

NATIONAL COMMISSION
ON VIOLENCE AGAINST WOMEN

Terror and Violence against Women:
The Absence of State Control

Annual Note on Violence against Women 2011

ANNUAL NOTE
ON VIOLENCE AGAINST WOMEN

Jakarta, March 7, 2011

LIST OF PARTICIPATING SERVICE PROVIDER PARTNERS

Annual Note 2011 was successfully published in collaboration with several service provider partners in numerous regions in Indonesia. All the service provider partners were:

Aceh

1. Yayasan Bungeong Jeumpa
2. LBH Apik Aceh
3. Kejari Tapak Tuan
4. Kejari Takengon
5. RPUK Banda Aceh
6. MS Kutacane
7. MS Bireun
8. BPPA Banda Aceh
9. Kejati Aceh
10. MS Aceh
11. MS Lhoksukon
12. PKPA Aceh

Sumatera Utara

13. UPPA Polres Labuhan Batu
14. PN Rantau Prapat
15. PN Binjai
16. PA Balige
17. PKPA Sumut
18. Pesada/SadaAhmo
19. SP Labuhan Batu
20. UPPA Sumut
21. P2TP2A Nias
22. Kejari Sibolga
23. Kejari Siantar
24. PKPA Nias
25. SPI Deli Serdang
26. PA Pematang Siantar
27. PA Lubuk Pakam
28. PA Stabat Kelas 1b
29. PA Tanjung Balai
30. PA Medan
31. PA Panyabungan

Sumatera Barat

32. PT Sumbar
33. PN Sawahlunto
34. P2TP2A Tanah Datar
35. WCC Nurani Perempuan
36. Kejari Padang Panjang
37. PT Padang
38. Kejari Lubuk Sikaping
39. Kejari Sijunjung
40. PN Lubuk Sikaping
41. PTA Padang

42. PA Solok
43. UPPA Polres Sumbar
44. PA Kotobaru
45. PA Tanjung Pati
46. PA Padang
47. PA Pariaman
48. PA Batusangkar
49. PA Bukit Tinggi
50. PA Payakumbuh
51. PA Sawahlunto
52. PA Padang Panjang
53. PA Muara Labuh
54. PA Sijunjung
55. PA Painan
56. PA Lubuk Sikaping
57. PA Talu
58. PA Maninjau
59. PA Kabupaten Lima Puluh Kota
60. PA Lubuk Basung

Riau

61. PA Selat Panjang
62. PA Tembilahan
63. PA Rengat

Jambi

64. BPMPPKB Jambi
65. Kejari Kuala Tungkal
66. PN IB Jambi
67. PN Bangko
68. PA Sarolangun

Sumatera Selatan

69. Yayasan Puspa Indonesia
70. PN IA Palembang
71. Kejari Lubuk Linggau
72. Kejari Sekayu
73. PTA Palembang
74. WCC Palembang
75. Kejari Muara Enim
76. Kejari Pagar Alam
77. PA Palembang
78. PA Batu Raja
79. PA Kayu Agung
80. PA Lahat
81. PA Muara Enim

- 82. PA Sekayu
- 83. PA Lubuk Linggau

Bengkulu

- 84. PTA Bengkulu
- 85. WCC Cahaya Perempuan Bengkulu
- 86. PA Bengkulu
- 87. PA Curup
- 88. PA Manna
- 89. PA Arga Makmur

Lampung

- 90. PT Tanjung Karang
- 91. PA Tanggamus
- 92. PN Kalianda
- 93. RSUD Abdul Muluk
- 94. PA Krui

Kepulauan Babel

- 95. UPPA Polda Bangka Belitung
- 96. Yayasan Nur Dewi Lestari
- 97. Kejari Tanjung Pandan
- 98. PA Pangkal Pinang
- 99. PA Tanjung Pandan
- 100. PA Sungai Liat

Kepulauan Riau

- 101. Yayasan Setara Kita Batam
- 102. UPPA Tanjung Balai Karimun
- 103. P2TP2A Riau
- 104. Badan PP dan KB Riau

DKI Jakarta

- 105. Solidaritas Perempuan
- 106. Arus Pelangi
- 107. LBH Jakarta
- 108. P2TP2A Jakarta
- 109. RPTC
- 110. LBH Mawar Saron
- 111. RSUP Persahabatan
- 112. Klinik Spesial Tribata, RS Bhayangkara
- 113. SBMI
- 114. JARAK
- 115. FNPBI
- 116. RS Sukanto
- 117. UPPA Polres Jakarta Utara
- 118. RS Mintoharjo, PKT Melati
- 119. PTA Jakarta
- 120. PA Jakarta Pusat

- 121. PA Jakarta Selatan
- 122. PA Jakarta Utara
- 123. LBH APIK Jakarta

Jawa Barat

- 124. PN Majalengka
- 125. PN Rangkasbitung
- 126. PA Karawang Kelas IA
- 127. UPPA Polres Ciamis
- 128. PT Bandung
- 129. SAPA Institute Bandung
- 130. PN Kuningan
- 131. Kejari Bandung
- 132. P2TP2A Kota Bandung
- 133. PA Cikarang
- 134. WCC Mawar Balqis, Cirebon
- 135. Kejari Sukabumi
- 136. Kejari Kuningan
- 137. Kejari Bale Bandung
- 138. PA Sukabumi
- 139. UPPA Polres Bandung
- 140. Kejati Jabar
- 141. PA Majalengka
- 142. Kejari Bogor
- 143. Kejari Ciamis
- 144. Kejari Cibinong
- 145. Kejari Majalengka
- 146. Kejari Purwakarta
- 147. Kejari Subang
- 148. Kejari Sumedang
- 149. P2TP2A Sukabumi
- 150. PA Karawang
- 151. PA Pandeglang

Jawa Tengah

- 152. PN Temanggung
- 153. PA Wonosobo
- 154. SPEK HAM Solo
- 155. UPPA Polres Rembang
- 156. PN Kelas IB Klaten
- 157. PN Banyumas
- 158. P2TP2A Kabupaten Semarang
- 159. Yayasan Atma
- 160. PA KAJEN Pekalongan
- 161. Aliansi Peduli Perempuan Sukowati/Sragen
- 162. PA Purbalingga
- 163. PN Kendal
- 164. Kejari Tegal
- 165. Badan PP dan KB Prov Jateng

166. Yayasan KAKAK
 167. LKTS Boyolali
 168. PN Pati
 169. PN Purwokerto
 170. PA Ambarawa
 171. PA Tegal
 172. WCC Lentera Perempuan
 173. PN Wonosobo
 174. PA Purwokerto
 175. Kejari Wonosobo
 176. PA Kudus
 177. PN Banjarnegara
 178. UPPA Polres Wonosobo
 179. PN Rembang
 180. PA Kebumen
 181. Kejari Karanganyar
 182. LBH APIK Semarang
 183. UPPA Polres Tegal
 184. PN Kebumen
 185. PN Karanganyar
 186. Kejari Surakarta
 187. LRC KJHAM Semarang
 188. PN Kelas IB Sragen
 189. PA Purwodadi
 190. PA Banjarnegara
 191. PA Wonogiri
 192. PA Sukoharjo
 193. PA Magelang
 194. PA Blora
- DIY**
195. UPPA Polda DIY
 196. RSUD Wates
 197. RSUD Panembahan Senopati
 198. RSUP Dr Sardjito
 199. UPPA Polres Kulon Progo
 200. PA Bantul
 201. PT Yogyakarta
 202. UPPA Reskrim DIY
 203. Kejari Wonosari
 204. PN Sleman
 205. PA Sleman
 206. PN Wonosari
 207. UPPA Satreskrim Sleman
 208. PA Wates
 209. PA Wonosari
 210. WCC Rifka Annisa
 211. PA Yogyakarta

Jawa Timur

212. UPPA Polres Tulungagung
 213. PN Pasuruan
 214. RS Dr Moestajib, Nganjuk
 215. Kejari Tanjung Perak, Surabaya
 216. Kejari Bondowoso
 217. WCC Jombang
 218. Kejari Kediri
 219. PN Jombang
 220. Savy Amira Surabaya
 221. P2TP2A Surabaya
 222. P2TP2A Pacitan
 223. RSUD R Koesma(KPR) Tuban
 224. PA Trenggalek
 225. PN Sumenep
 226. RSUD Gambiran, Kediri
 227. RSUD Kepanjen Malang
 228. RS Bhayangkari Kediri
 229. PN Kediri
 230. RSUD Sudono, Madiun
 231. PA Malang
 232. PA Lumajang
 233. WCC Pasuruan
 234. PN Bojonegoro
 235. RSUD Trenggalek
 236. UPPA Polres Gresik
 237. PA Nganjuk
 238. UPPA Polres Ngawi
 239. RSUD Saiful Anwar
 240. PN Mojokerto
 241. P2TP2A Lumajang
 242. Kejari Pasuruan
 243. P3A Sidoarjo
 244. PN Ngawi
 245. RSUD Dr. Ishak Tulungagung
 246. RSUD Ngudi Waluyo, Blitar
 247. UPPA Polres Kediri
 248. Kejati Tuban
 249. PA Pamekasan
 250. PA Bawean
 251. PA Kediri
 252. PA Blitar
 253. PA Lamongan
 254. PA Surabaya
 255. PA Bondowoso
 256. PA Pasuruan
 257. PA Kangean

Banten

258. PN Rangkasbitung
 259. PN Pandeglang
 260. PT Banten

- 261. Kejari Serang
- 262. Kejari Cilegon
- 263. Kejari Pandeglang
- 264. PTA Banten
- 265. PA Serang
- 266. PA Cilegon
- 267. PA Tigaraksa
- 268. PA Tangerang

Bali

- 269. UPPA Polres Tabanan
- 270. PN Singaraja
- 271. PN Bangli
- 272. UPPA Polda Bali
- 273. PN Negara
- 274. PA Klungkungan
- 275. PA Bangli
- 276. P2TP2A Karangasem
- 277. P2TP2A Bali
- 278. Kejati Bangli
- 279. PA Gianyar
- 280. PA Negara

NTB

- 281. LBH Apik NTB
- 282. PN Dompu
- 283. PT Mataram
- 284. PA Sumbawa Besar
- 285. PA Praya
- 286. PA Mataram

NTT

- 287. Rumah Perempuan Kupang
- 288. Forum Perduli Perempuan Atambua
- 289. PA Soe
- 290. PN Soe
- 291. Kejari Ende
- 292. TRUK F Maumere
- 293. PA Atambua
- 294. Kejari Baa
- 295. Yayasan PIAR

Kalimantan Barat

- 296. LBH Apik Pontianak
- 297. PA Ketapang
- 298. PN Mempawah
- 299. Elpeka
- 300. PA Kelas I-A Pontianak
- 301. PA Mempawah
- 302. PA Sambas
- 303. PA Sanggau

Kalimantan Timur

- 304. PA Samarinda
- 305. RS Bhayangkara Balikpapan
- 306. PT Samarinda
- 307. PN Nunukan
- 308. PA Tanjung Selor
- 309. PTA Samarinda
- 310. PA Balikpapan
- 311. PA Tenggarong
- 312. PA Tanah Grogot
- 313. PA Tanjung Redep
- 314. PA Tarakan
- 315. PA Bontang
- 316. PA Sangata

Kalimantan Tengah

- 317. PA Kuala Kapuas
- 318. PA Pangkalan Bun
- 319. PN Buntok
- 320. PN Muara Teweh
- 321. PTA Palangkaraya

Kalimantan Selatan

- 322. Kejari Batulicin
- 323. PA Marahaban
- 324. PN Tanjung
- 325. PA Kandangan
- 326. PN Kota Baru, Pulau Laut
- 327. Lembaga Perlindungan Anak
- 328. PA Rantau
- 329. Kejari Rantau
- 330. PA Tanjung
- 331. PTA Banjarmasin
- 332. PA Banjarmasin
- 333. PA Banjarbaru
- 334. PA Martapura
- 335. PA Negara
- 336. PA Amuntai
- 337. PA Barabai
- 338. PA Pelaihari
- 339. PA Kotabaru

Sulawesi Utara

- 340. Swara Parangpuan Manado
- 341. Kejati Sulut
- 342. PA Tahuna
- 343. PA Kotamobagu

Gorontalo

344. PA Gorontalo

Sulawesi Tengah

345. PT Sulawesi Tengah

346. P2TP2A Palu

347. PA Poso

348. PA Banggai

349. PA Toli Toli

Sulawesi Barat

350. Kejari Mamuju

Sulawesi Selatan

351. LBH Apik Makasar

352. Kejari Sinjai

353. LPP Bone

354. PN Rantau

355. PT Makasar

356. PN Sinjai

357. LPA Sulawesi Selatan

358. PA Jeneponto

359. PA Makasar

360. PA Masamba

361. PA Sidendang Rappang

362. PN Pangkajene Pangkep

Sulawesi Tenggara

363. PT Sulawesi Tenggara

364. Yayasan Lambu Ina Raha

365. PA Kendari

366. PA Unahaa

367. PA Donggala

368. PA Bau Bau

369. PA Kolaka

Maluku

370. PT Maluku

371. LAPPAN

372. PTA Ambon

373. P2TP2A Maluku

374. PA Tual

375. PA Masohi

376. Yayasan Arikal Mahina

377. PA Ambon

Papua

378. UPPA Polres Jayawijaya

379. BPP Merauke

380. PA Wamena

381. PTA Jayapura

382. PA Sentani

383. PA Biak

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ABBREVIATIONS

AIDS	: Acquired Immune Deficiency Syndrome
AKKBB	: Aliansi Kebangsaan untuk Kebebasan Beragama dan Berkeyakinan (National Alliance for Freedom to Choose Faith and Religion)
APH	: Aparat Penegak Hukum (Law Enforcement)
BBM	: Bahan Bakar Minyak (Refined Fuel oil)
BPPA	: Badan Pemberdayaan Perempuan dan Perlindungan Anak (Woman Empowerment and Child Protection Body)
Biro PP dan PA	: Biro Pemberdayaan Perempuan dan Perlindungan Anak (Women's Empowerment and Children Protection Bureau)
BNP2TKI	: Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (National Body for Placement and Protection of Indonesian Migrant Worker)
CATAHU	: Catatan Tahunan (Annual Note)
DIY	: Daerah Istimewa Yogyakarta (Yogyakarta Special Region)
DPR	: Dewan Perwakilan Rakyat (House of Representatives)
DPRD	: Dewan Perwakilan Rakyat Daerah (Regional House of Representatives)
DPD	: Dewan Perwakilan Daerah (Regional Council)
FPI	: Front Pembela Islam (Islamic Defenders Front)
FUI	: Forum Umat Islam (Forum of Moslems)
HAM	: Hak Asasi Manusia (Human Rights)
HAP	: Hak Asasi Perempuan (Women's Rights)
IRT	: Ibu Rumah Tangga (Housewife)
JAI	: Jemaah Ahmadiyah Indonesia (Indonesian Ahmadiyah Congregation)
JR	: Judicial Review
KDP	: Kekerasan Dalam Pacaran (Date Violence)
KDRT	: Kekerasan Dalam Rumah Tangga (Domestic violence)
Kejati	: Kejaksaan Tinggi (Attorney Public Office)
Kejari	: Kejaksaan Negeri (Attorney State Office)
KJRI	: Konsulat Jenderal Republik Indonesia (General Consulate of Indonesia)
KMP	: Kekerasan yang dilakukan oleh Mantan Pacar (Violence by ex boyfriend)
KMS	: Kekerasan yang dilakukan oleh Mantan Suami (Violence by ex husband)
KOM	: Komunitas (Community)
KTP	: Kekerasan terhadap Perempuan (Violence against Women)
KTAP	: Kekerasan Terhadap Anak Perempuan (Violence against Female Children)
KTI	: Kekerasan Terhadap Istri (Violence against Wives)
KUHP	: Kitab Undang-Undang Hukum Pidana (Indonesian Criminal Code)
LBH	: Lembaga Bantuan Hukum (Legal Aid Services)
LPA	: Lembaga Perlindungan Anak (Children Protection Agency)
MA	: Mahkamah Agung (Supreme Court)
MoU	: Memorandum of Understanding
MS	: Mahkamah Syar'iah (Sharia Court)
MUI	: Majelis Ulama Indonesia (Indonesian Council of Religious Scholars)
NAD	: Nangroe Aceh Darussalam
NEG	: Negara (State)
NTB	: Nusa Tenggara Barat
NTT	: Nusa Tenggara Timur
OMS	: Organisasi Masyarakat Sipil (Civil Society Organization)
P2TP2A	: Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak (Integrated Service for Women and Children Empowerment)
PA	: Pengadilan Agama (Religious Court)
PBB	: Persatuan Bangsa-Bangsa (United Nations)
PKDRT	: Penghapusan Kekerasan Dalam Rumah Tangga (Domestic Violence Elimination)
PKPA	: Pusat Kajian dan Perlindungan Anak (Centre of Study and Children Protection)
PN	: Pengadilan Negeri (State Court)
PNPS	: Pencegahan Penyalahgunaan atau Penodaan Agama (Prevention of Religion Maltreatment or Blasphemy)
PTN	: Pengadilan Tinggi Negeri (State Appellate Court)
Polda	: Kepolisian Daerah (Provincial Police Station)
Polres	: Kepolisian Resort (Precinct Police Station)
Polsek	: Kepolisian Sektor (Sub-Precinct Police Station)

PP	: Peraturan Pemerintah (State Regulation)
PPHAM	: Perempuan Pembela Hak Asasi Manusia (Women Human Rights Defender)
PTPPO	: Pemberantasan Tindak Pidana Perdagangan Orang (Eradication of Human Trafficking)
Permen	: Peraturan Menteri (Ministerial Regulation)
Perma	: Peraturan Mahkamah Agung (Supreme Court Regulation)
PPM	: Perempuan Pekerja Migran (Female Migrant Worker)
PRT	: Pekerja Rumah Tangga (Domestic Worker)
PT	: Pengadilan Tinggi (High Court)
PTA	: Pengadilan Tinggi Agama (Religious High Court)
RPK	: Ruang Pelayanan Khusus (Special Services Room)
RS	: Rumah Sakit (Hospital)
RSUD	: Rumah Sakit Umum Daerah (Regency hospital, regional hospital)
RUU PRT	: Rancangan Undang-Undang Pekerja Rumah Tangga (Domestic Worker Bill)
SD	: Sekolah Dasar (Primary School/ Elementary School)
SDM	: Sumber Daya Manusia (Human Resources)
SE	: Surat Edaran (Circular)
SK	: Surat Keputusan (Decree)
SKB	: Surat Keputusan Bersama (Joint Decree)
SLTA	: Sekolah Lanjutan Tingkat Atas (High School/ Senior High School)
SLTP	: Sekolah Lanjutan Tingkat Pertama (Junior High School)
SP3	: Surat Perintah Penghentian Penyelidikan (Letter ordering a halt to investigation)
SPM	: Standar Pelayanan Minimal (Minimum Service Standard)
Th	: Tahun (Year)
TKI	: Tenaga Kerja Indonesia (Indonesian Migrant Worker)
TKW	: Tenaga Kerja Wanita (Female Migrant Worker)
UNDP	: United Nation Development Program
UPPA	: Unit Pelayanan Perempuan dan Anak (Women and Children Service Unit)

TERROR AND VIOLENCE AGAINST WOMEN: THE ABSENCE OF STATE CONTROL

EXECUTIVE SUMMARY

Annual Note 2011 illustrates the general overview over violence against women throughout 2010. There were 383 service provider partners that participated this time by filling up and sending back the forms to National Commission on Violence against Women (hereafter *Komnas Perempuan*). From the compiled documentation we gathered there were 105.103 female victims. This meant that there were fewer victims than previous year (2009). However, this did not mean there were fewer violence cases against women. Some issues were believed to be the cause of the decreasing number, such as: limited human resources (compiling data skill and high turnover rate), limited support facilities for documentation, limited comprehension about how to fill the data form, the funding that supported case documentation, and victims reluctance to report their cases (as a result of fear and worried that there would be a stigma or negative image from society).

Based on compiled data from partner institutions, the main pattern of violence against women was still dominated by Domestic Violence/Personal Relation that reached 96% (101,128 cases) out of total cases. VAW within community were reported to be 3,530 cases, and violence by state were 445 cases – this number increased by eight time fold compare to 2009's. It was specifically reported that in 2010 there were 864 cases of sexual violence at home, and 1,781 cases in community. The varieties of violence reported included: sexual assaults, molestations, rape attempt, rape, (and sexual intercourse).

As for perpetrators, most perpetrators were categorized as public officials: civil servants (*PNS*), military personnels (*TNI*), police Officers (*Polri*), members of House of Representatives (*Anggota DPR/D*), teachers, religious public figure, and state ministers. These public official perpetrators were likely to have impunity – free of consequences because the legal system did not or function less, neglect, and the power of relation. While for victims themselves, it was difficult for them to find justice and recovery because of the obscurity in finding the solution for the violence they experienced.

Komnas Perempuan also noted some cases of violence against women that had religion and moral basis occurred this year. In particular, *Komnas Perempuan* had conducted and observation toward regional discriminatory regulations since 2009 and the number had been increasing (in 2010 there were 189 discriminative regulation – last year 154), and in the beginning of 2011 a number of regulations from regency and city level came up and specifically directed toward *Jemaat Ahmadiyah Indonesia*. *Komnas Perempuan* also noted several attack to Women Human Rights Defender both on national and regional level, and some regulations regarding various issues: Judicial Review UU No.44 Year 2008 about Pornography, and UU No.1/PNPS/1965 regarding Anticipation, Ill-treatment, and/or Religious Blasphemy.

Migrant labour problems in 2010 included Women's Human Rights violation that happened in different phases (departure preparation, shelter, workplace in host country, and returning to Indonesia). *Komnas Perempuan* also noted the repeating violence pattern of these female migrant workers, while the process of resolving the problems was slow and tended to be unmoving.

For more than three years *Komnas Perempuan* had intensively done some monitoring in Papua. During those years *Komnas Perempuan* had recorded some cases of violence against women in the past, violence related to natural resources, militarism, and slow problem solving – and the tendency of neglect on national and regional level.

FOREWORDS

Annual Note of *Komnas Perempuan* was published on March 7 every year. This annual note provided general information about all kinds of violence that Indonesian women experience in one year period. The data were compiled from service provider partners that handled cases of violence against women, including observation data conducted by *Komnas Perempuan* itself. It also included case analyses of violence against women observed for the entire year.

To compile quantitative data, since 2006 *Komnas Perempuan* had developed standardized data form to be distributed to all service provider partners spread all over Indonesia. The standard information that *Komnas Perempuan* observed was related to number of cases/ victims of violence against women that the partners handled, the capacity of the institution itself, the obstacles that they found in filing record and the problems they faced in handling cases. This data forms were evaluated every year in workshop with partner institutions which were familiar with how to fill the data form, and together with service provider institutions which were yet to be partners with *Komnas Perempuan*. The goal of this workshop was to collect input for a better data form as well as to increase cooperation and communication between institutions. In 2010, workshops were held in two places, NTT (Maumere) and East Kalimantan (Balikpapan), which included partner institutions in eastern and middle part of Indonesia.

With this opportunity annual note, *Komnas Perempuan* would like to thank to all service provider partners for all their time and effort as well as for their thoughts and attention to complete the forms and to send them back to *Komnas Perempuan* so that we could start processing the data. We would also like to thank to data processors, authors, discussion team, and logistic support team who were still working until this very moment to make sure that this report would be available on time.

At last, through continuous documentation of violence against women cases we hoped that we could identify the complexity and the real measure of problems for violence against women, where it eventually could be used as a reference for those who need it to assess this nation achievement in handling and coping with violation of Women Human Rights.

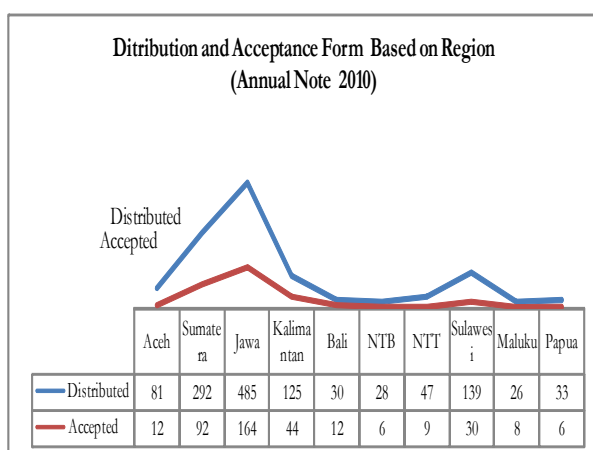
METHODOLOGY: COMPILING DATA FROM SERVICE PROVIDER PARTNER INSTITUTIONS

The data in *Komnas Perempuan*'s annual note were a data compilation of VAW cases accepted and handled by service provider partner institutions in several regions, and direct report data received by *Komnas Perempuan*'s Complaint and Referral Unit (hereafter *Unit Pengaduan dan Rujukan - UPR*). By the end of the year (usually around October or November) *Komnas Perempuan* sent Annual Note Data Form (*Formulir Data Catabu*) to partner institutions in some region (see *List of Participating Service Provider Institutions in Annual Note 2010*). These institutions filled up the form with the information needed from each case (based on victim's information) they handled, and sent it back to *Komnas Perempuan* around January and/or February the following year so that all data *Komnas Perempuan* received within that year could be compiled and counted up which then to be analyzed on time.

SERVICE PROVIDER PARTNER INSTITUTIONS participated by filling the form with information related to VAW cases that they handled themselves. This had become one of the most valuable and real supports in this year compilation. The exact number of VAW noted and recorded in each annual note depended on: 1) contribution or the institutions response to form request that *Komnas Perempuan* sent out, 2) the accessibility of service provider institution in each region (especially related to the location of the institution and whether the place was accessible to reach by any means of transportation and communication devices – telephone or available hotlines), and mainly it also depended on 3) the performance of each service provider institution, especially in keeping records about VAW cases precisely and accurately.

THE OBSTACLES THAT WOMAN VICTIM FACED TO GET SUPPORT from service provider institution varied, one of them was the lack of support from the closest society and local community. In many places, the community comprehension level about the VAW related issues could also influence the woman victims to open up their experiences of violence and to have the courage to report to local service provider institution. Community still considered that a woman became a victim because her own behavior “invited” the violence itself. If the woman was brave enough to reveal her experience and reported it to other people or institution then she would receive scornful remark and stigmatization that she deserved that violence (in any kind of treatment) or she would be entering a situation where she would be blamed over and over again (revictimization). This circumstance would make it harder for a woman to gain access to service provider institution to get help or recovery for her.

Form Distribution and Level of Response

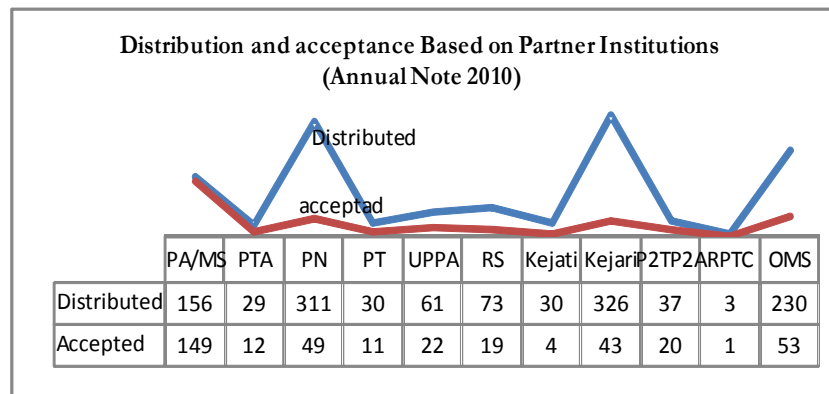


SENDING OUT ANNUAL NOTE 2010 FORM was conducted in stages because it was done at the same time as *Komnas Perempuan* installed an updated technology in each division. Besides, one classical problem was the obstacles of sending out the forms, which was the adjustment to APBN. Around the end of October-December 2010, forms were sent to service provider institutions, and in the beginning of January 2011 *Komnas Perempuan* still had to ask some partner institutions attending the workshop in Jakarta to help distribute the form.

This year the forms were successfully distributed to 1,286 service provider partner institutions in all provinces in Indonesia (see *Chart form Distribution and Acceptance Based on Region Annual Note 2010*). The number has increased, compared to last year's (1,173) because *Komnas Perempuan* had managed to improve the database in partner institutions, and expanded the partnership with some new institutions.

The chart above also showed the level of response from institution partners that filled up and sent back the annual note forms. There were 383 institutions (30%) out of total forms distributed. If we compared to last year's number (23%), the level of response slightly increased. The highest response came from Bali (40%), followed by Kalimantan (35%), Java (34%), Sumatera (32%) and Maluku (31%). Around 15%-21% partner institutions in other regions also participated by filling up *Komnas Perempuan* forms this year.

The level of response based on service provider partner institution could be seen in the next chart. The data showed that the highest response came from Integrated Service Center for Women and Children Empowerment (hereafter *P2TP2A*) and Religious Court/Sharia

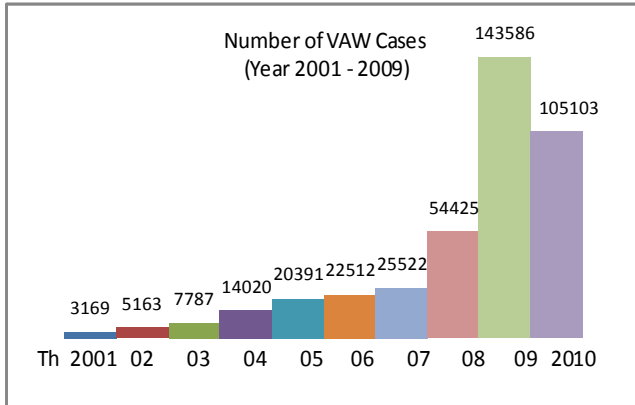


Court (hereafter *PA/MS*). More than 50% *P2TP2A* institutions working under coordination of Ministry of Women Empowerment and Children Protection (*KPP dan PA*) responded positively by filling and returning the form to *Komnas Perempuan*. Other than the direct method, the reason of this high response was because most of the data could be accessed via internet.

This year *Komnas Perempuan* had identified and started cooperation with 230 service provider institutions in some regions. It was estimated that 60% of these new partners would participate and send the data this year. Nevertheless, there were also some partner institutions who usually contributed in the previous years did not this year due to internal problems in each institution. Many partner institutions prepared the commemoration of 100 years of Woman's International Day (March 8, 2011) by launching the data of VaW in their regions.

GENERAL OVERVIEW: VAW IN 2010

Number of VaW Victims in 2010

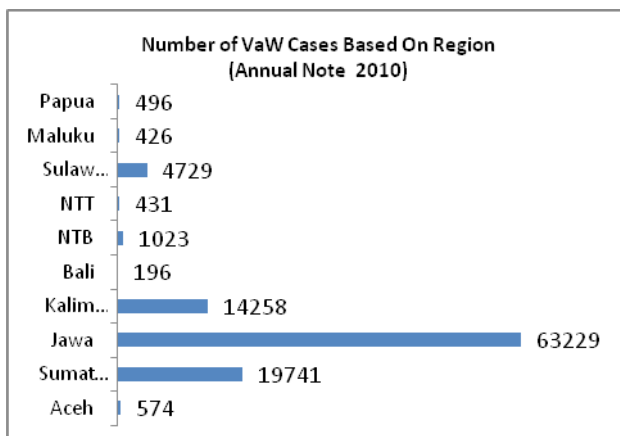


Based on compiled data of VaW from 383 service provider institutions that filled up and sent back the forms to *Komnas Perempuan*, there were 105,103 victims of VaW this year. Compared to last year's number this number was smaller around 27%.

The smaller number did not mean that there were less violence in 2010. Some factors were believed to affect this number, especially those related to case documentation of violence against

women cases conducted by each institution. Some factors that some institutions repeatedly mentioned were: limited human resources (limited data compiling skill and high turnover rate), limited facilities (computers, and other devices needed to compile data), the comprehension of completing the needed data (which also altered often or adjusted with the condition of year to year report), funding to support case documentation, and the victims' unwillingness to be formally documented (because of the fear and worry to be stigmatized and the shame to be considered as a disgrace by the community about the violence they went through).

Another obstacle that *Komnas Perempuan* believed to be a problem was the internal improvement within the organization hence those usually participated could not send the data on time this year. Some institutions also prepared the documentation report for the 100th year commemoration of Woman's International Day. In general, these problems that they mentioned showed that their understanding about the importance of documenting VaW cases was still inadequate. Therefore, in order to raise the awareness of this documentation *Komnas Perempuan* had socialized the importance of Annual Note for all parties in the framework of policy advocacy to eliminate all kinds of violence against women.



The general idea about the number of VaW victims based on regions could be seen on the chart here. Service provider partners recorded that the highest number of VaW victims was in Java: 63,229 victims, followed by Sumatera; 19,741 victims, and Kalimantan: 14,258 victims.

More specifics, the highest number of VaW victims that partners recorded was in East Java (22,071 victims), second was Central Java (15,641 victims), while DKI Jakarta was third (13,956 victims). In each region *PA* contributed most report with

average more than 90% out of all numbers of VaW recorded by all partner institutions.

In Sumatera, partner institutions that filed the most VAW cases were partner institutions in West Sumatera (9,626 cases), second was South Sumatera (5,211 cases), whereas North

Sumatera and Riau each reported 1,932 and 1,017 cases. Around 75% to 90% of those numbers were taken from *PA*.

Partner institution in Kalimantan that noted the most cases of VaW were institutions in East Kalimantan with 6,175 victims, and the second were institutions in South Kalimantan with 4,673 victims, while West Kalimantan documented 3.143 cases. More than 95% cases were taken from *PA*'s files.

On the other hand, the high number from Higher Religious Court (*Pengadilan Tinggi Agama*) showed that VaW cases occurred most of the times within domestic domain – domestic violence and personal relation, or divorce related cases. The more details were the following.

Numbers of VaW Based on Domain

Out of all 105,103 cases that partner institutions recorded this year, most cases happened within domestic domain – domestic violence/personal relation, where there were 101,128 cases (more than 96%) reported. The second highest of VAW that occurred was violence within community which there were 3,530 cases reported, and VAW cases by state were 445 cases. The proportion of this number was suspected to have happened since 2005 (see *Annual Note 2006*). This was related to *Undang-Undang Penghapusan Kekerasan Dalam Rumah Tangga* (Domestic Violence Law) that opened a wider access for women to report their cases.

Region	DV/PR	COM	State
Aceh	459	115	0
Sumatera	18995	746	0
Jawa	60824	1960	445
Kalimantan	14144	114	0
Bali	178	18	0
NTB	903	120	0
NTT	258	173	0
Sulawesi	4553	176	0
Maluku	358	68	0
Papua	456	40	0
Total Number	101128	3530	445

It was interesting to see the increasing number of VAW cases in state domain where it was supposed to be the state's responsibility (445 cases). This number was noted down by *LBH APIK* Jakarta and *LBH* Jakarta (395 victims), *P2TP2A* East Java (40 victims), and *Komnas Perempuan* for cases that *UPR* received (10 cases). The number of VaW cases by state was 8 times bigger than what was reported in 2009 (54 victims) or previous years – which was not more than 50 cases.

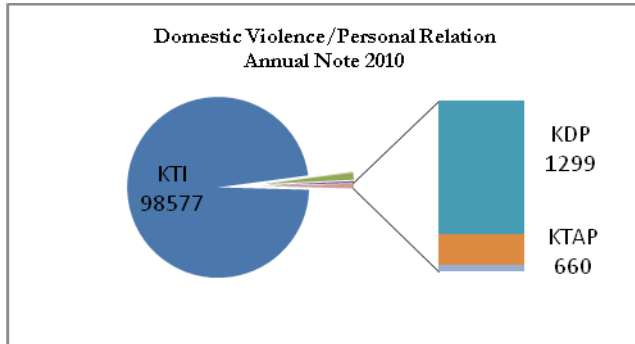
THE PATTERN OF VAW IN 2010: INCREASING NUMBER OF VAW BY STATE

The high rate of violence against women perpetrated or condoned by state had doubled 8 times fold compared to the rates from previous years' number, therefore this trend needed a further study. If we studied the pattern of violence against women from year to year (see *Annual Note* since 2001), the year of 2010 was believed to be the starting point of the similar repeating pattern to what had happened in the beginning of reformation in 1998. During that period many cases of violence against women were handled by state. Those cases of violence and the role of state included all kinds of violence perpetrated or condoned by state happened because there were no legal system, law enforcement, nor the culture of upholding the law that had gender perspective and the presence of violence against women in conflict areas.

The following section described the quantitative compiled data received by *Komnas Perempuan*'s institution partners in a more detailed explanation.

Violence against Women within Family (Domestic Violence/Personal Relation)

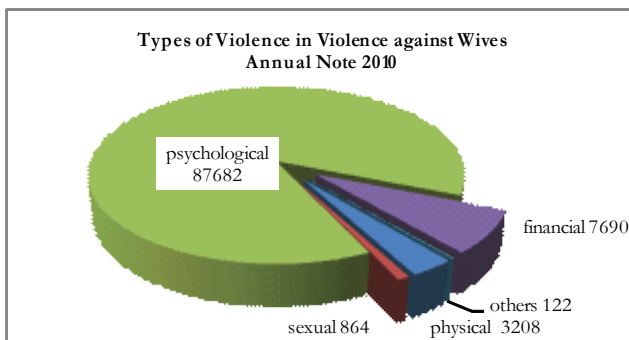
As reported in previous years, domestic violence/personal relation was the most dominant case of violence (more than 96%) out of all types of violence. The data also showed the number of violence against wives (*Kekerasan Terhadap Istri – KTI*), violence against female children, violence by ex husband, violence against domestic workers and other types of personal relation violence.



Violence against wives, as last years' pattern, was the most dominant type of violence in domestic violence/personal relation. We recorded that there were more than 97% cases of violence against wives of all domestic violence cases. We also received cases of violence in dating and violence against female children, and the numbers were surprisingly high. There were 1,299 victims of violence in dating, and 600 victims of violence against female

children. Other types of violence in domestic violence was violence by ex husband and ex boyfriends – this kind of personal relation needed to be worried about because every year partners handled quite many cases. Although the couples had separated, their “exes” still had the power to silence their spouses and stop them to find help and self protection especially for those who had children.

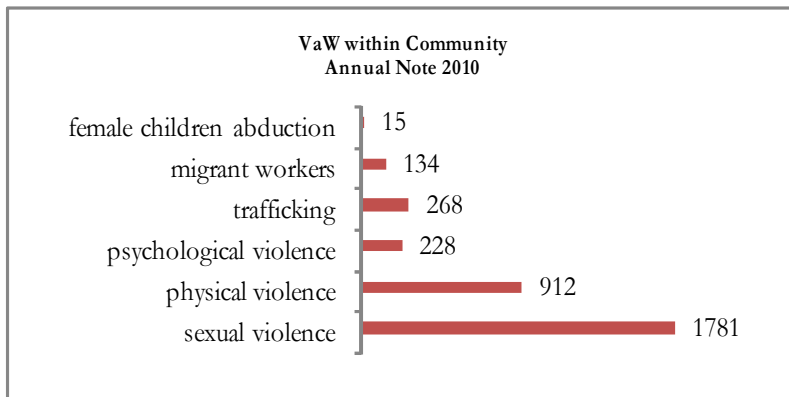
It was interesting to learn what partners did to handle the victims of VaW and to see the choices that victims made to solve their problem and to find recovery. The data showed that the victims categorized in *KTI* were more likely to report to higher religious court (*Pengadilan Tinggi Agama*), almost 95%, compared to those who reported to other institutions. As for other types of violence like *KMS*, *KDP*, and *KTAP* victims went to local NGOs or Civil Society Organization (*Organisasi Masyarakat Sipil – CSO*), Integrated Service for Women and Children Empowerment (*Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak - P2TP2A*), or Women and Children Service Unit (*Unit Pelayanan Perempuan dan Anak - UPPA*).



KTI included psychological, financial, physical, and sexual violence. Data from *Pengadilan Tinggi Agama* covered psychological and financial violence. While women or wives the victims of physical and sexual violence preferred to report to other service provider institutions, or *CSO* in particular.

Violence against Women within Community

Partner institutions receiving report about VaW within community noted down that most cases were found in DKI Jakarta, East Java, Central Java, South Sumatera, and West Java. There were 192 victims who reported their cases to *Komnas Perempuan* in DKI Jakarta. All the women victims who reported to *Komnas Perempuan* then referred to partner institutions in their origin areas so that they could find the appropriate help for what they needed in particular. This was due to the limitation that *Komnas Perempuan* had such as limited mandate who did not directly assist and handle VaW cases.



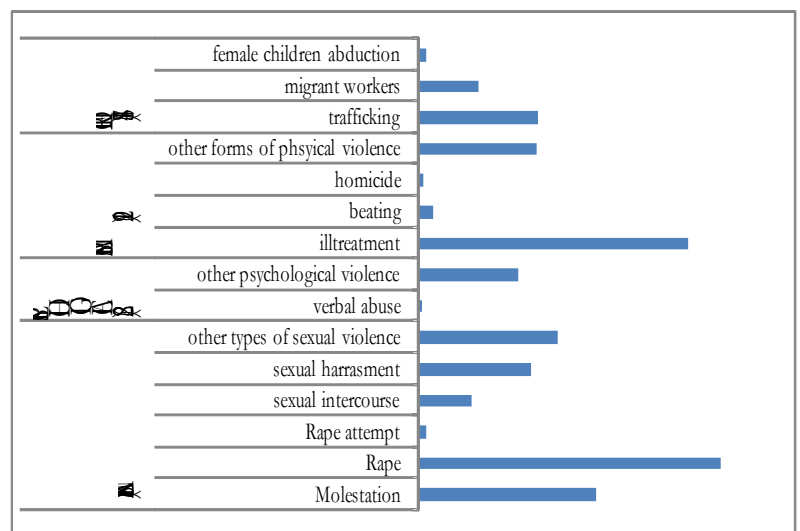
The types of violence occurred within community included sexual, physical, and psychological violence, trafficking, violence against migrant labor/workers, and female children abduction. The highest number of violence within community was sexual violence, with 1,781 victims. From that

number, more than 34% (607) were handled by *CSO*.

It was the same for psychological violence, more than half of the cases (188 out of 228 victims) were handled by *CSO*. As for trafficking, *CSO* handled 136 of 268 cases while 78 victims went to *P2TP2A* and 28 victims chose to report to *UPPA*. Whereas Migrant labors (total 134 victims) choose *CSO* to handle their cases.

The chart here showed the coverage of violence from each type of violence in community. A number of 1,781 cases of sexual violence handled by partner institutions included molestation, rape, rape attempt, sexual intercourse, sexual harassment, and other types of sexual violence. Psychological violence (228 cases) included threat, and other forms of psychological violence (like verbal abuse with offensive or demeaning words and others). Partners also handled physical violence (912) including cruel treatment/ illtreatment, beating, homicide, and other forms of physical violence.

Most rape cases were received by partner institutions in South Sumatera (159 victims), Central Java (118 victims), and West Java (97 victims). If added with the number of molestation cases, partner institutions in Central Java would be the region that handled the highest number of cases (198 victims – 80 of them were molestation cases). There were other service provider institutions that participated in handling cases of violence in community besides *CSO*, they were: district courts (*Pengadilan Negeri*), *UPPA*, high courts (*Pengadilan*



Tinggi), hospitals, *P2TP2A*, and/or Agency for Women and Public Empowerment and Family Planning.

Violence Perpetrated or Condoned by State

In this year the number of violence against women cases where state was the one responsible to handle cases like this, as it should be, increased and reached 445 cases. This number was reported to occur in 2 regions, *DKI Jakarta* and *East Java*. In *DKI Jakarta*, *LBH APIK* and *LBH Jakarta* noted down that there were 395 women become victims of condemnation of illegal residences. *Komnas Perempuan* received complaints from 10 victims of mosque burning, dancers arrest (as the implementation of Porn Law), and ban of religious ceremony. *P2TP2A* also handled 40 cases of trafficking in *East Java* which still related to violence by state.

Violence against women by state had to be a priority and needed a more serious handling this year. In another section of this annual note the issues of state's responsibility for violence against women cases happened in Indonesia would be analyzed more detail.

Characteristic: Age of Victims and Perpetrators

The characteristic of VaW victims and perpetrators were sorted out from the data received and recorded by service provider institutions. Service provider partners' data showed that the most victims were between 25-40 years old. The characteristic of victims and perpetrators in three domains (domestic violence, community, and state) showed the same pattern – in the chart above, violence by state was invincible because the ratio/number of cases compared to two other domains was significantly large.

If we notice further, the data from partner institutions showed that women victim of VaW were present in every age group (except for violence by state). The number of cases increased in age group of 13-18 (teenage) and once again showed that the highest number was at age 25-40. This pattern showed that: 1) women could be a victim of VAW at any age, and 2) women had the highest risk of becoming victims at 13-18 and 25-40.

The same pattern was also seen in perpetrators: the number of perpetrators increased in the age group of 19-24 and reached the highest in age group of 25-40 for perpetrators of domestic violence, while for violence in community the number increased along with the older age group, in fact, the highest was in age group above 40. As for violence by state, most perpetrators were at age of 19-24.

CASE HANDLING: CAPACITY OF THE INSTITUTIONS AND IMPLEMENTATION OF LAW ENFORCEMENT

The Capacity of Service Provider Institutions

The capacity of service provider institutions could be seen in some aspects like human resource availability, facilities (special facility such as data recording facility, case handling, and cooperation with other institutions), and other supporting facilities. In general, related to human resource facility, service provider institutions had provided professionals for counseling, sensitive gender judges/attorneys, special skilled personnel for data recording and dealing with database in each institution. In particular, High Religious Court (*Pengadilan Tinggi Agama*) and *Pengadilan Negeri* also provided special personnel to update the data monthly. It was because the access for data and information was now widely open through websites developed by court institutions. It went the same with support facility like facsimiles,

telephone lines, computers and printers. Some institutions also gave information about means of transportation provided to handle cases and budgeting (annual budget or *APBN*)

Furthermore, service provider partner institutions also developed an institutional partnership referral system through agreements in the forms of MoU. This formal institutional partnership was considered important by most CSO so that it could be utilized to access facilities in certain service provider institutions especially hospitals, police office, and courts. The more concrete example was that CSO handled many cases of women victims of violence to have *visum et repertum* from a hospital so that their cases could be processed in police department. With an MoU with local hospital, a victim could immediately have a *visum* request and it was free of charge (which often happened to be a problem for victims). Therefore, CSO believed it important to develop separated MoU with many related parties – so that one CSO in certain region enabled to have MoU with two or more service provider institutions in its working area.

In order to handle cases of violence against women, many service provider institutions also developed a referral system that covered advocacy, audiency, partnership network, coordination, referral concerning VaW, socialization related to VaW and its management, and file transfer.

Implementation of Domestic Violence Law (UUPKDRT) and Other Laws and Regulations

Based on the data given by service provider institutions, *UU PKDRT* (UU no.23/2004) was often used and more specific for litigation. Among those institutions were *UUPA*, *CSO*, *P2TP2A*, *Pengadilan Agama*, *Pengadilan Negeri*, *Kejaksaan Tinggi* and local government.

Moreover, Children Protection Regulation (*UU Perlindungan Anak* – UU No.23 Year 2002) was also often used to handle cases in courts. There were 103 institutions using this regulation in courts. It was related to the number of children victims as explained before. The institutions using this regulation were: *UPPA*, *CSO*, *Pengadilan Negeri*, *P2TP2A*, *Pengadilan Agama*, *Pengadilan Tinggi*, *Pengadilan Tinggi Agama*, and local governments.

Several institutions like *CSO* (6 institutions), *UPPA* (2 institutions), and *Pengadilan Agama* also used *UU Perkawinan* (Marriage Law) no.1/1974.

DISCRIMINATION AND VIOLENCE IN THE NAME OF MORALITY AND RELIGION

Discriminatory Policies

Since *Komnas Perempuan* launch its monitoring report regarding the issue of 154 discriminatory policies in the name of religion and morality in the beginning of 2009, to date not one of those policies was cancelled. All of those 154 policies were considered discriminatory because it limited even lessened citizen's constitutional rights which were guaranteed by state. Some of the limited rights were (a) equality in law and government/administration, (b) the rights to express opinion and to determine attitude according to conscience, (c) the right of protection from threat and fear to do what their basic rights are and (d) free of any discriminatory treatment, and (e) legal certainty.

Komnas Perempuan noted that there was only one region that had made a change toward discriminatory policies; it was *Perda* of Sukabumi regency no.13/2005 regarding migrant labors. Yet, after further study, the change was not substantial and only limited to the title of the policy. In the end of 2010, *Komnas Perempuan* once again noted the addition of 35 new discriminatory policies in one year period. This meant that there were 189 discriminatory

policies in total until 2010¹. Whilst the addition of local policies regarding women constitutional rights only came out in 6 policies; from 40 policies to 46 policies.

These 6 local policies that supported women's constitutional rights were a part of local government attempt toward the fulfillment of women constitutional rights. *Komnas Perempuan* noted, from all 6 policies, 3 were issued by Bulukumba regency with policies about Formation and Work Procedure of Integrated Service Centre Of Women and Children Empowerment by mean of Regent's Decree No.47/XI/2009 and Technical Guidance of Integrated Program for Implementation and Development to Increase Women's Role toward Healthy and Prosperous Family (*Petunjuk Teknis Pelaksanaan Pembinaan Program Terpadu Peningkatan Peran Wanita Menuju Keluarga Sehat Sejahtera - P2WKSS*) by mean of Regent's Decree No. 37/II/2010 and Regent's Decree No.120/V/2010 regarding Gender Mainstreaming Work Group in Bulukumba Regency. Three other regions that also issued encouraging local policies were Tasikmalaya regency with its policy of Reproductive Health with *Perda* No.9/2009, Donggala regency with its policy of Women's Representation and Their Contribution, and Banjar regency with *Perda* regarding Gender Mainstreaming.

If we pay closer attention to the presence of these discriminatory policies, *Komnas Perempuan* noticed that this increasing number of discriminatory policies happened at the same time when the number of the same type of regulations from local government also increased. In the beginning, we noted the policies were spread in 77 cities/regencies in 22 provinces, and West Java leading the number with 35 policies, followed by West Sumatera 26 policies, South Kalimantan 17 policies, South Sulawesi 16 policies, and West Nusa Tenggara 13 policies. In 2010 *Komnas Perempuan* noted that there were 5 new regions that issued discriminatory policies, they were West Sulawesi (1 policy), West Kalimantan (1 policy), Jambi (1 policy), Central Sulawesi (1 policy) and national (7 policies).

One example of these policies was West Aceh Regent's Regulation no. 5/2010 issued on May 27. This regulation banned women to wear tight clothes or tight pants. To implement the regulation, the regent provided at least 12,000 long skirts for women during the raid in West Aceh. The budget for these long skirts was considered a waste of money because the result was that the skirts were only piled up and could not be worn.² In the execution, women wearing loose pants or culottes were also asked to change their clothes with skirts because wearing them was considered as a violation. This situation was truly a violation against citizens' rights to express their individuality in general and the right to choose their clothes in particular.

Quoting *Kontras Aceh's* report, throughout 2010 there were 4 caning executions performed in Aceh, 3 of them were for gambling and liquor, and 1 for two women caught selling food in the middle of the day during Ramadhan. Still from Aceh, based on data from *Wilayahul Hisbah (WH)* Nangroe Aceh Darussalam province, there were 301 Aceh women caught for *kehalwat* (indecent) case as ordered in *Qanun* (regional regulation) no. 14/2003 and there were 1375 Aceh women were caught during the raid of Moslem Clothes Mandatory as ordered in *Qanun* no.11/ 2002 regarding the Implementation of Islam Sharia in Beliefs, Religious Services, and Islam Magnificence (*Pelaksanaan Syariat Islam, Bidang Aqidah, Ibadah, dan Syi'ar Islam*). *Kahalwat*

¹ Until this report was finished in March 2011, 6 discriminatory policies against Ahmadi community were published so that the total number was 195 discriminatory policies.

² *Laporan Tahunan Keadupan Beragama di Indonesia (Annual Report of Religious Life in Indonesia) 2010*, Center for Religious dan Cross-Cultural Studies, 2010

prohibition had multiple interpretations and it resulted in criminalizing inter gender social relation and violated constitutional rights of legal certainty and the clothes restriction violated the rights to express oneself according to conscience. These two regulations caused a violation of constitutional rights for the freedom of fear to do things what people's rights were.

On national level, *Komnas Perempuan* noted that at least there were 7 discriminatory regulations. They were: *Undang-Undang* No.44/2008 about Pornography, 2 stipulations from Constitutional Court's Judicial Review regarding 2 regulations: *Undang-Undang* No. 44/2008 about Pornography, and *Undang-Undang* No. 1/PNPS/1965 about Anticipation of Mistreatment and/or Religious Blasphemy, and 2 Supreme Court's Judicial Review on *Perda Kota Tangerang* No.8/2005 and *Perda Bantul* No.5/2007 which both regulated the Prohibition of Prostitution. Other than the policies above, there were 2 discriminatory policies with moral and religion based category issued as a Joint Decree of 3 Ministers about Forewarning, and Order to Followers, Members, and/or Committee of *Jemaat Ahmadiyah Indonesia (JAI)* and UU No. 38/1999 about *Zakat* (alms).

Constitutional Court's decree on judicial review of Porn Law (*UU Pornografi*) had a dissenting opinion with constitutional judge, and it was a failure for Constitutional Court in keeping constitutional mandate to maintain Indonesia's ground state and nation that celebrated the diversity of Indonesia. *UU Pornografi* (Porn Law) has indeed put legal authority at stake, as well as substantial democracy and the integrity of the nation, as can be seen in many actions to refuse the policy since its preparation; in fact, there were several regions that would not acknowledge that national regulation and threatened to disintegrate. Furthermore, *UU Pornografi* also had the same characteristic as 52 (out of 189 in totals) other discriminatory regulations and criminalizing women spread all over Indonesia.

There was a different opinion from Constitutional Judge Maria Farida on judicial review of *UU Nomor 1/PNPS/1965* about Anticipation of Maltreatment and/or Religious Blasphemy. *Komnas Perempuan* believed that the Constitutional Court's decree was a discriminatory policy because it had perpetuated the practice of discrimination between religion followers outside the six religions approved by state. *Komnas Perempuan* also noticed that there were a lot of women and children who had other faiths besides the six religions and they often experienced discrimination and layered violence as a result of that policy, as explained by Constitutional Judge, Maria Farida:

*"Even though there is no detail statement in a regulation the six approved religions by state, in the practice of state administration it has been proven that the guarantee and protection are only for those six religions, this happened for example in processing an id card, death certificate, or marriage administration and registration"*³

Discrimination and layered violence happened to the followers of other religions or faiths outside the state-approved religions in processing identity cards which should be owned by every citizen of Indonesia. If a woman did not have an identity card would lose her basic rights in politics and her access to public service, including legal service and health care, and the very much needed reproductive health care nor could she register her marriage. When she

³ Dissenting Opinion from Constitutional Judge Maria Farida, Decree No.140/PUU-VII/2009 regarding Judicial Review on *Undang-undang* No.1/PNPS/1965 about Prevention of Religious Mistreatment and/or Blasphemy (*Pencegahan Penyalahgunaan dan/atau Penodaan Agama, Mahkamah Konstitusi*), 2009.

got divorce or lost her husband, the woman would lose every right of joint property and inheritance. It went without saying that it would apply to children born from unregistered marriage as well. Children born out unregistered marriage would carry the stigma as children out of wedlock or more demeaning word like bastards. Those children would not be able to enjoy their birth rights to grow and develop in a normal condition, free of any kind of violence and discrimination. This birth right was guaranteed in the Indonesian Constitution (*Undang Undang Dasar Negara Republik Indonesia Tahun 1945*) article 28B, point 2, and in *Undang-Undang no.23/2002* regarding Child Protection.

Supreme Court's authority to call off the local discriminative policy especially local/regional regulations could not be conducted properly. In 2010, *Komnas Perempuan* noticed that Supreme Court had refused the Judicial Review filed by Bantul citizens regarding the application *Peraturan Daerah* no.5/2007 about Prohibition of Prostitution. This refusal was based solely on technical reason that the Judicial Review was overdue 180 days since the regulation applied. The regulation about the due date was stated in *PERMA* (Supreme Court's Regulation) no.1/1999. The policy to have time limit for filing judicial review was a potential threat to slow down any citizen in Indonesia to process the case that one had and to find the fair trial for it. Not only this *PERMA* was rarely known among society, the time when people found out about the new regulation it was long overdue, which might have taken more than 180 days since the regulation was first issued. By the time the regulation itself applied it caused a negative impact to society. The Judicial Review refusal was also conducted without any further study on *Perda* no.5/2007.

Attack against Religious Minority Communities

The addition of several discriminatory policies from 154 in 2009 to 189 in 2010, and the addition of 6 new discriminatory policies regarding the ban of Ahmadiyah in the beginning of 2011 were alarming, not to mention the policies harmonization had become one of the priorities in Medium-term development Plan (*Rencana Pembangunan Jangka Menengah - RPJMN*) 2010-2014. The imperishable growth of these policies in the name of religion and morality contributed to increase intolerance and violence for religion and morality reason including several attack to The Batak Protestant Church (*Huria Kristen Batak Protestan* – widely known as *HKBP*) congregation in Ciketing and intimidation to Buddhist community in Tanjung Balai. In that attack to *HKBP* congregation in Ciketing a female priest was assaulted, and in Tanjung Balai the anarchy in Mei 1998 was used as an excuse to intimidate Buddhist community.

The attacks in the name of religion had also become a collective concern other than just for Ahmadi community. Related to the policies regarding Disbanding Ahmadiyah, besides the Joint Decree (*SKB 3 Menteri*) issued in 2008, until the beginning of March 2011 *Komnas Perempuan* had noticed 6 new policies about *disbanding Jemaat Ahmadiyah Indonesia (JAI)*. These newly issued policies were in the form of Decree (*Surat Keputusan - SK*), *Peraturan Bupati/Walikota/Gubernur*. The regions issuing these policies were Pandeglang regency, some provinces like Banten, East Java, East Kalimantan, West Java, and *Kota Bogor*. These policies were violence potential not only to *Ahmadiyah* community in general but also to the women and the children of the congregation. *Komnas Perempuan* noted that at least there were 276 human right violations in every attack to *Ahmadiyah* in the last five years. *Komnas Perempuan* also noticed the intensity of the attack increased right after the Joint Decree established. The decree between Minister of Religions, Attorney General, and Minister of Domestic Affairs in 2008 was issued regarding Forewarning and Order to Adherent, Members and/or Board

Members of Jemaat Ahmadiyah Indonesia and Community. The increasing intensity meant multiplying women and children vulnerability upon violence and discrimination.⁴

Komnas Perempuan noted that women were vulnerable to experience **rape threat, sexual harassment, and other sexual-nuanced intimidation** when the attack happened. Stigmatization to *Ahmadiyah* community in Cikeusik had caused this kind of vulnerability that it was also experienced by Ahmadi women in many regions before and after the attack. The post traumatic disorder could cause **prolonged depression and reproductive health disorder and even abortion**. Women also carried the **psychological burden from watching their children being discriminated** in their daily life at school or in the middle of the community. Later on, some female children would realize that they did not have choices except for dropouts or early marriage as ways to move on with their life in the midst of intimidation and limitation in refugee camp. In Cikeusik case, women who lost their husband had to be single parents to support their children.

Criminalization As A result of the Application of Porn Law (Undang-Undang No. 44 Tahun 2008 about Pornography)

Throughout 2010, *Komnas Perempuan* noted at least there were 4 cases regarding the implementation of Porn Law that showed intrinsic problem of UU no.44/2008, that was the definition of pornography itself and the regulation multiple interpretation had caused criminalization toward citizens, and women in particular. In those 4 cases, women as the victims of the violence were not free from criminalization as result of gender bias interpretation of the applied law in the frame of morality.

The first case was a verdict to four dancers caught by *Polsek* Taman Sari Jakarta Barat. They were charged with *Pasal 82 UU Pornografi* with 18 months imprisonment the least and 7 years the most, and fine Rp 150 million the least and Rp 750 million the most.⁵ The second case was six dancers of Bel Air Cafe and Music Lounge. They were sentenced to two months and fifteen days in jail and paid Rp 1 million or with 2 month imprisonment by *Pengadilan Negeri* Bandung by using Porn Law article 34 and 36.⁶

The third case was a verdict to DW with seven months in prison based on the judge's decision from *Pengadilan Negeri* Karang Anyar No. 172/Pid.B/2009/PN.Kray. The judges believed that DW had intentionally made herself the object of pornography. DW was considered guilty because she was willing to videotape her and her boyfriend having sexual intercourse, even though the tape was only meant to be a personal memento which then printed to be given to DW's parent so DW and her boyfriend could get married. However, DW's boyfriend then watched the videotape with his friends in his village. There was no doubt that DW had been depressed. She could not prove that she was not guilty, that she was just a victim of sexual exploitation not the actor, because in Porn Law the legal system had positioned her as the porn actor.

⁴ *Komnas Perempuan's* consideration and suggestion were handed over in a written statement to Coordinating minister of Politics, Laws, and Human Rights, The Standing Point on Constitution Violation of Discrimination and Violence against Ahmadiyah, *Komnas Perempuan*, 2011.

⁵ "10 Penari Terjerat UU Pornografi", *Seputar Indonesia*, 3 November 2010.

⁶ "Enam Tersangka Tarian Erotis Divonis Penjara 75 Hari" (Six suspects of Erotic Dance Sentenced to 75 Days in Jail), *Tempo Interaktif*, Thursday March 11, 2010.

Just like DW's case, the dancers in Bandung who were charged guilty were actually in the position as victims. If we looked further, there was a clear indication of trafficking here. Those dancers were initially transferred from their village in Cianjur and around Bandung (the element of transferring process). They were also promised to work in a café as waitresses like in any common restaurant when in fact they were intended to be erotic dancers (the element of deception and falsification on ways). They were then forced to work as erotic dancers (the element of prostitution and exploitation of intention). If there were one element of the process, one element of ways, and one element of intention, it could be categorized as human trafficking as stated in *Undang-Undang* No. 21/2007 regarding the Eradication of Human Trafficking (*Pemberantasan Tindak Pidana Perdagangan Orang - PTPPO*). If the apparatus were thoroughly studying this case, the dancers should be positioned as victims of trafficking instead of pornographic actors.

The use of Indonesia Criminal Procedure Code (*KUHAP*) as a procedural law had gotten in the way for these dancers and DW to get their right of privilege in justice as confirmed in *Pasal 28H ayat (2) and Pasal 28D ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Being positioned as the actors, DW and the dancers did not have any privilege although they were indeed the victims of violence against women. In fact in *Pasal 8 UU Pornografi*, the explanation confirmed that pornographic models/objects that experience coercion, violence threat, and deceit are not to be convicted. In these dancers case, the law enforcement had failed to see further the suspect's position due to the presumption of the dancer profession. It proved how the frame of morality could hamper women to have the benefit of their constitutional rights to not being discriminated. Besides, the three cases above were mainly about how the victims could not get advocacy and legal aid during the trial. This would extremely affect victims in providing information as witnesses as well as victims and made it difficult for victims to find justice.

The fourth case was the assumption of Porn Law Violation committed by two female artist related to a sex-tape. This was a case of a video with them having sex with presumably a male artist. This particular case had attracted a wide media cover which led Indonesian Broadcast Commission (*Komisi Penyiaran Indonesia*) felt necessary to warn TV stations to stop broadcasting the video content in order to protect the society for any ethical code violation. The criticism toward the suspects as immoral human beings had resulted in unfair public judgment. A regional head even banned these artists to be in his region as a way to show his standing point toward this case. This type of ban had clearly taken away their rights to move freely (mobility). To date, the trial of this case still continued. Based on *Komnas Perempuan* monitoring on similar cases, it was worrying that citizen's right to fair trial could not be met because of the pressure from some community groups in the name of religion and morality.

Attack Based on Sexual Orientation and Gender Identity

The attack toward groups that fight for the tolerance for sexual orientation and gender identity according to conscience was still related to discrimination and violation in the name of religion

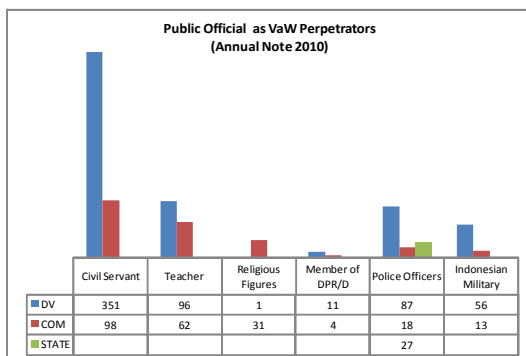
and morality. There were three major cases *Komnas Perempuan* noted, they were an attack to the organizer of the regional conference of International Lesbian, Gay, Bisexual, Transgender and Inter-sex Association (ILGA) in Surabaya on March 26-28, 2010, an attack to the organizer of Human Rights Training for Transvestites in Depok on April 30, 2010, and an attack to the organizer of Q-Film Festival in Jakarta and other cities in Indonesia in September 2010.

A group of people namely East Java Moslem Forum, the coalition of *Hiżbut Tabrir* Indonesia, Islamic Defenders Front (*FPI*) East Java, and Madura United Forum (*Forum Madura Bersatu – Formabes*) insisted to disband ILGA conference. They were sweeping the hotels where the conference was held going through the rooms, did some destruction and sealed the office of Gaya Nusantara acting as the event organizer. Police officers were seen in the location but unable to stop the attack. The conference was then cancelled because the organizer felt that they could not have the guarantee of feeling secure for every party involved in this conference.

Intimidation and pressure to disband an event was also happened to Human Rights Training /Workshop for Transvestites in Depok, on April 30, 2010 held by National Commission for Human Rights (*Komisi Nasional Hak Asasi Manusia*). This event had 26 participants from 26 provinces in Indonesia and initially was intended to run until May 1, 2010. However, on the second day of training, around noon, dozens of police officers stood guarding around the hotel. Not long after that dozens of people of Islamic Defenders Front (*Front Pembela Islam – FPI*) burst in to the room and threw plates and cups toward the participants while shouting and screaming, and ranting. The police officers around the hotel could not do anything when *FPI* act upon the attack. All participants were then evacuated to *Komnas HAM*'s office.

The similar intimidation and insistence to disband an event in the name of religion and morality reoccurred in September 2010 during the film screening in the annual event of Q-Film Festival. Letter of censure and threat was sent by *FPI* to the organizer and landlords activities. This intimidation forced some of the landlords to cancel the activity in Jakarta and several other places. The event organizer complained about the police incapability to guarantee the public security and safety from any kind of intimidation. In fact, this situation had caused citizen's loss to their rights to gather, to get information, and the right to fight for what their rights were.

HATRED DISSEMINATION, DISCRIMINATORY STATEMENT, AND VIOLENCE BY PUBLIC OFFICIAL AND PUBLIC FIGURES



Throughout 2010 there were 855 cases of violence against women committed by public officials and public figures, including: Civil Servants (*PNS*), teachers, religious figures, members of representatives (*DPR/D*), police officers (*POLRI*), and Indonesian Military (*TNI*). Based on service provider partner institutions' note, *PNS* was one group of public officials who committed most of the domestic violence and VaW within community. Besides *PNS* (in general group), teachers were also believed to commit

most domestic violence cases and VaW within community. The same thing also occurred for *POLRI* while *TNI* committed most violence in community and domestic violence.

From the data directly reported to *Komnas Perempuan* (via *UPR*), there were 178 cases of VaW perpetrated or condoned by state, and all these 178 cases covered all group of professions: *PNS*, teachers, religious figures, *DPR/D*, *POLRI* and *TNI*.

Komnas Perempuan also specifically noted 5 statements from five public officials that violated public ethics and confirmed hatred and discrimination just when the public needed role models, and it eventually tainted government authority. Moreover, four public figures and officials in education also did something that contradicted the public ethics, when the community should get protection and guardianship from the figures and from education itself.

The Proposal from Bambang Bayu Suseno (Member of Komisi IV DPRD Provinsi Jambi)

A member of *Komisi IV DPRD Provinsi Jambi*, Bambang Bayu Suseno proposed in September 2010 to operate virginity tests for New Student Acceptance in Junior High School (*SMP*), Senior High School (*SMA*) and college. Whether a student a virgin or not did not determine she would be accepted or not,⁷ virginity tests was unquestionably a form of discrimination against women. Government should promote reproductive education to teenagers so that they would understand their rights and what type of sexual behavior that was risky and could cause pregnancy, which then could prevent unwanted pregnancy. Education Office *Kota Jambi*, DKI Jakarta and other members of *DPR* had declared their disagreement toward this proposal,⁸ this showed that still there were many public officials who honored and respected human rights universality, in this case female student's right of education.

The Statement of Tifatul Sembiring (Indonesian Minister of Communication and Information)

Minister of Communication and Information, Tifatul Sembiring made an offensive statement in September 2010 through his Twitter micro blogging account. He said that AIDS stood for *Akibat Itunya Dipakai Sembarangan* (meaning in English "caused by reckless use of one's penis").⁹ This statement had the implication of blaming people who had AIDS, that they had

⁷ http://www.tempointeraktif.com/hg/nusa_lainnya/2010/09/22/brk,20100922-279736,id.html (last downloaded February 13, 2011)

⁸ <http://nasional.vivanews.com/news/read/179974-apa-kaitan-tes-keperawanan-dan-pendidikan> (last downloaded February 13, 2011)

⁹ <http://www.tempointeraktif.com/hg/it/2010/09/30/brk,20100930-281743,id.html> (last downloaded February 13, 2011);

AIDS as a result of their own behavior. As a minister, any statement he made should be educational instead of misleading.

AIDS was a disease that attacks a person's immune system, and it was not only caused by unsafe sexual intercourse. Safe sex (using condom) had proved to prevent the transmission of HIV. AIDS could also be transmitted through injection, blood transfusion, tattoo using infected needles, or from a mother to her child during pregnancy, labor, or breast feeding.

Indonesia was fighting to erase the stigma and discrimination against people with AIDS. HIV and AIDS had been considered as a disease caused by its patient's deviated behavior. In its development, the feminization of HIV and AIDS happened, which meant that the number of women suffering from AIDS was increasing. Most part of this happened because a woman was transmitted HIV from her sexual partner, who had unsafe sex and caught HIV from his other sexual partner. Tifatul Sembiring's offensive statement had undoubtedly caused a misunderstanding for those who had never been educated about HIV and AIDS, and denied the fight for eliminating the stigma and discrimination against people with AIDS.

The Statement from Dada Rosada (Mayor of Bandung)

Although CT and LM's status as witnesses in the sex-tape saga considered as a violation to Pornography Law, CT and LM were not only prohibited to go abroad but also banned public appearance in Bandung. This ban was issued by Bandung Mayor, Dada Rosada.¹⁰ CT and LM were also banned to perform on stage in West Java.¹¹ According to Vice Mayor of Bandung, Dede Yusuf, the ban was to prevent unwanted events. This type of ban was a violation to mobility and to leave one's country, as guarded in The International Covenant on Civil and Political Right article 12 (*Pasal 12 Kovenan Hak Sipil dan Politik*), that Indonesia had ratified with *UU No. 12/2005*.¹²

The Statement from Marzuki Alie (Head of House of Representatives 2009-2014)

Marzuki Alie, Head of House of Representative 2009 - 2014 often issued controversial statements that incite people's anger. One of his statements was what he said on press conference related to a tsunami that devastated the people in Mentawai Islands. He said that people who lived in the islands should expect to be swept away by tsunamis and therefore should be relocated. He said, "Mentawai is a remote island. Islands can be swept away by tsunami, huge waves; it's a consequence of living on islands. If you know the risk of living on island, just move. Our country lies on earthquake range and tsunami too. If you live in such place, a one day warning wouldn't help much."¹³ His other statement was related to Indonesian migrant workers who worked as domestic worker. In a group discussion held by Kompas in Plaza Senayan on Saturday, February 26, 2011, Marzuki Alie asked the Minister of

<http://www.thejakartapost.com/news/2010/09/30/tifatul-sembring-makes-jokes-aids.html> (last downloaded February 13, 2011);

<http://teknologi.vivanews.com/news/read/180772-lelucon-tifatul-sembring-di-twitter-dikecam> (last downloaded February 13, 2011)

¹⁰<http://www.detikhot.com/read/2010/06/23/201011/1385136/230/luna-maya-dan-cut-tari-dilarang-ke luar-indonesia> (last downloaded February 13, 2011)

¹¹http://www.koranpagionline.com/index.php?option=com_content&view=article&id=229:ariel-luna-dilarang-manggung-di-jabardancatid=42:lokaldanItemid=401 (last downloaded February 13, 2011)

¹² See article 12 ICCPR (*Kovenan Hak Sipil dan Politik*); See also Universal Declaration Of Human Rights (*Deklarasi Universal HAM*) article 13

¹³ Kompas.com 27/10/2010

Human Resources and Transmigration to call for a halt to export female domestic migrant workers (TKW), because the workers gave Indonesia a bad image. Marzuki Ali said, "Some of them pretend to be crazy, some seduce the employer's son and get pregnant because they want children with shapely noses". Marzuki Ali also said that they deserved to be ironed by their employer because they couldn't iron properly.¹⁴

The Statement from Suryadharma Ali (Indonesian Minister of Religious Affairs)

Suryadharma Ali served as the Minister of Religious Affairs of Republic of Indonesia. In his judgment, Islam in Indonesia was weakening. According to him, this could be seen in separating politics from Islamic teachings that prioritized politeness and ethics in national and state life. He gave an example, the attempt to change UU no.1/1974 on Marriage that regulated marriage pattern in accordance with religions and eastern culture and tradition. In his opinion, for the sake of freedom and basic human rights, there were certain groups of people who wanted to legalize gay marriage in Indonesia where the concept of The One Almighty God (*Ketubanan Yang Maha Esa*) applied. He also pointed out about the certain attempt from society of judicial review on UU Nomor 1/PNPS regarding Anticipation of Maltreatment and/or Religious Blasphemy (*Pencegahan Penyalahgunaan dan Penodaan Agama*) to Constitutional Court. "With freedom and human rights excuse, they asked for unlimited freedom. So, they wanted to think that religion blasphemy to be considered as trivial matter," he said.¹⁵

Responding the statement, *Komnas Perempuan* believed that the universal logic of human rights protection had been twisted and turned to detest the human rights defenders, and it was not right for a public official to do such thing, when in fact he was the one who should protect them.

The "Peace" case of K.H. Zainuddin MZ (Religious Figure)

The year of 2010 was filled with the news of secret affair between K.H. Zainuddin MZ and AS, which happened nine years ago. Based on AS' information, she kept the relationship a secret because K.H. Zainuddin MZ asked her to be discreet. On November 25, 2010¹⁶ a letter of peace between the two was issued. In that peace letter it was stated that both party agreed to make peace and to forgive each other. This was a suggestion from several public figures and *ulamas*. *Komnas Perempuan* saw this as a form of neglect that showed there was no intention from the perpetrator to be responsible for what he had done. The suggestion from the *ulamas* stated in the letter that AS' lawyer showed indicated an attempt to terminate the case. As a matter of fact, in cases like these a woman needed a massive courage to reveal what she had gone through openly in public. Most part was caused by public condemnation to the woman in trouble, therefore a lot of similar cases could not be revealed. This type of cases was supposed to be completed according to applied law.

Violence in Education by Lecturer and/or Religious Figure

There were no less than four cases that *Komnas Perempuan* received regarding gender-based violence in education (formal or non-formal). The first one was sexual harassment in Bibelvrouw HKBP Laguboti, Tobasa, North Sumatera. The perpetrator was the lecturer, Priest Siman Hutahaeen. Another victim reported that after being declared graduated in 2010 she

¹⁴ Detik.com Saturday, 26/02/2011 13:56 WIB

¹⁵ <http://www.republika.co.id/berita/dunia-islam/islam-nusantara/11/02/25/166294-gawat-islam-di-indonesia-mulai-melemah> (last downloaded March 5, 2011)

¹⁶ <http://www.detikhot.com/read/2010/11/25/123000/1502173/230/ini-dia-surat-perdamaian-aida-saskia--zainuddin-mz> (last downloaded February 13, 2011)

could not have Ephorus' (HKBP Supreme Leader) sign on her certificates. *Komnas Perempuan* saw this as a violation to educational right and it was indeed every student's right to have legalized certificate as they had finished their education, even more if it was intended to silence the sexual harassment that he had committed.

The second case was the sexual harassment committed by a lecturer to a female student. The student reported that a Head of Criminal department in a university in Riau had committed a sexual harassment when she asked for a proposal approval for her mini thesis, the harassment repeated when she asked again about the approval. Rumor had it that the victim was seductive, and that she intentionally approached her lecturer to get an A mark. This rumor had forced the victim to transfer to other university. *Komnas Perempuan* had a notion that rumor and intimidation directed toward the victim was an attempt of silencing. The university also tried to silence the victim in order to protect the perpetrator and refused to cooperate with the police in the investigation process.

The third and fourth cases were committed by a Kyai, an owner of a foundation in Malang, and a case of AK's spiritual teacher in Jakarta. Based on victim's report, there were other victims too, but they were afraid to open up because of the power that the perpetrator had. In this case, the perpetrator also used his power to intimidate victim because the victim's family was in debt to him. In AK's case, there were five other victims who admitted that they were also victims in this case. One of them admitted that she was harassed when she was alone with the perpetrator and on other occasion when she was together with other people. The legal process of sexual harassment to AK had started in 2010 and now reached trial.

MIGRANT WORKERS: THE REPEATED PATTERN OF HUMAN RIGHTS VIOLATION

According to the National Agency for The Placement and Protection of Indonesian Migrant Workers (*BNP2TKI*), there were 4.31 million migrant workers working in 41 countries. During 2010 the number of placement for migrant workers reached 533,425 people; 128,084 (24%) worked in formal sector whereas the rest 405,341 (76%) worked in informal sector, and the majority worked as domestic workers. Bank Indonesia reported the workers' contribution for remittance reached 5.03 billion USD.

From *Komnas Perempuan's* monitoring, 2010 did not reach any significant progress to improve the substantial protection system and migrant workers placement. It had been 20 years since 1990 International Convention on The Protection of All Migrant Worker and Members of their Families existed, and it had been signed by Indonesian government in 2004, it even included in Indonesia's National Human Rights Action Plan (*Ranbam*) (2004-2009) and *RPJMN* (2010-2014), yet it had not been ratified until now.

It went the same for the revision of *UU* No. 39/2004 regarding the Placement of Indonesian Migrant Workers Overseas and the Domestic Workers Bill (*RUU PRT*) set as the milestone protection for Indonesian migrant workers overseas who had more specific vulnerability. The violence against domestic workers kept happening and yet the state's reaction was still casuistic reactive and partial. All year, there were 59,821 cases experienced by migrant workers. There were 4,341 cases of assault, 2,979 cases of sexual harassment, 4,380 cases of troubled employers, and 2,821 cases of unpaid salary. *BNP2TKI* noted the cases in the terminal of Arrival and *TKI* Data Collection or known as Terminal IV Soekarno Hatta Airport, Selapajang, Tangerang, Banten. In the mean time, a press release from Indonesian Embassy

(KBRI) in Kuala Lumpur stated that in 2010 there were 1,382 cases received and handled by KBRI, and the most extreme case was 18,533 people deported. KBRI in Singapore released that the number of cases there reached 2,536 cases with 2,363 cases of wage cut, and the TKIs weakness to adapt with culture, language, and profession, 100 cases of legal and criminal, and 61 cases of employment contract.

Getting a better understanding between Indonesia and Malaysia up until now was still a tough negotiation. On May 18, 2010 each country was represented by Indonesian Minister of Manpower and Transmigration and Malaysian Minister of Domestic Affairs signed a *Letter of Intent* as an initial foundation for both countries to have a further discussion to improve their understanding related to migrant workers especially domestic workers. There were four important matters contained in the LoI: guaranteed document/passport holding, guaranteed a day off each week, standardized minimum wage, and mechanism and cost of placement. After 2010 past, LoI could not be upgraded to be a more binding bilateral agreement. Negotiation concerning wage and giving one day off had not reached an agreement. Nonetheless, the traffic migration of migrant workers was unstoppable because of the decreasing working field in Indonesia. From *Komnas Perempuan's* observation, the traffic migration via land border including Pontianak still happened despite the moratorium period. Malaysian argued that they could not stop people from working in Malaysia.

This meant that solving problem with moratorium was not a good solution. Women's specific vulnerability was also found in women working as drugs couriers in Malaysia where they were severely punished. Data from Ministry of Domestic Affairs mentioned that there were 177 Indonesian citizens (WNI) who faced death sentence in Malaysia; 142 people were because of drug cases, 35 people with non-drug cases or were criminal cases such as homicide and rape. In detail; 72 cases with first degree death penalty, 54 cases had death sentence and in the process of appeal. Five (5) cases had been executed and now filed appeal to federal court. While for the 35 criminal cases; 33 cases were now in legal process and 2 of them got leniency and free from punishment. If we sorted out based on gender, there were 10 women involved in drug cases and 1 involved in homicide. From a prison in Puncak Borneo Sarawak, it was found that 14 women were imprisoned there, 9 of them were migrant workers from Indonesia, 8 were imprisoned for immigration case, and 1 migrant worker was guilty of thievery because of being used by her boyfriend to sell stolen good.

Komnas Perempuan and *Komnas HAM* had observed the basic human rights of these migrant workers and the mechanism to handle the victims of human rights violation, aside from what we often saw, several facts found in every stage of immigration were:

Pre-Departure

Unfulfilled right to get information; *PPTKI*/Sponsor had a quite dominant work, all information on how to work overseas was provided by sponsors, not by Manpower Office or BP3TKI. The placement cost for migrant workers from NTB to Malaysia to work as domestic workers or working in plantation was around 3-4 million rupiahs, whereas migrant workers from Java did not have to pay anything, they even received money for those proclaimed healthy during medical check-up. This caused uncertainty and there was no clear standard for placement fee. There was a dualism in training and workshop for the migrant

workers, 200 hours of training and workshop provided by BNP2TKI, and a package of 21 day workshop and training from Ministry of Manpower Transmigration.

Document forgery still happened often, and it had caused someone's identity disappear or twisted a migrant worker's history and forced him to be a different person with a new identity that belonged to someone else. The complexity in TKI shelter, like the restricted right to communicate with family, difficulty to move and get outside, and the long wait to get their economic right back where they were the breadwinner of the family, let alone the absence of information on how many people working overseas from the village and the minimum involvement from local government – from village to provincial level – in immigration issues.

Working Period/Destination Country

Domestic migrant workers in Singapore got wage cut between 6-12 months. It was found that there was a violation of right to perform religious services (*freedom of worship*). It started to happen in the *agency*, it was even forbidden for migrant workers to bring *Al-Quran* (Islam's holy book the Koran), and *Mokena* (white cloak covering a woman's head and body worn at prayer), the agency took theirs. Other than that, domestic workers who worked for certain ethnicity employers were forbidden to do fasting or to pray and one of the reasons was it would lessen their productivity. In Muslim majority country in Middle East, because of the limited mobility to get outside of home, migrant workers faced racial discrimination and called wit name such as "*budak Indon*" (meaning in English "Indon slave").

Domestic migrant workers were simplified as just workers not a whole human being, it was difficult for them bring their family, or to get married with local men, or returning home if they got pregnant. There was no way out for sexual problems for these domestic workers. All these were neglect to their rights as a whole human being, and neglect to their reproductive right in particular. The chain of *overstayer* issue living under Kandara Bridge could not be separated from the uncertainty of what a country should be responsible for. The minimum effort to identify the root of the problem by labeling them as "overstayer" was an example how this issue had been simplified as expired documentation, and by overlooking that this such matter could happen because the employers might have seized the workers' document. Another example was that there was no punishment for irresponsible agents.

Repatriation and Integration

Migrant workers who were critically ill also faced discrimination and often rejected in hospital unless they went to certain hospital provided specifically for migrant workers. Victims who were disabled, mentally challenged, pregnant or with child, victims of sexual violence and

others were sent back home and became a burden to their family. The State had not been able to provide recovery mechanism, rehabilitation and compensation for this issue.

INDONESIAN WOMEN IN POVERTY AND CALAMITY

The year of 2010 was the year when Indonesia was affected with many disasters, whether it was natural disaster or manmade disaster. National Disaster Mitigation Agency (*Badan Nasional Penanggulangan Bencana - BNPB*) recorded that throughout 2010 there were 644 disasters happened, and the number of casualties reached 1,711 people, 1,398,923 people were injured and missing. A number of 14,639 units of houses were severely damaged, 2,830 units were moderately damaged, and 25,030 units were mildly damaged. From all the 644 disasters, about 81.5% or 517 were hydrometeorological disaster. While geological disaster like earthquake, tsunami, and volcano eruption each happened 13 times (2%), 1 time (0.2%), and 3 times (0.5%). However, this geological disaster caused much bigger loss.

In 2010, three main natural disasters that could be considered the biggest disaster and caught most attention were Wasior flash flood occurred in West Papua on October 4, Mentawai Tsunami, and Merapi volcanic eruption on September 26. Wasior flash flood had caused 386 people died. Mentawai had suffered 509 casualties from earthquake and tsunami, and 386 people died in Merapi volcanic eruption in Central Java and Yogyakarta.¹⁷ These disasters had caused unthinkable material loss as well as immaterial. The disasters had resulted in thousands of people lived in refugee camp, hundreds of people died and missing, while others were severely ill and injured, not to mention those who suffered from deep post traumatic shock disorder.

Komnas Perempuan in its refugee observation report which was published in 2007¹⁸ found that women and children were the most vulnerable individuals during disaster and evacuation. The issue that came up most often was the access to clean water. Indonesian culture had placed women as the part responsible for house chores. Therefore even in a condition like evacuation women were still responsible for finding clean water. The problem with 'shower, toilet, wash' (MCK) which was not separated from men's and often open MCK also caused women to have to deal with sexual harassment. Limited reproductive health care also often become a problem like limited supply of tampons and pads, contraceptive device and service. No doubts, unwanted pregnancy happened quite a lot. In *Komnas Perempuan's* monitoring this happened because women did not have a say in decision making process. Women's participation was often overlooked in discussion, planning and deciding every policy concerning mutual interest. As a matter of fact, men were sometimes unable to voice women's need and interest which were entirely different than men's.

¹⁷ http://www.bnpb.go.id/website/asp/berita_list.asp?id=240, ANNUAL NOTE 2010 AND DISASTER ANTICIPATION 2011, December 2010 (last downloaded February 12, 2011)

¹⁸ Joint Report The Fulfillment of Women Refugees' Rights: "Women in Refugee: Strive and Survive in Limitation" *Komnas Perempuan's* Publication, 2007

Policies to Manage Refugees of Wasior Disaster

Wondama reGENCY with its capital RASIEY was reGENCY in West Papua, founded on April 12, 2003. It was a development of Manokwari reGENCY based on UU no.26/2002. Wondama reGENCY consisted of 13 districts and 76 villages. On October 4, 2010 flash flood struck Wasior at 7 a.m. local time. This disaster had caused 169 casualties; 105 people severely injured and 3374 mildly injured, 118 people missing. A number of 9016 refugees were spread in Wondama (2118 people); Manokwari (4943 people); Nabire (3795 people); and outside Papua (1106 people).

Komnas Perempuan's observation indicated different problems in handling the effect of this disaster. To handle refugees, both community and refugees complained about the policy applied from the government was partial and lack of coordination between provincial Coordination Unit (*Satuan Koordinasi Pelaksana - Satkorlak*) and local BNPBD of West Papua province. This uncoordinated management caused the chain of supply to move slowly. Besides that, they also mentioned that there was no transparency in managing the funding received for Wasior disaster and there was no clear evaluation toward the management mechanism to handle this issue.

The policy of disaster management to distribute the aid was also considered to be missing the point and irrelevant to what people really need. One of the reasons was because of the absence of centralized data. The distribution of cookware for example, people were given stoves without gasoline, as a result they could not use the stoves and used firewood instead. Temporary house was provided with medical service room, yet there was neither medicine nor medical personnel to provide service or treatment for injured people. Health care and examination for pregnant women or nourishing women were also not available.

Refugee's associate explained that they noted there were at least 5 cases of domestic violence occurred every day where husbands beat their wives. Generally victims mentioned that they were beaten because they refused to have sex with their husbands. Husband and wife quarrel also happened often because the husband went out late at night and came back to camp in the morning. It was also reported that there were many "Peeping Toms" who were not refugees sneaking around and peeking women showering.

LPG Stove Blasts

Financial crisis that struck Indonesia in 1997 forced Indonesian government to officially invite IMF to recover Indonesian economy. One of the terms IMF asked was that Indonesia had to implement Washington consensus¹⁹ by signing *Letter of Intent*, and one of the agreement was to eliminate subsidized fuel, which at the same time allowed Multinational Corporation and privatization policy for several State-Owned Enterprises (*Badan Usaha Milik Negara - BUMN*) to enter the market. As a follow-up to this pro market policy, in 2007 Indonesia issued kerosene to LPG Conversion Policy. This particular policy was a debt project from World Bank: *Domestic Gas Market Development Project* (Loan No 4810-IND) to eliminate subsidized kerosene. Kerosene conversion to 3kg LPG was implemented by Presidential Decree no. 104/2007.

In order to implement conversion program Government also decided to appoint Ministry of Cooperative and Small-Medium Enterprises as the institution responsible to collect information which citizens need the package provided and in charge for 3 kg LPG canister

¹⁹ Washington consensus was a main menu in IMF structure adjustment program, the bottom line included: (1) to implement tight budget policy, including to completely remove state subsidy in any form, (2) to implement liberal financial, (3) to implement liberal trade, dan (4) to implement State Owned Enterprises (*BUMN*) privatization

distribution. Whereas Ministry of Women Empowerment was appointed to organize the conversion program socialization. Stove and canister procurement was coordinated by Department of Industry and *PT.Pertamina (Persero)* was assigned to handle gas (LPG) supply only.

Three years had passed since the first conversion implemented. National Consumers protection Agency (*Badan Perlindungan Konsumen Nasional*) noted down 97 cases of stove blast, and the majority was with 3 kg canister. The number of stove blast cases in six months period was much larger than in 2008-2009. Most blasting occurred due to the leak in the hose and the regulator damage. Centre Study for Public Policy revealed that since 2008 to mid July 2010 there had been 189 cases of stove blast, 61 cases in 2008 and decreased to 50 cases in 2009. While in 2010 to mid July 2011 it was reported to be 78 cases of blasting. This so called LPG related accident had created pros and contras as to which party should be responsible for this stove blasting.²⁰

Who was the biggest victim in stove blast accident?

In Indonesian culture a woman was generally known to be the one responsible for domestic matters, also for cooking and providing daily meal. Therefore, in any case of stove blast most victims were women.

Represented by its Deputy Director of Marketing, Hanung Budya, *Pertamina* made a statement saying that the root of the problem after two years of conversion was poverty. He mentioned that in two years after conversion stoves, canisters, and regulators started to worn out or broken down so that the possibility of explosion also increased. Due to their poverty, common people could not replace their damaged cookware. Other than that, for certain people, their kitchen were less than suitable for cooking, for example there was not enough ventilation that would allow gas to dissipate outside, or any other cause.²¹

According to *Komnas Perempuan*, the main cause for so many women and housewives fell victims were that the government was less prepared aside from traditional chore division, the socialization for 3 kg canister did not reach all level of society, the ill-educated housewives,

²⁰ <http://metro.vivanews.com/news/read/163235-2010-ini--78-kasus-ledakan-tabung-gas-terjadi>, "2010 Ini, 78 Kasus Ledakan Tabung Gas Terjadi" ("This 2010, 78 Stove Blast Cases Occurred", last downloaded February 12, 2011)

²¹ <http://antaranews.com/berita/1273476212/pertamina-kasus-ledakan-tabung-gas-akibat-kemiskinan>, "PERTAMINA: Kasus Ledakan Tabung Gas Akibat Kemiskinan" ("PERTAMINA: Stove Blast Accident was due to poverty", Monday May 10, 2010, last downloaded Februari12, 2011)

and the poor quality of the stoves. This conversion project was a real description of how women were not included in making the decision even in their own field when actually they were the ones in charge. Once again, women became victims from a non gender perspective policy.

Criminalization against Women Looking for Scattered Oil Palm Fruits

YL (30) and N (30) were from *Dusun* Sanjan Emberas, Pandan Sembuat village, Tayan Hulu sub-district, Sanggau Regency, West Kalimantan.²² On Friday May 14 both of them were collecting *berondol sawit* in Block 107 PTPN XIII Main Plantation I which was a part of *Dusun* Sanjan Emberas, about 2 km from their village. They collected a sack of palm or around 30 kg. Unable to lift it themselves, they called A, YL's husband, to help them bring the sack and put it on his motorcycle. On the way home they ran into PTPN XIII security guard, a police officer and a *TNI* personnel. YL, N, and A were caught and brought into the security office. Later on, YL and N were brought to Hayan Hulu police office (*Kantor Kepolisian Sektor - Polsek*) and positioned as suspects, until now this case was still on trial.

POLITICS, POWER, AND WOMEN EXPLOITATION

It was a progress to see a lot of women emerged as leaders in many institutions, private or state. It would mean that this country started to ignore gender differences. That also meant the gap that fettering women in the past had started to fade out. What used to happen in the past no longer happened today, like it used to be unacceptable for women to go outside to do something that was not domestic matter. However, 2010 had marked this country's journey on women emancipation where women were often still victims in politics. The events were:

The Prohibition of Female Sub-district Head

Anisah (50 years) graduated from Academy of Public Administration in Banda Aceh in 1984. A mother of six children and a grandmother of one was a civil servant, *pamong praja*, and her being appointed as a sub-district head was through a clear procedure. Before she was the sub-district head, Anisah was the head of Village Administration Division. Anisah's education and experience were also qualified for the position.

Female leaders were not something new in the society. However, the politics dynamic in Aceh especially post conflict, and the implementation of Islamic *Sharia*, female leadership and fulfilling other basic rights for women were actually sued and questioned. Saying that sharia law did not allow women to be a leader, local council (*Dewan Perwakilan Rakyat Kabupaten - DPRK*) of Bireun urged the regent to fire Anisah from her position as Plimbang Bireun district head. Bireun council speaker Ridwan Muhammad said that they did not mean to attack Anisah personally. Yet Aceh government had special authority to implement sharia or Islamic law based on central government regulation as stated in *UU Pemerintah Aceh*. He also said that the policy would apply to all leaders in Bireun. If any party objected, Ridwan suggested them to go *Majelis Adat* (Custom Council) in Aceh.²³ This suggestion soon incited protest. One was from Head of *Majelis Permusyawaratan Ulama Provinsi Nanggroe Aceh Darussalam*, Prof. Muslim

²² <http://regional.kompas.com/read/2010/08/08/15132940/Dipenjara.gara.gara.Berondolan.Kelapa>. last downloaded March 6, 2011

²³ <http://www.politikindonesia.com/indeks.php?k=nusantaradani=11418> (last downloaded February 12, 2011)

Ibrahim, who said that there was no prohibition for a woman to be a leader as long as she was qualified and passed through a right mechanism. *NAD* governor also mentioned a similar opinion; in Indonesian Constitution there was no article that stated a woman was not allowed to be a leader in governmental structure. Irwnadi even ordered Bireun regent to keep Anisah as the district head and asked her to still work.

Anisah case was a part in a cycle of problems that acted on in the name of religion to establish a policy or to take action that was discriminatory to women. These discriminatory policies even got more complicated in Aceh circumstance with its special authority to implement *Sharia*. As a matter of fact, *UU Pemerintahan Aceh* had firmly stated that governance had to subject to the highest legal foundation in Indonesia, which was the 1945 Constitution. A further study and a step up should be carried out immediately to this interpretation of special authority of *Sharia* implementation in Aceh in order to ensure the guaranteed protection and fulfillment of women's constitutional right.

Women Used as Pawns in Politics Bargain

Layered violence against women happened to a woman. After being raped she was forced to leave her town to cover the disgrace of the perpetrator. Nonetheless, during election she had to face terror from the perpetrator's political opponent. The perpetrator was one of the candidates running for regent in Papua.

The victim was approached by another candidate's successful team so that she would testify to reveal her experience. The victim was promised that she could ask for money, no matter how much she wanted. The victims told *Komnas Perempuan* that she did not want to press charge and go to trial. All she wanted was to close her past.

The story above showed the perpetrator's impunity as a public official, and that there wasn't any attempt carried out or any mechanism to protect a woman victim of violence in that region. The rape that she had experienced never had gone to any legal process that was able to recuperate the victim from any trauma she had. There was no doubt that any candidate elected to be the regent would care less to slow down the rate of violence against women in his region.

Women Used as Tools to Maintain Power

It was recorded that in 2010 there were some regional election involving the wives of the incumbent regents to gain regional power. Some of them were Kediri, Bone Bongalo Gorontalo, and Bantul. The election of Kediri's Regent 2010-2015 had caught public attention because two out of three candidates running were the wives of the incumbent regent: Sutrisno. His wives were Haryanti the first wife and Nurlaila the second wife. Haryanti won the election then was appointed as the elected regent.²⁴ A similar case also happened in Bone Bolango, Gorontalo. The incumbent regent Ismet Mile enlisted his younger wife, Yayuk Alamari as the running candidate for regent, and his first wife Ruwaida Mile had enlisted earlier.²⁵

In Bantul, DIY, the elected regent Hj. Sri Suryawidati paired with Sumarno was the wife of Idham Samawi, the former regent of Bantul and had served for two terms previously.²⁶

From the stories above a few things remained questions. On one side, their running for leading candidates was a progress for women contribution in politics. However, on the other side, there was some suspicion arisen that those wives were only used as tools to maintain their husbands' power as incumbent regent. This was related to the widely spread rumor from the regent running campaign that for those who had served for two terms could no longer run for the next election, but because people felt that the regent was considered successful leading his county they wanted his wife to run for the next election. Therefore, if the wife won, there would be a guarantee that the former regent's program would be continued. In time, when his wife had finished serving his duty the husband/former regent could run again.

WOMEN HUMAN RIGHTS DEFENDER

Women Human Rights Defenders (*Perempuan Pembela HAM - PPHAM*) referred to women who actively conducted human rights defense events, and those who fought constantly for women's rights.²⁷ As *PPHAM*, they had a more specific vulnerability than men's human rights defender. Sexual harassment, sexual stigmatization, women's identity politicization, attack to their role and position as mothers, wives, and female daughters, and the lack of respect to women's problems and capacity were typical attack that *PPHAM* faced normally. *PPHAM* in Papuan were not immune from stigmatization threat to being "separatism support" and other act of violence perpetrated by security force or government. All *Komnas Perempuan's* partner of human rights defenders in Papua reported that they were stigmatized, threatened, and watched closely. They could not work freely to find information of violence, especially information about violence by state.

In 2010, *Komnas Perempuan* identified at least five *PPHAM* who experienced vulnerability because of their activities.

Eva Susanti Bande, Banggai, Sulawesi Tengah

²⁴ <http://www.pemiluindonesia.com/pemilukada/harmas-pimpin-kabupaten-kediri.html>, *Haryati Sutrisno yang Berpasangan dengan Masykuri (Harmas) Memenangkan Pilkada Kediri dengan Perolehan Suara Hingga 54,58%* ("Haryanti Sutrisno coupled with Masykuri (Harmas) Won Kediri Election with 54,58 % vote", last downloaded February 12, 2011)

²⁵ <http://www.suarakarya-online.com/news.html?id=256913> (last downloaded February 12, 2011)

²⁶ <http://majalah.tempointeraktif.com/id/arsip/2010/04/26/NAS/mbm.20100426.NAS133387.id.html> (last downloaded February 12, 2011)

²⁷ Legal foundation for *PPHAM* can be seen in article 28 C point 2 UUD 1945: "Everyone has rights to self improvement and fight collectively for her or his rights to build her or his society, nation and country" and also UN resolution No. A/RES/53/144, 8 March 1999: "Everyone has rights, individual or collective, to expand and fight for protection and human rights fulfillment and basic freedom national and international".

*I did not know how to hold a weapon, nor was I armed.... In all my weakness, I was considered a great enemy by those who had great rich power, so much so that they needed to mobilize army, police, and armed civilians....*²⁸

Eva Susanti Bande, a 33 year old female and a mother of 3 was the coordinator of People's Front of Palm Oil Advocacy (*Front Rakyat Advokasi Sawit - FRAS*) in Central Sulawesi. On May 26, 2010 she was caught by local police united team of *Polda* Sulawesi Tengah, *Polres* Luwuk Banggai and *Polsek* Toili, together with 23 farmers from six villages (Piondo, Bukit Jaya, Singkoyong, Mekarsari, Moilong, Tou) in Banggai regency. Eva assisted those farmers for their fight to get their land back which was robbed by PT Berkat Hutan Pusaka, a joint venture between Inhutani I and PT Kurni Luwuk Sejati (KLS), which then acquired in 2007 by PT KLS — owned by Murad Husein, the palm plantation entrepreneur in Central Sulawesi. This agriculture struggle started blazing in 2002, since its initial conflict in 1990, since the first land measurement was performed. Accumulated problems like land problems, overlapping *HGU*, corporate claim as Industrial Forest Plantation (*HTI*) area on people's legal certified land, closed access by PT KLS around *HTI* area had caused people's access to bring their harvest was blocked.

Those accumulated problems took its toll. On May 26, 2010, people from 6 villages, and gold miners could no longer hold their patience, where negotiation had failed to provide solution; spontaneous action took place on that day. People burned 1 excavator, 1 bulldozer, and 1 camp belonged to PT. KLS. Eva Susanti Bande was accused of provoking and influencing people to act upon anarchy. Eva was then caught, convicted with article 160 *KUHP* for instigating and article 55 point (1) *KUHP* for inclusion. During examination, Eva was often scorned and called as a woman who did not know her place because she led a protest, and she was constantly reminded of how her children became victims for having an activist mother. On November 15, 2010 Eva was sentenced to jail for 4 years by Luwuk District Court, the sentence was more than what the prosecutor charged, which was 3 years and 6 months.

Having been in such condition, Eva was exhausted and then had a reproductive disorder, prolonged menstruation lasted from August 2010 to January 2012. She now filed for appeal for her case.

Stripping Women Farmer Naked in Bengkulu

On Friday July 23, 2010, seven women were forced to strip naked under gunpoint by police officers of Bengkulu local police and Seluma *Polres*. The excuse was to find weapons beneath their clothing.

Intimidation and sexual harassment often happened as a series of land dispute in Desa Pring Baru, Talo Kecil district, Seluma regency, Bengkulu with PTPN VII Bengkulu, fighting for a 518 hectare wide land. On previous day, July 22, PTPN VII was about to conduct eviction but

²⁸ The accused Eva Susanti Bande's rebuttal, read on November 8, 2010 in her trial in PN Banggai.

the people managed to stop that action. The next day, PTPN VII returned to that place and this time with an army of police officers from *Polda* Bengkulu and *Polres* Seluma. Early morning people had blocked the way. Negotiation failed and faced a dead end. At 3.30 p.m. the police started to dismiss the crowd, and physical clash occurred. The police fired a bullet into the air. The frightened people then were scattered and ran away, trying to escape though some of them were caught. Seven women trapped in the location were caught and intimidated by the police. They were shot around their seat and were forced to strip off their clothes three times.

Yusniar, Kuantan Bay, Pekanbaru, Riau

On June 8, 2010, Yusniar, a 42 year old farmer from Desa Koto Cengar, Kecamatan Kuantan Mudik, Kabupaten Kuantan Singingi, Riau, was shot dead by *Brimob Kepolisian Resor* Kuantan Singingi (Kuansing). The victim was shot on her right back and pierced through her right chest. The shot occurred as a series of a dispute between *palm oil-plasma* farmer and PT Tri Bakti Mas.

PT Tri Bakti Mas (TBS) was a palm plantation corporation and had operated since 1999 in Kuansing regency, Kuantan Mudik district. The dispute happened as a result of unfair sharing that the company gave to the farmers for their harvest for each lot. Protesting that injustice, people had demonstration and continued their act by blocking the road for 12 days. As the company kept ignoring them, on Tuesday, June 8, 2010 the farmers forced harvesting a 100 hectare wide plantation. When the action took place, 200 armed police officers from *Polsek* Kuantan Mudik, *Polres* Kuansing and *Brimob Polda* Riau came to try to dismiss the action. The clash was inevitable; Yusniar was shot from a bullet that one of the officers fired in that collision.

Women Human Rights Defender in the Threat of Identity Politicization in the name Of religion and Morality

On March 12, 2010 in judicial review of UU No. 1/PNPS/1965 revocation in Constitutional Court, Yuniarti Chuzaifah, Head of *Komnas Perempuan*, was accused of being a I (Indonesian Communist Party – in Indonesia PKI had become a stigma and labeled as atheism, red) by visitors when she proposed her opinion about Religious Blasphemy Law. Previously, Yuni explained a difficulty that women in Lombok had when they want to have ID Card (*KTP*) because they did not have any approved religion as listed in UU No.1 /PNPS/1965.²⁹

On September 30, 2010 Arimbi Heroepoetri, *Komnas Perempuan*'s Commissioner was accused of being an immoral woman when she asked the law enforcement to act firmly on *Islamic Defenders Front* who had threatened to ban and attack Q-Film Festival.³⁰ Politely Arimbi asked and suggested that different opinions could be solved by having dialogue, instead of disturbing public order by using violence. Q! Film Festival was a film festival that provided information and world class art about the wonder of human race diversity to raise the awareness of human rights especially from gender and sexuality perspective in the frame of human identity³¹. This

²⁹ <http://news.okezone.com/read/2010/03/12/339/312013/ketua-komnas-perempuan-diteriaki-pki> (last downloaded March 6, 2011)

³⁰ <http://www.rakyatmerdeka.co.id/news.php?id=5141>
<http://entertainment.kompas.com/read/2010/09/30/07082282/Komnas.Perempuan.Q.Film.Festival.Tak.Terkait.Moralitas.-4> (last downloaded March 6, 2011)

³¹ <http://q-munity.org/indeks.php> (last downloaded March 6, 2011)

film festival had existed since 2002 and usually held in Cultural Centre like French, Dutch, and German Cultural Centre.

WOMEN OF PAPUA: FIGHTING FROM A REFUGEE CAMP AND IN CONFLICT

The reality of violence and layered discrimination against women in Papua was closely related to the long history of social, financial, political and governmental security policies which had not been fully accommodating to native Papuan's rights. Many policies, whether it was social and cultural, political, or security, had caused many forms of discrimination and layered violence against native Papuan women since 1990. A variety of violence and discrimination committed again and again by state, by mining and forestry industrial network owned by medium entrepreneur or multinational corporation domeneering Papua natural resources, even by the victim's own people or family.³²

Specifically, through *Komnas Perempuan* and its partners' direct observation in Papua in 2010, *Komnas Perempuan* noticed that violence and discrimination against Papuan women whether by community or by state still continued as described below.

The Repeated Pattern of Violence and Sexual Exploitation in RI-Papua Nugini Border

There were a number of stations for army personnel to secure RI-Papua Nugini border along Merauke district. All through 300 kilometers long were positioned 12 security stations/*TNI-AD* between Merauke and Elikobel district. In several villages, security stations were placed in the middle of community residential or around the neighborhood.

The presence of these security personnel, and the number was increasing, who often considered cruel and arrogant had caused fear and insecurity among the people. Besides, violence and sexual exploitation kept happening to young women there. The common mode was to date the women first, and then promised to marry them. However, when the service time was over the women were left without any explanation. Sexual exploitation in personal relation mode made the leader of military related institution overlook this issue and considered it as only an excess. His personnel' misdemeanor was only seen as private matter of personal responsibility. There were more than a few cases only solved by custom/family mechanism which did not fill the sense of justice for the victim and the child they carried.

Handling and Local Initiatives

The Head of Women Empowerment and Children Protection Bureau (*BPPPA*) of Merauke district and a number of activists assisting the victims in Merauke revealed several steps and initiative that they had taken to handle cases of violence against women. The steps and initiative that *BPPPA* took were communicating/reporting condition in the field (what people heard) to *Danrem* (Commander of the army administrative unit) of Merauke, and providing special preparation for the army personnel with suggestion to treat women in Papua as their sisters with future just like their own sisters before they were stationed in the border. *BPPPA* of Merauke admitted that so far they had never directly handled cases of violence against women committed by *TNI* personnel, especially in 2009-2010.

Sexual Violence and Evacuation Continued in Areas of Armed Conflict, Puncak Jaya Regency

³² For complete text see *STOP Sudah!: Kesaksian Perempuan Papua Korban Kekerasan dan Pelanggaran HAM 1963 – 2009* (Papuan Women Victims Testify about Violence and Human Rights Violation 1963 -2009), *Komnas Perempuan, Pokja Majelis Rakyat Papua* (Papua's People Council Work Group) dan International Center for Transitional Justice, 2010.

An Attack from TNI Personnel in Tingginambut District

In October 2004, a group of the Free Papua Movement (*Operasi Papua Merdeka –OPM*) killed 5 members of *Kopassus* who were walking from Wamena to Mulia. *Kopassus*' vehicle was burnt and their weapons were taken. In order to find the *OPM* group responsible for that murder, one military operation targeted a number of communities in several areas in Puncak Jaya regency because those areas were considered as parts of *OPM*'s. Houses were burnt, cattle were shot and robbed, plants were ruined and hundreds of people ran to a nearby forest. Documentation team gathered witnesses from some women who were victims of rape during military operation in Puncak Jaya. They were targeted for they were suspected to have contacts with *TPM/OPM* members or had information about them. Men in general had escaped to a forest (for being the main target of the chase) while some women and children and the elderly fled to Mulia (the capital of Puncak Jaya regency) and some others stayed in a nearby forest around Tingginambut district.

An Attack from TNI personnel in Yambi District

On March 20, 2010 a man from one village in Yambi district was found dead in a forest while looking for firewood. He was shot to death by some unknown person. It was unacceptable for the people there so they went to the nearest military station and asked for some explanation. The army responded by firing bullets and forced the people to run back to their village. The army kept chasing to the village and kept firing. On March 21, 2010 around 5 a.m. local time, army personnel once again attacked the village. The burned *bonais*, pigs and plants belonged to the people of the village. It continued for one week and the personnel also did a sweeping all around Yambi district. Since the church and parish where people usually used for evacuation were also burnt, people then fled to a forest nearby and to Mulia.

Refugees' General Condition

The condition of Refugees from Tingginambut District

Until February 2011, the number of refugees in two places in Kota Lama District amounted to 70 families from Tingginambut. Those refugees stayed in temporary *bonai*. In an interview, the refugees said that the government had not provided any help or aid to the refugees because they were considered as 'red line' (considered as *OPM*). To provide daily meal they plant roots and vegetables around the *bonai*. Children of school age did not attend school because of the cost and because the school was quite far from refuge location. Parents were also worried about their children's safety. Those refugees also mentioned that when they went to hospitals for medication they were not served properly and kept waiting for quite a long time without any service. This had caused them to think that they were treated differently just because they came from Tingginambut. These refugees did not get any help from local government either. Children of school age could no longer attend school as they had to move from one place to another. Even if they did go to school, they had to walk for 20-30 km from their camp to Kota Mulia. This was one of the reasons why parents did not allow their children to go to school. Girls from Tingginambut who soon to be teenagers had to be sent to Ilu district away from conflicting area. They stayed with their relatives in Ilu district because the people were still traumatized from their experience in 2004 where a lot of children had to go through sexual violence.

Refugees from Yambi District

After the attack occurred, people from Yambi District fled outside the district and lived in Kulurik, a place around a forest near Kota Mulia. Up until now the refugees occupied 7 locations and lived in *bonai* made of woods and roof sheeting. Each *bonai* was filled with 3-8

families. Since the army personnel still controlled them, the refugees said that they live in an unsecure condition. Besides, the refugees had not received any help from government or other institutions. There were 100 refugees in total. Teenagers, boys and girls were sent to Ilu district or to Wamena so that they could get a proper education. Children of primary school could go to school if they could walk to Mulia, if they could not, they just stayed at home.

Hunger in the Camp and Sexual Violence in the Garden

According to refugees from Yambi District, they chose to live in Kulurik because *first*, they were afraid if they went to the city they had to pass through a lot of military stations so that they would worry about their safety, and *second*, they did not know where they would live or what they would eat if they lived in the city, so they chose to live around the forest and they had a land to plant. The refugees community also mentioned that they did not feel safe because the place they lived on now was not theirs and hoped they could return to Yambi. Since 2010 there were 20 people died due to hunger and illness, 7 of them were female, 6 were elderly male and 7 were children.

Going to the garden, *mama-mama* had to pass through security personnel stations. A group of 3-5 personnel would follow *mama-mama* to the garden and committed sexual violence in the garden there. Two *mama-mamas* revealed their experience and informed that other women they know also had experienced the same thing.

Women's Initiative to Build 'Peace'

Living in a refugee camp was not easy, because they could not do their activity freely especially to find food for daily consumption. *Mama Po*, a female refugee from Tinnginambut went to see a group that she thought 'OPM' and begged them for peace so that *mamas* could go and work in to their farm. The request was approved, and *mamas* could work again. *Mamas* went to Kota Mulia at 6 in the morning and arrived in Tinnginambut at 12. They took cassava and vegetables in the garden and returned to Kota Mulia. The harvest from their garden was sold to buy their family's daily meal.

Sexual Violence, Polygamy, and Infidelity

Throughout 2010 there were more than a few cases reported to Women Empowerment Agency (*Badan Pemberdayaan Perempuan*) in Jayawijaya. Those cases in general were settled amicably where the perpetrator was asked to promise that he would not repeat his wrongdoing. If the victim and the perpetrator did not have any marital bound and the perpetrator did not want to marry the victim then the perpetrator paid the customary sanction. It was reported that there was one case of domestic rape committed by a husband to his wife. The 50 year old perpetrator married the victim when she was only 10. For 5 years of marriage, the perpetrator always committed sexual violence to his wife. The victim was traumatized and frightened every time her husband tried to approach her. The victim finally reported to *Badan Pemberdayaan Perempuan* and she was assisted to press charges against her husband. The perpetrator was sentenced to 3 years in jail, and they got divorced.

Another finding that came up in Jaya Wijaya Regency was polygamy. A young woman told that her husband married her as his fourth wife. She got married when she was 15. For 5 years of marriage she lived together with her husband and his three other wives. Three months after she gave birth, her husband asked for her permission to take another wife. She did not allow it because the woman he wanted to marry was her grandmother. Despite her objection, her husband still married her grandmother. Right after he took the fifth wife, the perpetrator no

longer provided the living for the victim and her child. To make ends meet, victim now sold retail fuel and *sirih pinang* in a street vendor.

Handling and Local Initiative

Komnas Perempuan also noted that there were several initiatives taken by *Kapolres* Wamena who decided to perform a mass wedding for any personnel in his unit who had not gotten married legally. There were 49 couples married in August 2010. Their marriages were registered in register office right after the wedding ceremony finished. Each couple then filed their marriage in their unit so that they could propose for wife and children allowance.

POLICY: BREAKTHROUGH AND SETBACK

Minimum Service Standard (SPM) of Integrated Service for Women and Children Victims of Violence

Minimum Service Standard of Integrated Service for Women and Children Victims of Violence (hereafter *SPM*) was a benchmark for integrated service unit's performance in providing 5 types of services for women and children victims of violence, consisted of: Complaint Handling; Health Service; Social Rehabilitation; Legal Aid and Upholding the Law; Returning and Social Reintegration.

Ministerial Decree from Ministry of Women Empowerment and Children Protection of Republic of Indonesia no.1/2010 regarding the *SPM* of Integrated Service for Women and Children victims of Violence on January 28 was clearly a breakthrough in fulfilling women and children's rights. The birth of this *SPM* was a positive response from government as a follow-up to legalize 7 drafts related to handling violence against women and children, that was: Undang-Undang No.3/1997 about Juvenile Court (*Pengadilan Anak*); Undang-Undang No. 23/2002 about Children Protection; Undang-Undang No. 23/2004 about Elimination of Domestic Violence; Undang-Undang No. 13/2006 about Protection for Witness and Victim; Undang-Undang No. 21/2007 about Eradication of Human Trafficking (*Pemberantasan Tindak Pidana Perdagangan Orang*); Undang-Undang No. 44/2008 about Pornography; and Undang-Undang No. 36/2009 about Healthcare.

One of the extensions of those laws was to entrust the government, Ministry of Women Empowerment and Children Protection in particular, to set up a minimum service standard and an SOP (standard operating procedure) that would be a guidance in providing an integrated service for women and children victims of violence by related department and institutions, and from Integrated Service Centre (*PPT*). The appointed departments/institutions were Ministry of Social Affairs, Ministry of Health, *BNP2TKI*, *Kepolisian RI*, Attorney General Office, Supreme Court, Ministry of Religion, and Ministry of Domestic Affairs. Those nine departments had confirmed their commitment by signing an MoU, and the goal was to achieve maximum result around 80-100% for each department by the end of 2014.

The coverage of *SPM* for women and children victims of violence included ***providing minimum service*** which should be given by the integrated service organizer to the women and children victims of violence, the services were:

1. Handling complaint/report from the victims of violence against women and children;
2. Health care for women and children victims of violence;
3. Social rehabilitation for women and children victims of violence;
4. Legal aid and upholding the law for women and children victims of violence; and

5. Returning and social reintegration for women and children victims of violence.

The Support to Fulfill Women's Rights with Local Policies

Women's right fulfillment initiatives included service development and handling women and children victims of violence from a number of local governments. There were 6 local policies issued, 3 of them were issued by Bulukumba regency regarding the Formation and Standard Operating Procedure for Women and Children Empowerment Integrated Service Centre by means of Regent's Decree No.47/XI/2009 and Technical Manual on Implementation and Development of Enhancing Women's Role towards Healthy and Prosperous Family Integrated Program (*Petunjuk Teknis Pelaksanaan Pembinaan Program Terpadu Peningkatan Peran Wanita Menuju Keluarga Sehat Sejahtera - P2WKSS*) by means of Regent's Decree No. 37/II/2010 and Regent's Decree No.120/V/2010 regarding Gender Mainstreaming Work Group (*Kelompok Kerja Pengarusutamaan Gender*) of Bulukumba regency. Whereas 3 other regions established local policies that was conducive and could fulfill women's constitutional right, they were Tasikmalaya regency for Reproductive Health Policy with *Perda* No.9/2009, Donggala regency with policy regarding Women's Representation and Contribution and the last one was Banjar regency with a *Perda* regarding Gender Mainstreaming.

Legalizing the local policies on Gender Mainstreaming in form of Regencial Decree or *Perda* was something we should appreciate, because it showed the good intention from regional government to accelerate the elimination of discrimination and speed up the fulfillment of women's constitutional rights including the budgeting in each Regional Working Unit (*SKPD*), knowing that until now the related policies on national level were still in Presidential Instruction (*Inpres*), which was *Inpres* no 6/2002 and it was not provided with completing standard and achievement benchmark and it did not have any punishment formulation for local or national government institution that did not follow it. In 2010, Ministry of Women Empowerment and Children Protection had set up the importance of Gender Mainstreaming Draft as an umbrella policy for eliminating discrimination against women which was included in *Prolegnas* in 2012.

Even though it was not a new policy, the local governments' effort to keep increasing the service and protection for women and children victims of violence was still important, as legalized by Bulukumba Local Administration. This legalized policy showed the official's commitment to ensure the fulfillment of women's rights to justice, truth, and recovery, and at the same time as a realization of meeting the standard of *SPM*.

Law Setback in Police Department in Handling Cases of Violence against Women

Since April 6, 1999 police had opened "police women desk" also known as *RPK* (*Ruang Pelayanan Khusus*) in Bahasa Indonesia. The idea to found *RPK* came up after May Tragedy in 1998 hit Indonesia; where a lot of violence acts happened such as sexual violence to Tionghoa women in the middle the burning, destruction and robbery in the riot that took place in Jakarta and several other big cities in Indonesia.³³ *RPK* was set up in police offices and was mainly targeted for receiving complaint and report of criminal and violence cases against women and children. The idea to start *RPK* came from a group of former policewomen (*Polwan - Polisi Wanita*) joined in Women Protection and Aid Agency (*LBPP*) *DERAP Warapsari*. During its founding, nine (9) *RPKs* were officially opened in *Polda* Metro Jaya line; they were *Polda* Metro Jaya, *Polres* Jakarta Utara, *Polres* Jakarta Selatan, *Polres* Jakarta Barat, *Polres* Jakarta Timur, *Polres* Jakarta Pusat, *Polres* Depok, *Polres* Tangerang and *Polres* Bekasi.

³³ <http://www.selapa-polri.com/content/view/73/5> (last downloaded June 21, 2011)

RPK was a safe and comfortable room specially provided to give services and to handle victims of violence against women and children. RPK workers consisted of police women trained to provide services for violence victims. Most reported cases to date were domestic violence (KDRT).

Unfortunately, RPKs were only founded only in *Polsek* level, and it had not been established nationally considering the limited number of policewomen available. RPK development had to be seen as a positive progress where it needed support from many related parties. One very much needed support was to increase the number of policewomen and adequate funding, and also *Polri's* internal policies.

For the last few years police institutions had reformed a few things by issuing several policies in its internal institution, and some were Head of National Police Regulation (*Peraturan Kapolri*) No. 10/2007 regarding 'Women and Children Service Unit's Organization and Work Procedure' (*Organisasi dan Tata Kerja Unit Pelayanan Perempuan dan Anak*) in police department of Republic of Indonesia; *Perkap* No. 3/2008; and *Peraturan Kapolri* No. 8/2009 regarding the Implementation of Principle and Human Rights Standard in Coordinating Police's Duties.

Policewomen in POLRI's Personal Planning

Police reformation was proclaimed in Grand Strategy and set up from 2005 to 2025. In the first 5 years, *Polri* had tried to increase public awareness (Trust Building). In 2011-2015 *Polri* emphasized on building cooperation between related parties to uphold the laws, orders, services, and protection to create the sense of security. Long term reformation not only meant to give prime service but also to create professional, moralist, modern, and trustworthy police officers that public could rely on.

In order to respond the need of women victims (including female children) a special unit in police institution was formed and known as *Ruang Pelayanan Khusus (RPK)*, and had been established in special regulation as followed:

1. Head of Indonesian Police Decree (*Peraturan Kepala Kepolisian Negara RI*) Police No: 10 year 2007 regarding Women and Children Service Unit's Organization and Work Procedure (*Organisasi dan Tata Kerja Unit Pelayanan Perempuan dan Anak*) dated July 6, 2007;
2. Head of Indonesian Police Decree No: 3 year 2008 regarding The Formation of RPK and the Manual of Witness and Victim Examination.

Changing the Function RPK-UPPA to RENAHTA (Teens, Children and Women)

A significant change had happened in 2010 related to the establishment of *Perkap* No. 10/2007 and *Perkap* No. 3/2008 which were replaced by several policies, this time the policies were established by the new Head Police, Mr. *Kapolri Jenderal Timur Pradopo*:

1. Head of Indonesian Police Decree No 21/2010 regarding Organizational Structure and Work Procedure of Organization Unit on Indonesian Police Headquarter;
2. Head of Indonesian Police Decree No 22/2010 regarding Organizational Structure and Work Procedure of Organization Unit on *Polda A+* level;
3. Head of Indonesian Police Decree No 23/2010 regarding Organizational Structure and Work Procedure on *Polresta* level;

With the establishment of those three policies it was expected to make a different in controlling the existence of RPKs in police organizational structure, especially for the parts related to 'Women and Children Service and Protection'. *Komnas Perempuan* saw that changing the name from *Unit PPA* to *RENAHTA* would cause confusion among public because in

general they were already familiar with *Unit PPA* or *RPK* rather than *RENAKTA*. Also there was authority overlapping potential in headquarter and Polda A+: *Ditreskrimum-Subdit Renakta* on *Perkap* No. 21 and 22/2010 mentioned that *Subdit Renakta* handled juvenile, children and women crime. *Subdit umum* handled assaults (including domestic violence and child assault), and debauchery where most victims were women and children (rape, incest, sexual harassment, molestation, sodomy, and pedophile). This showed an overlapping and would cause difficulty to place *RPKs*. On *Polda A* and *B*, *Polresta* and *Polres* level, *RENAKTA* was not specifically mentioned and it would be very likely to be neglected.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. Violence against women perpetrated by public officials or public figures still continued, where impunity to the perpetrators also continued to happen. The form of violence was committed more openly with expressed statements in mass media. There had been no certain mechanism to demand the perpetrators to be responsible for what he had committed, human rights mechanism, legal or administrative mechanism. Therefore there was no room for victims to face the violence they had gone through. Victims were neglected, denied, and exploited.
2. The reformation of legal protection device for domestic violence was progressing with the existence of *SPM*, as an extension of *UUPKDRT*. However, other legal protection reformation regional or national was unmoving, it even moved backward. Especially protection for women victims based on morality and politics identity, like judicial review of *Porn Law* and *UU Nomor 1/PNPS/1965*, and the increasing number of local discriminatory policies as *Komnas Perempuan* reported last year.
3. The form and pattern of human rights violation against migrant workers, women in particular, was repeating, while the handling pattern that the state took did not show any significant progress in improving protection system and migrant worker placement.
4. Papuan women had become victims of violence and layered discrimination for years without any protection and proper case handling for fulfilling victims' rights to justice, truth and systematic recovery where state should provide.
5. State still had not acknowledged Women Human Rights Defenders with their typical form and vulnerability. State also had not guaranteed legal protection for Women Human Rights Defender.

Recommendation

Discriminatory Policies

1. President, Ministry of Domestic Affairs, Supreme Court, Local Government, and/or local and national Legislative Institutions to call of discriminatory policies in the name of religion and morality, including *Porn Law*, *UU No. 1/PNPS/1965* and regional and national policies that violate citizens' religious right, among others was against Ahmadiyah community, adherents and other religious minority groups.
2. Government and *APH* to sternly act in accordance with applied laws toward certain groups that commit violence and violate citizens' religious right.
3. Minister of Domestic Affairs, Minister of Laws and Human Rights, Minister of Women Empowerment and Children Protection to arrange and set up Formulation Guidelines to supervise, and to cancel discriminatory policies in the name of religion and morality by integrating *Komnas Perempuan's* consideration.

4. Supreme Court to change *PERMA* No. 1/1999 regarding time limit of judicial review proposal which is only 180 days after the local regulation established and to change judicial review process to be participating, transparent and accountable.
5. Law enforcement (*Aparat Penegak Hukum - APH*) to develop their knowledge and skill in handling violence against women, concerning the complexity of sexual violence in form of sexual exploitation, trafficking and pornography,
6. State administration and public to increase their comprehension on citizen's constitutional rights, with special attention to women's vulnerability of discrimination and violence

Migrant Workers

1. House of Representatives of Indonesia to immediately build comprehensive protection framework for Migrant Workers focuses on women's special vulnerability, by means of ratification of 1990 International Convention on The Protection of All Migrant Worker and Members of their Families, the change of *UU 39/2004* regarding Migrant Workers Protection and Placement Overseas, and establishing Domestic Workers Protection Law.
2. Government to act firmly in handling migrant workers' cases by putting upfront women victims' rights to justice, truth, and recovery with easy, free, and fast legal process and by providing affordable shelter in host countries and providing comprehensive recovery mechanism for female migrant workers who fell victim for physical, psychological and sexual violence.
3. To optimize local government's role in protecting migrant workers starting from departure to returning with registration information, document validity verification, psychology preparation, skill preparation, briefing of protection, coordination with national and provincial agent for placement observation and help in host countries, to play an active role during returning and integration to their family and community.
4. To raise community involvement especially migrant workers and their family in deciding substantial policies regarding protection from departure to returning.

Papua

- In general, national government needs to take fundamental actions that are important to resolve critical issues such as, social, cultural, politics, and security injustice against native Papuan, and Papuan women in particular.
- In regard to the absence of feeling secure to perform daily activities and to assist violence victims, and related to cases of violence against women committed by security personnels, which happened repeatedly with the permanent pattern, as well as incidents related to violence within family, government and security institution/military (*TNI AD* and Police Department) in Jakarta or in Papua need to take these following actions:
 1. To review security policy in Papua, by considering human security aspect and gender-based human rights as its foundation.
 2. To build a system and a mechanism of violence reporting committed by security personnels and which should be accesible for the victims and should guarantee witness and victim's security.
 3. To build a handling mechanism that fulfill victims' rights to justice, thruth, and recovery, including fair trial and punishment for the perpetrators, including trial in public court.
 4. To redesign border security strategy, and to lessen the number of troops and security stations, especially in residential area.

5. To stop using violence in guarding the land, especially violence that targets innocent civilians, or that has direct impact on civilians.
6. To ensure and to give security guarantee for human rights workers/activists or social workers who assist victims in order to give service assistance for victims.

■ Regarding refugees from armed conflict areas, provincial government in Papua need to:

1. Immediately handle refugees and fulfill their basic rights to food, clothing, health, housing, and children education.
2. Build coordination and cooperation between related institutions to facilitate humanity aid for the refugees, in particular for women, children and the elderly.

Indonesian Police Department (Kepolisian RI) and Local Government in handling cases of violence against women

1. Head of Indonesian Police to ensure the existence of UPPA in every *Polda* not only in *Polda A* by ordering them to prepare facilities structure down to *Polsek* level
2. Head of Indonesian Police to optimize service and handling for women and children victims of violence by adding the number of policewomen and by increasing police's knowledge including policewomen that have gender perspective
3. Head of Indonesian Police to keep developing Standard Operasional Procedure of service and case handling of violence against women and children including its referral system by coordinating with Service Institution and other Law Enforcement
4. Government to ensure a coordination with stakeholders and to optimize policies implementation

Women Human Rights Defender

- State to give protection assurance for women human rights defender, by building administrative and legal force that see the special vulnerability that women human rights defender experience.

Public Officials

1. President to order executive member, regional or national, to not make statements nor policies, that participate in spreading hatred in the name of religion, that clearly contradict the constitution; and to give forewarning and punishment to those who violate it according to the applied law and regulation.
2. Ethical body in legislative institution, regional or national, to not make statement nor policies that participate in building up hatred in the name of religion that contradict the constitution; and to give forewarning and punishment to those who violate it according to the applied laws and regulations.