
SPECIAL RAPPORTEUR FOR ACEH

THE NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN

EXPERIENCES OF ACEHNESE WOMEN:

SEKING & ACCESSING JUSTICE

FROM ONE ERA TO THE NEXT

A COLLECTION OF EXPERIENCES & VOICES OF WOMEN VICTIMS
OF VIOLENCE OCCURRED DURING AND POST CONFLICT TIME
AND WITHIN THE CONTEXT OF THE IMPLEMENTATION OF SYARIAH LAW IN ACEH
JANUARY 2007

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Experiences of Acehese Women: Seeking and Accessing Justice from One Era to the Next

“If the victim gets help but the perpetrator goes unpunished then justice has not been served. The pain suffered by the victim cannot be compensated by money alone. With punishment the perpetrator will realize that he has done wrong, and the government will be aware that its state apparatus has cruelly mistreated members of the society it should be protecting”
(Torture victim, 2003)

The voices of victims regarding the violence they experience and their visions for justice are yet to be heard or acted upon by the government, which is yet to fulfill its responsibility to uphold justice and protect fundamental human rights. For women victims, the disclosure of truth and the availability of an independent, transparent, respectful and effective justice system are the foundations of justice. Women victims require a guarantee of protection in order to disclose their experiences of violence, particularly sexual violence. Victims also need recovery assistance in the form of facilities and capital that enable their physical, psychological and social rehabilitation. In practice women victims struggle for justice in the face of: political interests that render stakeholders unwilling to speak the truth; a corrupt justice system; arrogant law enforcers; poor control mechanisms for the use of government power (e.g., the military); a traditional lack of critical thinking in religious interpretation; and a culture of blaming the victim.

This report documents recorded 103 cases of violence against women from 13 cities/districts in Aceh, namely Banda Aceh, Greater Aceh, Aceh Jaya, South West Aceh, Pidie, Bireun, Lhokseumawe, North Aceh, East Aceh, Langsa, Central Aceh, Aceh Tamiang and Benar Meriah. The cases are grouped into the following time periods: a) the Military Operations Era (prior to 1999, 2 cases); b) the Peace Dialogues Era (2000—May 2003, 14 cases); c) the Military and Civil Emergency Era (19 May 2003-15 August 2005, 65 cases); d) the period of the MoU for Peace between the Free Aceh Movement (Gerakan Aceh Merdeka [GAM]) and the Republic of Indonesia (August 2005—January 2007, 17 cases); and e) Across Time Periods, which were cases that occurred across two or more of the periods above (5 cases). These 103 cases undoubtedly represent just the very small tip of the iceberg of the real number of cases of violence against women in Aceh.

More than half the cases documented were cases of sexual violence (59%, 61 cases), more specifically: 31 cases of rape; 11 cases of sexual torture; 8 instances of cruel and inhuman treatment or punishment with sexual nuances; 3 cases of sexual abuse; and 8 cases of sexual exploitation. The remaining 42 cases involved non-sexual violence in the forms of torture (32 cases), cruel and inhuman treatment or punishment (9 cases) and abuse (1 case).

Seventy six out of the one hundred and twenty eight perpetrators involved in these cases of violence (some cases involved more than one perpetrator) were state security personnel. This was particularly apparent in the cases categorized as torture and inhuman treatment or punishment, where violence was largely directed at women accused of subversion or being Inong Balee (GAM female soldiers),

or because they were wives or family members of GAM members. Three cases of cruel and inhuman punishment were perpetrated by GAM members against wives or girlfriends of Indonesian soldiers. “Eighteen of the total number of victims were minors; the youngest victim was seven-years-old when she was repeatedly raped by her neighbor. More than half the total number of cases of violence involved married women as victims; however of the 61 cases categorized as sexual violence, 32 of the victims were unmarried.

Violence against women in Aceh, particularly sexual torture and cruel and inhuman treatment or punishment, is a result of the strategic use of women’s bodies as a weapon of war by conflicting parties; also as a battle ground for the struggle for power in the post-conflict era. The sexual torture documented was perpetrated with extreme cruelty, involving rape, mutilation of sexual organs, destruction of female reproductive functions and severe psychological abuse with sexual nuances.

The authoritarian enforcement of Islamic/Syariah law in Aceh marginalizes women and includes inhuman forms of punishment such as public canings. All the more so because it imposes indefinite suffering on women found guilty of violations - even after official punishments are dealt, women can still be victimized by their communities and families. Victims’ criticisms of this authoritarianism are silenced by accusations of blasphemy.

This type of silencing is also faced by the victims of sexual abuse arising from the practice of ‘Blind Chinese marriage’ (kawin cina buta). Utilizing religion-based justifications, this traditional practice often constitutes an infamous form of sexual abuse and can also encourage the trafficking of women. Further abuse is inherent in the practice of forcing women rape victims to marry their rapists. This practice, which is rooted in the patriarchal ideology surrounding female ‘purity’, has resulted in the perpetuation of the subordination of women and renders rape victims vulnerable to further violence.

Instances of sexual exploitation are documented whereby women victims have sex with a man on the promise of marriage, which is subsequently broken. Some perpetrators use kawin siri (a form of unregistered marriage in Islam) to coax a women into sexual relations and then abandon their victims soon after. The perpetrators are state security personnel who exploit their positions of power to deceive their victims. This form of sexual violence is particular to conflict areas in Indonesia, including Aceh. Impunity for perpetrators is strengthened when perpetrators’ employment institutions’ deny any responsibility and also when victims are silenced by their families and communities due to fears of being perceived as ‘soiled’ or ‘impure’.

“The documentation presented in this report arises from research conducted in 2006 by the Komnas Perempuan Special Rapporteur on Aceh and her research team, together with the Monitoring Network on Human Rights Violations Against Women in Aceh (Jaring Pemantau Pelanggaran HAM Perempuan di Aceh).

FOREWORD

The National Commission on Violence Against Women (Komnas Perempuan) is proud to present the findings of the Special Rapporteur on Aceh, regarding the experiences of Acehnese women victims of the armed conflict and their search for justice. This is the second report from the Special Rapporteur on Aceh. The first report - on the human rights situation of internally displaced women in Aceh - was presented to the public and to state agencies in Aceh in March 2006 and in Jakarta in April 2006.

In accordance with the Komnas Perempuan mandate to monitor violence against women (VAW) and other forms of human rights violations against women, last year in 2006, Komnas Perempuan introduced the 'Special Rapporteur mechanism. We developed this mechanism in response to rising demand to understand new trends, as well as the patterns of violations that have been perpetually occurring over the years, in terms of systematic VAW, gender discrimination and other violations of the fundamental human rights of women in Indonesia.

We strongly believe that in this era of regional autonomy, opening Komnas Perempuan branch offices in the regions is not the correct course of action for us to take. Komnas Perempuan believes that having 'branch offices' would not be in line with the concept of decentralization and that such an would contradict Komnas Perempuan's historical underpinnings: the demand from civil society that the state be responsible and accountable for human rights violations. As an alternative, we decided to introduce the 'Special Rapporteur' mechanism, inspired by the UN High Commission on Human Rights.

The Komnas Perempuan Special Rapporteur mechanism was formed to report on the status of women's human rights in specific regions of Indonesia that demand special attention, or alternatively on special issues or themes that require new understanding (e.g., issues relating to VAW or natural resource-based conflicts). Each Komnas Perempuan Special Rapporteur mission lasts for a period of one year, and engages assistance from various experts and activists that have extensive experience in relation to the particular region, issue or theme of focus.

Komnas Perempuan presently has two Special Rapporteurs: Samsidar for Aceh and Lies Marantik-Mailoa for Poso. We have already presented this second report of the Special Rapporteur for Aceh to the public and to state agencies in Nanggroe Aceh Darussalam (NAD) on 22 January 2007. We anticipate that the report of the Special Rapporteur for Poso will be finished in April 2007.

*This foreword is based on a speech read by the Commission Chairperson during the launch of this report from the Special Rapporteur for Aceh in Jakarta on 24 January 2007. The launch was attended by various civil society and well as national government agency representatives.

This report contains the findings of the Special Rapporteur for Aceh, which details the various forms of violence that have been experienced by the women of Aceh over the past decade, from the time of the Daerah Operasi Militer (Special Military Operation Area) up until the post Helsinki MoU period. Throughout this report, we will also hear the voices of the victims as they discuss their experiences and their hopes for finding justice, for themselves and for others.

This report challenges the Indonesian Government, and the nation as a whole to stop ignoring and even denying the special needs of women victims, in the various peace-building initiatives and in the various new mechanisms being developed to cut the chains of impunity for past human-rights violations. We very much hope that state agencies will respond positively to these morally imperative demands. Komnas Perempuan was morally bound to become involved, and with this report we stand to be counted along with all the other initiatives for upholding human rights in Indonesia.

To all civil society representatives, we ask for your support and your cooperation through ensuring that you always consider the rights of women victims of armed conflicts, as you struggle for human rights and for community values. Their welfare and aspirations must be included as elements in our nation's search for a better future.

To Samsidar, the Special Rapporteur for Aceh, we express our deepest gratitude for your hard work and we pray that your experiences as Special Rapporteur will serve as assets for the next stage of your struggle. We hope that the discussion provoked by this report produces real steps towards fulfilling the rights of victims - to truth, justice and recovery.

Jakarta, 24 January 2007

Kamala Chandrakirana
Chairperson

PREFACE

Tracing the past, also known as ‘the long pilgrimage’: that was what I had in mind following my discussion with Komnas Perempuan and various women’s organizations in Aceh, where we agreed that ‘Redefining Justice According to the Perspective of Victims’ would be the theme of the second report to come from the Special Rapporteur on Aceh. A long pilgrimage and seeking justice: both are demanding. Demanding because a pilgrimage and a search for justice both set out on roads thick with mud, valleys of suffering and insults for persistent women who have been brought up on cruelty; incident upon incident from the past they want to bury deep within, but that cannot be vanquished. It is truly unfair. Actually I initially hesitated to set out on this road and to meet with them in the ‘village’. ‘Village’ is a code word I have long used to refer to the community of women whose human rights have been violated and/or activists campaigning for justice. I used it to carry out undercover investigations on human rights violations in the conflict time, so as to avoid upsetting and scaring my now departed mother. I remember the smiles of my friends and sisters when this phrase successfully calmed my mother - although after a while it failed in its aims as my mother caught on to what it really meant. I went on using the phrase none-the-less, because a great number of persistent women live in the ‘village’: some in places so remote they can only be reached by motorcycle or on foot. Their isolation is not only a matter of geography, but also in terms of their access to information and public facilities as well as to political and economic structures. Can we not say that this isolation actually emboldens those that perpetrate crimes against these women, torturing their bodies and souls?

There is a sharp pain in my heart every time I must enter the ‘village’. I ask myself why I am like a crazed person, thinking about how men, who are created by God, can have dark ideas that come from who knows where, that destroy the lives of women. Is it in the name of the State? In the name of security? In the name of law or in the name of whatever other interest? Is there really such a State, and is there actually such a law? If so, there is also a cruelty that exists that no ‘healthy’ people could ever think about. I ask myself: Who is this nation actually for, for whom is this law? Why do we have this cruelty? Who benefits from all this? To whom is it all dedicated? Or is it all merely a sacrifice we make for egos and arrogances justified by law? The law is like a sword: it can protect but it can also injure. The line of difference is a fine one, far too fine in the hands of those unable to hear the voices of the suffering.

Unfair, truly unfair: that is what has haunted my far from peaceful sleep when I have been jerked out of my dreams, feeling as though it was I in the position of you sisters Mah, Nah, Ni and the others. I controlled my tears and anger when I spoke with you all. I only let the tears flow once I had taken leave of you, or again when I poured it all into this report. Of course this does not compare to the troubles you have all experienced. Your lives are far from easy, yet you still live with modesty and friendship. The best you have is now spread out before all of us, wonderful sisters. You are all persistent. Like you sister Nah, when you described your tools for catching lobster and how you do it: you are truly an expert. Sister Mah: you make your weavings as though you are weaving through this difficult life, which is so far from just. For War, Rin, Ida, Darni, El, and Mah: I only wish to write that you are still young, your lives lie ahead; do not be afraid to do what is best for all of you. Rin, I hope you become a teacher who teaches fairly, not summarily

expelling victims from your class. To all the mothers and sister whom we cannot mention one by one, all of you remain kind enough to hope that others should never experience what you have suffered, despite the fact that so many others take no notice of you. Be happy for this generosity you enjoy.

Is it possible that this report can truly represent the voice of your hearts? You have already spoken through an imposed silence. Will they, to whom we submit this report, be ready to hear? Will it truly knock at their hearts and not merely generate promises?

We hope that the days ahead in our beloved Nanggroe Aceh Darussalam will be just for all of you persistent women. You have already set out on this road; you have already shared so much with us. We hope the lights keeps shining so that we can find justice together, for all the women who have become victims and for all the women who continue to struggle.

Finally, we dedicate this report to all of you persistent women. This is your voice. Let us keep on talking and working to build a road leading to justice from which we will neither fall nor be knocked from. And even if we do fall, we already know the nature of the valley below, and where the pointiest spikes and thorns lie. Let us keep speaking so that the echoes penetrate the hearts, ears and eyes of our leaders, never again to merely reverberate in the hearts of those already injured.

Lhokseumawe, January 2007

Samsidar
Special Rapporteur for Aceh

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I. Introduction

A. About Komnas Perempuan

1. Komnas Perempuan is an independent State body with a mandate to create conditions conducive to the elimination of all forms of discrimination against women and the fulfillment of the fundamental human rights of women.
2. Since its establishment by Presidential Decree No.181 of 18 October 1998 - later superseded by Presidential Order No. 62 of 2005 - Komnas Perempuan has worked to carry out its mandate through the following program divisions, that together constitute a holistic approach to women's human rights issues in Indonesia: (a) Monitoring; (b) Law and Policy Reform; (c) Education and Public Campaigns; (d) Development of Rehabilitation Systems for Women Victims of Violence; and (e) Protection of Groups Vulnerable to Violence and Discrimination.
3. Along with its mandate to promote fundamental human rights and to eliminate all forms of VAW in Indonesia, Komnas Perempuan is also responsible for responding to urgent situations and working to create understanding about the development of various forms of violence and discrimination against women; hence some years back Komnas Perempuan identified the need for a flexible mechanism with which it could explore, provide comprehensive explanations, as well as recommendations for the better handling of issues related to VAW. In response to these needs, in February 2005 Komnas Perempuan put in place the Special Rapporteur mechanism. Komnas Perempuan appointed the Special Rapporteur for Aceh in June 2005. This Special Rapporteur was supported by the Aceh Task Force (consisting of four Komnas Perempuan staff members), and was given a work mandate of two years, up to February 2007.

B. Special Rapporteur for Aceh Mechanism

“To monitor and to receive complaints from the public on the problems, issues, or cases of human rights violations against women occurred in a specific area or within a specific context is the mandates of the Special Rapporteur; as well as to seek for information and to build better analysis on the problems, issues or phenomenon relating to the status of women’s human rights, including various forms of violence and discrimination against women”.

4. The Special Rapporteur mechanism was chosen by Komnas Perempuan to enable it to better carry out its mandate, as well as to realize its commitment to fulfill women's human rights in general, including to protect the rights of those affected by natural disasters as well as disasters caused by social-political turmoil. The mechanism of Special Rapporteur has been instituted in response to the urgency of problems faced by women victims, and after careful consideration of the input of various groups and individuals. Special Rapporteurs themselves are appointed in a plenary session of Komnas Perempuan (a formal meeting of Komnas Perempuan Commissioners).

5. There are two kinds of Komnas Perempuan Special Rapporteurs: Thematic and Regional. Both work within a framework of women's human rights to specifically focus on problems, issues and/ or phenomena of gender-based violence and discrimination.
6. Thematic Special Rapporteurs seek information across a broad geographic area to get a complete picture concerning the breadth of a particular problem, issue or phenomena of gender-based violence and discrimination. On the other hand, Regional Special Rapporteurs work cross-sectorally to obtain a picture of the various problems and issues of gender-based violence and discrimination experienced by women within a specific geographic region.
7. Special Rapporteurs' activities include: making of observations and collecting data on violence and discrimination in the field; study of legal procedures, documentation and other literature; provision of technical assistance to various groups in need; making suggestions regarding efforts to prevent and address acts of gender-based violence and discrimination; helping build local capacity for recovery services for women victims; development of broader monitoring networks; and involvement in campaign activities to eliminate violence and/or discrimination against women related to the specific focus or area of concern.
8. Komnas Perempuan Special Rapporteurs have a mandate to seek information and provide in-depth analysis of problems, issues and phenomena relating to the status of women's human rights, including various forms of violence and discrimination against women. They may therefore contact various parties known to have information on, or a complex understanding of the issues, including local, national and international experts.
9. Special Rapporteurs are also mandated to monitor problems, issues or phenomena related to violations of women's human rights that happen in a certain region or thematic contexts and to receive reports from people regarding such. Therefore, they may visit communities in order to scrutinize reports submitted by groups or individuals from those communities.
10. Special Rapporteurs have authority from Komnas Perempuan to give responses to reports submitted by groups or individuals and, if needed, to communicate these reports to various authorities, particularly State institutions. They also have authority to give suggestions about how to address problem raised in submissions, including suggestions about how to break the chains of impunity for perpetrators of human rights violations and how to ensure reparations are made in with respect to victim recovery. Results of Special Rapporteurs' investigations, observations, and reports (as received and communicated to authorities) are regularly reported in writing to the public as an integral part of Komnas Perempuan's efforts to create conditions conducive to the fulfillment of Indonesian women's human rights.
11. Groups or individuals may access the Special Rapporteur. There are no formal procedures for groups or individuals to submit reports to the Special Rapporteur; however there are some broad guidelines for submitting reports that can facilitate the process for those who would like access, and that guide Special Rapporteurs, ensuring all reports received are carefully examined and that follow-up strategies are developed.

C. Report Background

12. This is the second report from Komnas Perempuan's Special Rapporteur on Aceh. In the first report, the Special Rapporteur focused on the status of the human rights of internally displaced women in Aceh. In accordance with the decisions reached in the consultation with a range of women's organizations in Aceh on 19 June 2006, for this second report, the Special Rapporteur on Aceh pursued the theme of 'what justice means to women'.

13. Justice cannot be separated from human rights and access to justice is one of the fundamental rights of victims, along with the rights to truth (as in disclosure and acknowledgement of violations) and rehabilitation; but there must be shared understanding — reached through debate and dialogue - about what precisely justice is and how is it created and fulfilled. This understanding must be clear among law enforcers, the community of human rights activists, victim communities, social elites, the powerful and even policy-makers. In reality, the visions of justice held by those who face the process of seeking it, whether they are victims or accused perpetrators, are often unheard. Even more in the case of victimized women; their voices are almost always disregarded.

14. In the context of Aceh, which was torn apart by decades of armed conflict and devastated by the 2004 tsunami, the problem of how to enable justice is all the more complex. Tsunami victims registered complaints (to Komnas Perempuan and other state institutions) of injustice regarding corrupt practices within rehabilitation and reconstruction programs resulting in slowed or even halted progress within some of these desperately needed aid programs. Numerous government efforts aimed at resolving the armed conflict actually became sources of new conflicts; Acehese society, which had been so long and completely affected by the armed conflict, felt let down by unfulfilled promises of justice. These policy projects were seen to include a number of substantive problems in systems of governance. The idea to form a truth and reconciliation commission for past human rights violations generated controversy because of the fear that it may actually become a battle ground for the legitimating of impunity by the perpetrators. Victim rehabilitation programs in the form of *diyat* (compensation) were clearly controversial because of the evident inequality with which aid was provided; there are still victims who have received nothing. The policy of providing compensation to former combatants also generated numerous setbacks, especially for those who before the Helsinki MoU had already been tried (whether in court or outside) and had already served their sentences for accusations of or involvement in the armed conflict when that was still in progress.

15. A number of these problems became homework for the new Aceh Government that was elected in the regional election of December 2006. That is, they were tasked with working to achieve a peaceful, just and dignified Aceh. Problems emerged in the application of Syariah law and the interpretations and definitions on which it is based. Initially, Syariah law was held to be a new legal precedent that would be able to respond to the failures of national law to fulfill the needs for justice on the part of Acehese society; however procedural 'deviations' among related government apparatus brought to a crisis point the problem of a lack of a consistent and comprehensive definition for what constitutes a victim, a perpetrator or even justice itself.

16. Based on an understanding of these problems, the Special Rapporteur has investigated the steps taken by women victims in their search for justice, and has collected here the voices of these women as they expressed how they define justice for themselves. The records and findings presented here are intended to become a basis on which to found strategies for realizing justice in the era of the new Aceh, particularly for women victims, but also for others searching for justice. Of course the record and findings contained here are not only useful for women's and human rights organizations, but also, and especially, for those working for government authorities and for those who work with law enforcement bodies.

D. The Documentation Process

17. This report is the product of two documentation processes implemented by Komnas Perempuan. Both of which involved the intense involvement of the Special Rapporteur. The first process was conducted in collaboration with Jaringan Pemantau Pelanggaran HAM Perempuan Aceh (Monitoring Network on Human Rights Violations Against Women in Aceh), which consists of the following six Acehnese women's NGOs: Lembaga Relawan Perempuan untuk Kemanusiaan (Woman Volunteers for Humanity Organization); Lembaga Pengembangan Aktivitas Sosial Ekonomi Aceh (The Organization for the Development of Social-Economic Activity in Aceh); Lembaga Pemberdayaan Perempuan Kepala Keluarga (The Organization for the Empowerment of Women Heads of Households); Yayasan Pengembangan Wanita (Foundation for Women's Development); Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan (Organization of Indonesian Women's Legal Aid Associations for Justice); and Lembaga Pemberdayaan Harkat Inong Aceh (Organization for the Empowerment and Strengthening of the Women of Aceh). These six organizations are spread throughout Banda Aceh, Sigil, Bireu, Central Aceh, Lhokseumawe and Langsa.

17.1. Jaringan Pemantau Pelanggaran HAM Perempuan Aceh was formed as a result of a consultation in November 2003 between Komnas Perempuan and these six organizations. The network consists of 30 documenters and three coordinators. In accordance with decisions reached in the November consultations, the network set out to monitor and collect information regarding the status of women's human rights as related to cases of violence and sexual abuse: (a) in society at large; (b) in the judiciary and in the Syariah justice system; and (c) in state detainment facilities. For this final category, information was collected from former women prisoners.

17.2. Beginning with this collaboration agreement, 2004 was dedicated to organizing and finalizing monitoring instruments. At the point that these monitoring processes and instruments were to be work tested, the tsunami came crashing into Aceh. Clearly, all members of the network were shaken. One member of the network was a direct victim. This disaster that caused such destruction and gave birth to such massive numbers of victims forced all of our friends within the network to directly involve themselves in providing emergency aid. The monitoring program was automatically delayed.

17.3. Once Aceh gradually began to (recover, the network also began to consolidate again. The first tests of, and improvements to the monitoring tools were carried out from January 2006, and the network then began working to compile information in the manner agreed upon at the November 2003 meeting. At this stage, the Special Rapporteur for Komnas Perempuan on Aceh, who had already been involved since the beginning of the network formation process — as commissioner of the Komnas Perempuan's Monitoring Division — was involved in strengthening the network. The documentation team was given not only the necessary expertise in documentation, but also by way of discussion of the results, a chance to deepen their conceptual understandings of VAW and human rights.

17.4 By the end of July 2006, the monitoring network had successfully compiled data on 113 cases, 88 of which were specifically connected to cases of VAW. The 25 others, comprised of just information related to detainment conditions, were very important in understanding detainment as it related to the ability of women prisoners to access their human rights.

18. The second documentation process was carried out by the Special Rapporteur along with the Aceh Task Force to follow up on the recommendation from the women's organizations consulted with in Aceh conducted June 2006 to focus this second report on 'the meaning of justice for women victims'. Although carried on separately, the two documentation processes complemented and strengthened each another.

18.1. At the end of August 2006, the Special Rapporteur for Aceh held a closed discussion with the Aceh Task Force in order to formulate a framework for the second documentation process. At this discussion, it was agreed that:

18.1.1. The documentation's subjects would be: (a) women victims, whether from the armed conflict era, following the signing of the MoU between the Republic of Indonesia and GAM, or even women victims of violence in society at large (e.g., rape or domestic violence victims; and (b) women who were accused of subversive acts or of violating the codes of their religion. In order to aid in differentiating between the two, women in category (b) are described as 'women victims/accused.

18.1.2. The documentation aimed to draw out information rooted in the specific experiences of women victims in the following contexts:

18.1.2.a. Treatment meted out to women victims and accused by their families, by their communities or by the State with regard to their experiences of human rights violations.

18.1.2.b. The opinions of women victims and accused about just how far the performances of the parties noted above fulfilled their own notions of justice.

18.1.c. If the treatment was not perceived as fulfilling their ideas of justice, then -what did these women victims and accused believe ought to be done by the actors mentioned.

18.1.2.d Conclusions of women victims and accused regarding what justice means to them.

18.1.3 The method of data accumulation was in-depth interviews with women victims/accused. For that, the Special Rapporteur was aided by a documentator already experienced in gathering information about woman victims/accused, sensitive to the issue of human rights and toward the rights of victims.

18.1.4 The form of the report is qualitative so that we may truly get to hear the Voices of the victims'. Because -of this, the breadth of the documentation is not emphasized in the quantity but in the variety and depth of experiences of violence, and the efforts to seek justice through the courts and other processes.

18.2. Starting off from the results of these discussions, the Special Rapporteur chose Kharani, SH, M Human academic and well-known women's activist in Aceh - to become a documentationer in the documentation team. Along with this documentationer, the Special Rapporteur identified women victims and accused who were to be interviewed. One of the considerations in this identification process was that the women victims and accused had been beneficiaries of support from women's organizations in Aceh. The aim here was to guarantee a certain level of trust between the women victim/accused toward the team so that they would be able to openly express their experiences, feelings and perspectives regarding justice.

18.3 Beginning October 2006, the Special Rapporteur began developing contact with a number of women victims and victims/accused by way of support organizations. Once trust was established, there began a process of visits and interviews. In the middle of January 2007, the Special Rapporteur and documentationers succeeded in interviewing 23 women, eight of whom were victims whose cases had been documented by the monitoring network.

E. Reporting

19. Documentation from the first and second studies was compiled in the current report so as to be discussed later at two levels: the provincial level of NAD and at the national level. The first report presentation and public discussion was carried out in Banda Aceh on 22 January 2006, where various Acehnese authorities, including the Vice-Governor of NAD, a representative of the NAD High Court, and a representative of the Aceh Reintegration Body were present. The authorities invited were those relevant to the topic of the report. A similar process of discussion was also carried on at the national level in Jakarta on 24 January 2006. This event was attended

by representatives from the Indonesian Parliament, the Ministry of Law and Human Rights, as well as many civil society representatives. The final report, including comment on the levels of understanding/engagement displayed by the authorities and the results of the public discussions were then submitted to Komnas Perempuan by the Special Rapporteur, before finally being submitted to the President of Indonesia.

20. In addition to acting as a means to share the results of the documentation, the public meetings represented, very importantly, an opportunity for understanding the paradigms of the NAD and national authorities and government in terms of how they view the problems of upholding and fulfilling women's fundamental human rights, particularly in administering the new government of Aceh following the regional election. This report can now be used as a reference by the government, as well as by local, national and international NGO's in organizing policies that are more comprehensive and gender-sensitive in taking care of women victims in post-armed conflict areas, whether this is in NAD or other areas across Indonesia.

II. Acehese Women's Journey in Search of Justice from One Era to the Next

A. General Findings

"Many cases of human rights abuses have already been investigated, but there are still many that have not been touched. There should be transparent investigations done by independent organizations and individuals, so that the victims have an opportunity to reveal what actually happened to them. If it is not possible to have a human rights court, there should at least be a truth commission to disclose the truth, and to provide rehabilitations for the victims. (Victim of sexual torture in 2001)"

21. The documentation carried out by the Special Rapporteur for Aceh monitoring network and documentation team found 103 cases of VAW. These cases were spread out over 13 cities/districts in Nanggroe Aceh Darussalam, namely Banda Aceh, Greater Aceh, Aceh Jaya, South West Aceh, Pidie, Bireun, Lhokseumawe, North Aceh, East Aceh, Langsa, Central Aceh, Aceh Tamiang and Benar Meriah.

22. The most cases, 26 in all, were found in Pidie. There were 12 cases in Banda Aceh, 11 in North Aceh, 10 in South West Aceh, 9 in Larger Aceh and East Aceh, 8 cases in Central Aceh, 7 in Bireun, 5 in Lhokseumawe, 2 in Benar Meriah, and 1 each in Aceh Jaya, Langsa and Aceh Tamiang.



Violence against Women

...any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

(Declaration on the Elimination of Violence against Women, Article 1)

23. The number of cases does not reflect the exact number of both victims and perpetrators involved in these cases. This is because there were many cases involving more than one victim or perpetrator. The total number of recorded victims was actually 200; in cases of arbitrary arrest and detention for the purpose of hostage taking for instance, more than 50 women were victimized (in 6 recorded cases of rape). At the same time in cases of torture by government functionaries or gang rape by civilians, the number of perpetrators was anywhere from 2 to 15 individuals in one incident.

24. Besides this, multi-layered cases¹ (where more than one type of violence occurs in one case) are counted as only one case in this report, based on the initial type of violence that occurred. An example of such a multi-layered case is when a woman is a raped and is then forced to marry the rapist. The victim is forced by her family, often with the support of village functionaries and legal authorities. As her husband, the rapist may then perpetrate domestic violence against, and then abandon the victim soon after their marriage. Such a case is recorded as one case in the current report, under the category of rape. Additional layers of violence are seriously analyzed as part of the process of understanding the connection between the responses/services the victims receives and the notions of justice held by the victim :

25. More than half the documented cases were cases of sexual violence (59%, 61 cases), while the other 42 cases were non-sexual violence. These cases occurred across five time periods, namely:

25.1. Military Operations Era (≤ 1999)

As an area of armed conflict, especially after 1989 when Aceh was classified as an Area of Military Operation (Daerah Operasi Militer; DOM), women became part of the war strategies of the different factions. The era of military operations went on even after the Republic of Indonesia (RI) withdrew DOM status on 7 August 1998. This policy was accompanied by the withdrawal of some non-organic troops and a verbal apology from General Wiranto, then armed forces commander, for excessive force on the part of the military command².

25.2. Peace Dialogues Era (2000- May 2003)

This period was marked by the 12 May 2000 agreement between the RI and the Free Aceh Movement (Gerakan Aceh Merdeka; GAM) on a humanitarian ceasefire 'which went into effect 2 June 2000. This humanitarian ceasefire was intended as an opportunity to send humanitarian relief to the victims of the Aceh conflict by way of the Joint Humanitarian Committee and in order to build mutual trust to find a solution the conflict situation. Because this first agreement was widely seen to have failed³, a further effort to reach peace was made via the signing of the Cessation of Hostilities Agreement (CoHA) 9 December 2002, with the involvement of the international community. The CoHA too, was largely perceived as failing to end animosity and violence between the two sides.

¹ In the Special Rapporteur for Aceh's first report, which was on the status of the human rights of internally displaced women in Aceh, entitled "As Victims, Also Survivors", every layer (or type of violence) was counted as a separate case according to the domain and type of violence experienced by the victim. This method of counting every specific of violence clearly demonstrated the multifaceted nature of women's experiences of violence; however, because the aim of the current report is to emphasize the sense of justice for the victim, this model of calculating multi-layered cases as singular units is considered more productive.

² On 2nd January 1999, Indonesian government launched Operation Wibawa, the first joint military operation after the status of DOM was revoked. Since early May 1999 until February 2000, Aceh was under Operation Sadar Rencong I-III. Tempo, 10 Dec. 2000, pg. 71.

³ To ensure the implementation of this Humanitarian Ceasefire, the Government of Indonesia, on 11 April 2001 even issued Presidential Instruction No.4 2001, which contained comprehensive steps to solve the problems of Aceh; however the outcomes were opposite to expectations. "Aceh Peace with Justice," KONTRAS Feb. 2006.

25.3. *Military and Civil Emergency km (19 May 2003-15 August 2005)*

The Indonesian Government responded to the failure of the CoHA by promulgating Presidential Decision No. 28, 2003, whereby from 19 May 2003 -19 November 2003, Aceh was declared a 'Region in Military Emergency'. This status was extended - under Presidential Decree No. 97,2003 - until 19 November 2004. On 19 May_2005 the Military Emergency status was withdrawn and replaced with Civil Emergency status. For Acehese society, this change in status from was not significant, as violence, oppression and limits on civil liberties continued.

25.4. *Post Signing of the Peace MoU between GAM and RI (15 August 2005-11 January 2007)*

The tsunami disaster that struck a large area of Aceh brought massive destruction not just physically but also in terms of lives lost — but at the same time helped to open a new phase of dialogue between the Government of Indonesia and GAM, facilitated by the government of Finland. From 15 August 2005, with the signing of the Helsinki MoU between the Government of Indonesia and GAM, the armed conflict in NAD was declared over. We end this period at 11 January 2007 as it is the date of the final case we documented for this report.

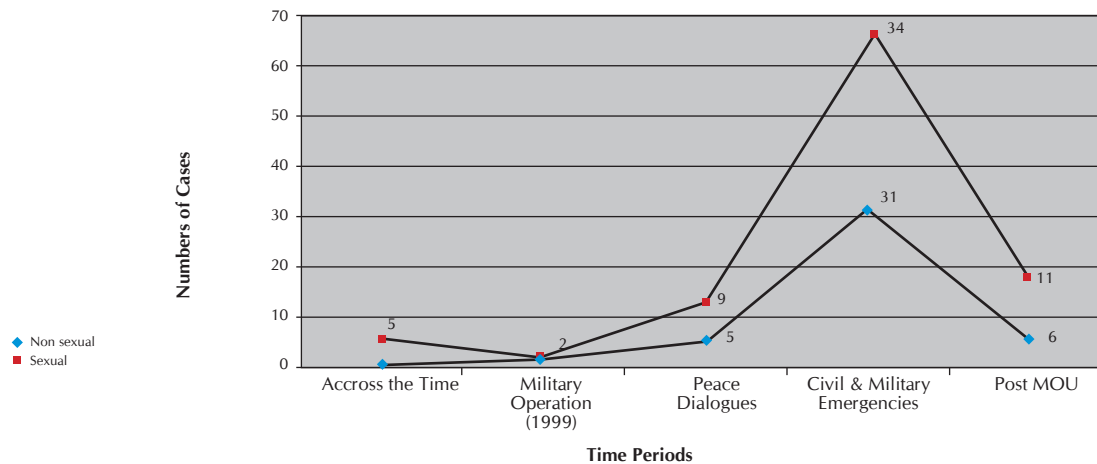
25.5. *Across Time Periods*

While almost all of these cases can be classified according to the history of the armed conflict, five cases were documented that occurred across two or more of the periods above. These five cases related to personal relationships that went on for as many as eight years.

26. As shown in Figure 1, the documentation uncovered two cases from the Military Operations Era, 14 from the Peace Dialogues Era, 65 from the era of the Military and Civil Emergency Era, 17 cases from the Post MoU Era, and five cases that went on for years, across eras. Many cases of VAW in the Military Operations Era have already been systematically reported by a number of human rights advocacy organizations so we didn't focus heavily on this timeframe. Still, it is important to include these two cases in our report to demonstrate that VAW in Aceh continued occurring throughout the armed conflict. It is abundantly clear that the total of 103 cases documented in this report is really just the 'tip of the iceberg' in terms of VAW in Aceh⁴.

⁴ The estimated total number of victims from the armed conflict far exceeds the numbers given by various human rights groups. For example, KONTRAS (The Commission for Disappearances and Victims of Violence) noted that 128 rape cases were reported during the DOM; 73 cases of violence between January and March 2001; and 1216 cases of violence between April and August 2001 or soon after the implementation of the Humanitarian Pause. For more information see "Aceh Peace with Justice," Kontras Feb. 2006. Between 1998 and 2000, Komnas Perempuan together with Aceh women's groups noted 56 cases of shootings; 15 cases of kidnapping and forced disappearances; 26 cases of ill-treatment; 19 cases of house burning; 20 cases of rape; 40 cases of sexual aggression; and 9 cases of domestic violence towards women. These are in addition to the cases found in refugee camps For more information see "Experiences of Indonesian Women", Komnas Perempuan, Oct. 2002, pp227-253.

Figure 1
**Number of Cases of VAW from Era to Era
 According to Case Type**

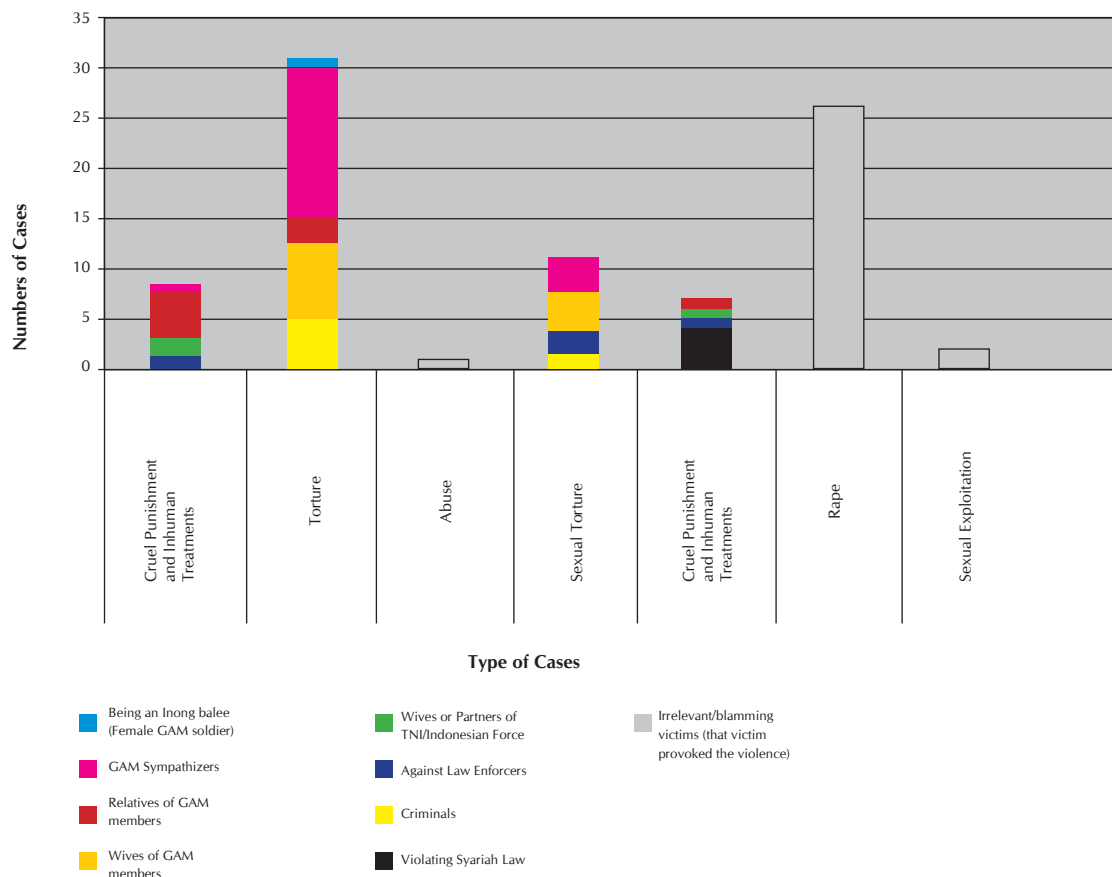


27. The 61 cases of sexual violence consisted of 31 incidents of rape; 11 of sexual torture; 8 of cruel treatment and inhumane punishment with sexual nuances; 3 cases of sexual abuse; and 8 cases of sexual exploitation. The 42 non-sexual cases included 32 cases of torture; 9 of cruel treatment and inhumane punishment; and one case of abuse. It is noteworthy that of the 31 cases of rape, 3 were gang rapes involving 2, 8 and 10 perpetrators; while 4 cases included rapes that were endured by the victim between 5 and 15 times before the victim eventually found the courage to report the violence to family members. More in-depth discussion on the forms of violence mentioned can be found in the following chapters.

28. Figure 2 illustrates the reasons that these perpetrators committed violent acts against women. Nearly half the perpetrators (42%, 43 cases) blamed the victim as the trigger of violence. This excuse was most prominent in the cases of rape (31 cases). In fact, this excuse is in no way relevant to the reality that the perpetrator was able to commit this crime because of the unbalanced power relations between himself and his victim.

29. Being in the center of an armed conflict situation makes women vulnerable to violence because they have, or are understood as having a side in the conflict. Some women were accused of sympathizing with the GAM because they gave information or food supplies (21 cases), had or were suspected of having family members involved with the GAM (9 cases), or because they were wives of GAM members (12 cases); hence, they were highly vulnerable to torture, particularly sexual torture. The vulnerability was particularly apparent when the woman was a member of Inong Balee (female GAM soldiers) (two cases). Additionally being the wife or girlfriend of a member of the Indonesian army (TNI) also meant the risk of being subject to inhuman punishment (three cases). The position of women in Aceh was enmeshed between these two opposing factions, as Illustration 1 below attests to.

Figure 2
Number of Cases of Violence against Acehnese Women
According to Types of Case and Motivation of Perpetrators



30. Besides those connected to the armed conflict in Aceh, cases of torture and inhumane punishment also took place in the contexts of the judicial process for women accused of being, and detained as criminals, and for those accused of violating religious canons, particularly the restrictions on sexual behavior (five cases). The rights of the accused to a presumption of innocence, along with the rights to freedom from punishments that reduce human dignity, and to equality before the law are often simply ignored by those responsible for upholding the law.

Illustration 1

An Elephant and Tiger Fight; A Small Deer Dies in the Middle

(This is a common proverb in Bahasa Indonesia, basically meaning that when two strong powers fight, it's the people caught in the middle that suffer the most)

M, 25 years old, on an evening in February 2003 was forced by three members of the Mobile Brigade of the non organic force (Brimob BKO) to go with them because she was wrongfully accused a member of Inong Balee. She was taken to a local health center which had been made into a Mobile Brigade base. M was kept there for two weeks, where she was continuously interrogated by various members of the Mobile Brigade. They forced her to admit that she was Inong Balee. Before she admitted this, she was slapped, had her hair pulled, and was threatened with death. She was terrified, especially when a man being held in a different room was executed.

During this imprisonment, M didn't want to eat; the fear she felt often caused her to faint. One time when she fainted, a Mobile Brigade member with the initials BR raped her, and this then went on to happen many more times during her imprisonment. She only learnt that she had been raped from another member of the Mobile Brigade who sympathized with her.

M couldn't escape as she was kept inside a tightly guarded room. To go to the bathroom or toilet, she had to go handcuffed and accompanied by a guard. Only during the first week was she allowed to wash and change her clothes with a Mobile Brigade shirt; after that, M was not allowed to wash at all. In this soiled and disgusting state, M was freed one morning during the second week of her detention.

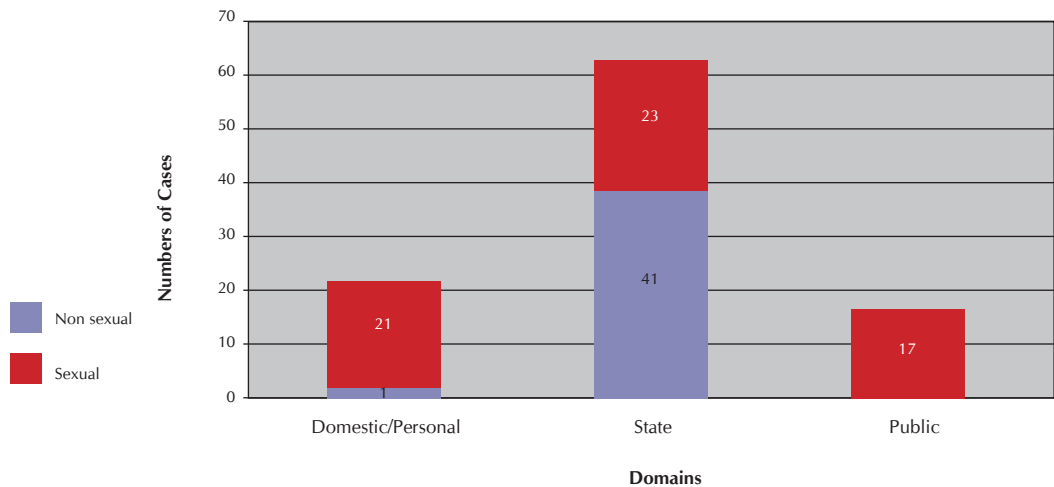
During her journey home, M was arrested by three GAM members who took her to a place in a forest. M was only held by GAM for a day; she wasn't beaten, just interrogated; however she was verbally abused and called a prostitute. M became terrified when she saw another detained woman shot straight in the eye. At this time, one of the GAM members threatened that if M did not immediately give information, she would suffer the same fate, she was threatened "Do you want to end up like her too?" She was freed after the men detaining her learned she had been arrested by the Mobile Brigade and that she was also the child of a GAM member.

M returned to her home and friends. She didn't tell anyone what had happened as she was too embarrassed. After one month she discovered she was pregnant. She then went and reported this to the superior of the Mobile Brigade member who had raped her. The superior (Mobile Brigade Danki) didn't respond because he didn't consider it his responsibility. M chose to keep quiet, and gave birth to a son in the house of her grandmother in village L, on 18 November 2003.

31. There are a great number of cases of VAW in Aceh that are very intimately connected to the conflict situation, and this can also be seen in the distribution of cases. As shown in Figure 3, the most cases were in the State domain (62%, 64 cases); the second most in Domestic or Personal Relations (21%, 23 cases); and the third most in the Public domain (17%, 17 cases). Almost all of non-sexual violence took place in the State Domain, with only one in the Domestic domain. Meanwhile, the cases of sexual violence were spread quite evenly over each domain, with 21 cases in the Domestic/Personal domain, 23 in the State domain and 17 in the Public.

Figure 3

**Number of Cases of Violence against Acehnese Women
According to the Domain and Type of Case**



32. Included in the State domain are cases of violence by state personnel in their official capacities. Such actions were carried out either directly, or indirectly (i.e., by allowing the actions to take place). The state personnel referred to here include law enforcers, the military and the government hierarchy right down to village authorities. In the context of the armed conflict, the cases where the perpetrators of violence were GAM members were also counted as cases in the State domain when the said violence was directly related to their opposition to the Government of Indonesia. Cases wherein members of the GAM or TNI committed acts of violence in their personal relationships, that is, as lovers or husband, were not counted as cases in the State domain, but rather in the Domestic/Personal domain.

33. From these 103 cases, there were 123 perpetrators recorded, where cases involved a team of government officers, these were counted as just one perpetrator unit (not the number of individuals within the team). Government functionaries accounted for highest number of perpetrators with 67: 19 police officers, 40 military officers, 2 prosecuting attorneys, 5 Syariah Police officers (Wilayatul Hisbah) and one village head. There were four cases of violence perpetrated by GAM members. As many as 32 perpetrators committed the 17 cases of Public domain violence; 12 of whom were not known by their victims; 15 of whom were victims' neighbors; 2 of whom were 'friends'; and one each a boyfriend, an employer and a cleric. Out of 25 perpetrators in the domestic/personal domain, the greatest number were husbands (10), of whom four were husbands by siri (unregistered marriage) marriages. Five of the Domestic/Personal domain perpetrators were boyfriends, three fathers, two step-fathers and five were classified as 'other members of family'. All siri husband perpetrators, four of the boyfriends and one 'friend' worked in the security services whether as military or police officers.

Table 1
Victim's Age and Marital Status by Type of Case

Type of Case	Marital Status	Age (Years)						
		Child (<18)	18-27	28-37	38-47	48-57	58++	Total
Non Sexual	Single		8	1				9
	Married		6	14	6	3	1	30
	Widow/ Divorcee		1	1		1		3
Subtotal			15	16	6	4	1	42
Sexual	Single	18	11	3				32
	Married		8	6	6	2	2	24
	Widow/ Divorcee		2	1	2			5
Subtotal		18	21	10	8	2	2	61
Total		18	36	26	14	6	3	103

34. As can be seen from the above table, 18 girls (aged less than 18 years) were rape victims. The youngest of these girls was only seven years old — she was raped by her neighbor who had invited her to the garden to pick oranges. Six of these girls were victims of gang rapes or repeated rapes. Girls were the third most likely rape targets; women aged 28—37 were the second most likely targets (26 cases); and women aged 18-27 were the group most vulnerable to rape (36 cases). The oldest recorded victim of violence was a 58-year-old a mother who was tortured because her child was accused of fighting with GAM.

35. More than half (52%, 54 cases) of the victims were married women; however it should be noted that this was their status at the time of data collection, and not the time of the violence. That is to say, it is possible that victims' marital status was different when the cases of violence occurred. One way out of the crisis induced by sexual violence is for the victim to marry, even if it is to the perpetrator of violence himself. Being single indeed marks women as vulnerable to sexual violence. More than half the cases of sexual violence (32 out of 61 cases) were experienced by those not yet married. Even widows did not escape from violence, with their cases spread between non-sexual (three cases) and sexual violence (five cases, four of which were rape).

36. More than half the victims did not report their cases (54%, 56 cases), especially those who were mistreated by government personnel (49 cases, three of which involved perpetrators who were both functionaries and victims' siri husbands) and the GAM (3 cases). When the incidents were reported, the victim — either alone, with family, or with the village functionaries — reported to the police (18 cases), or to the perpetrator's supervisor (military or police) (6 cases).

After this, there were many who reported to NGO's in order to obtain advocacy help, especially in cases of sexual violence (15 out of 17 cases). The remainder went to village authorities.

37. The victims received various responses once their experiences of violence became known to family, friends, broader society, or even when they reported their cases to those understood as having authority or being able to help in advocacy. From interviews conducted by the Special Rapporteur and her team, it was found that the majority of victims faced a negative response, particularly women who had experienced sexual violence outside the context of torture. The negative perceptions of female sexuality (e.g., women's conduct inviting attention) caused many to accuse the woman of inciting the violence. Even if she was not directly blamed, the victims of sexual violence often went on to experience further violence and discrimination due to them being perceived as 'impure'. Burdens such as these are what cause victims to think twice before reporting their experiences; thus creating another obstacle in victims seeking justice and healing.

"They don't know, except that I was just beaten up. I didn't tell my husband what happened. I'm very scared and humiliated. I'm not brave enough to take the risk and not brave enough to imagine what would happen if my husband found out. There is a strong possibility that he could not accept that I had been with someone else, even though I was raped... Maybe we would divorce. I would be embarrassed if this happened and the community later tried to look for the reason. I also haven't told my children, as this would cause too many problems in the future. Let me keep this to myself."
(Victim of sexual violence in 2003)

B. Specific Findings

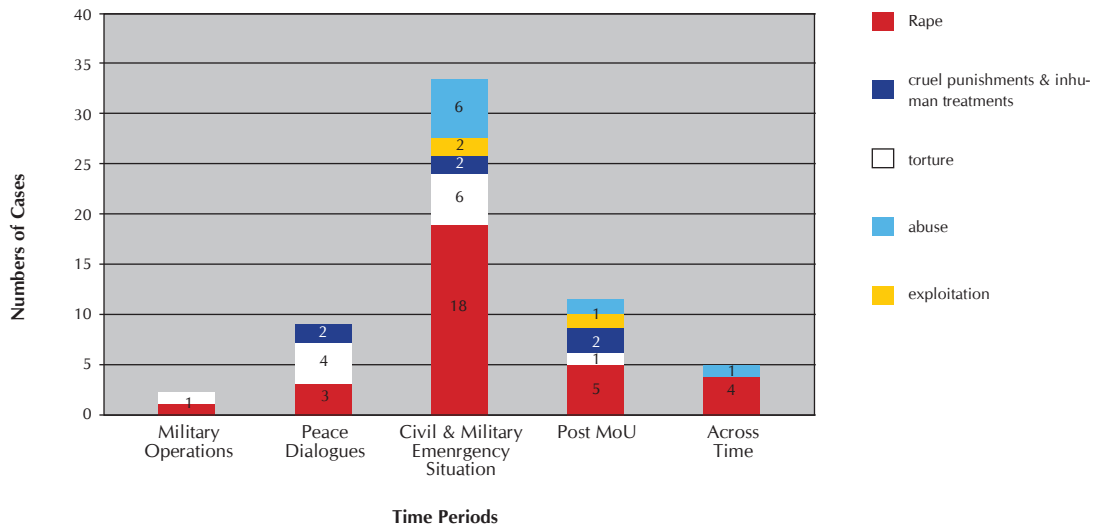
38. The second part of this report will specifically investigate cases of sexual violence. Even though they are inseparable from the bitter journey of Acehese society, the greater numbers of victims of sexual violence are forgotten in the fast-paced social-political dynamic of Aceh.

39. As seen in Figure 4, the majority of the documented cases of sexual violence, (56%, 34 cases) occurred during the Military & Civil Emergency Era. There were nine cases in the Peace Dialogue Era. In the Post Signing of MoU period until 11 January 2007, there were 11 cases of violence noted. There were also two cases in the Military Operations Era, and five cases Across Time Periods.

40. The five types of sexual violence identified in this report are:

- a. Sexual torture
- b. Inhuman punishment with sexual nuances
- c. Rape
- d. Sexual abuse & forced marriage
- e. Sexual exploitation

Figure 4
**Number of Cases of Sexual Violence
 against Acehnese Women from Era to Era**



1. Sexual Torture

“The torture I experienced was unfair and painful. I cannot express with words what it was like. The State is unfair: the State through its apparatus torture people who don’t know anything.”
 (Victim of sexual torture, 2002)

41. As an opening step to democratization in the Reformation Era, on 28 September 1998 the Indonesian Government ratified the UN Convention against Torture via Law No. 5/998. This step further solidified the process of amending the Indonesian Constitution, whereby after the second amendment on 18 August 2000, the Constitution in Article 28G (2) now reads: “*every person has the right to freedom from torture or degrading treatment.*” An unarguable acknowledgement and guarantee of this right is Article 281(1), which states: “*...the aforementioned right is irreducible under any circumstances.*”

42. In practice, the guarantee of this right begins and ends on paper only. Our documentation on Aceh shows that the practice of torture persisted after the ratification of the UN Convention and the amendments to the Constitution. From a total of 44 cases of torture found in this documentation, one case took place in the Military Operations Era, five cases in 2002, nine in 2003, thirteen in 2004, nine in 2005 and six cases in 2006.

43. In this documentation, cases of torture were limited to actions of physical, psychological or sexual mistreatment that were carried out directly or allowed with the knowledge of public officials (in these instances either the military or police), in order to obtain information or as punishment for (a) committing or being suspected of committing a crime or (b) being involved in or accused of having a relationship with GAM. These cases involved the victims experiencing extreme pain: physical, psychological or/and sexual.

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1. The Convention has been ratified under Law No. 5/1999)

Illustration 2

Upholders of the Law of the Jungle?

R took gold belonging to her boss in mid-2006 and was taken to a police officer who was also her boss' cousin. R confessed to the crime, but said she did not know where the gold was. She had given the gold to her boyfriend, who had encouraged her to steal. After attaining the gold, R's boyfriend disappeared.

Before she was taken to the police office, her boss and the police officer interrogated her in a car as it drove around the city of Banda Aceh. At the Banda Aceh police office, R was slapped several times until her nose began bleeding and was punched until her forehead grew swollen. As she was being hit, her boss cheered: 'Now you feel the hurt, don't you! Good!'

R was put into detention and asked her boss to have a prayer veil brought for her. The police officer/cousin of the boss said, "Why bother repenting thief?" R was not given a change of clothes. Eventually she received some clothes and underwear from other prisoners and from female police officers. R does not remember how long she stayed in the police station before being moved to the Jantho prison.

After 15 days in Jantho, R's case was tried. Before the trial began, R was in the trial room along with two prosecutors and her boss, who was there to testify. The boss pulled R's hair forcefully until she had "putted some out and made her head bleed. R was in great pain. The prosecutors who were present not only, allowed this to happen, but even assisted the violence. One of the justices stood at the door looking out though guarding the door, while the other stood near the table to watch. It ended once the prosecutor indicate that the judge was approaching the courtroom. At this point the prosecutor standing near the table asked the boss to stop pulling R's hair and warned R to stop crying immediately. Because she was afraid, R followed order. R did not have the assistance of a lawyer in the trial because she hadn't the money to pay.

44. Illustration 2 above shows how law enforcers (in this case police officers and prosecutors) became perpetrators of torture, whether directly or by allowing torture to occur. The torture detailed above took place in public facilities, namely the police station and at the courthouse. Illustration 2 provides the details about one of the six cases of torture aimed at those accused of crime that was documented in our documentation. The other five cases involved individuals accused of selling marijuana.

45. Our documentation shows that political prisoners, accused of subversion also experienced torture. After being tortured during interrogation processes, female political prisoners then faced unfair court processes, often without access to legal counsel. With the inherent corruption in the court system, victims were extorted with promises of freedom. As the accused, women prisoners are in an extremely weak position; therefore they and their families try to obtain loans, even though this will increase the burden on the family with debts that often cannot be paid back. One prisoner said that the only reason she did not pay the bribe was because her family was so poor that were not able to even borrow money. Too often the search for justice is an expensive process for victims and their families.

“The State sees me as having committed treason. I was arrested, hit, tortured tried and imprisoned. The trial process was very unfair. I was given 15 years in jail. No lawyer supported me. The police and prosecutors asked for money to lighten the charges against me and the eventual punishment. My mother searched for a loan. We were worried and afraid that I would be imprisoned for 15 years. The prosecutor also asked for our money. Because we had no more money we could not pay him. We still haven’t paid off our debts completely”
(Victim of torture, 2005)

1.1. Cases

46. Of the 44 documented cases of torture, 11 were cases of sexual torture. There was only one victim of sexual torture whose case did not have any connection to the armed conflict, but was rather accused of selling marijuana. The victim in this case was arrested by the military and taken to a military post. The victim faced sexual harassment for the length of interrogation as well as attempted rape. The victim was punched and kicked because she tried to escape. The victim was then taken to the police station for further questioning. At the police station, neither the defilement nor the attempted rape was addressed.

47. The other ten cases of torture were directly related to the conflict situation in Aceh. One of the victims was a human rights defender who was advocating for women victims of sexual violence committed by State employed personnel. Other victims included four wives of GAM members, four accused GAM sympathizers and one victim who was accused of being a member of GAM’s women front.

“The TNI forces accused, tortured and frightened me. According to them, my husband had violated the law. I was accused of helping GAM because I cooked for my husband... the one to be punished should not be the wife who does not know what her husband does outside the house”.
(Victim of sexual torture, 2002)

“Asking forgiveness is not that important since I’m not convinced that I can forgive what was done to me... how painful to be stripped naked in front of people I have never met, in a brightly lit room. The people who did this should be punished in kind so that they can feel the pain I felt!”
(Victim of sexual torture, 2002)

48. The unchecked power given over to the military and security services in the name of the emergency situation and national security has resulted in searches without warrants, arbitrary arrests, false imprisonments and corruption in the judiciary system. The opportunities corruption presents all too easily tempts national apparatus employees to become perpetrators of torture. The 44 documented cases of torture occurred across 48 locations (some victims were moved from site to site). More than half of the torture took place at military posts (52%, 25 incidents). Police posts were the second most popular torture sites (27%, 13 incidents). Two cases occurred in prisons and one in a courthouse. These incidents could only happen only because these are places where the State apparatus is totally untouched by public control, or even by the government itself. Homes, gardens and meeting places for village gatherings were the other sites “where torture was committed. As for cases of sexual torture, seven of eleven cases were committed at military posts, one at a police office, and four in or around the victims’ houses.

49. The first of the 11 cases of sexual torture occurred in 1990. This sexual torture was committed against a woman who was accused of being a GAM sympathizer (see Illustration 3). The next case occurred in 2001. There were three cases in each of 2002 and 2003 and there was one case in each of 2004, 2005 and 2006.

Illustration 3

Tortured because of an Accusation of Being GAM Sympathizer

K is a 46 year-old housewife. On the morning of 6 July 2005, 8 marines came to her house to forcibly seize her identity card. K was ordered to report to the police office, with her ID card later that morning at Warn.

When she arrived at the post, she was held and interrogated. K was accused of collecting money from residents and giving it to GAM. Her captors put seven plastic bags on her head when she would not confess. She was repeatedly punched in the face throughout the interrogation. Her face was terribly bruised, her vision blurry and her teeth knocked out as a result of the punches. Her chest and breasts were also violently twisted. K was detained and tortured the whole day, until evening prayers when she was finally allowed to return home.

She was ordered to report to the police office every day for the following 10 days, on each occasion she was tortured. For example, her feet were stabbed with the tip of a rifle butt until they were wounded and the nails of her feet became loose. Each day she was detained until the evening. When the personnel at the post wanted to go out to patrol the village, they locked K inside the toilet, citing the reason that K would inform GAM about what was happening if she was released.

On the tenth day, the detention stopped because an important figure in the village had guaranteed the marines that K had never helped GAM. She was freed on the condition that she would not leave the village without first reporting to them.

50. The duration of the tortures varied. Sometimes they lasted for shorter periods (e.g. between 10 minutes to 1 hour) at the moment of the ‘raid’, ‘inspection’ or ‘search’ by State security personnel of streets and homes. There were also cases when victims were detained for 10 months or more. Victims were detained for up to two weeks in the cases of sexual torture. Yet, the length of detainment was not a factor in the degree of cruelty of the torture. For the entire length of the torture processes, victims were susceptible not just to violence but also to threats of death. In 15 out of the 44 cases, the torture involved threats of murder, whether by having a weapon pointed at the victim, or by telling the victim about murders of other prisoners or indeed making the

victims witness the murder of another prisoner (as in Illustration 1). In the case of sexual torture, seven of the eleven victims were threatened with death.

51. If not threats of death, victims were faced with the threat of torture or loss of freedom: in one case the victim was threatened with lifelong imprisonment and in another with extreme pain by electrical shocks. Victims were sometimes tortured by being forced to watch family members being tortured. In one case, for instance a victim was forced to watch her six-year-old child being hung upside down. In another case a victim was forced to witness her parent being kicked repeatedly. These last two types of torture cruelly exploit the family positions and roles of women as mothers and daughters.

Illustration 4

For the Sake of the Mother

It was lunch time in mid 2004 when a group of unknown armed security personnel came and began rummaging through C's house. This "search" was conducted because one of the family members living in the If house was accused of being a member of GAM.

Weapons were pointed at C, her parents and her siblings. One of the intruders then kicked C's mother and yelled at C to go into another room, telling her that if she didn't it would be her mother who would take her place. Having no other choice, C obeyed the order. C was then forced to remove her clothes and lie down, whereupon one man repeatedly and violently poked her vagina with his weapon. Her younger sibling who witnessed this cried hysterically. The perpetrator panicked and ran away.

52. The strengthening of the role and position of women in the public domain in the era of armed conflict also impacted on their vulnerability. Security personnel's suspicion of adult men being members of armed groups resulted in limitations being imposed on their opportunities to earn a living and to be involved in social activities. They were often even forced to leave particular areas because of the threat of violence from both Indonesian forces and GAM. Thus, for example, in areas that were suspected of holding GAM resistance members, women had to become primary bread-winners by tapping rubber, working in plantations and raising livestock. These types of work were extremely dangerous as women working in plantations and fields near to the mountains were often suspected of helping GAM by providing them with food and/or information. One victim recounted an incident in April 2005, when she was arrested by TNI officers while minding cows in the mountains. She was accused of being a GAM sympathizer and was forced to join TNI in their sweeping operations and to point out the location where her husband was hiding. Her husband had in fact already died in the tsunami. These sweeping operations involved the victim walking for three days and three nights. Only when she fell down on the third day as a result of fatigue, did the perpetrators allow her to return home.

53. On analysis of the cases of sexual torture against women in Aceh since 1990, certain recurring patterns can be seen. Sexual torture, particularly in the form of rape is a strategy for defeating and punishing women victims, their families and their communities. Out of the 12 cases of sexual torture, 9 involved the use of this strategy of rape along with other forms of physical mistreatment including destruction of women's reproductive organs. Rape was not only carried out repeatedly

and in turns, but was also used as a form of cruel and inhuman punishment, as in the experience described in Illustration 5.

Illustration 5

Not Even Animals are Tortured this Way

On 10 October 1990, the TNI came to the neighborhood of Ule Blang for the first time. Locals were ordered to gather at the local mosque for an inspection of their identity cards. When it was G's turn, her KTP 4 was confiscated and she was taken to the military post at Jeunieb.

On arriving at the post, G was given water and asked nicely whether she had ever cooked for, or given food to GAM members). The victim said she had not, then the perpetrators began hitting her with a stick of wood, continuing until the wood splintered.

The beating stopped for a while, but G's detention continued. When she was again called for interrogation, G's hands were tied together above her head. She was hit in the neck with a rifle butt and kicked all over her body. Her eyes were gouged and G's entire body was burnt with wax, including her face, breasts and vagina. She was tortured repeatedly, each time screaming, crying and asking for help and forgiveness; none of her pleas made any difference and this torture continued for three days.

The torture proceeded to become more severe: G was treated worse than an animal. She was stripped naked and an iron rod was forced in her anus; she received electric shocks to her vagina until it tore. All the while the perpetrators paid no heed to her pleas for mercy; in fact they even insulted her following the torture.

G's vagina became infected as a result of the burns; blood ran from the wounds on her body; and ; her breasts felt torn because of being burned and shocked. She had no strength left on the third day, when she finally fainted and lost her memory.

When she regained consciousness five days later, G found herself in hospital in Lhokseumawe, where she remained for 12 days. From the time she fainted she remembered nothing of what she had suffered. Only slowly did these painful memories return after she arrived back at her house, around 25 October 1990.

54. Rape is not only a forced sexual relationship between a man and woman indicated by vaginal penetration by the penis. In the International Criminal Court, rape is defined “the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim. Consent for this purpose must be consent given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances.” In our documented cases, Acehese women were also raped by the insertion of objects including hands, rifle butts, broom sticks, hoes and flashlights. There were also a case of a women being forced to brush her genitals with a clothing brush and being punched every time she stopped.

1.2. Responses

55. Attacks aimed at women's bodies and sexuality are based on perceptions of women being perceived as being symbols of community/society purity; and on women's reproductive or lineage sustaining capacity. These factors are deeply rooted in the inequitable power relations between men and women. The destruction of the body and integrity of a woman by way of sexual torture, and particularly rape, not only defeats woman victims or third parties (e.g., husbands) but also destroys and degrades communities because it is seen as evidence of men's inability to protect their own women, who are held as the community symbols of purity and life.

Illustration 6

Dawn Mission

When the State of Military Emergency was announced in 2003, the majority of men in IV's village' evacuated, as they were afraid the village had been characterized as a GAM base. One morning at around five, TNI officers wearing striped shirts and painted faces surrounded W's village. They ransacked each home searching for GAM members. Several men also broke into W's home. W's nephew who was in the house was ordered to gather at the local mosque, as were all the other adult males in the area.

Two men forced W into a bedroom, where one of the men pushed her onto a bed while the other watched the door. W was ordered to take off her shirt, but she refused, then began crying and asking them to stop. One of the soldiers hit W with his rifle butt and threatened to shoot her. Then he raped her. Once he was finished, he called his friend and stood guard at the door himself. The other soldier came in and raped W. About thirty minutes later, the two of them left the house.

The army left the village after 8 am. W's daughter was also in the house when the incident occurred. W is not sure what happened to her daughter, but she has a feeling she was raped too. W tried not to ask her daughter too many questions and could only cry. Both their bodies were covered with bruises due to being hit by the rifles. W did not talk about what happened to her. Her husband and community only know that army officers beat her with rifle butt. The village head and other leaders took no interest; in fact, the village head once said not to mention, let alone report any incidents of rape. The reason for him saying this is that it would have been considered a 'stain' on the village. The village leaders consider even hearing of these cases as an insult to the society, let alone offering help to the victims.

*"My husband accepts that I can no longer enjoy intimate relations with him because of the pain and bleeding. ..[but] sometimes my husband says "If I had more money, I would look for another wife." Still, neither my husband nor any other relative blames me for what happened.
(Victim of sexual torture, 2003)*

56. The assignment of women as symbols of community purity means that it is very difficult for women victims of sexual torture to talk about their experiences of violence - even to their own family members. One mother, who was a rape victim even deliberately, did not discuss her experience with her daughter who had been present in the same house when the torture occurred. This mother worried that discussing her experience would uncover sexual violence that was not only a stain on herself, but on her family and entire neighborhood too (see Illustration 6). Furthermore,

she didn't feel that she could even discuss it with her husband, as she was not confident he would fully understand.

57. In the time of the armed conflict, victims of sexual torture almost never received support from their communities. This is understandable given that those who offered support could find themselves becoming targets of violence. When support -was given, it -was done in secret.

*"At that time people really looked out for themselves, because that's what conditions were like, and how you could keep yourself safe. But I know the community supported me even though they were not brave enough to express their support."
(Torture victim, 2003)*

58. The most frequent response received by victims of sexual violence who reported was that of shame and blame. Even despite the fact that torture in the forms of rape and other sexual aggression were viciously carried out and could not possibly have been avoided by the victims. These sorts of responses even come from the family members of victims, as can be seen in illustration 7. Victims are often treated as a disgrace to the entire neighborhood, which results in the victim being ostracized by the community.

*"The society surrounding me seems to despise and keep its distance from me because I'm accused of being a wife of a GAM member. A few of them have even asked me directly whether I am a wife of a GAM member, to which I answer that I am. After this, they avoid me as though I have some contagious disease and may bring disaster."
(Victim of sexual torture, 2002)*

Illustration 7

Endless suffering

On 20 September 2002 at around '11 pm, H was approached by R (35 years old) and by a TNI soldier. R was her in-law, that is the husband of her husband's sister. H was asked to follow the two men to the non organic military post which is at the subdistrict office. H tried to refuse, she would be shot at.

H left her house on foot. Once she arrived at the post, H was ordered into the interrogation room. H was surprised to see that her husband's second wife was also in the room, naked.

H was interrogated on the whereabouts of her husband. H was ordered to take off her clothing, then was hit with rifle butts and an iron bar. She was ordered to sit and her legs were forcibly spread apart while the soldiers shoved a flashlight in her vagina repeatedly. R, as an in-law, witnessed all that happened to H and her co-wife. H was very ashamed and angry at R. H was then ordered into the other room, still naked. Here she met with D, a TNI informant who asked her about her husband's hiding place. The soldiers and D forced her to confess that she was hiding her husband. According to their information, he still came home often and she was often with him, but she was intentionally deceiving them so that her husband should not get arrested. Because she went on insisting that she did not know, the soldiers continued hitting her.

H experienced bleeding and an infection in her vagina as a result of the incident. Her family's attitude to her also changed. They avoid her and try to keep her away. In fact, they act as though they hate her. In fact, the one who reported her to the army and witnessed the torture was R, a close relative of the victim.

59. Victims also undergo bitter experiences when attempting to access public services, such as medical aid, in their recovery attempts. For the sake of responsibility and humanity, public servants in health facilities should carry on with their functions without siding with any faction. Illustration 8 shows that there is no guarantee that public servants will pay heed to victims' rights to recovery.

Illustration 8

Even The Hospital Took Sides

At around midnight on 25 September 2002, four members of special military unit (Kopassus) TNI-BKO East Aceh came to the house of Nj. She was taken to a post at the sub district office for interrogation about the location of her husband who was a GAM member. Nj was forced to strip naked and ordered to sit on a chair with her legs spread out on another chair facing her. Nj was hit with a long rifle butt until her head bled. Nj was also hit on the thighs, hands and legs with an iron bar about 50 cm long and 5 mm wide. She received electric shocks, was burnt with cigarettes and ordered to hold a bare electrical wire. Nj was ordered to sit with her legs apart, while her vagina was thrust repeatedly with a broomstick. The perpetrators even called out, "What fun can this pussy bring? It's already powerless and smelly". Nj's vagina began bleeding and she was then ordered to brush it with a clothing brush and not to stop "until it's clean". If Nj stopped, they beat her. The torture continued until four pm the following day. She was ordered back home and the Kopassus member threatened: "Don't try to report it to human rights groups or we'll kill you". For the next three months Nj was required to regularly report to the army post.

Nj experienced vaginal bleeding and infection as a result of this torture. When her family took her to the hospital, the health workers were afraid to treat her, because TNI members often come round checking the hospital. Nj was only given some medications and was sent away. The distance from her house to the hospital was quite far and going back and forth to the hospital, as she was required to do, was not only physically tiring but also caused her economic burden, which resulted in her suffering further.

60. The unwillingness of State security personnel and public officials to end sexual torture and to grant the right of recovery to victims is one way in which impunity continues. In Illustration 1, the victim did not wish to share with anyone her experience of rape and torture. Only when she could no longer conceal her pregnancy as a result of the rape she was forced to reveal what had happened. When she reported to the perpetrator's commanding officer, all he was interested in was denying his command's responsibility and thinking about the reputation of the institution. The perpetrator in this instance received no punishment whatsoever and is free to carry on with acts of sexual torture and rape.

61. In fact, when public servants wish, they can play an important role in preventing or even reducing and stopping the continuation of sexual torture by their colleagues. The actions of a responsive official, however small they may be, can become the key to the further livelihood of the victim. For example in the case of N, the wife of a GAM member: she became the target of sustained sexual torture by security personnel seeking information on the whereabouts of N's husband. N was forced to go to Eastern Aceh to show the locations of secret GAM bases as well

as identify people suspected of having relations with GAM. During the journey, N was intimidated, hit, experienced sexual degradation, and was set upon by a dog until she fainted. N's fate might have even been worse, had it not been for a Captain of the Sectoral Police who phoned those holding N and requested that her torture cease.

"I was freed and brought home. That was through the indirect help of the captain of the sectoral police at the time. He phoned the Mobile Brigades personnel who were torturing me and requested that I be returned home, because according to him I had done nothing wrong and there was no reason for considering me to be involved. Because of that, I thought of the Captain as having helped me that time."
(Victim of sexual torture, 2002)

62. In many instances, the government - who has the role and responsibility to ensure the proper running of the State - not only shows insensitivity to victims, but also responds in inhuman ways, as the following victim's tale attests to: At the time of the incident, the victim's (Y's) village was being swept by marines. Y, who was 90% blind came staggering out of her bed room as all residents has been ordered to gather in the local mosque. Several marines victim gang-raped Y in her own house. After more than 15 years trying to recover from the trauma and bitterness of the rape/ sexual torture, the Y went to the sub district office to ask about rehabilitation programs she had heard were available to all victims of the conflict. She was advised in a rude and hurtful manner by a public servant that assistance was not available for victims of sexual torture. As result, the victim lost hope and no longer has faith in the government.

"Although i don't receive any support like other victims do, I am not going to go again to demand my rights from the government. I am ashamed and feel put down by the employees at the subdistrict office who say that my case is trivial. The big cases are the ones where "I am counted as a minor victim...my cases is not that important; there are a lot of big cases that still await attention."
(Victim of sexual torture, 1990)

63. The categorization of the beneficiaries that have rights to and are priorities for rehabilitation aid following the Helsinki MoU has become one of the new debates in the effort to handle victims of conflict. Besides not being considered a priority, the victims of sexual torture are also sometimes categorized as not being rightful beneficiaries, for example if they were already detained and freed before the signing of the MoU; and all the more so if they or their families had surrendered themselves to the Indonesian side. This is despite the fact that numerous reasons include the desire to stay alive, prompted people to surrender. Furthermore, victims' sufferings are in no way diminished by surrendering as such quite the opposite in fact, as during the conflict those who surrendered were considered traitors; therefore often becoming post-conflict targets of discrimination.

"Even GAM treated my children and I unfairly: because he turned himself in before 15 August 2005, they regarded him as being unfaithful to GAM. My children and I will therefore never receive any protection or help from GAM. Why is GAM able to forgive and shake hands with their enemies but never forgive its own former members? In fact, my husband is already dead. Even if they don't forgive him, they should at least show concern for his widow and children"
(Victim of sexual torture, 2002)

1.3. Victims Question Justice

64. Efforts to silence, blame, forget about, or even exploit victims of sexual torture render justice very expensive for victims all the more so if we consider the horrors they have already experienced. Experiences of violence and disappointment with the process of justice lead victims to take on various definitions of justice. Within this variation, the victims of sexual violence underscore:

“Justice is when no victim is ignored, differentiated...counted as minor (in receiving assistance). Don’t mention the perpetrator, I don’t want to see or hear them. Don’t let them come even if it’s to apologize. Just get them far away”
(Victim of sexual violence, 1990)

64.1 The importance of recognition of what has been done to them, of what has occurred, and that these things were perpetrated intentionally with the aim of destroying the victim’s integrity.

“Justice is when there is an opportunity to explain what truly happened and the explanation is accepted as a fact, as the truth.”
(Victim of sexual violence, 2001)

64.2 This recognition must be accompanied by punishment for the perpetrator. For a number of the victims, punishment can also take the form of dismissal from work. There are victims who want for the perpetrators to make public apologies. There are also those who reject these solutions ; not that they feel they are unnecessary, but only because the injury, the pain and trauma they have endured during and following the torture is so deeply rooted that they feel it would be almost impossible for them to forgive the perpetrators. One mother of six told us that she would never forgive the one who had tortured her, but she demanded that the perpetrator be tried for the sake of her children’s futures — so they would not demand and seek revenge. The desire to go on living freed from the chains of violence was also expressed by other victims who felt that apologies from the perpetrators were necessary “.. so that they can feel that they were wrong, and that there should not be vengeance between the victims and perpetrators in the future.”

“Justice is when those who have tortured are tried and they ask forgiveness from us because we must live for so long in fear and isolation as a result of their false accusations.” (Victim of sexual violence, 2001)

64.3 Torture results not only chronic physical and psychological injury, but also in loss of livelihood; Thus, justice for the victims must include administration of a recovery program, including medical care and services, financial compensation and skills training that can help the victims become independent. It is noteworthy that most victims stated that compensation alone would not settle the issues of the responsibility of the perpetrator and the State in perpetuating torture.

“There will only be justice when the perpetrators ask my forgiveness and that of other victims for what they did in the past - when they are punished appropriately for what they did to me, in accordance with the law. {When} there is a guarantee that what happened to me will not happen to others, [and] I receive sufficient assistance so that I can attain a better life...”
(Victim of sexual torture, 2001)

65. The points above represent a summary of what they understand justice to be. The summary is not merely something that we must listen to; it must become the foundations for the rightful acceptance of responsibility by relevant parties, and it must inform the creation of programs that enable justice to be realized.

“To me, justice is when those who tortured me are punished and I am given the care that I need, because I still feel pain from that incident. I want to give my children a life worth the name. I want to live in peace. It’s enough that I had to experience this awful thing. Let it not come to pass that my children should feel this same pain.”
(Victim of sexual torture, 2002)

“...if the victims merely receive compensation and the perpetrators are not punished, this is still not justice: the pain the victims have endured cannot be paid off with money. With his punishment, the perpetrator is finally made aware that what he’s been doing is wrong, and that the government knows-that its apparatus are cruel and mistreat the society they are meant to protect. For justice to be served the perpetrator must be punished and the victims are supported.
(Victim of torture, 2003)

2. Cruel and Inhuman Treatment or Punishment

“I wonder why there is a court when there is no justice.”
(Victim of cruel and inhuman treatment, 2005)

66. Torture and cruel and inhuman treatments are often connected, and are indeed difficult to differentiate. Even the explanation given in the UN Convention against Torture is short, with the line between the two being very unclear. Yet in order to be more alert to the nuances of sexual violence and its implications for the way women victims define justice, this report draws a line between torture and cruel and inhuman treatment and punishment. Based on the understanding taken from the convention, our line of difference is based on the context of the action (whether it is torture or not) and/or on the category of perpetrator (whether it was actually performed by, or with the knowledge of, the State authorities or not).

Cruel and Inhuman Treatment or Punishment:

*“..actions which cause suffering, pain, fear or embarrassment but which fall short of torture.”
(Explanation from UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)*

67. Sixteen cases of cruel and inhuman treatment and punishment were documented, these happened between 2000 and 2006. Eight of these cases included sexual elements. These cases are divided into three groups: (a) hostage-taking, cruel punishments and extortion committed by TNI; (b) cruel punishments committed by GAM; and (c) human rights abuses which occurred during the enforcement of local laws concerned with the prohibition of *kehalwat* (intimate proximity), *maisir* (gambling) and *kehamar* (alcohol consumption).

68. Looking at the eras these incidents occurred (see Figure 5), 12 cases were connected with the conflicting parties — from both TNI and GAM — efforts to intimidate civil society, with 4 cases occurring during Peace Dialogues Era and 8 during the Military and Civil Emergencies Era. Five other cases occurred after the signing of the MoU, and all of these were in relation to (alleged) violations of religious local regulations.

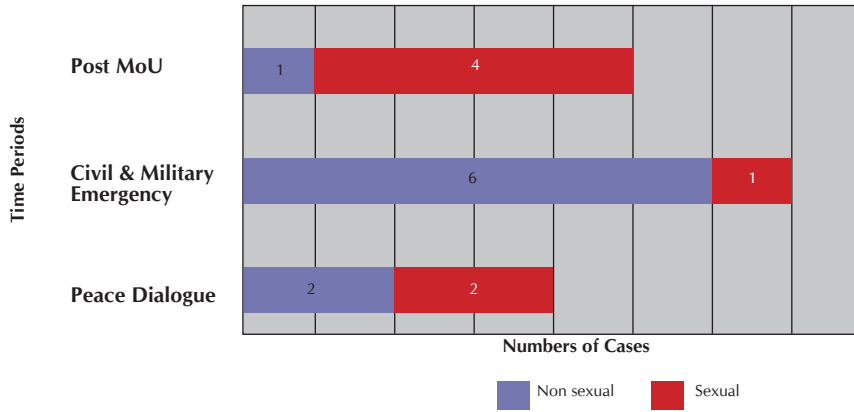
2.1. Hostage-Taking, Extortion and Cruel Punishments Committed by TNI/Indonesian Military

69. Internationally recognized Humanitarian law, as written in the 1949 Geneva Convention provides protection to civilians. Article Three states that “Conflicting parties cannot... (1b) Take civilians hostage, (1c) Perform inhuman actions, especially anything embarrassing or degrading for humans (1d) Give or execute punishments without the due process of law.”

70. From the eight documented cases of cruel and inhuman treatment and punishment committed by TNI towards civilians, six are cases of hostage taking during the Military and Civil Emergencies Era. The objectives of these acts were to force members of GAM to surrender. The hostages in these six cases were all residents of villages that were thought to be ‘GAM areas’. All the residents in these villages were classified as restricted from leaving the areas; they were forced to live in open fields close to a military post. The total number of hostages taken included between 30 — 50 households (across the six cases). The hostages had to live in tight quarters, building and sharing tents with other hostages. They were kept for between 15 days and 3 months. During this time, they were not allowed to leave the area without permission. The hostages were also not allowed to communicate with outside parties. Breaking these rules meant punishments such as having to stand in the hot sun or being soaked inside a ditch/watering hole. Three cases recorded in 2005 included hostages that upon being freed were issued with death threats if they reported what they had experienced to a human rights monitoring team who were intending to visit the area.

Figure 5

Number of Cases of Cruel Punishment and Other Inhuman and Degrading Treatments against Acehese Women from Era to Era



71. Apart from hostage taking, other acts included in the documented cases of cruel and inhuman treatment and punishment were security personnel actions that give rise to cruel punishment. This documentation process found a case where a member of TNI kicked a woman victim/accused in the groin because she was considered to be against the authorities. The soldier had not been satisfied with the victim’s answer when he asked her where she bought the palms that were stored next to her house.

72. Another case involved extortion by member of TNI with the objective of forced marriage. The victim was reportedly threatened that she would be imprisoned on charges of subversion if she didn’t agree to marry the perpetrator of the extortion. For three months during 2003, the perpetrator lived in the victim’s house in order to force her to marry with him. The woman reported being anxious that he would commit other actions, such as rape in order to force the marriage. She evacuated to a neighbor’s house; but the perpetrator came to the house and threatened to burn it down. The victim also tried to escape to her relative’s house situated in another district; but the perpetrator wrote a letter to the victim ordering her to return to her own house, saying that if she refused, he would have no reservations in making the entire family targets of arrest and imprisonment. When the victim finally decided to marry with another man, the perpetrator interrogated this man and accused him of being a member of GAM. Because they were so scared, the victim and her husband finally decided to move to Medan (a city situated in another province). They only were become brave enough to return to their village after the signing of the MoU.

2.2. Cruel Punishments Committed by GAM/Aceh Freedom Movement

73. Cruel and inhuman treatment and punishments were also committed by GAM towards Acehese women because they had husbands or boyfriends who were TNI officer. Of the three cases documented, one victim was an Acehese wife of a TNI officer; the two others victims were girlfriends of TNI personnel. The treatment experienced by the girlfriends was very different from that of the wife, as explained in illustration 9. In regard to the girlfriends, they were detained at GAM posts and ‘advised/instructed’, ‘given moral guidance’, or ‘religious guidance’, to end their relationships and again become “dignified Acehese women”.

74. These three cases, especially that of the TNI officer’s wife are comparable with cases of torture executed by RI authorities towards Acehese women for the simple reason that they were, or were presumed to be, wives of GAM members. For the two warring parties, these victims’ personal relationships were considered evidence of their ‘betrayal to the nation’ — be this Aceh or Indonesia depending on the perpetrators. Such labeling demonstrates how women’s bodies and sexuality become a community symbol; therefore continuously being used as a battle tool for the warring parties’ struggles for power

Illustration 9

Tortured for Being the Wife of a TNI Officer

N, 43 was married to a TNI intelligence officer in Aceh. Her husband often returned to the village where she stayed. It turned out that a troop of GAM knew that her husband was a TNI officer. One afternoon in 2001, 3 GAM members arrived on motorbikes and arrested them in their house.

The victim and her husband were blindfolded and taken to another location. On their arrival, they were separated, and the woman was interrogated in a terrifying and despicable manner, which included being threatened with death. The most painful part for the victim was hearing the constant cries of her husband, calling her name and asking for help. Her husband died after a week of detention.

In the second month of her detention, one GAM member visited her and asked for sex. He said she : would be set free if she complied. When N refused, the man tried to rape her. Luckily he failed. After around 1 three months, N was released on the guarantee of the village leader who was also a member of GAM.

75. Because GAM was not classified as a State actor then, according to law, their actions cannot be classified as torture. But as is written in the UN Convention against Torture, these actions are still as serious as those that meet all the criteria of ‘torture’ itself. Until now, human rights groups have not given as much attention to these kinds of cases as they have to cases of torture committed directly by, or with the agreement or knowledge of State officials. Two factors are at play here: (1) because State officials must bear the State’s responsibility to guarantee and provide protection for the human rights of the citizens, they are seen as being more compelled not to become human rights abusers; and (2) field research shows that significantly fewer cases of torture/inhuman punishment/cruel treatment have been committed by GAM as compared to Indonesian State actors.

76. Despite this, cases of cruel and inhuman treatment and punishment committed by GAM cannot and must not be overlooked. There is' also a strong possibility that the total number of actual victims (of GAM perpetrators) is more than those documented in this report. Breaking the culture of impunity for perpetrators of human rights violations is the biggest challenge in the Post MoU Era and following the first free local elections in Aceh. This is made challenging by the victory of the GAM representatives in the elections: after attaining the trust of the people of Aceh to lead the province, GAM led investigations into past GAM actions become a less likely prospect. Forgetting, overlooking, or extenuating cruel treatment means not only nurturing the culture of impunity, but also betraying the expectations of the Acehnese for improved law enforcement.

2.3. Implementation of the Religious Code: An Unjust Legal Process?

77. Another form of cruel and inhuman treatment or punishment is demonstrated in the documented cases that are connected with the implementation of religious code/Syariah law under local regulations. Five cases were documented: four concerned specifically with women. One involved an accusation of breaking a regional law on dress code; three were alleged cases of intimate proximity of unwed couples; and one involved gambling. There are at least two striking characteristics from these cases that render the implementation of regional law open to classification of involving cruel and inhuman treatment or punishment - although this premise still needs more study. Firstly, there is no guarantee of the basic right of presumption of innocence: the punishment of those accused begins even before trial. Secondly, the type of punishment (public caning) opens the door to an infinite penalty period for the victim even after the formal punishment has been dealt, as the community continues to stigmatize the victim.

*“In Aceh, Syariah law as expressed in the Qanun [local regulations] is like the word of Allah. There’s no protest, no mistakes or need for further explanation: anyone questioning the law will be viewed as questioning the existence of Allah, even though the law is made by man
(Victim accused of breaking the law on prohibition of intimate proximity, 2005)*

*“The government only tries small people who commit mistakes like us, but are not brave enough to give solid punishment to those committing corruption, stealing hundreds of millions of Rupiah”
(Victim accused of breaking the law prohibiting gambling, 2006)*

78. The criticism that the substance and the implementation of the local regulation on dress code instigates/perpetuates violence against women was first stated in 2000;⁵ however, the practice continues unabated. Whilst in the past various acts of violence related to Syariah law implementation were committed by community members, the five cases documented here were committed by State actors, particularly by the Syariah Police (commonly referred as Wilayatul Hibah or WH), which is under the jurisdiction of the Bureau of Islamic Law Affairs (Dinas Syariat Islam).

⁵ In 2000, Komnas Perempuan received a report that 40 women had become victims of Veil sweeps’ conducted by groups of local youths. These sweeps were extremely violent and included victims being forced to have their hair cut, being poured with paint and being sexually harassed. Komnas Perempuan, Violence Mapping: Indonesian Women’s Experiences, (Jakarta: 2002), p.239.

In carrying out their duties to ‘guide’ the Acehnese community in the ways of Islamic law, the WH do not have the authority to arrest and investigate people suspected of breaking the local Islamic law regulations; however, some distortions have occurred in the field, including violations of the WH code of ethics, which prohibits WH acting impolitely in providing guidance, and certainly prohibits WH conducting surveillance or using violence.

79. Because these local regulations are identified with religious teachings, and because the method of religious teaching is very dogmatic, criticisms about the implementation of Syariah law in Aceh is often perceived as questioning not a particular interpretation of religion, but rather the very law of God. Komnas Perempuan recorded that in 2005, one woman who criticized the recruitment process for prospective WH members at a discussion forum, subsequently received disgraceful treatment. She was terrorized by the WH, and was labeled by her community as someone who opposed Islamic law. This label was a very heavy one to bear, and resulted in her being isolated from her community. The WH then accused her of libel. ...

80. According to the opinions of those accused of committing intimate proximity, two of the four cases involved the victims being wrongfully and violently arrested. In one of the cases, the victim and three of her female friends were arrested in front of their hotel room, where they were staying while attending training organized by a woman’s organization in Banda Aceh. They were arrested on the grounds of breaking the law on Islamic dress code which demands women wear veils in public places. The victim reported that the WH were excessively rough in forcing her and her friends to go along with them to their post. They were driven from the hotel in an open-backed car, and purposely exhibited to onlookers so that they could be mocked as ‘prostitutes’. Their interrogations also involved derogatory sexual mockery. They were then forced to sign a letter of confession in return for their freedom. They were also required to provide a person who would guarantee that they would not repeat the act. A male friend, who was also a human rights activist, came to the post to serve as their guarantor. Instead of being released, the man he was accused of being their pimp. For the victim and her three friends this accusation was a degrading and inhuman insult; thus they argued ferociously with the officers, until finally they were set free with a guarantee given by another friend.

“...our actions in reporting to the police about the treatment we had received was also found blameworthy ...we were considered as anti-Islamic not only by the police but also by the community. The police refused our report because they saw it as a challenge to the Law of Procedures. I feel that this case was not followed up [by the police] because the offenders included the bureau head and other civil servants... there must have been negotiation amongst the high level officials, and powerless people like us always become the victims.”
(Victim-accused of breaking the law on Islamic dress code, 2006)

81. The victims then reported to the police about the insulting behaviour of the public officials. The police refused to take the report, citing a lack of evidence and that the complaint supposedly conflicted with the law on procedures for criminal cases. The police did not assume an impartial position in the processing of the complaint, and actually considered the victims report as a display of an ‘anti Syariah law’ attitude.

82. The process of developing and enforcing laws has always been a political one, which demands the right goodwill in order for the laws 'to lead to justice. In many instances, laws become the ground where various important groups look to justify and gain legitimacy for their authority. The case detailed in Illustration 10 below shows how a certain group uses the lack of clarity in the law — in this case the definition of *kehalwat*/intimate proximity — to rebuke their political opponents. This is indicated in every statement given by the WH to the victim in order to make her follow the conspiracy to arrest the head of her political party. The victim is used only as a pawn in the attack upon the head of the party - being a woman in patriarchal society of Aceh she is an easy target. This exploitation is apparent in the attacks upon her integrity during the judicial process, as well as in media coverage of her story.

“..there is no justice for me. If the Syariah Police screamed and shouted, the judge simply remained silent... The judge should actually have been aware of what was going on... [on the contrary] the judge asked me “Were you using a veil and clothes to cover your whole body at that time?” I felt I was deliberately victimised in this political game of which I was not aware. I’m not a politician, so don’t make me a pawn in that game. I have a family and children. The judge doesn’t need to support me, but really should stand in the middle as a neutral and independent party.”
(Victim - accused of breaking the law prohibiting intimate proximity 2005)

83. Komnas Perempuan’s monitoring of the judicial process that was involved in the case portrayed in Illustration 10 noted that during the hearing, the investigator often cornered C, accusing her of committing adultery. The process of investigation was prolonged without clear reason; it took three months for the case to hear two statements. The public prosecutor also asked the victim for money if she wanted her detention delayed. The prosecutor gave information about the case to the press without the victim’s consent. The accused was also forced to be present before the court when she was ill. And most importantly, the judge allowed the proceedings to be open to the public even though the sexual nature of the trial should have seen it being a closed session. In short, the right of C to presumption of innocence before being found guilty, to have equal treatment before the law, and to a judicial process which was just and respectful was totally ignored by the law enforcers at every stage of the legal process in this case.

“The government tried me without giving me the opportunity to defend myself, and without making assistance from a lawyer available. I was imprisoned and then sentenced to be caned. I felt like I’ve been punished twice... “
(Victim accused of breaking the law prohibiting intimate proximity, 2006)

84. Apart from the cruel methods used to enforce Syariah law, another issue to be addressed is the use of caning as a means of punishment. In contrast with a prison sentence, which is seen as a means of rehabilitation, the aim of a punishment by canning is to deter not only the offender, but also the general community from ever committing a similar crime. In order to achieve these goals, canings are executed in public; even children are allowed to watch. The victims are publicly humiliated to ensure their cases will serve as a deterrent for others. This exhibiting and humiliating aspect is one of the reasons why caning can be considered an inhuman form of punishment. For woman victims/accused, the deterrence effect is secondary to the shame and degradation endured during the execution of the punishment.

Illustration 10

When Law Becomes a Political Pawn

In September 2006, the WH raided the office of a political party in city L, with a claim that they had received a report that the head of this party (A) was inside flirting with a female member of the party (C). When the WH arrived, indeed it was only C and A who were in the office. Because she wanted to perform the early evening prayers, C had locked the office door to safeguard her motorcycle, which was parked inside the front room of the office. The office windows were closed because the air conditioners were on. A and C explained to the WH what was going on and upon hearing their explanation, apologized for the misunderstanding and left.

After this incident, C returned home. Around 9pm, there was a knock at the door. When she opened it, she was confronted with a number of the WH, as well as the flash of a journalist's camera. C became angry, especially after learning that the WH wanted her to follow them to their office. One of the WH said "Relax Ma'am, you will not be detained, this is just to get him [A] whom we would really like to arrest." Other added, "... no need to defend him [A]; he's not a good person; he already has two wives, so you will be disappointed later.. we guarantee that nothing will be befall you. If A comes to the office, you can go home and that will be the end of it." C refused to go along with them, and they finally left her home.

Two days later, a version of this story appeared in the media, which portrayed C in a very negative light. When the case was brought to the Syariah Court, the newspaper reports became all the more incessant. This was made worse when the judge allowed the trial to be an open session despite it concerning sexual matter that, according to the Law of Procedures, should be heard in a closed session. There was even a local media article that included a caricature of the couple sitting on a bed, with the story of her case beneath. This story was based only on recollections given by the WH, and written in a very sensational fashion. For example it was stated that A was found groping C when he was arrested, that there were marks of her lipstick on his cheek and that C was wearing A's shirt.

In the hearing, onlookers came forward and saluted the prosecutor. They demanded the judge not to postpone the proceedings, and shouted several times that the C should be caned. C was sentenced to five lashes. C didn't accept this decision, and stated her intention to appeal.

"...to be canned in front of a crowd — what's more in front of children — does more than degrade someone's dignity. If you want to deter or make someone aware of their mistakes and [you think] there's no alternative to canning, why must this be done publicly? Why can't you give advice or guidance to the public instead?"

(Victim accused of breaking law on prohibition of intimate proximity, 2005)

85. Another feature of caning that makes it inhuman is the fact that it results in an ongoing penalty for the accused. This is particularly evident for women accused of committing close proximity. Even without the caning, the 'social punishment' given to unmarried couples who have sexual relations is always more severe for the woman. Bearing the social stigma as being 'temptresses' and 'inherently immoral', women are always judged as the cause of any indecent sexual act. These judgments feed stigmatization of and discrimination against women. Public caning therefore acts as an instrument that tattoos the statement 'immoral' on the forehead of female victims — a stigma that can never be erased. It is excessive to punish someone for a lifetime for a small human error,

particularly if the person is still very young. One victim accused of committing intimate proximity even decided to leave Aceh and her family for good because the humiliation as a result of being caned was too much for her to bear.

“... because of the caning, nobody cares to question how big [the bet is] or why, but only to mark me as a gambler, criminal and a sinner. Now my friends never come to my house. They avoid me as far as possible. It is as if I’m a criminal who would murder others”
(Victim accused of breaking the law prohibiting gambling, 2006)

86. Even if women victims do not actually break the local regulation, the accusation of committing an indecent sexual act has a major impact. This is particularly related to the general belief in the importance of the perception of women’s faith, purity and docility, and that women must be completely dedicated to their husbands. Consequently, women’s marriages often face crisis if they are even accused of violating local religious regulations. An accused woman must often deal with the condemnation of her family as well as her community.

“I explained everything to my husband and he understood. He said he believed me. But after that he telephoned less and less... and he didn’t return home for this year’s Islamic celebrations... How my children can go on I don’t know. I can only go with the flow.”
(Victim - accused of violating Islamic restrictions on sexuality, 2005)

87. Apart from punishing the victims accused of breaking Syariah law, punishment by caning also affects other family members, especially children. In one case, a mother was caned for gambling. She had decided to gamble in order to get some money for her indebted family. As well as her own humiliation and isolation the caning resulted in the victim’s son being ridiculed by his friends and discriminated against by his teachers.

88. Caning — like other practices that aim to humiliate the accused, such as: parading victims in front of the public; using insults during the interrogation process, especially those that make reference to woman’s sexuality; allowing of mass judgment by opening trials to the public; and allowing practices that perpetuate ongoing and indefinite punishments — is intolerable in from a human rights perspective. These practices undoubtedly violate the basic principles of rights to fair and just trials.

“My family feels so embarrassed and often blames me for everything that has happened. My close relatives have stopped inviting me to family gatherings; my husband seldom comes home, and I’ve heard that he has married again; [in school] my children are mocked; I have had to move them to different school. If I think of everything that has happened, I feel so heavy and sad.”
(Victim accused of breaking the law prohibiting gambling, 2005)

89. Komnas Perempuan, together with its Special Rapporteur for Aceh already communicated these issues to judicial, executive and legislative authorities in Aceh at both provincial and district levels in October 2005. The Special Rapporteur for Aceh rioted positive responses from the authorities, which promised to make efforts to improve the enforcement of the respective local regulations in order to reduce the possibility of arbitrary punishments outside the legal process.

The Special Rapporteur believes these assurances and will continue to monitor the authorities in their attempts to take concrete steps to improve both the substance and the implementation of the law in accordance to human rights standards.

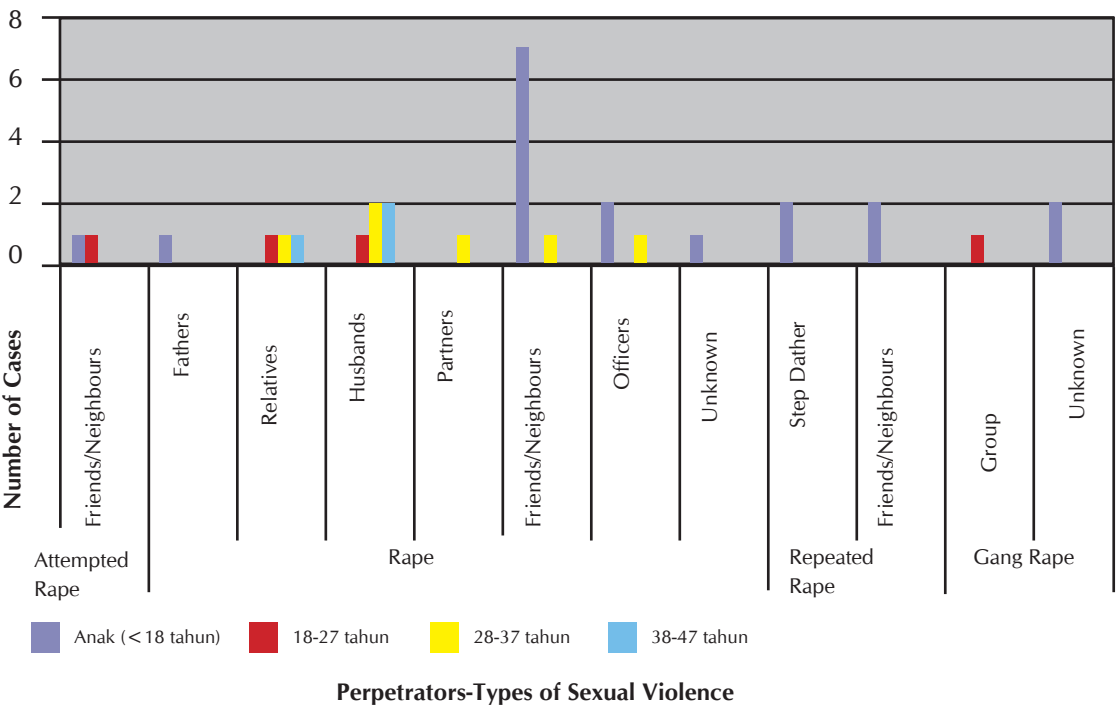
3. Rape

“It’s completely unfair that I’m the only one they get angry at while no one bothers to get angry or shout at the man. If you want to mark the woman as some type of villain then you should do the same with the man as well, he is worse than I am.”
(Rape victim, 2006)

3.1. Cases

90. The second highest numbers of documented cases were rapes: 31 out of 103 cases. This figure does not include the four cases of rape and one attempted rape that were used as a means of sexual torture. Most of the rape cases happened during the Military and Civil Emergency Era (18 cases), followed by five cases in the Post MoU Era, three cases in the Peace Dialogue Era and one in the Military Operations Era. Four cases were classified as occurring Across Eras, and these occurred within the context of marriage (wives raped by husbands).

Figure 6
Number of Cases of Sexual Violence
against Women in Aceh According to Victim’s Age and Relation to the Perpetrator



91. Two out of the thirty one cases were attempted rapes. One victim, although having already been stripped naked, after she convinced the perpetrator that she would be willing to marry him. Another was saved by a friend who happened to visit her house at the time of the attempted rape. Among the cases of actual rapes, three of the victims experienced being gang raped and four other victims suffered being repeatedly raped over time (from 5-15 times).

92. More than half (58%, 18 cases) of the rape victims were girls (18 years old or younger), with the youngest only 7 years old. The second largest group of victims came from the 28-37 year-old age range (6 cases), followed by the 18-27 year-old range (5 cases) and three victims were women between the ages of 38-47 years.

93. Ten of the perpetrators were victims' neighbors, three were strangers to their victims, two were friends of the victims, one was by a government official, and the rest (15 cases), were carried out by the people closest to the victim. Most of the child rapes occurred within the family, perpetrated either by fathers, step-fathers, or other family members such as uncles, adopted brothers and cousins.

*"... when they found out what I had been through, they said 'it's your own fault, now you know the risk of dating a man you don't know.' Never did it cross their minds to report my case to the authorities. They kept on blaming me and did not try to understand that I was hurt and very frightened."
(Rape victim, 2005)*

94. There were five cases of rape within the context of marriage, four of which were repeated rapes that went on for years. Various forms of sexual cruelty, especially beatings and verbal abuse, accompanied these rapes. In one of the cases, the rape was preceded by the forced marriage of the victim by her parents. The victim had just turned 18 when she was married on 7 March 2005. The first night following her marriage, the victim escaped to a friend's house. Her mother found her and dragged her back home. That night, the victim refused to have sex, and her husband did not react. On the fifth night when the victim continued to resist, the husband/perpetrator became furious; feeling that, as her husband, he had the right to sexual relations, so he began to force her. He pulled her hair and smacked her face. The perpetrator succeeded in forcing her to have sex, and the victim could only cry because she was unable to resist. From that night on, every time the perpetrator/husband had sex with the victim it was by force. As husband and wife they fought constantly. Finally they were divorced, less than six months after being married.



The 1945 Indonesian Constitution

Article 28B (2)

Every child has the right to live and grow as well as the right to protection against violence and discrimination.

Article 28G:

Every person has the right to protection of themselves, their family, their dignity, integrity and their property, as well as the right to feel safe and protected from the threats to exercise or repudiate their fundamental rights.

Illustration 11

Marital Rape

*During the six months of her marriage in 1999, M's jealous husband perpetually mistreated her. In March of 2000 M fainted and sustained head injuries as a result of his beatings. In 2005 he threw a mini-bicycle at M. He also tried to burn M by spreading hot oil on her mattress. The perpetrator also had no reservations in shaming M in front of other people, including in front of M's employer, by insulting her with phrases like "slut" and "whore". M's husband was always suspicious, spying on her and limiting her movements. He would terrorize her through calls and SMS whenever M was late from work. He often threatened *to kill her if she ever reported his acts to police.*

The perpetrator took great pleasure in raping M: besides demanding sex from her while she was menstruating, the perpetrator was only ever satisfied if M were in pain. In mid 2005, at around 2 o'clock in one morning, the perpetrator suddenly put out a cigarette on M's back. Once the victim was already hurt and frightened, he then demanded sex from her.

In February 2006, the perpetrator repeatedly punched M in her left eye to the point where it was bleeding and swollen. M reported this to her boss the following day and then she reported this to the local police with a support letter from her boss. She was then taken to the public clinic for a medical examination. With this medical evidence the perpetrator was then taken to court. The court decided that the case was legally sound and was convinced of the perpetrator's criminal act of domestic violence, and thus, imposed a prison sentence him.

95. To this day, marital rape is still treated as a new issue within our society. As the legitimate social and religious institution for men and women to engage in sexual relations, marriage is understood not only as an ideal arrangement for channeling affection, but also for procreation and carrying on a family line; thus, sex between husbands and wives is understood as just and appropriate. It is difficult for many to acknowledge that rapes take place within the context of marriage. This is particularly so because of the religious implication that a wife serving her husband is showing a form of religious piety; and that a wife who refuses sexual relations is said to be cursed by the angels'. Influenced by such indoctrination, many women are unable or unwilling to narrate their experiences of sexual violence at the hands of their husbands. The fact is that in the 2004 Law on the Elimination of Domestic Violence, marital rape is clearly named as a criminal act.

3.2. Responses

96. Five of the rape perpetrators were officials, with two of these five being classified by the victims as 'boyfriends'. Victims of rapes perpetrated by boyfriends had trouble explaining what they had suffered; because often victims themselves were blamed for the events — it being said that the rapes took place because the victims had provided the opportunities. As a result, responses to their reports were generally not serious. One of the victims who reported an incident to the perpetrator's commander received no response at all. Another victim was simply made to marry the man who raped her; this rapist subsequently abandoned her following the marriage.

97. Shame and fear of being blamed are two of the reasons victims do not report what they have suffered. The majority of rape cases only become known once a victim's pregnancy can no longer be hidden. It is at this point that the victim, along with her family, will report the incident to those seen as having authority. Out of 31 cases of rape, only 4 were not reported. Fifteen cases were reported to the police, two cases to both the military and the village head and one was reported to the Islamic court. Seven cases reported to NGOs in the hope that they would be able to help in advocating for the victim's rights.

Illustration 12

Perpetrator's Victory; Victim's Defeat

X was raped repeatedly by seven people: her father, uncle, younger brother, cousin and four neighbors. This only became public knowledge once her pregnancy could no longer be hidden. The victim's mother reported the crime to the village head, who then called all the rapists to the local mosque. None of the rapists was willing to take responsibility.

The case was taken up by the security services/TNI, which had a post only one kilometer from the village. Because none of the rapists were willing to marry the victim, it was decided that all the perpetrators together would take responsibility for the victim's living expenses as well as the baby; hence, each of the rapists had to commit to giving X Rp 100,000 per month.

This agreement was only enforced for one month following the birth. The rapists did stop honoring the agreement as soon as the troops involved were transferred. Three months after the birth, the victim and her mother moved away from the village because they could no longer bear the complaints of their fellow residents, that the rapes X had suffered had stained the entire village.

98. The responses given by those who received the reports varied. Illustration 12 details the various efforts to informally resolve these cases that were carried out by village leaders as well as local officials. Outside the courts, marrying the victim to her rapist was viewed as the optimal solution. This solution is generally supported by victims' families, as well as by clerics and community leaders. Furthermore, even two out of the fifteen police officers who received reports of rapes supported this particular course of action.

99. The belief among communities, families and even law enforcers that it is best for the rape victim that she marries the rapist is nothing other than a reflection of the social belief that a woman's value rests in the 'purity of her genitalia'. This value is tied to an assumption that when a rape victim is not married, it brings about huge consequences for her, since a woman no longer has a future once her purity was stained or destroyed. The only option for the woman to maintain her reputation/purity is if she shares herself only with the man that raped her.

"If you're already considered 'used goods' like this, where will you find an interested man again? In this neighborhood there's no man who will take her (the rape victim) again, the only exception would be a man from outside the neighborhood, and that's surely because he would know nothing about her. (Rape victim's neighbor, ridiculing the victim, as told to the victim's advocate)"

100. Related to this very deeply rooted belief that a woman who is no longer pure, no longer has a future, there are parties who think that rape victims no longer require education. The documentation shows that only two of the child rape victims did not get expelled from their schools. In these two cases, the arrangements were made possible through the intervention of a victim advocacy group that successfully convinced the family and mediated an agreement with the school. The exclusion of the rape victims from their rights to education is also perpetuated by schools, which believe that the presence of rape victims will ‘soil the school’s good name’.

“Since then I haven’t been to school again. The school expelled me without a letter of explanation. My friends said the head teacher announced that my name had been removed because it would stain the school’s reputation. Even my parents decided that I shouldn’t go to school again, because they thought I wasn’t serious and had shamed the family... They blamed me, saying ‘If you really just want boys, then why bother with school and shaming us first?’ ‘They see me as a worthless woman ‘how.’”
(R, 16 years old - victim of confinement and rape by a police officer)

101. Such responses, especially from the families and those closest to the victims, reinforce the victims’ beliefs that they are to blame. Victims therefore also often agree that marrying the perpetrators are the best possible routes for their futures; even though this is not what they truly wish for, and nor are they often aware of the consequences of such forced marriages. Victims are cornered by others’ opinion that it is only through getting married to the perpetrators that they will be forgiven and accepted by their families and communities. Clearly for rape victims, taking a decision to marry their rapists is an unsettling one.

Illustration 13

“I Wish My Parents Treated Me Like They Did Before...”

For almost one month, 14 year old EL was repeatedly raped by her neighbor, MY. MY constantly threatened EL that he would not take responsibility if she told anyone. MY’s father Sul knew the rapes were occurring, and instead of helping EL, he actually joined in and raped MY himself on several occasions. | When EL finally told (other members of) her family what was happening, they reported the case to the authorities in the village. The village authorities brought the two perpetrators before them and decided that the best solution was marrying EL to the first rapist, MY. MY agreed to, and he would pay a bride-price of a Koran. In the second meeting, EL’s father said that he did not agree to the bride price, but rather insisted on a new bed complete with mattress and sheets. In the third meeting, MY said that he was not able to comply with the demand, but only able to provide 100,000 rupiah. In the fourth meeting EL’s father rejected the offer again. MY explained then that he did not wish to marry the victim because it was not just he but also EL’s father that had slept with EL. In the fifth meeting Sul acknowledged this and then MY said that he was willing to marry EL, but she refused the offer. Because they could not reach an agreement, the village authorities then reported the case to the local Bureau for Islamic Law affairs, which subsequently took the case to the police

“My mother is very upset and disappointed.... I am sad because my mother no longer pays any attention to me. I accepted it when my father called me useless and wanted to kick me. [Thus] I told them that I should just marry MY, even if it's for only one night and we will divorce the next day. I do not mind because this will mean my family will not be shamed. I just want my mother and father to be like before, not to see me as useless daughter. ..I am very sad to learn that people in this neighborhood talking about and blaming me. They surely know that it takes two to tango?”
(Rape victim, 2006)

102. That marrying the perpetrator to the victim is not a solution but rather an action that sustains the chain of violence toward woman victims has been highlighted by the Special Rapporteur on her previous reports about sexual violence in the Internally Displaced Peoples' camps. The documentation for the current reports provides further evidence for this position. Of the four cases that were “resolved” through the marriage of the perpetrator to the victim, all of these ended with the perpetrators abandoning the victims, and the children of the unions as well. In these cases, the victims were once again condemned by their communities and faced accusations of being incapable of becoming a devoted wife. One of these four victims now resides in a mental institution as she was not able to bear anymore the stress associated with the constant ridicule and isolation she suffered after her husband (her rapist) left her.

“There is justice when the responsible is punished and, if possible, expelled from his work. Why is it only me who is thrown out of school? He should have been expelled from his police unit. If there is no punishment, he will think that what he did to me was just normal - that's really unfair. Justice is when the law does not discriminate based on money and position. I want to be able to continue my schooling, and M
(Rape victim , 2005)

103. Besides perpetrator/victim marriage, there are also rape cases of rape that are settled by legal processes. Up until now, of the 15 cases that were reported to the police, 6 resulted in the perpetrators' imprisonment - four of these were cases involving the rapes of girls. Two cases remain in the hearing stage, and the rest are still in the investigatory phase. Although legal solutions only give victims a limited sense of justice, legal acknowledgement that the violence has occurred and that the victims' fundamental rights to live their lives free from fear and act of violence has been violated represents a first step in the fulfillment of victims' rights to truth, and also, to breaking to the chains of impunity.

“... was still afraid, although the officer taking my report was not wearing uniform. The police liked to asked questions I did not understand. When I was examined, there were other police who came by, stood at the door and made comments. I was very disturbed and also felt ashamed.”
(Rape victims, 2006)

104. The results of monitoring legal proceedings involving minors, as shown in Box 1, is cause for optimism that our legal system is gradually improving in handling cases of violence against women. However, serious attention must still be paid to improving facilities such as the Special Services Rooms in police stations for women victims of violence, and in the separate waiting rooms for victims and perpetrators in the court. If improvements are not made, victims will be less likely to speak out and their shame and intimidation will be perpetuated. The behavior of law enforcers also warrants special attention. Fortunately, in the four recorded cases that were settled, the law enforcers

involved did not try to corner or coerce the victim; the judges questioned the victims in a friendly and sensitive manner as appropriate. On the contrary, in one case of marital rape where the victim pursued a legal avenue, the victim complained about the attitude of the law enforcers who, "... do their job, but they do it very offensively, as though I were the guilty one. I was already frightened before they behaved rudely like this."

Box 1 Results of Court Monitoring Four Cases of Rapes of Girls	
Positive Findings: <ul style="list-style-type: none">• All victims were supported by lawyers and their families, as is their right.• All perpetrators remained in custody throughout the investigation, charging and trial processes.• All witnesses were given opportunities to study investigation statements before signing them.• Three of the four victims obtained information relating to the investigation process and were asked to confirm the charges they were making.• All victims received information on the court schedule two days before it commenced.• Each hearing was conducted in a closed session, as required by the Law of Procedures; and the judges displayed sensitivity in questioning the victims.• Every victim had a supporting witness, and in one case there was even a gynecologist came forward before the court as expert witness.	Negative Findings: <ul style="list-style-type: none">• In one case, the investigator tried to make an unauthorized offer of settlement to the victim. In according with the law, a criminal case investigator is not authorized to mediate settlements between perpetrators and victims.• In one case, the defense lawyer tried to corner the victim while questioning her before the court• During the trials, there was no ready mechanism for the protection of the victims and witnesses. There were not separate waiting rooms for the victim and the perpetrator. Given this lack of protection, in one case the victim's family removed the victim from the waiting room.• None of the judges gave perpetrators maximum sentences; they received the following sentences respectively: (case 1) 10 years; (case 2) 4 years; (case 3) 6 years; and (case 4) 8 years and a 60 million rupiah fine.• None of the prosecutors appealed these sentence decisions.

105. For the victims, justice is not attained simply by enforcing marriages between the victim and perpetrator, or by the perpetrator being detained or imprisoned. Moreover, it is very difficult for victims to pursue legal options given the weaknesses in the judicial system, including the inadequate protection for victims during and after court proceedings. For example, one rape victim decided not to report the incident to the police or to the state institution where the perpetrator works. This was despite the victim knowing that the perpetrators manager/boss would have accepted her word, and would have used the report to dismiss the perpetrator, who had been a troublesome employee. The victim made these decisions based on fear of reprisals for herself and

her family. The victim decided to be silent despite feeling deep resentment toward the perpetrator, and the fact that his crime will go unpunished.

“There will be justice when someone gets the punishment they deserve for what they have done. Deep in my heart, I will feel it will be fair if he as the perpetrator of violence receives warnings and punishment so that he can learn a lesson from it. He should be imprisoned for a few months, but not lose his job. The most important thing is that he never repeats his crimes. Don’t let another woman be his victim.”
(Victim of attempted rape, 2005)

4. Sexual Abuse

106. Four cases of abuse were documented that were not classified as torture or inhumane punishment. These all took place in the domestic sphere. Three of these four cases of abuse were classified as sexual abuse. The non-sexual case of abuse occurred in 2002, two of the sexual abuse cases occurred in 2004 and one in 2006.



Sexual Abuse

An intentional and unwanted action directed to the sexual organs and sexuality of someone in order to cause feelings of discomfort, pain or injury to that person, including the intention to damage the person’s health.
(KP Definition)

107. Out of three cases of sexual abuse, two cases were perpetrated by victims’ husbands working for the military. In the lead up to the first case, which occurred in 2004, the perpetrator and victim were married by siri (an unregistered marriage performed in an Islamic ceremony) after it emerged that the victim was five-months pregnant to the perpetrator. One month following the wedding, the victim was discovered dead and half naked, ~~strangled, with knife marks on her stomach~~ and indications of having just been engaged in sexual intercourse. The corpse was found close to the post of the husband, a member of the non organic unit of the military. Driven by both fear and shame, the victim’s family tried to close the case without investigation, despite the presence of strong indications that the victim’s husband perpetrated the murder.

4.1. Blind Chinese Marriage

108. The other two cases of sexual abuse were related to the practice of kawin cinta buta (literally: Blind Chinese marriage). This practice is drawn from a general interpretation of Islamic law that forbids a former husband and wife from reuniting after a talak divorce⁶ unless each of them has already been married to someone else in the interim. In order to hold to this rule, husbands and wives often find partners with whom they can have a short-term contract marriage known as Blind Chinese marriage.

“My mother and family consider this normal because a Blind Chinese marriage is not forbidden by our religion. What’s more, according to them I’m already old and therefore no one would want to marry me anyway. ..Because of this I myself thought there was no problem (with me engaging in a Blind Chinese marriage. After the divorce I met with the man who married me. He gave me Rp 50,000. I felt embarrassed when I saw him and didn’t understand what had happened. I’m still confused, and don’t want to do this again with anyone. If there is a soul mate for me, I would want to marry him for the right reasons - that is if Allah gave me the opportunity. (Victim of sexual abuse in a Blind Chinese marriage, 2004)

109. The first of these Blind Chinese marriage related case involved a public official, who introduced the victim to, and encouraged her to become involved with a man who wanted a wife for a Blind Chinese marriage. Taking advantage of the woman’s vulnerability - her weak legs, her advanced age, her poverty, and her responsibility for taking care of her mother - the village head coaxed the victim into becoming the wife in the contract marriage. The victim married the man for two days and had sex with him. The following day they divorced and the victim obtained compensation of 3 grams of gold and IDR 200,000. This case took place in 2004.

“..the head of the village requested me to perform that Blind Chinese Marriage. I was told that I would get money and also reward in heaven because I’m helping another person.” (Victim of sexual ill treatment through a Blind Chinese Marriage, 2004)

110. In the case above, the village head could also be classified as a perpetrator of human trafficking for a contract wedding. Exploiting the vulnerability of the victim, the village head/perpetrator obtained a profit for fixing the marriage paid by the male client. He took advantage of the marginal and subordinate position of the victim as well as her condition of not understanding exactly the nature of the Islamic law sanctioned transaction. All the more so because Blind Chinese marriage is understood as a routine cultural and religious practice, as demonstrated in illustration 14.

⁶ Talak is a traditional Islamic divorce formula is still considered legitimate among some communities. For husbands, it involves the talak being spoken aloud to his wife on three occasions. The first and second time it is spoken by a husband, reconciliation is possible through mutual consent with his wife. The third time it is spoken, divorce is considered final and reconciliation is only possible through a certain process. For a wife, uttering the first talak to her husband is considered equivalent to a husband’s third talak and hence equates to divorce. According to the Indonesian Compilation on Islamic Civic Law, each talak and the reconciliation following it are only considered legitimate when recognized by the Islamic High Court or an official of the Office for Religious Affairs.

Illustration 14

No More Blind Chinese marriage for Me

Because she wanted to reunite with her husband after the third taak/ divorce, N, with the support of her first husband engaged in a Blind Chinese marriage contract with a man in Banda Aceh in 2006. According to N, her husband, family and the local community, this is a common practice based on teachings given by the local religious leaders. According to the religious teachers in the area, the practice of Blind Chinese marriage is in compliance to God's will, compulsory for Muslims and thus, not to be doubted or questioned.

In accordance with this Islamic law, after N divorced her husband from the Blind Chinese marriage, she then waited three months and ten days (the compulsory iddah waiting period) before attempting to remarry her previous husband. After the iddah had passed, N and her husband went to a religious teacher to be remarried; however he refused to do so, citing the reason that N could not yet legally marry again because the divorce from her husband of the Blind Chinese marriage would only become legal after she had menstruated three times, and not merely observed the iddah waiting period. Tins last requirement, according to the religious teacher, was directed towards 'desperate' women (women who never menstruate). A similar response was given to N when she consulted with religious teachers in other areas. They even ordered that she perform the Blind Chinese marriage a second time in order for her to be able to remarry with her first husband.

N refused to go through a second Blind Chinese marriage. The hurt caused by having to undergo the first Blind Chinese marriage had not yet disappeared from her mind and heart. For her parents, her first husband and neighbors, N's decision was interpreted as her wanting to be free to have a relationship with another man. Her father became angry, hitting her and throwing her out of the family home. Her first husband also abused her, called her a whore, bit her and took their children from her. Being of a strong nature, N ran away from the house and is now working to support herself. At the time of the interview, N said:

"What befell me was something which was really unfair and very sad. To be treated like this by my parents, I feel empty and I do not know what I should say. They should support me, give me advice and guidance, but what I received was the opposite: anger, violence and rejection. I'm the one who had to go through it, so my view should be heard. He [the first husband] should have supported me to be remarried without me having to endure a second Blind Chinese marriage,. It's so hard and embarrassing to endure a Blind Chinese marriage. It hurts because we have to have sexual relations without any feelings of love at all; I feel like I am being 'used' and I know it also hurts my (first) husband. Where is there a man who honestly lets his wife do such a thing? Maybe there is one in a thousand. He should understand my position and should not force me by hitting me. It is already enough that I have endured one Blind Chinese marriage that really hurt me, and made me sad, embarrassed and shameful. The process costs a lot of money, and also makes women feel very inferior and low. It feels like what I experienced was a timeless problem that is still not resolved."

111. Blind Chinese marriage is a form of sexual abuse that subtly destroys the integrity of women. Women are undoubtedly put in a position with no bargaining power in this process. This is true for both woman intending to reunite with their former husbands, and for woman who participate in Blind Chinese marriages to men intending to reunite with their former wives. In both these situations women are required to have sexual intercourse with people they do not know, leading to situations of psychological and sexual violence. In addition, there is a broad perception among

Indonesian society that sexual intercourse between husband and wife must not involve the use of contraception and thus women victims are vulnerable to sexually transmitted diseases as well as unwanted pregnancies.

112. The case of sexual abuse detailed in Illustration 14 shows how the practice of Blind Chinese marriage is used as a means for men and the community to exercise control over women's bodies and sexual behaviors. By using their authority to interpret religion as such, the clerics force the victims into a circle of violence. As in the case of N, if a victim makes a decision to try to escape this circle, it can result in more violence for her at the hands of families and husbands.

Everyone in my district knows what happened to me. The district head knows and he said it's the law. Tie recommended that I go ahead with the second Blind Chinese marriage process.
(Victim of sexual abuse through Blind Chinese marriage, 2006)

"If we talk about fairness, maybe it is not fair for me. Other women marry and their husbands are there, helping them to fulfill their economic needs and having children together. My marriage was just a mock one. Sometimes I regret doing it... this was only a wedding, sexual intercourse and then a divorce. In brief, I found this marriage is unfair: it resulted only in sadness and disappointment for me. I now feel like I have nothing left.
(Victim of sexual abuse through a Blind Chinese marriage, 2004)

113. In light of the oppression and abuse encompassed in the practice of Blind Chinese marriage, it is indisputable that this practice must be eradicated. It should no longer be justified, particularly not by using religious or culture justifications. It is up to the state's to ensure the eradication of this practice as part of its responsibility to uphold and fulfill human rights, as written in Constitution Article 28i(4). It is indeed therefore a step backwards when public servants allow and even encourage the continuation of this practice. All the more so when they facilitate it, as was the case detailed in point 109 above. The role of the village head in this case truly represents a willful disregard of the rules for, and responsibilities of public servant. At the same time, religious leaders who justify the practice of Blind Chinese marriage maintain the fertile grounds for violence against women.

...I once studied the Qur'an in an Islamic boarding school and the clerics said that this thing is correct. If we disagreed we would be acting against our religion and thus, would be a sinner. If the religious law [on Blind Chinese marriage] is open to discussion by the religious teachers, maybe it is better if this kind of marriage becomes forbidden. If a person has divorced but then wants to reunite with his wife, he should just be able to do it. There is no need for Blind Chinese marriages. Justice is when a law is practiced according to the rule and it does not harm anyone; no one should feel broken-hearted by it."
(Victim of sexual abuse through a Blind Chinese marriage, 2006)

114. The Compilation of Islamic Law actually mentions that Blind Chinese marriage is forbidden and illegitimate; however, it is the voices of local religious officials who are heard in communities and victims are mostly powerless to speak against them. This is particularly the case in communities that treats religious teachings as sacrosanct. Very rarely are there opportunities, let alone traditions to critically analyze and understand religious teachings. In fact quite the opposite is the

reality, where in Indonesian society questioning clerics' interpretations of Islamic teachings is viewed as being similar to questioning the law of God.

115. The issue of human right violations involving Blind Chinese marriage was also raised by the Special Rapporteur for Aceh in her previous report. In fact, the case she previously described was about N, the victim described illustration 14 who was instructed to undertake two Blind Chinese marriages. In that report, the Special Rapporteur summarized that: "The terms and values inherent in the underlying principles and the practice of Blind Chinese marriage are the realization of an ideology of submission of a woman's mind, body and sexuality within marriage; a dogma of literal religious interpretation; and a form of racism towards ethnic Chinese people. The practice of Blind Chinese marriage is justified on the basis that it is "divine law". This justification is so absolute there is no space for dialogue to show how this practice constitutes an insult to marriage and denigrates the bodies and sexuality of human beings, especially women. Because Blind Chinese marriage is obligatory, it is in fact a deliberate attempt to degrade human dignity. This practice persists despite it being evident that underlying principles and the practice of Blind Chinese marriage actually oppose the values and principles of marriage and building families that obey Islamic law as instructed in both religious teachings and the laws of the state."

*"I heard directly from the head of the Provincial MUI/ assembly of clerics when I attended Komnas Perempuan's program. He said that Blind Chinese marriage is not allowed in Islam. But has he already taken action and issued regulations forbidding it for the local religious teachers in the regions? The fact is, I've been ordered to undergo me second Blind Chinese marriage. . .
(Victim of sexual abuse through a Blind Chinese marriage, 2006)*

116. In the forum to report the findings of the Komnas Perempuan Special Rapporteur on Aceh, which took place in Banda Aceh on 27 March 2006, the head of Majelis Permusyawaratan Ulama NAD (MPU; Aceh Assembly of Clerics) stated that there has already been an MPU ruling forbidding the practice of Blind Chinese marriage. He also said he was committed in his capacity as head of MPU, to publicize the ruling and convince other religious leaders in Aceh about the urgency of eradicating the practice. The Special Rapporteur noted this positive response from the MPU head and asked for this socialization to be carried out as quickly and widely as possible. She noted that this was very important should MPU wish to be an organization that was accountable and consistent in its efforts to uphold human rights in the new era of Aceh.

*"Justice for me is when a person wanting to reunite [with the previous partner] doesn't have to perform a Blind Chinese marriage. Do not force people to believe they must perform this type of marriage. Let them decide for themselves whether they want to do it. I have already experienced how hurtful a Blind Chinese marriage is and it is incredibly painful. The pain cannot be expressed in words. I feel that other people should not have to endure it. Isn't it enough that I have suffered so much? The government must reaffirm the prohibition of Blind Chinese marriage.
(Victim of sexual abuse through a Blind Chinese marriage, 2004)*

117. At the national level, the MUI (Indonesian Assembly of Clerics) and the government must also seriously work to ensure the eradication of Blind Chinese marriage. In their definitions of justice, the victims made clear that the government needs to take an active role. Victims also said that it was appropriate for all relevant parties to take concrete actions to prevent such injustices, to “build their consciences”, to promote awareness among the community and to fulfill their responsibilities to ensure that “...this kind of injustice no longer persists in a country that claims to be ‘very religious’.”

5. Sexual Exploitation and the Presence of Security Personnel

“I didn’t ask for this: married when pregnant, then giving birth to a child and being abandoned with no money. I never thought he would treat me like this. I feel it is very unfair that my family and neighbors only blame me. Let’s say I was wrong. What about my child? He is innocent, he doesn’t know anything. So don’t insult my child. We are all human beings after all.”
(Victim of sexual exploitation, 2005)

5.1. Cases

118. Another form of sexual violence found in this documentation process was sexual exploitation. Of the eight cases of sexual exploitation found, three occurred during the Civil and Military Emergency Era, five others took place after the signing of the MoU. In six cases, the perpetrators were members of security or military services serving in Aceh who also had personal relationships with the victims. The remaining two cases involved a former lover and a neighbour respectively.

119. These eight cases demonstrated a pattern in the mode of sexual exploitation: the victims were coaxed into engaging in sexual relationships in the name of “love” and by the perpetrators promises of marriage. Some of the perpetrators then did not follow through with this promise and those that did marry their victims did so via an unregistered or siri marriage performed by Islamic ceremony. Not long after the marriages took place, the perpetrators departed, leaving the victims behind, or purposely giving false addresses so they couldn’t be found.

120. Four of the six cases involving perpetrators who were security servicemen involved this second pattern (i.e. *kanin siri*/undocumented marriage then abandonment). The removal of troops from Aceh following the signing of the MoU presented an opportunity for perpetrators to escape from their responsibilities. In the other two cases where the perpetrators were an ex-boyfriend and a neighbour, both these men refused to marry their victims although the victims were pregnant to them.

121. All the victims of sexual exploitation were young women, aged between 18 and 23 years. Two had attained elementary level education; four had a middle-school level education; one had some high school education but then dropped out because she was sick and also ashamed to sit exams while pregnant; and one was a university student. The perpetrators usually approached the victims in a friendly manner victims followed by mutual flirting. In the six cases where the perpetrators

were servicemen, the perpetrators and the victims were generally understood to be dating. Because of this, «these six cases of sexual exploitation are categorized as occurring in the Domestic/ Personal domain. The cases involving the former boyfriend and the neighbour are categorized as occurring in the Public domain even though the victims were well acquainted with the perpetrators.

122. While X was forced to undergo an abortion and was shamed in front of the perpetrator's commander and friends, other victims were simply abandoned. When the troops were being withdrawn from Aceh, all the perpetrators promised that they would return or send for their victims so that they might come to their new stations and be introduced to their families. To support this promise, one of the perpetrators even left a few pieces of clothing, including his official shirt at the home of the victim, as well as his motorcycle.

Illustration 15

A Broken Promise

After the tsunami, W and her family fled to a barrack in Pidie. Members of the authorities often visited this place, including MI, a member of the military intelligence. MI introduced himself to W as Latif Hambali and didn't divulge any other names, even after W saw his military membership card which stated the initials ML

W and MI became a couple. From the beginning W's parents opposed their relationship. On the 28th August 2005, MI married W in a siri wedding, carried out by a religious teacher in Uleugle. This teacher was known to not only perform siri weddings but also to issue wedding certificates without authorization from the Office of Religious Affairs. W lied to her parents, saying that she was away visiting relatives when she was being wed.

On returning to the barracks W's parents didn't believe her when she told them she was married. They thought she was pretending so they would give the relationship their blessing. W then showed them her wedding certificate, on which was written the groom's name: Latif Hambali bin Abu Sofyan; that his age was 28 years; and that he was a businessman. All her parents could do was feel angry and remorseful.

A few months later, Mi's unit returned to their original post outside of Aceh. MI promised that he would fetch W after he finished the moving process. Lie even asked her to ready herself, including telling her to buy new clothes for her move to Java.

This promise remains fulfilled to this day (of the interview), as W remained waiting in the barracks, with her seven month old baby. W's parents look after W, paying for her day-to-day expenses from the small amount they make from fishing. W and her baby are mocked every day by the neighbours.

123. After being abandoned, one victim suffered such severe stress she had a miscarriage in the fourth month of her pregnancy. With her continued stress and need for constant care following miscarriage, this victim was not able to sit her high school exams and was compelled to drop out of school. Even now the victim remains sickly. Another victim went to Jakarta to find the man she had been involved with. She nearly became a victim of human trafficking; the three friends who had accompanied her to Jakarta became sex-workers. One day in December 2005 the victim's family was telephoned by a man claiming to be the driver of a bus the victim had boarded from Jakarta to Medan. The man said that the victim was confused and needed to be picked up. At this point she was alone, filthy, stinking and unwell.

Illustration 16

Forced Abortion

X's boyfriend was a policeman. When X became pregnant to him, she asked him to take responsibility. He did not fulfill the promise of support that he had given X before she became pregnant; on the contrary he forced her to have an abortion. The man, with the help of a midwife, inserted an object that was unfamiliar to the victim, into her vagina. This resulted in bleeding and an infection in X's womb. On the 1 May 2006, the victim had to be admitted to hospital, where the life of her baby was saved.

In the hope that the father of X's child would take responsibility, especially in supporting the child, the victim reported the case to the policeman's unit commander; however she received no support there, instead she was interrogated. The justification the perpetrator gave for not taking responsibility was that the victim was not a virgin the first time they had sex.

5.2. Responses

124. In cases of rape, the victims are often blamed even though it is clear that the acts were carried out by means of forces and threats. In cases of sexual exploitation, family and community reactions truly marginalize woman victims. Victims are understood not simply as being naive, but also as being 'loose' women because they 'voluntarily' created the opportunity for the violence to take place by dating the perpetrator. This stain on the victim is made all the stronger because it is said that the victims are 'willing' to have sexual relationships outside the institution of marriage.

"My Family always blames me, saying I'm too flirtatious. When I had a miscarriage, my family only called a midwife to the house as they didn't want to take me to the hospital; they were embarrassed about what had happened to me. They didn't care about sending me to school anymore even though I really wanted to continue with my education."

(Victim of sexual exploitation, 2005)

"Neighbours always mock me, saying things like: 'That's what happens if a woman is too flirtatious and wants to marry an Indonesian soldier. Now she's giving birth without a husband. She is abandoned for good.' When I was pregnant, I was scorned everywhere I went. "

(Victim of sexual exploitation, 2005)

125. This form of sexual exploitation occurs not only found in Aceh. Komnas Perempuan has received numerous reports from various women's organizations working in armed conflict areas across Maluku, Poso and the border areas of Timor Leste that suggest such cases of sexual exploitation are widespread. It has reached the point where these women even have their own special stigma terms, such as inong si pai, Koramil, Kopasus, selebritis, SSB, and TAPOL, all of them pejorative Indonesian expressions for degrading women and suggesting they are 'sexually impure'.

126. This kind of violent phenomena cannot be separated from the position of the perpetrator within the context of the armed conflict, where the state apparatus has a special status within the larger society. As bearers of weapons, they also bear power and this means that they can provide security. Offers of marriage from security force officers in crumbling social and economic contexts present alternative pathways from poverty for victims. Perpetrators are easily able to exploit the needs of their victims with promises of security.

“I once went to the local sub district police station to ask for his address in Lampung. They sent to the provincial police station. I went there a few times, and finally got the address of the mobile Brigade’s office in Lampung. I tried to call and also sent a letter, but I still haven’t received an answer. The policemen here said that there was nothing they could do to help; that as my boyfriend was not under their command they couldn’t do anything.”
(Victim of sexual exploitation, 2005)

127. Given the frequency, widespread nature and context of these cases of sexual exploitation, the institutions where these perpetrators work - the army and national police - must take proactive steps to settle these cases. Until now these institutions have instead been complicit in blaming and making more difficulties for victims - or at least not providing them with any assistance. These institutions will not provide women victims with information on perpetrators’ new of assignments; thus allowing the perpetrators to escape all responsibility. This accompanied by a lack of sanctions for these behaviors potentially present ripe ground for perpetrators to re-offend in different locations. By continuing to allow the occurrence of exploitative acts to continue in their ranks, the army and national police are effectively allowing continuance of violations of human rights, of their own codes of ethics, all diminishing the credibility of these institutions.

“Nothing that has happened to me is fair. My life is so difficult and it seems that my family and all my neighbours hate me. Sometimes I think it would be best if I just died. But I think maybe there is still hope, and maybe I can go to school again. I know that I have made a mistake, but now that I’m so aware of my mistake, I should be forgiven.”
(Victim of sexual exploitation, 2005)

128. The silencing and isolation of victims by labeling them as ‘sinners’ seems to have become a widespread response to such sexual exploitation, whether done by victims’ own families, communities, or by the broader society. Even the children who are born of this exploitation find themselves rejected by society because they are understood as being a result of a sin that stains the entire community. This response not only misappropriates responsibility for the crimes, but also perpetuates the oppression of the victim and can result in victims losing all hope.

“Justice to me is when a person takes responsibility and accept the results of his actions, and doesn’t avoid his responsibilities however small they are. I also feel that it would be fair for my boyfriend to marry me, and also for his commander to help us in solving our problem. I also hope, for the sake of my future, that I can go to school again.”
(Victim of sexual exploitation, 2005)

129. Despite all this, it seems that young women at least have the potential to recover from these bitter experiences that have destroyed their aspirations. This potential was clear in the way that they described their visions of justice: their desires to be allowed back in schools; to be received again as respected members of their families and communities; and to obtain aid that would guarantee the perpetrators take responsibility for their actions. These were the three main points these victims identified. This definition of justice reflects these victims are in the process of becoming adults. It is now up to us to support them rather than blaming and isolating them.

“Justice for me would be if he took responsibility for his child by visiting and paying for the costs of his child. If he chooses not to care for his child, he should be expelled from work. That would be fair. I just want my child to be accepted by the community like all the other children.”
(Victim of sexual exploitation, 2005)

III. CONCLUSIONS

130. The struggle of Acehnese women to find and access justice from one era to the next has always been challenged by chains of impunity that are protected and nurtured by: political interests unwilling to reveal truths; sustained corruption within the justice system; the arrogance of law enforcers; a weak system of governmental control; an absence of critical thinking in the interpretation of religion; and the culture of blaming the victims.

131. Violence against women in Aceh, particularly in the form of sexual torture, cruel punishment and inhuman treatment exists as a result of the use of women's bodies as a tool and strategy of control, and as a means for conflicting individuals and group to attain political power. Violence is also used by individuals and groups what take advantage of the vulnerability of women during conflicts and in post-conflict situations.

132. The implementation of local Islamic law-based regulations in Aceh marginalizes women since through its authoritarian legal system. Some aspects of it also allow forms of cruel and inhuman punishment to be inflicted on women. In particular in cases where women are publicly caned, whereby these women in effect are sentenced to suffer for indefinite periods of time by community stigmatization.

133. The cultural practice of Blind Chinese marriage that is justified on religious grounds creates another opportunity for vicious sexual abuse against women as well as the trafficking of women.

134. The practice of reneging on marriage promises made to secure sexual relations, and the humiliating practice of undocumented marriage (*kawin siri*) - undertaken by individuals who subsequently abandon their partners - are carried out by individuals who exploit their status and positions of power within armed security forces. These practices represent a form of sexual exploitation especially common in armed conflict areas of Indonesia including Aceh.

135. For women victims the disclosure of truth and the availability of an independent, transparent, respectful and effective justice system are the foundations of justice. It is important to note that women victims require a guarantee of protection in order to disclose their experiences of violence, particularly sexual violence.

136. Victims require recovery assistance in the form of facilities and capital that enable their physical, psychological and social rehabilitation. Making available such assistance is an integral element of justice.

137. The practice of forcing rape victims to marry their rapists is not a step toward justice; on the contrary, it is an act based on patriarchal ideas of 'women's purity' that sustain the subordination of women and create even further opportunities for violence against victims to occur.

138. The practice of unregistered marriage (*kawin siri*) sustains the lowered status of women and has become a tool used by security force personnel in Aceh as a means to avoid taking responsibility for acts of sexual exploitation.

139. The voices of victims regarding the violence they experience and their visions for justice are yet to be heard or acted upon by government. The voices of the victims should impel and guide the state to fulfill its responsibility to uphold justice and protect fundamental human rights.

IV. RECOMMENDATIONS

Target	Issues	Proposal	
		Short Term	Long Term
Aceh Provincial Parliament	Women victims' access to recovery assistance particularly as it relates to the policy for rehabilitation of victims of armed conflict, and the aid program for former combatants	Review of compensation (diyat) policy and its mechanism of distribution so that it is gender sensitive and is in line with women victims' sense justice Monitor the implementation of the respective policies and programs Allocate funds for facilities and integrated services for women victims of violence	Create rehabilitation mechanisms for victims violence that promote gender justice and participatory process for women victims
	The content and implementation of local regulations on Islamic Law that tolerate cruel treatment and inhumane punishments	Review the contents of the local regulations Perform regular monitoring and evaluation on the implementation of the law Review the policy of whipping/caning as form of punishment	Create a mechanism or policy regarding the formulation and application of local regulation does not violate fundamental human rights are guaranteed in the Indonesian Constitution and the Law on the Governance of Aceh
	Truth disclosure and the judiciary process as it relates to past perpetrators of human rights violations	Create regulation on human rights court and on commission for truth and reconciliation	
	Women victims' access to recovery assistance particularly as it relates to the policy for rehabilitation of victims of armed conflict, and the aid program for former combatants	Monitor the implementation of the respective policies and programs Hold hearings with victims	Form a participatory mechanism for monitoring the implementation of respective and programs
Parliament of Aceh at City/District Levels	The content and implementation of local regulations on Islamic Law that tolerate cruel treatment and inhumane punishments	Conduct regular monitoring Hold hearings with victims	Compile suggestions and input for the revision of local regulation relating to the Islamic law and submit to the provincial parliament

Target	Issues	Proposal	
		Short Term	Long Term
National Parliament	Truth disclosure and the judiciary process as it relates to past perpetrators of human rights violations	Redraft the Law on the Commission for Truth and Reconciliation Revise of Law on Human Rights and on the Human Rights Courts	
	Sexual exploitation by state security personnel	Hold discussion with Ministry of Defense, Chief of Indonesian Military and the Chief of Indonesian Police about the plan to have regular evaluations on the policy of deployment on non-organic personnel	Create a monitoring mechanism for the sending placing and controlling of the non-organic units,
Governor of Aceh	Women victims' access to recovery assistance particularly as it relates to the policy for rehabilitation of victims of armed conflict, and the aid program for former combatants	Form a mechanism for receiving complaints Enforce sanctions against government servants creating problems Allocate funds for facilities and integrated services for women victims of violence	Create mechanism for institutional accountability
	The content and implementation of local regulations on Islamic Law that tolerate cruel treatment and inhumane punishments	Order and monitor the efforts of the Bureau of Islamic Law Affairs to carry out evaluation of its role in the implementation of local regulations Create mechanism for sanctioning the Syaria police (Wilayatul Hisbah) who abuse their power Review the content of local regulations	Support the revision of local regulations
Government at City/District level	Women victims' access to recovery assistance particularly as it relates to the policy for rehabilitation of victims of armed conflict, and the aid program for former combatants	Form a mechanism for complaints Enforce sanctions against government servants creating problems	Create mechanism for institutional accountability

Target	Issues	Proposal	
		Short Term	Long Term
Government at City/District level	The content and implementation of local regulations on Islamic Law that tolerate cruel treatment and inhumane punishments	Encourage the Bureau of Islamic Law Affairs at city/district levels to evaluate its role in the implementation of regulations	Encourage regular evaluation of the com conduct of regulations
MPU/ Aceh Assembly of Clerics at Provincial level	The degrading practice of blind Chinese marriage	Publicize and inform religious authorities/clerics at the city and district level about the prohibition of blind Chinese marriage and sin marriage	Draft of a law that prohibits religiously justified cultural practices that cause or increase women vulnerability to violence
	Siri or unregistered marriage that results in the abandonment of women and children		
BRA-Bureau for Reintegration of Aceh	Women victims' access to recovery assistance particularly as it relates to the policy for rehabilitation of victims of armed conflict, and the aid program for former combatants	Review and improve the mechanism of aid distribution	Support the formation of spaces for free expression at the community level
	Truth disclosure and the judiciary process as it relates to past perpetrators of human rights violations		
Syariah Court	Judiciary system that does not uphold the principles of fair and dignified trials	Evaluate and improve the system	Increase the capacity of law enforcers

Target	Issues	Proposal	
		Short Term	Long Term
Chief Commander of Indonesian Military & Police Force	Placement of non organic personnel in a manner that creates opportunities for human rights violations, particularly violence against women	Review policy on placement methods Create a mechanism for monitoring and for receiving complaints	Enforce sanctions on perpetrators
Police (local, district, and provincial)	Vulnerability of victims of sexual violence to re-victimization in the investigation process The involvement of state apparatus as perpetrators of sexual violence	Review and monitor the work of investigators Provide capacity building programs for investigators (e.g investigation procedures and relevant legal doctrine) Enforce sanctions on perpetrators	Review the mechanism by which victims make statements Provide support for the facilities needed by the Special Services Desk for Women for women victims of violence
General Courts and the Prosecutors	Vulnerability of victims of sexual violence to re-victimization	Evaluate and improve the policies and practices surrounding handling of women victims	Increase the capacity of law enforcers
Dinas Syariat Islam/ Bureau of Islamic Law Affairs	The content and implementation of local regulations on Islamic Law that tolerate cruel treatment and inhumane punishments	Conduct regular monitoring & evaluation of syariah police Conduct training for capacity building purposes	Create regulations and mechanisms for evaluation and sanctions
Bureau of Education and Schools	Practice of expelling students who have become victims of sexual violence	End the practice of this policy that violates the human right of the child to education	Increase the capacity of educators with regard to the convention and legislation related to protection of children

Target	Issues	Proposal	
		Short Term	Long Term
Local and National NGOs	Women victims' vulnerability to violence especially sexual violence in the judicial process	Intensify programs to support women victims Create mechanisms for support that are easily accessed by the victims Form better program for the rehabilitation of the victims Intensify programs to support women victims	Conduct training for capacity building of the support providers in relevant organizations Formulate cooperation mechanism with law enforcers Improve the monitoring of cases of human right violation against women
	Exclusion of victims of sexual violence from post-conflict rehabilitation programs		
Local, National and International NGO's	Women victim's vulnerability to violence especially sexual violence in the judicial process		Support the implementation of effective post-conflict and post-violence rehabilitation programs for victims as well as programs to support men to stop perpetrating violence.
	Exclusion of victims of sexual violence from post-conflict rehabilitation programs		Support efforts to strengthen the sensitivity of law enforcers towards the needs of women victims of violence
	Women's vulnerability to be found guilty by the court of violating local regulations based on Islamic laws		Support the processing of past cases of human rights violations Support the formulation of legislations that promote gender justice within a human rights framework

V. Responses from Acehnese Authorities and Public

The following responses were presented at the launching of Special Rapporteur's report in Banda Aceh, 22 January 2007. The authorities were represented by M. Nazar, vice governor of Aceh, Abdullah Saleh from Aceh Provincial Legislative Assembly, and Yusni Sabi, the chairperson of Aceh Reintegration Bureau. Led by Prof. Dr. Syahrizal, this program was attended by 179 participants from 15 districts/cities in Aceh, including 29 representatives from provincial and district legislative and executive authorities; 8 law enforcers, namely police, judges, prosecutors and judges from appellate courts and lower courts of first instance as well as syariah courts; and 122 civil society representatives, i.e. 14 victims, 11 representatives from international organizations, and 9 mass media.

This report is presented in three parts. The first is the initial responses delivered by the authorities in Aceh. The second part is the responses from participants, who also asked questions to the panelists. The last part is the final responses of the authorities in Aceh, Special Rapporteur, and also Komnas Perempuan.

A. Panelists' Initial Responses Delivered by the Authorities in Aceh

1. Moh. Nazar, *Aceh Vice Governor*

I myself was there. So, I know what actually happened in the past, during the period of Special Military Zone, and Military Emergency Act. Alhamdulillah, Helsinki MOU signed by Free Aceh Movement (GAM) leaders and Indonesian Government creates an opportunity for running this kind of program.

It is true that so far, either in conflict or in normal situation, women too often have been the victims of physical and non-physical violence. The violence, as reported by Komnas Perempuan in this occasion, was conducted by all groups. I am sure that the data are accurate. In every conflict, women always become one of the targets. In Aceh, especially, if the commander escaped, his wife or women relatives would be taken away. Many of my neighbors and women relatives have also become the victims.

Both Aceh Reintegration Bureau (ARB) and Helsinki MOU suggested the founding of a Commission to solve conflict's impacts, which includes working with the victims. This Commission will be a real assistance to women. However, in order for women to gain access, we need to have accurate data. Hence, there is a need to investigate and to interview people and victims. This Commission can also collect data based on reports from victims and, especially, from institutions that provide legal aid for women. However, the follow-up is somewhat difficult, especially concerning legal matter. Thus, we need concrete solutions; and, as the first step, we can take short-term recommendations suggested in this report as our programs.

Up till now, financial support for victims in the village has been distributed. However, the support given is not sufficient. Say, those whose houses were burnt down and who lost their husbands, they received some support but it did not cover the cost of the burnt houses and other properties which were burnt as well. In this case, a Commission on conflict plays an important role in ensuring all victims, especially women victims who lost their husbands, have equal access to receive supports and justice.

At present, we are also fighting for victims of conflicts to obtain the same support as victims of tsunami, such as the same type of house. There have been too many complaints from the victims. But, as they can only talk the activists and advocating institutions, nothing has come out. We hope that commission on conflict can respond to these requests and, then, it can be approved by our government in Jakarta.

The recommendation to sanction state's functionaries who are guilty is in accordance with our programs, especially those concerning women victims that either handled by ARB or other institutions. The future government's priority is to have a discipline and responsible governance. There is an urgency to bring forward a vision and a mission to create good governance. In Indonesia, including Aceh, public accountability is indeed demanded. Hajj Fund, which noticeably should be managed well, had eventually been corrupted. In short, I agree to impose sanction as much as I agree to give reward to those who perform their work well. However, this reward should not be something that can be bought, but it should be based on public assessment. Hence, we need to create a good evaluation system in the future.

Recommendation for fund allocation for integrated facilities for women victims is good, simple, and hopefully can be realized. We will discuss it further with local Indonesian Legislative Assembly and friends. If the Commission for conflict is established, automatically the recommendation for integrated facilities and services will be closer to realization. As consequence, funding would be manageable and these short term programs could be achieved. Therefore, the most important and strategic step is to encourage the establishment of this Commission as it is required by MOU.

Another substantial recommendation is to instruct the Syariat Islam Bureau to conduct an evaluation of the implementation of Syariah Law and to monitor its evaluation; including setting of a mechanism and sanction for officers who infringe law in the utilization of force and violence. Fortunately, we have Prof. DR. Ali Abu Bakar, chairperson of Syariat Islam Bureau that can provide further explanation about this. However, I do believe that Islam is not cruel and I hope that in fighting for rights, including Acehnese rights, my friends who are women activists do not think that Syariah Islam is cruel. The law is intended to provide protection. However, I am sure that there are some officers who committed violence as reported in this report.

In the future, public education for adults and children is the most important in the implementation of Islamic law in Aceh. The objective is to help them to comprehend the values and the essence of their religion. Hence, they know more than how to read the Koran only. For instance, there should be no more problems in understanding men as the head of a family as interpreted from "Arrijaalu Qowwamuuna 'alannisa" - men are leaders over women. This religious education is important as to avoid men superiority over women. This education is also meant for the police and army who are in duty in Aceh. When this happens, I believe that Syariah Islam will be naturally well implemented. Thus, the vision of our program is religious teaching for children. Children's social intercourse in rural areas which is worse than children in cities occurs as today's phenomenon. They are practicing free sex life style and consuming shabu-shabu (drugs). That's why basic religious education for children is very important and it has to be conducted by Office of Religious Affair and Syariat Islam Bureau. If this is realized, Insya Allah, Aceh people will be able to understand and practice their religion well. Also, in future all governor candidates will be able to read Koran.

Activists groups are also expected to have a thorough understanding of Islamic values. Hence, we will have to have our own framework in understanding and defining the terms of freedom of thinking or protection for women in our movement. In order to be successful like developed countries, for example Malaysia in Asia, we have to work with those basic values. This is what we have to do in the future Aceh government. Therefore, I would like to remind the non-government organizations for women not to make programs for the sake of the grant, but they should aim for women empowerment and preparation of women leaders.

In order to free us from our past problems, we need to collaborate with all parties. Therefore, we need to fully support all recommendations in this report. I will carry them out; however, we still need to have further discussions. Insya Allah, *we* are ready to accept suggestions, concepts, and other materials from activist friends including from Komnas Perempuan.

I hope that Komnas Perempuan stays active in Aceh because there are too many victims here. I myself can assist the investigation because I have the data. By sharing works and with good cooperation, our dreams to empower women will hopefully come true. If there is a problem, such as doubts in the implementation of Syariat Islam, I believe that we can discuss about it further.

2. Abdullah Saleh, *Aceh Legislative Assembly*

The report on Aceh women looking for justice from time to time is an important and monumental work so as to learn Aceh in the past as well as to prepare Aceh in the future.

Violence against women varies from time to time. There are three main perpetrators, namely the Indonesian security personnel, Free Aceh Movement (GAM) and society. Security personnel, either soldiers or police, turn up to be perpetrators due to their lack of morality. Society and GAM, as the matter of fact, just imitates the security personnel's sadistic misdeeds.

Therefore, there is an urgent necessity to provide mental and spiritual enrichment. This is important because society's behavior is much dependent on apparatus' improved behavior. We also need to study whether social institutions as well as laws are still effective in protecting people from these violations.

Aceh government's regulations offer a number of solutions for cases of human rights violation. The first is human rights trial special for Aceh, which is formulated for future violations against human rights. It means that it is not retroactive, or not considering past cases. The second is ad hoc human rights trial for past violations which also enables us to investigate the violation against women. The third is commission for the truth and justice which will handle issues excluded from human rights tribunal. This commission will provide acknowledgement of human rights violation and compensation, besides rehabilitation program and economic empowerment for the victims. In economic empowerment, women as the bread winner, either as (direct) victims or not, can have access to it. The objectives are to empower women and to provide support for women so as they are able to lead their families and raise their children. Although it has been adjourned, the investigation into human rights violation is very important as a lesson for the perpetrators and for our future generations.

As a suggestion, this report needs to use correct legal terms. For instance, this report mentions about double punishment in Syariah Islam. They are imprisonment and public canning. This report needs to differentiate between being arrested and being imprisoned. Being imprisoned is a process of punishment while being arrested, either in a state prison, town prison, or house custody, is meant to realize the legal process. The right terms are arrested and public canning. Thus, there are no double punishments.

3. Yusni Sabi, *Chairperson of Aceh Reintegration Bureau*

I think this report is incomplete. If the documentation began in the critical years of armed conflict, all Acehnese are victims. If there were a national commission on violence against men, I am sure that there would be proof of men as victims of this massive disaster, and their conditions were even much worse than women's. This is not a concoction as we are talking based on data and facts.

In midst 20th century to late 2006 Aceh experienced armed conflicts and tsunami which resulted in vast numbers of victims, regardless of age, social status, and gender. Everyone was a victim. And, if we look at the data, during the conflict there were more male victims, while in tsunami there were more women and children. This might be related to the nature of the upheaval itself.

To handle the victims, Indonesian government initiated the forming of RRB- Rehabilitation and Reconstruction Bureau for victims of tsunami and ARB- Aceh Reintegration Bureau for victims of conflicts. ARB-Aceh Reintegration Bureau in provincial level is led by the governor. The operational principle is all victims of any age, gender and social status gets no privileges; everyone is equal. ARB's support is aimed for all conflict victims, both direct victims and those considered as victims by the public. The first, victims are those killed or lost in the conflicts. Being killed or accidentally killed, for example those who were shot while walking on the street or trapped in an armed fire, are the same. Victims' next-of-kin "will receive the same amount of support. The second are people whose houses were burnt by perpetrators or burnt in mass's anger during the conflicts. The support given is in form of money, about IDR 35 millions to rebuild their homes. The third are those who suffer from physical disabilities as a result of the conflicts. Men and women are eligible for the support. The fourth are those who become mentally unstable. The fifth are victims' children that has reached 31.000 children and whose support was just provided in the year 2007. The last are ex-Free Aceh Movement, ex-political prisoners who were granted amnesty, and others.

Just like tsunami, there are direct and indirect victims. The total is about 4.2 million victims of conflict, direct and indirect, serious and not serious. Hence, victims that do not belong to special categories above are referred to 'village people' who have the right for support. It is the community leaders' responsibility to list out the names of these victims. Support given to every village is about 60 to 100 million, depending on number of villagers, and the intensity of conflict in that area. Besides that, there are also other economic empowerment programs.

The procedures are as follows: first, ARB speaks to the victims' family and collects data from various sources, such as Office of Welfare, military headquarter, police stations, etc.

Then, the data are sent to district, region or provincial ARB, as the basis for calculating budget. ARB also empowers religious, customary and cultural institutions for participating in victim's recovery process. Syariat Aceh Bureau, Islamic Clerics Assembly, and other social organizations

can gradually spread message of peace to society. Empowering the community is important because ARB is an ad-hoc body, similar to RRB, which will close down after a certain time. It means that after ARB ends its duty, the processes to empower and maintain peace are to be followed up by the existing institutions. Therefore, the programs are carry out together with the offices of Agriculture, Forestry, Fishery, and Cultural, customary leaders assembly, Islam Clerics Assembly, Office of Religion Affairs, etc.

What needs to be understood is that there is no discrimination in ARB. Victims of conflicts - men and women, adults and children - are all recorded. As long as the data are legitimate and are sent by legitimate institutions, ARB will allocate reasonable support.

About Islam and women, I do not think that religion only plays the role of creating disturbances, conflicts, violations, and sufferings. We know that In Islam, women is regarded as the pillar of a nation, that heaven is at the bottom of mother's feet, and, that the best deed of a child is to treat his/her mother well. In connection to this, i want to comment on the practice of Blind Chinese marriage (the local term is Cina Buta). Actually it is not 'a blind Chinese' but 'a blind love' (the local term is Cinta Buta). However, since our society perceives the Chinese negatively, the term Cinta Buta is changed into Cina Buta. As explained in Hadits, our prophet condemns those practicing blind love', either the man who provides the service [of contract-marriage] or the husband who allows it. The religious law is against this people's custom.

Another issue is about the form of punishment. In this world, there are various types of punishment; from imprisonment to different types of death sentences, like hanging, lethal injection, beheading, and shooting. These are all types of punishment which are still practiced until today. Therefore, that kind of punishment, like it or not, has nothing to do with religion.

B. Responses from Participants

1. Alyasa Abu Bakar, *Chairperson of Bureau of Islamic Law Affairs*

Firstly, I agree with Mr.Yusni that victims of conflict and tsunami are not women only. Women feel they are being neglected and suffering, men victim may feel the same way too. The issue has been blown up, but, as a matter of fact, it does not only happen to women, but to men also. Secondly, I'd like to express my admiration for the research findings which has made us realized how much oppression, sufferings and human rights violations that have happened to our society. However, I wish to remind us that the victims in Aceh are numerous. Hence, we have to provide equal support for both men and women.

In connection to the implementation of Syariat Islam, Alhamdulillah, two of the recommendations had been carried out. Since the beginning, we have tried to correct all inappropriate implementation. In revising the substance of the law, there was a problem in the existing mechanism. In our regulation, the talk to revise the qanun [local regulation on Islamic laws] is scheduled once a year only. If the time is not available the discussed in Local Indonesian Legislative Assembly in 2006, but they have not been passed as there were also discussion on Aceh government regulations. Changes from the recommendations have been returned by Local Indonesian Legislative Assembly to provincial government. In a few months, the amendments will be proposed again to Local Indonesia Legislative Assembly.

In this context, I often say that, first, Syariah Islam in Aceh is in accordance with the Koran and Hadits, and refers to its local wisdom. The implementation in Afghan and Iran that we read is not for us to follow, imitate or accept unconditionally, but it is merely a comparison for us in making a better one.

Second, Syariat Islam will be gradually implemented. We need to prepare not only the qanun but also the officers and the society itself. We start from the community's demands; they are gambling and khalwat (close proximity). There are lots of questions raised as to why we do not begin with corruption. The reason is not only because corruption has been handled by many, but also we need to begin with small things and thus, when we deal with bigger problems, the small ones are not taking place.

Third, I agree with M. Nazar that the essence of implementing Syariah Islam is education and, actually, punishment is part of supervision subsequent to the education. Since we are not in a normal condition, we cannot implement them at the same time. For instance, in mass media, there are a lot more reports on punishment rather than the education, despite the fact that there are many issues in Islamic laws, such as the tithe and custody of orphans. These are out of media's interest. The media is not interested to cover Bazis at the district level which has annually collected tithe of over IDR 1 billion and which, together with Syariah Court, has also undertaken the custody of the orphans.

Lastly, and it may be the most crucial, is that there are a lot of condemnation on public canning as inhumane; that it is a gross violation of human rights. This condemnation emerges a need to seriously study philosophical aspect of the sentencing. The punishment results in physical pain which is appropriate to the crime committed. The punishment should also be able to stop the crime in society. However, there is no standard in so called "humane punishment." For instance, firstly, is the imprisonment for all types of crime humane? Which one is more humane, a sentence of public canning lasting one day after which the perpetrator can return to his/her family, or a life sentence which in effect causes the perpetrator's children to be in a state of being orphan? Secondly, isn't imprisonment as an alternative sentence in modern law connected to the history of the society? For westerners, the supreme value of life is freedom. So, the heaviest sentence is by removing one's freedom, namely imprisonment. For eastern people, freedom is not the supreme value because even in society no one is free. Hence, being put in a prison is just like living in society. In order to impose the heaviest punishment, we have to go back to the culture. In our culture, canning or physical punishment is considered heavier.

Also, canning does not only occur in countries where Syariah Islam is implemented. India, Singapore, Malaysia and other countries which do not implement Syariat Islam still use this punishment. Moreover, its implementation in Aceh is lighter. The whip used in Aceh is of 0.75 cm diameter, in comparison to the whip used in Singapore which is of 1 inch. Whipping in Singapore will continue even when the person is bleeding, unless it is considered to cause death. In Aceh the punishment will be stopped when the person starts bleeding even if it has just taken two lashes.

Based on these reasons, the opinion that this punishment is inhuman and thus, a violation to human rights, has to be reconsidered. What is the standard to make such accusation? If the punishment is given after legal procedures and by the legal court, then the punishment is not against human rights. On the other hand, if the punishment is given without the legal authorization, even just for one day, then, it is a violation of human rights.

2. Dasni Husin, *Annisa Foundation, WqstAceh*

We are one of foundations working with Komnas Perempuan in documenting violation against women in post-tsunami area. The documentation is an on-going activity conducted by Komnas Perempuan. The information obtained is meant for designing solutions and not for the sake of a study without follow up.

Here, we are faced with two big problems resulted from the conflict and tsunami. Without undermining the effect of tsunami, the effects of conflict, as a matter of fact, are far more serious for the society. However, the world's attention is focused more on tsunami. As an institution which deals with women economic empowerment focusing on women victims of tsunami, we go to remote areas. We met women victims of conflict who were disappointed for not being treated equally to victims of tsunami.

Today, we heard about ARB, a bureau that works on the effects of conflicts, and pays attention on women economic empowerment. However, since there is no specific measurement, these women still do not know how to obtain the support. As a result, there are people, who are also victims of conflicts, who haven't been benefited by the ARB programs. They suffer from discrimination and ignorance. This is because ARB programs haven't reached them. Not to mention the lack of information from the organizer that the data on conflict victims are based on assessment.

In handling the victims, there should be a certainty that the programs will be carried out until the lowest level. For example, we always find difficulties in accompanying women victims to Special Service Desk at Police Office. I agree with Mr. Nazar that we need concrete action to provide special programs for women victims of conflict.

3. Maryati, *Chairperson of Women Empowerment, ARB*

What was reported in this Special Rapporteur's report is actually very clear in the book 'Aceh Bersimah Darah' [Aceh Drenched in Blood]. This report encourages you, Sirs, who are here today, to know the conditions of Aceh women in the past, present and future, to listen to women and do something useful for women.

Presently, I work on women empowerment, including with women from Free Aceh Movement. Mistakenly from ARB, I just arrived from my work field in Tangse. When I was there, I asked some children who were playing kites about their dreams. They answered that they were going to join the war because they had lost their parents. Really, this conflict has brought incredible changes. So, take a closer look to these changes on men, women and children.

To members of Local Indonesian Legislative Assembly, it is you, Sirs, who have legalized Syariah Islam. Do not only deal with people who are dating, but please deal with fundamental issues. Do not finish the budget by spying on people who dates, but instead, try to uphold the law. I also see that after tsunami, Aceh people's faith is fading. There are more men and women sitting on the sides of the roads. Some are wearing tight clothes. If they are outsiders who do not wear Islamic attire, why do we not just force them to leave Aceh? Next, as the chairperson of women empowerment section, I want to say that I have never been called by the ARB chairperson. Do not just create a post for women but do pay attention to it. Do not let people come to me and ask me about the programs.

4. Cut Sri Rozana, *Coordinator of multi stakeholder, GTZ:*

In 1989,¹ I experienced extreme effects of conflict in Aceh. I had to continue my study outside Aceh because my school in Lhokseumawe was burnt. Alhamdulillah, I got a scholarship from ITB, so I could continue my study. This [drop out] is one of the worst effects of conflict.

I have stayed here for a year, and in comparison to the condition of 9 months earlier, the physical condition in Aceh has improved greatly. The presence of foreign/local organizations has helped Aceh to develop very quickly. This is because physical recovery is much faster than psychological recovery. However, this report has shown to us that the psychological impact of the implementation of special military zone. Therefore, my question is; whose responsibility is this? What is the purpose of this documentation? This is a new lesson for all of us that there is a long term psychological trauma in Aceh.

Maybe until the year 2009, Aceh will still be an international concern. After that, they will leave one by one. Today, there are only about 200 organizations left from around 600 organizations that provided aid after the tsunami. Further more, it is our responsibility. We cannot blame the outsiders. If there were bad effects that they had brought a long, we should filter them and the biggest filter is ourselves. Don't we call Aceh the special area?

5. Achmad Nampluh, *Local Indonesian Legislative Assembly, Bireun*

The term used by Ms. Samsidar in her introduction is really heartrending; that law is like a sword blade, very thin that it is difficult to differentiate between the good and the bad. Also, Mr. Abdullah Saleh said that even the sky is falling, the law must be upheld.

My question concerning the excuses of the military personnel who break the law, especially towards women, is it because they do not understand the law or because they are poor in faith? If the law should be upheld in all situations, then people and the apparatus who have committed the crime should receive firm sanctions. In addition, Mr. Nazar's comment about religious teaching is something that we must do.

Concerning 'Cina buta' marriage, the term itself is discriminatory. The meaning is different from, say, if we change it into 'Arab buta' (blind Arab), although both are incorrect. So, if what Mr. Yusni Sabi said is right that the correct term is 'cinta buta', please revise the term in this book.

6. Rahmah Rusli, *women organization, South West Aceh*

Komnas Perempuan has twice documented and published its documentation on violations against women. They revealed all kinds of violations against women as well as the fact that the rehabilitation and reconstruction process has not involved the women in; instead, women are still the victims. Thus, what is the vision for the advancement of women in Aceh? Can Mr. Nazar explain it, please?

Meanwhile, what changes should ARE make in its policies so that they will not discriminate women?

C. Final Response

1. Samsictar, *Special Rapporteur for Aceh*

The term for cruel and inhuman punishment is written in Indonesian Law No.5/1998 in line with Indonesian ratification of convention against torture. This law is the reference for this report.

It is everyone's responsibility to avail themselves to this report. The government and its apparatus hold the main responsibility in enforcing human rights. The people also have the responsibility to support the effort to uphold human rights. Meanwhile, the victims will be those benefited from these efforts. Will this report useful? It certainly depends on our government's political will. This will include the municipality and district Local Indonesian Legislative assembly's responses to this report.

Concerning 'Cina Buta' marriage, this is the actual term used by people. In the previous report, the Chairperson of Islamic Clerics Assembly, Mr. Muslim Ibrahim, also verified this term. I have known this term since I was young and I was surprised to find out that it is still in practice. There should be an immediate stop to this practice. In previous report, the chairperson of Clerics Assembly promised to disseminate the prohibition of this practice, but up till now there has been no action.

About the assessment of ARE support, there is discrimination between ex political prisoners who have been granted with an amnesty and who have been released prior to the peace accord. Not to mention the wives of ex-Free Aceh Movement, who had surrendered themselves because they were tortured and their families become targets. Among Free Aceh Movement they are called traitors and being expelled.

It is often said that the priority goes to inheritors, whose family member was killed. Meanwhile, victim of rape during sexual torture in 1990 is considered ineligible for support to gain justice and legal aid. The officer she met said, "your case is a small case; the priority is for those who are killed." Why rape victims are less important, when in fact, they have to live with the impact for the rest of their lives? Many of them do not want to talk about the incidents because they feel ashamed. But, when it is revealed, why is it that they cannot have their rights to justice?

2. Abdulah Saleh, *Aceh Legislative Assembly*

Justice, whether for women victims or anyone else, should be upheld. It seems like a burden without a solution. Take the World War II crimes as an example. It is after 40 years that the case could be put on to trial; when the perpetrators were no longer ruling. It is difficult, but one day justice will stand for those who ask for it. So, be patient.

This rapport has many good recommendations. So, send this report to all the institutions in Aceh and encourage them to use it as their reference and to take necessary actions. They need encouragement from all of us. For example, in human rights ad hoc trials; we should push this agenda to central government and Indonesian Legislative Assembly because they are the ones who will make the decision. In our local area, we need to push our government and also Local Indonesian Legislative Assembly to take action concerning social rehabilitation. We also need to encourage Local Indonesian Legislative Assembly to actively produce policies that take sides with the common people.

3. Yusni Sabi, *ARE*

Thank you very much to Komnas Perempuan for documenting and advocating Aceh women. This effort should never end. We admit that in many places, women suffer discrimination and violations all the time. This is an issue of gender that happens every where; at places where there are the dominant ones and the dominated ones. There are many reasons for this, such as politics, social, economy, culture, and also custom, religion and prestige.

There should be no discrimination towards women because the Prophet's mother and our mothers are women. Therefore, every opportunity should be given to women, including the opportunity to lead this country. Let us work together, instead of blaming one another. All of us are the remainder victims because we are still alive. Therefore, we have to pay serious attention to the issues of women's empowerment, education and rights so as women will not be left aside anymore.

4. Moh. Nazar, *Vice Governor Aceh*

We have delivered our vision and mission of our policy on women. In politics and developmental regulation, women have better opportunities than men. Women need to be proactive, not just waiting, because Aceh women are not weak.

We should carry out the recommendations in this report together. Let's begin with optimism, and not be afraid of failure. Just like Helsinki MoU, there would have been no MoU if we had been afraid of failure.

We also have to send this report to National Commission for Human Rights. For Aceh government, many of these recommendations are related to our programs. I believe that we can start working on these recommendations. We also will need to sit together again with women activists and Komnas Perempuan to design our programs.

5. Husein M., *Commissioner of Komnas Perempuan*

Aceh is a model for three things. First, it is a model of conflict resolution. Second, it is a model for post-disaster rehabilitation and reconstruction. Third, it is a model for the implementation of Syariah Islam. The world is waiting to see the result. Therefore, it is important to well implement these three things in Aceh.

The implementation of Syariah Islam is certainly for upholding fair and non discriminatory justice. Based on this objective, we need to think how this implementation can be fair and encourage the formulation of humane social construction.

6. Kamala Chandrakirana, *Chairperson of Komnas Perempuan*

By this second report, the role and mandate of Komnas Perempuan to observe Aceh through its Special Rapporteur mechanism has come to the end. Subsequent to this, Komnas Perempuan will submit this report to the state institutions that responsible for this issue, either at national level or Aceh. Another discussion similar to this one will also be held in Jakarta by inviting the public of Jakarta and state institutions representatives at national level.

Our partners, women activists and victims, confirm that Aceh women need affirmation and a special mechanism to ensure access of justice for women victims of violence. After waiting for justice for many years, ARB, Aceh Local Indonesian Legislative Assembly and the new Aceh government

are the hope of Aceh women. In relation to the recommendation to carry out further study on punishment mechanism, Komnas Perempuan will do it by adopting an approach that enable various parties to be engaged in the dialogue.

We have great hope that new Aceh government will make various changes, not only for Aceh but for Indonesia. So far, Aceh is far more advanced than other conflict areas in terms of finding its model of solution. We hope that Aceh will become the front line model for other areas.

After this report, actually, it is up to the government to take responsive actions. We will keep monitoring the responses, because that is our mandate as an independent commission.

VI. Responses from National Authority and Public in Jakarta

These responses were delivered in the launching of the report of the Special Rapporteur on Aceh in Jakarta, 24th January 2007. The responses were given by panelists, namely Farhan Hamid- an Acehnese member of House of Representative, Bambang Subagyo- Deputy of Law and Human Rights, and Ifdhal Kasim from Reform and Melanie Budianta as civil representatives. This event was led by Agung Putri and attended by 141 participants, including 8 provincial and district legislative and executive representatives, 1 high rank police officer, 101 civil representatives from 9 provinces, 5 academics, 3 NGO representatives and 5 mass media.

This report is presented in three parts. The first part is the panelists' initial responses. The second is responses from participants, some of whom also asked some questions to the panelists. The last part is the final responses from the panelists, Special Rapporteur on Aceh, and Commissioner of Komnas Perempuan.

A. Panelists' Initial Responses

Farhan Hamid, *member of House of Representative*

Cases explained by Special Rapporteur are only a tip of the iceberg. It is almost impossible for us to fulfill all victims' expectations or to satisfy their feelings since all victims have different perspectives; some felt an apology is enough, but some others felt there is no need for an apology. However, whatever action, we cannot eliminate victims' sufferings.

Women are always trapped in conflict situation. From my own experience, my mother was always being intimidated due to my parents' involvement in DI/TII (an Islamic organization which tried to turnover the government in 1950s). In Aceh, there were many heroines, such as Malahayati, Cut Nyak Dien, and Cut Meutia. There was also inong balee, women troops who fought against TNI.

I believe that such reported incidents do not only occur in Aceh. The smell of blood in Jakarta in May 98, in Poso, in Papua, and in other areas is still fresh in our minds. It is so disheartening that, from time to time, most perpetrators are the state's apparatus. Despite the fact that citizen's human rights is protected by Constitution Chapter 28 A-J and human rights court, the application of this law in society is still far from effective.

I realized that women victims in Aceh are discriminated, worse than other victims. The media played a role here. For example, when there is a caning sentence, the woman becomes the only focus of the media, even though there is also man who is receiving the similar punishment.

About the practice of Cina Buta marriage (Blind Chinese Marriage), it happens after talak tiga (the final statement for a divorce). Religion (Islam) states the rules for disharmonized marriage and for the divorced couple who intend to reunite. Talak tiga means that there is no possibility for the couple to stay in their marriage. Subsequent to this divorce, the couples cannot reunite unless the wife has married another man. This is the part that is being exploited. When there is a plan for the couple to remarry each other, they have to find a man for marrying the ex- wife. If in the next three months the woman is not pregnant, she can marry her previous husband.

In marital institution, women are in, a vulnerable position. As a daughter, a woman is married by her guardian who is considered to have a right over the girl, usually her father or uncle. But, as a widow she does not need a representative because she has the right herself. Besides, there are also many children born without legal status. We need to take legal action and ask for the father's or the related institution's responsibility. In relation to this, I hope that friends from Komnas Perempuan can regularly issue such a report.

Bambang Subagyo, *Deputy of Law and Human Rights*

As we know, during the Special Military Operation era, many security apparatus committed violence against people. Many cases like sexual harassment to rape were unrevealed because many of the women victims were ashamed. Therefore, we hope that the government can take further action in response to this report.

Our government has approved the National Action Plan for Human Rights, in which Komnas Perempuan is also involved. This action includes increasing gender equality and monitoring the violation of women's rights, as well as publicizing the understanding of human rights among government apparatus. This is very important especially to the security officers in field. It is hoped that by this dissemination, the respect to human rights does not stop at the higher rank officers. Actually, the high rank officers should ensure their teams/subordinates respect human rights too.

In order to carry out this action, there has been a committee set up at district level. The committee from Aceh consisting of civilians, military, academic, and NGO, should be able to response to this report.

It has to be understood that the findings presented here do not occur in Aceh only. There may be similar cases in NTT, along the border between Indonesia and Timor Leste. Thus, we hope that the government can take the necessary action there in response to this report.

Ifdhal Kasim, *Reform*

We should be grateful for the effort of Komnas Perempuan to build a system to prevent human rights violation.

I'd like to address my first comment to the title "From Era to Era". Considering the time limit, it seems that the number of cases in this report is not significant. The significance of this report lies more on the ability of Komnas Perempuan in revealing victims' feelings and sufferings which have never been acknowledged before.

Therefore, first, we have to appreciate the victims' experiences, not the number. This report shows how wide the violation is during those periods. Second, this report also includes the violation connected to the implementation of Syariah law, especially in qanun (local regulation) about Khalwat (close proximity). The number of cases during the process of syariah is quite significant. This report can be use as a reference for solving problems in Aceh. This report also presents various reactions from the victims concerning the settlement of their cases.

The recommendations given are good in strategic terms, but they are not applicable because they cannot be immediately applied. One important recommendation is to revise the regulations and to re-form the Commission on Truth and Reconciliation (CTR). This recommendation is meant for upholding human rights in Aceh. Today, there is reintegration in Aceh as the result of MoU Helsinki. But, the problem is the Aceh government agrees with the Indonesian central government that the reintegration is only for ex combatants. In fact, this agreement does not solve the problems. The mandate to form CTR as stated in MoU has passed a year but it has not been responded by the government in Aceh.

The focus of improvement in upholding human rights is not only on the level of legislative, but also on problems existed in the areas. I hope that the new governor of Aceh will not only make reports, but also make changes for women in Aceh.

Melanie Budianta, *representative of civil society*

The three previous speakers have discussed this report in detail and comprehensively. Allow me to express my personal responses.

Only silence is heard over the cruelty, for there is no word to express the terror and suffering. The perpetrators' lost of humanity and torn hearts are the witnesses. Before the Creator we kneel and beg for forgiveness for letting this savagery occur on earth. To the victims we apologize for our failure to protect them.

To Special Rapporteur, human rights activists, and women fighters in Aceh, we extremely grateful for your hard work and we give our biggest support to all your efforts.

Special Rapporteur asks:

- To whom should these cruelties be presented?
- Can these testimonies represent the victims' voice?
- How do we get into the heart and the minds of those who are able to make changes?

I would like to answer that:

- Cruelty causes the destruction of humanity.
- The effort to voice, even it is impossible to represent all, is a form of rejecting violence.
- Creating changes needs a comprehensive cultural movement.

Cruelty is a multi-dimensional problem, including cultural dimension. Culture is created to honor humanity, not to enslave human beings. No religion supports cruelty and oppression over other human beings. We aim to humanize culture, yet all the cruelties are conducted in the name of tradition, culture and religion.

Special Rapporteur introduces us the strategies for changes by changing our perspective to the perspective of the victims/accused. The example of victim's voice says, "I am not an important victim. My case is not important; there are many more serious cases that need attention. "We asked ourselves- should the victims lose their life before they can be considered serious?"

This question shows us that there is a, peculiar and improper way of thinking that should be changed — about what is right or wrong, serious or not serious, may or may not, good or bad, legal or illegal, approved or disapproved? This way of thinking is connected to multi-dimensional hierarchical relationship that is being controlled, such as in:

- Family: between parents and children, husband and wife, master and servant.
- School: between teachers and students, school managers and teachers, school and parents, among students.
- Religion institutions: leaders of institutions - followers, religion teachers- learners.
- Community: victims/convicts/witness/victims' families.
- Hospitals: hospitals — patients, doctors — nurses, doctors — patients, hospitals — patients' families, patients' families - patients.
- Police and security officers: apparatus – people
- Legal Institutions: judge and tribunal process - convicts/victims/witnesses.
- Mass media — victims/convicts/ witnesses.
- Intellectuals - victims/convicts/ witnesses.
- Activists - victims/convicts/ witnesses.
- Nation/government: government officers, state institutions, bureaucracy process, government regulation — people.

In our strategies for change, we need:

- A total cultural movement
- Education for all people from different backgrounds.
- To force the government at all levels (central, district, regency).
- To improve the structure (regulations, bureaucracy, institutions) and mechanism for victim's protection.

If qanun and other constitutive reformation in Aceh are the answers to people's wish for justice, then, the measure would be whether the weakest and the most vulnerable to violence have gained justice. Or, in a more specific question, have they been protected from injustice and violence?

Special Rapporteur has collected important comments from the victims, i.e.:

- Justice is punishing the perpetrators from their wrong doings.
- Justice is a chance to explain what actually happened, and let it be accepted as the fact and the truth.
- Justice is a guarantee that what happened to the victims will not happen to other people.
- Justice is punishing the perpetrators to make them realize their wrong-doings and to make the government realizes that its state-apparatus were full of cruelties and had ill-treated its people, whom they should be protected.
- Justice is the availability of compensation to support the victims to recover and to gain independence.

In our efforts to stop violence, these victims' comments remind us that:

- A nation/government which ensures no women are raped and tortured is a dignified nation/government.
- We owe our former women frontiers and our future children, the future generation, to make Indonesia a safe home for every of our daughter.

B. Responses from Participants

Yeni Rosa, ANBTI

Mr. Hamid said that there were many heroines from Aceh. None of them wore jilbab (Islamic attire, a headgear that exposes face but not the ear, neck and hair). The history of women heroes in Aceh reflects the history of Aceh -which provides opportunity and freedom to women by accepting women as leaders and fighters. Looking back at this history, how can Aceh suddenly apply such contradictory local regulation today? Is it really expected by all Acehnese?

As far as I know, Free Aceh Movement demands the halt of military violence and of the exploitation of natural resources, the empowerment in economics and in other fields, and so on. What about cases of violence against women which come out of nowhere in the history of Aceh?

Besides, how does the government envisage the policy of Syariah? Is this law against the Constitution and the ideology of Pancasila as our national basic principles or not? I am afraid that other areas in Indonesia would demand the same thing [the law on Syariah] like Aceh.

Sr. H. Brigitta Renyaan PBHk, GPP Maluku & YKM Ambon

National and local reconciliation is needed in recovering Aceh. Unfortunately, this reconciliation is not realized yet, that includes the reconciliation in the body of Free Aceh Movement through Acehnese Committee on Transformation, reconciliation with Indonesian army, and reconciliation with Acehnese who did not join the free-movement.

Up to today, there is no recovery program for the victims. Therefore, after this report, I hope that Komnas Perempuan can provide a recovery program for the victims.

In addition, a change in the way of thinking is important and there should be concrete changes from all aspects, either from the religion, government or community. All parties should work together. Without it, it is difficult to handle the impact of conflict which has lasted for more than 30 years. Conflict bequeaths distrust, not only to people in conflict, but also to those who want to help, including suspicion against other religions.

Nur Rafiah, PP Fatayat NU, Mass based organization, Jakarta

I am anxious because religions are often used as reasons for justifying violations, especially my religion. I do hope that Komnas Perempuan observes carefully the application of Syariah in all areas by Local Autonomy, especially in Aceh. The formal application of Islamic Law assumes that there is an understanding of one religion. It creates discrimination to other religions and causes serious problems for women.

For example, Islam fiqh does not recognize rape but adultery. If a victim of rape made a report to the authority and if she is pregnant, the pregnancy becomes the evidence of adultery. But if she were not pregnant, she is legally vulnerable to be accused of conducting defamation, particularly when she can not show a proof. The requirement to have a witness is for protecting women from being accused of adultery by her husband or other men. There are many verses in Koran which protects women, however, in reality the application are against women.

Based on this report on Cina Buta marriage, the woman is married by her husband to Muhalil, an Arabic term for a person to legalize the continuation of their husband and wife relationship. It is conducted by the divorced couple who intend to remarry each other after talak tiga. Therefore, the woman should marry another man. However, often the woman is trapped by the Muhalil who refuses to divorce her. Does this also happen in Aceh?

Berar Fathia, *Women Alliance, Jakarta*

Recently the regulation for a Commission on the Truth and Reconciliation (CTR) has been dismissed by Constitution Court while we are facing many problems. If there was CTR in Aceh, the impact would go up to the national level. Justice for Acehnese is the first step toward a new Indonesia.

The problems as reported by Special Rapporteur also remind us to return to the original version of the National Constitution. The amendments which we have today were passed by the parliament under Amin Rais' leadership. In account of this, why isn't there any member of parliament under NurWahid's leadership responds to the Presidential Instruction in 2004?

Rezhart, *Kalyanatmitra, Women's Organization, Jakarta*

One of the reports mentions about gang rape. Can we investigate to prove that it was conducted systematically and widely spread? If there was a proof, can we question the person who gave the command? Or, should it be just forgotten?

C. Final Response

Farhan Hamid, *member of National House of Representative*

Regulation No. 18/2001 gives a mandate to legislative body in Aceh to apply and implement Syariah Islam. Regulation No. 11 year 2006 gives the same mandate and it even strengthens the mandate by appointing the police Syariat Islam investigators. If there were any objections, the person could state the objection to Constitution Court or make a plea to High Court for a judicial review. Actually, similar to other laws in Indonesia, theoretically there is no problem with the law; except its bad implementation, which depends mostly on the apparatus themselves. The same thing happens in Aceh.

About Acehnese heroine wearing no jilbab, at that time there were no picture of these women. So, they were drawn as pretty as possible then. Besides, at that time no one forced anyone else to wear jilbab. Cut Nyak Dien, played by Christine Hakim even only wore kerudung (a hair cloth).

We do hope that the practice of reconciliation in Aceh starts soon. Regulation no 11/2006 gives the mandate of implementation to local legislative. It means that even though CTR in Aceh is formed through national mechanism, local [provincial] House of Representative has the key role. In this regulation, there is also a provision requiring national committee to form a commission within a year. The failure to do so will result in the change of responsibility to local House of Representative to establish the commission. This report shows us that we need to move fast so we

will *not* miss the momentum like what happened in May 1998. Even when the regulation on CTR has been abolished; we hope that CTR can still be formed in Aceh.

I do not think that there is suspicion in Aceh towards others with different religion. Since I was young, there has never been a problem in interaction with others in daily activities. Problems appear only when they try to convert people's religion or show missionary activities.

Questioning Syariah Islam is part of our democracy. But, this is not the time to debate its legality. If we said that it is not what Acehnese want to, then we were opposing the regulation No. 11 which is issued by the House of Representative. In my opinion, that statement may not come from all Acehnese, but it has been a legal-formal statement. Actually, the implementation of Syariah Islam intends to introduce the essence of Islamic value, including showing that being late to office and corruptions are not right. Then, gradually we can empower the poor.

About constitutional amendment, some agree that the amendments have gone too far. We can have an academic and philosophical debate on these amendments. Nevertheless, it would be best if we envision the amendments as a change for betterment of various aspects of the New Order.

I agree that CTR in Aceh functions as nation-wide example. This report inspires us and shows how local culture bridges the reconciliation. We need to explore local context since the understanding of justice may differ from one place to another.

Ifdhal Kasim, *Reform*

The Aceh Governance Law (AGL) is different from the Helsinki agreement which appointed the Indonesian government to form CTR. Actually AGL has given the mandate to local government to form CTR. AGL provides wider opportunity for Acehnese to explore their local values.

The problem is there is no clear action to strengthen the values by the institutions in charge of promoting integration in Aceh. There is greater attention given to the provision of works that enable the victims [ex combatant] to return to their society.

Actually, the local House of Representative should urge the formation of CTR with an executive consensus between Aceh government and central government. Actually, the Aceh parliament can encourage local value through local government. Based on other country's experience such as in Timor Leste, the use of local practices gives strong justification for reconciliation.

The Commission on Violence in Aceh which is formed during Habibie's period has made a comprehensive report on violence committed by the apparatus to Acehnese, including violence against women. For example, it reported the violence that happened in Rumah Gedong. This report also revealed the massacre in Pesantren Teuku Bantaqiah. However, cases revealed in this report are not taken up further by the court.

I agree that the framework of CTR should be based on victims' perspective because the aim of CTR is to voice the victims' needs. This framework entitles the victim as an important part in the healing process.

Bambang Subagyo, *Deputy of Law and Human Rights*

Based on our observation, hundreds of local regulations in Indonesia are against human rights. The Ministry of Law and Human Rights has invited a number of experts to work together to harmonize these regulations.

According to National Action Plan on Human Rights, provincial committees have to identify local regulations which contradict with human rights. We hope that, together with friends from NGOs and other civil society we can identify and harmonize the regulations. In short, the government has to pay great attention to ensure the harmonization of official legal products and human rights.

Melanie Budianta, *representative of civil society*

Today Indonesia is struggling to overcome the trend of generalization in regulations applied to all areas. Tired of excessive generalization and centralization, people demand local autonomy. This is a natural development and important outcome of democracy. Unfortunately, this generalization has appeared again in the now-a-days local governance, such as the spirit of Putra Daerah” (to give priority to the native) and the claim of some ethnic groups that they are the true native.

The demand for autonomy is part of a puzzle which has resulted from a need and this should be accepted as an answer to the need. The marginal groups which never have the rights to choose, now is given a chance to choose. This is an acknowledgement of their rights to live their own lives. We can help in this process by showing them that the process has swift in direction from achieving the initial goal.

There is a collective memory about exclusion of the marginalized group in the past. We need to work on it formally, by CTR for instance. However, healing is not only in politics and in mind, but also in feelings and others. The stories of reality and impacts of exclusion can be disseminated by mass media. In relation to collective memory, there are more and more writers who write about May 98 and Aceh experiences. Their writings moved us, and form a new kind of collective memory.

Today, when we visit any monument, they all only talk about killings and wars. We should build new moments which do not talk about rivals and enemies. This can be done through various creative ways. This is a challenge to us all so as not to trap ourselves in formality, such as from what we read, wrote, or observed. What we need is a change in mindset.

Samsidar, *Special Rapporteur*

In the process of designing the qanun, Aceh plays as the receiving end only. After the Special Military Operation was ended, the people demanded for the punishing of the perpetrators, rehabilitation of the victims, and improvement of Aceh economy. Syariah Islam applied today is beyond Acehnese people’s demand.

On Blind Chinese marriage, the problem is not just about having another marriage but also having sexual intercourse with a man that the woman hardly knows. This is clearly disadvantageous for women.

About gang rape, there should be a study on the pattern and the spread of area of the rape. Gang rape in Aceh happened during the raid carried out in the morning; the men were gathered at the Meunasah (small mosque) while the security personnel raped the women. There was also rape committed by civilians encouraged by state's apparatus. In this case, the authorities allow the rape to persist by ignoring the fact that there is no law to prevent or to handle the crime.

Documenting violence against human rights is hard work. Difficult questions were asked by the victims, such as: what will happen after the reporting of these documentations? Will people responsible for preventing the violence continue their work? How can exposing these facts be useful for the victims?

I think new Aceh is in a critical situation. The spirit to improve Aceh has been declining. There is apathy in society. This may not only happen in Aceh but also in Poso and Ambon.

On cultural strategy. There should be a study on this, especially because it is frequently used as an excuse for committing violence by the apparatus.

I agree that the Aceh Reintegration Bureau (ARB) which has the mandate from MOU Helsinki also has a mandate for reconsolidating and appealing past cases to the court. However, as stated by chairman of ARB (in the report in Banda Aceh, January 22, 2007), the two issues are no longer been the responsibility of ARB. In my opinion, it would be best if we review ARB, ensuring that it has a framework for justice and reconciliation, instead of just forming new institutions.

Today, there is only political reconciliation at the higher level and dissemination of peace information in the body of GAM/Free Aceh Movement. In mosques and in districts, village chiefs are gathered for facilitating reconciliation. However, GAM members who were forced to surrender before the peace accord still have not come for reconciliation with those who received the amnesty. The most important challenge in reconciliation is to not only listen but also listen to the aspirations of victims.

Pengasihani Gaut, *Commissioner of Komnas Perempuan*

This report reminds us not to let the similar violations reoccur in the future. Therefore, we need to work hand in hand to make this effort come true.

In relation to the National Action Plan on Human Right, Komnas Perempuan has proposed several recommendations. However, there has yet response towards these recommendations. For example, its recommendation to have better regulation on services to be provided by law enforcers. First, Komnas Perempuan suggests the inclusion of Special Desk for Women within the structure of police department. We consider retaining this unit is important.

Second, most of perpetrators of violence against women in conflict area are the security personnel. Therefore, there should be a specific regulation or guidelines as applied in the United Nation armed forces. The guidelines prohibit sexual relations between the army and local people, and regulate that the army has to rotate every three months. This regulation is important as there is a huge difference between international standard of human rights and our regulation and criminal code.

Besides, the government should be more responsive towards reports or complaints from human right defenders. There was a case when a victim's counselor was not allowed to accompany the victim to report to the police. Luckily, there is a high rank officer from Police Department among us now. We do hope that there will be a response [from his institution] towards our recommendations today.



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