.

The agreement between 5 institutions is one breakthrough in protecting victims and women especially those who are victims of VAW. Signing this agreement marked the beginning of commitment for these five institutions to put witness and victim protection into reality. The 3 year agreement was an appropriate step in building cooperation and planning the service mechanism, building facilities, and cooperation between institutions in the future. The next challenge after the signing is how to guard the implementation of the agreement in the more concrete ways.

Cianjur Regional Head Decree no.182/Kep.124-Ks/2009 Regarding Task Force of Prevention and Handling Criminal Act of Human Trafficking

This policy came out as a step forward from regional authority of Cianjur district as an effort to prevent and handle criminal problems of human trafficking by setting up Task Force of Prevention and Handling Criminal Act of Human Trafficking. *Komnas Perempuan* noted that the basic legal consideration met material aspect, which means that the policy is obliged to constitutional hierarchy by incorporating constitution that is not discriminative. In its operational step this policy added in service and fulfillment, victim's rights, and protection for witness/victim and punishment for perpetrators. This has become an important step to be carried out so that the policies that support citizen's constitutional rights will benefit the society.

MoU between Indonesia and Malaysia

1. The fifth Joint Working Group was held in Kuala Lumpur in 2009, several important points were agreed:
 - a. Passport is held by PLRT (previously in MoU 2004 the employer withheld worker's passport)
 - b. Giving weekly one day off
 - c. Determining wage starting point which is RM 800 (note: to this day, the exact number has not been set)
2. In this Joint Working Group, it was also agreed that wage cut of migrant workers is not more than 5% of their salary. Malaysia also stated that this wage cut will be incorporated in their labor policies.

HANDLING: BUILDING UP SERVICE, INSTITUTION'S CAPACITY, IMPLEMENTATION OF POLICY/REGULATION

Building Up Service for Women Victims of Violence

Handling cases of VAW and fulfillment of women victims' rights is an inseparable part of state's responsibility of confirming basic human rights. The number of service institutions keeps growing from time to time, either those supported by community or government. Unfortunately that number is not parallel with the availability and readiness of supporting forces, infrastructure or human resources including budget. *Komnas Perempuan* notices that this problem exists from year to year in all over Indonesia.

So far, there are 20 units of Women Crisis Centre (WCC) recorded, and 20 units of Integrated Crisis Centre hereafter *PKT* in regional hospitals, 43 units of Integrated Service Centre hereafter *PKT* in Bhayangkara hospital spread in some regions, 305 units of Women and Children Service Unit in the Police Offices, 131 units of Integrated Service Centre of Women and Children Empowerment/*P2TP2A*, and 29 units of *RPTC* in 23 provinces. Other than facing the problem of inadequate number of crisis centre, crisis centre also faces the capacity issue. They have not run their functions fully well so that the dream of providing the best service for all victims is not completely achieved. Furthermore, some of those crisis centers are vacant. Some reasons are because the minimum support from regional authority such as limited funding, and limited number of human resource to manage the centers, like in *P2TP2A* Asahan District (North Sumatra) and Sabang city (NAD) that was founded in 2007 by Ministry of Women Empowerment and Children Protection.²³

In the end of 2009, Ministry of Women Empowerment and Children Protection completed Standard of Minimum Service for women and children victims of violence. It became law by Minister of Women Empowerment and Children Protection Decree No. 01 Year 2010, and is applied in 2010 by all existing institutions. For its implementation, this standard will be facing obstacles of minimum experts like psychologist and advocate in some services, not to mention socializing the service centers has not reached all places.²⁴

A number of new policies in local level opened a new possibility to maximize available resources. In 2009, several local policies were set up regarding handling women victims of violence. Some of the policies were, the decree of Manado city's mayor on *P2TP2A*

²³ Data from Ministry of Women Empowerment and Children Protection, 2010

²⁴ Access to Integrated Service for women victim of violence, *Komnas Perempuan* 2009

formation, and Cianjur Regional Head Decree no.182/Kep.124-Ks/2009 Regarding Task Force of Prevention and Handling Criminal Act of Human Trafficking. Unfortunately, those policies were only aimed for victims of domestic violence and trafficking, when in fact, services was also needed by those who were also victims of other forms of violence. To this day, there are no local or national policies that provide urgent recovery for women victims of violence in terms of conflict or other politics quarrels.

One important note in handling cases in 2009 is the finding of best practice of providing service is the existence of *P2TP2A* in Sikka district, NTT. With guard from Women Empowerment and Family Planning Biro (Badan PP dan KB) of local authority, *P2TP2A* played its functions quite well in running the service by maximizing its supporting equipments like infrastructure and funding through Regional head decree published every year following yearly regional budgeting. *Komnas Perempuan* hopes that this positive role will be adopted as a guidance of *P2TP2A* in order to support the fulfillment of women victims' rights.

The Capacity of Institutions Providing Service

The capacity of institution of handling cases seen from the availability of human resources, facilities (special facilities of data record and handling cases), and other supporting facilities. As for the human resources availability, religious courts and state courts in general have counselor, sensitive gender judge and attorney, special reinforcement for recording data and database for each institution. This condition is related to open access to information available in websites developed by courts institutions. It goes the same for other supporting facilities like fax machine, telephone line, computer and its printer. Some institutions gave information about transportation available for handling cases and routine funding.

The hospital capacity was also in similar term. Besides medical professionals who were gender sensitive, hospitals also offered counseling along with special counseling room. Hospitals had its own personnel to record cases and database. In addition, most hospitals provided computers and printers for this purpose. However, we have to admit that only few hospitals provided transportation to handle victims of VAW. It is the same thing with providing funding for handling cases.

The same condition also happened to service provider CSOs. Even though most CSOs offered counseling service, only half of them had counseling rooms. But some CSOs provided medical professionals and examination rooms. As for special personnel for data recording and database, many CSOs had them as well as providing facilities like computers and printers, telephone lines and fax machine. Even more than half of those CSO had special funding for handling cases.

Other than those mentioned above, service provider partners also developed a referral system and institutional partnership (MoU). Out of total 269 partners that participated in this annual note, 92 of them declared of having MoU with other institutions. Those institutions are police department, CSOs, *P2TP2A*, local authorities, and hospitals.

The referral system developed by service provider partners included: advocacy, partnership network, coordination, referral in case handling, socialization of VAW and how to handle it, and file takeover.

Implementation of Elimination of Domestic Violence Law and Other Law Instruments

According to data given by service provider partners, Law No. 23 Year 2004 regarding Elimination of Domestic Violence has started to be applied widely in the framework of litigation. Some institutions that applied the regulation were *UPPA*, CSOs, *P2TP2A*, Religious Courts, State Courts, Public Prosecutor in provisional and district level, and local authorities.

Moreover, Protection Children Law No. 23 Year 2002 was also widely applied to handle cases in court. This was related to child victims as previously explained. Institution applying this regulation were women and children service unit in the police office/*UPPA*, CSOs, Courts, *P2TP2A*, Religious Courts, High Religious Courts, and local authorities.

Some institutions also applied Marriage Law No.1 Year 1974, they were CSOs and religious Courts.

CONCLUSIONS

1. The increasing number of VAW from previous year was due to the easier access of public service, such as website access from partners (government or non government), integrated service cooperation for victims of VAW, the raising awareness and courage of victims to report violence cases and resolve the cases through courts or non courts. Unfortunately, Indonesia has not had national record of VAW cases.
2. Related to violence perpetrated or condoned by state (police officers, TNI, village head, public figures or religious/spiritual figures, and educators). Physical, psychological, sexual, and administrative violence committed by perpetrators were based on power relation. The pattern of denial, ignorance, and silencing the victims occurred and it has to be taken seriously especially when state has not built a legal system that accommodates victims' interest including violence occurred in academic institutions. Sexual harassment, banning pregnant student from national examination and their education made them victims of receiving their reproduction and educational rights.
3. State started to improve law enforcement for victims of VAW on constitutional level (such as Law Elimination of Domestic Violence, Government Decree No.4 Year 2006) and on policy level (MoU between APIK and Attorney General's Office, Minimum Service Standard Ministry of Women Empowerment and Children Protection, MoU between 6 institutions, Head of Police Decree on human basic rights in police duty). It does not mean that justice for women victims of violence is fulfilled, because still there are some unresolved issues found in our regulations like Criminal Code/*KUHAP*, Code of Criminal Procedures /*KUHAP*, and Human Rights Court Law; access to justice resolved by non state and the culture of law enforcer and community are still gender bias.
4. State has not eliminated and prevented the upcoming discriminative regulations that contradict the constitution, especially those related to moral issues including *qanun Jinayat* in Aceh. Some local authorities tend to copy regulations from other regions in adopting discriminative regulations.
5. State has not created systemic steps to protect migrant workers. Discordant policies are seen in handling migrant worker victims, resolving problems is still casuistic and yet to accommodate high quantitative data of migrant workers' right violation especially women migrant workers.
6. State has not optimized the effort of recovering the rights of troubled migrant workers especially those who experience sexual violence such as rape, impregnated, psychological violence, and permanent disability. Recovering efforts so far only handle problems per case.
7. State is not fully committed to accomplish the message of affirmative action for participating women in politics and institutions dealing with women protection and women's right. The issues of dismissal and institutional merger, e.g. merging Ministry of Women Empowerment, merging *Komnas Perempuan*; policies and funding are not optimized in giving protection for women and empowering women's right.
8. State has not provided effective protection for human rights defenders especially women human rights defenders where they are still vulnerable to physical and psychological violence and their legal status.

RECOMMENDATIONS

In general, a state should show its commitment to eliminate VAW within community and state in the more systematic way with women human rights perspective and victim protection especially women victims.

In particular, it is recommended that:

1. The state should have national documentation for cases of VAW which is accessible for all sides it should be the foundation for national policies.
2. The state should synchronize all regulations to eliminate VAW with women human rights perspective and witness protection, such as revising Criminal Code and Code of Criminal Procedures, Human Rights Court Law and Legal Aid Law drafting; and building public and law enforcer's legal culture which now is still gender bias.
3. State brings the message of affirmative action into reality for women participation in politics and institution that deal with women protection and women's rights as national strategic issue and the settlement of its institution.
4. The state abolish and prevents the establishment of discriminative local regulations, especially related to moral and sexual issues.
5. Legislative, executive and judicative institutions together with other democratic enforcements build a mechanism that guarantee the access for citizens who are vulnerable to any form of discrimination to speak their voice and fight for their rights as stated in constitution and national law regulations.
6. The state builds systemic steps to protect migrant workers by synchronizing policy makers in handling and recovering migrant workers. The state is also expected to create systematic resolution and accommodates high quantitative number of violence cases against migrant worker, especially female migrant workers.
7. The state gives legal assurance for human rights defenders by paying special attention to women human rights defenders' special vulnerability to physical and psychological violence and their legal status through revising Law No. 39 Year 1999 about Human Rights, Law No.26 Year 2000 about Human Rights Court and/ or establishing Human Rights Defenders Law.
8. The state encourages media/tv and Indonesia's Broadcast Commission/*KPI* to raise gender awareness and sensitivity to VAW issues.