

**The Indonesian National Commission on Violence against Women
(Komnas Perempuan)**

**Independent Report
Universal Periodic Review**

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A. Methodology and Consultation Process

1. This report is prepared by the Indonesian National Commission on Violence Against Women (Komnas Perempuan), a specialised national human rights institution (NHRI) mandated to develop conditions conducive to the elimination of all forms of violence against women (VAW) and for the fulfilment of women's human rights.¹
2. For this report, Komnas Perempuan conducted consultation with civil society organizations and joint consultations with the other NHRIs, and integrated written information submitted by her networks.²
3. Komnas Perempuan appreciates the Ministry of Foreign Affairs initiative to request Komnas Perempuan's inputs during the State's consultation on 6-7 October 2011.

B. Development of Human Rights Conditions in Indonesia and Implementation of the UPR Recommendations

B1. Human rights training and education for law enforcement institutions (Recommendation 1)

4. Although human rights and gender education has been conducted by law enforcement institutions and state officials in the past four years³ Komnas Perempuan urges the government to continue (a) the development of education to establish an Integrated Criminal Justice System in the Handling of Cases of VAW (b) the institutionalization of human rights with gender justice perspective in the training programs for law enforcement officers and state's officials and (c) the strengthening of coordination of law enforcement agencies and other state institutions at national and local level in promoting the fulfilment of women's human rights (WHR).

B2. Development of Legal Frameworks for the Fulfilment of Human Rights (Recommendations no. 2, 5, 6)

5. From 2008 to August 2011, 63 policies have been issued at national, local, and regional levels that are conducive to the fulfilment of human rights; 40 of them specifically support the elimination of VAW through regulation on human trafficking, child protection, and regulate services for women victims of violence.⁴
6. Nevertheless, Komnas Perempuan regrets that previous UPR recommendations and those of other UN human rights mechanisms to develop the legal framework necessary to promote women's rights in Indonesia have not been implemented.⁵ Komnas Perempuan encourages the government to promptly fulfil its commitment to ratify these legal frameworks.⁶
7. Komnas Perempuan is concerned that efforts to revise the Marriage Law and the Law on Citizenship, as recommended by the CEDAW Committee, have still not shown any result.⁷ Komnas Perempuan urges the State to hasten the revisions, as well as the revision to the Criminal Code and Criminal Procedure Code that integrates not only the crime of torture, but also comprehensive regulations on rape and other forms of sexual violence according to international standards. The delay in the revisions has contributed to reinforcing impunity, including in cases related to wider human rights violations of the past.⁸
8. To follow up the ratification of Convention on the Rights of Persons with Disabilities, Komnas Perempuan urges the government to ensure revision to the Marriage Law also include the elimination of discriminatory treatment against women with disabilities, to develop monitoring on the vulnerability of women with disabilities to violence and the difficulties they face in accessing justice.⁹

B3. Protection and Support for Human Rights Defenders (Recommendation 3)

9. During the past four years, Komnas Perempuan has received 7 complaints on cases of criminalization experienced by WHRDs; four of which involved defenders of the rights of indigenous peoples or were in relation to conflicts over natural resources.¹⁰ Komnas Perempuan has provided support letter addressed to the court and has been campaigning for the protection of WHRDs, but the result is yet to be seen. Komnas Perempuan also develops capacity building scheme and a recovery programme for WHRDs.
10. Komnas Perempuan urges (a) law enforcement agencies to take steps for the protection of HRDs, to complete the investigation of cases of intimidation and violence against HRDs, and to free HRDs from legal charges over their activism. Komnas Perempuan also urges the government (b) to annul laws and regulations that criminalize efforts to defend human rights and instead to develop policy frameworks for the protection of HRDs, (c) to support the efforts of NHRIs to work together with the Witness and Victim Protection Agency to strengthen protection mechanisms for HRDs, and (d) to support Komnas Perempuan's efforts to develop the capacity and recovery of WHRDs.

B4. Continuance of Efforts to Stop Impunity (Recommendations 4 and 5)

Access to justice for women victims of violence

11. Data from the past four years shows that VAW is still a huge problem, and measures to deal with it remain limited.¹¹ Of the 303,114 cases handled, approximately 95% or 287,524 cases occurred within the personal domain, and about 5% or 15,088 cases occurred within the public domain.¹² There were 512 cases in which the perpetrators of violence were state officials, including those in the case of forced eviction and violence against female inmates.¹³ Currently a national standard has been set for the minimum level of services in cases of VAW, there are policies breakthroughs at national and local levels, and increased multi-institutional coordination¹⁴ Nevertheless, the performance of law enforcement institutions in handling such cases still requires active support from civil institutions.¹⁵
12. Komnas Perempuan encourages the government to (a) strengthen the recording and tracking system for handling cases of VAW, (b) develop the steps required to ensure access to justice for women with disabilities who are victims of violence, recommends that the government (c) develop national preventive measure of torture through the active and independent roles of the three NHRIs, (d) expand policies at national and local levels regarding the handling of cases of VAW, (e) actively involve service providing agencies managed by the public in the implementation and supervision of the minimum standards in handling of cases of VAW and (f) improve the civil service system as part of bureaucracy reforms so that personnel transfers do not degrade the quality of handling of cases of VAW.

Violence against transgender women

13. Komnas Perempuan received complaints about discrimination and violence suffered by lesbian women and male-to-female transgender groups.¹⁶ In response to this situation, Komnas Perempuan has integrated this issue into its monitoring system, and asked the government to (a) thoroughly investigate the acts of violence against transgender women, especially those perpetrated by state authorities, (b) improve the supervisory system and sanction mechanisms against members of local regulation enforcers (*Satpol PP*) who commit violence and other human rights violations, and (c) develop public education to strengthen non-discriminatory principles in upholding human rights.

Human Rights Violations of the past

14. In November 2009, Komnas Perempuan represented her monitoring findings and recommendation to relevant state authorities, such as on the cases of VAW in relation to 1998 Tragedy, 1965 Tragedy, and to conflict in various part of Indonesia.¹⁷ In this occasion, the President has publicly ordered the ministries to follow up the recommendations, substantive and serious to ensure access to justice for

the victims and to also ensure that such occurrences will not be repeated in future by, has not taken place. Hence, Komnas Perempuan reminds the Government to, *inter alia*, (a) follow up on the recommendations of various parties including the UN Special Rapporteur on VAW and the CEDAW and CERD Committees, (b) support the Witness and Victim Protection Agency to continue the urgently needed recovery efforts for women victims of violence,¹⁸ (c) urge the relevant security institutions to integrate the prevention and handling cases of sexual exploitation caused by the placement of security forces into the security sector reform, and to develop preparatory education for security personnel to prevent acts of sexual exploitation and other VAW, (d) integrate teaching about past incidents of VAW into the national history education curriculum, (e) develop human rights education with gender justice perspectives, and (f) ensure that the efforts to eliminate VAW as integral part of the security sector and bureaucracy reforms.

Papua

15. Since the initial monitoring report covering VAW occurred in Papua between 1963 to 2009 was provided to the local and national governments in 2010,¹⁹ Komnas Perempuan continued monitoring of VAW in Papua²⁰ shows that cases of VAW has great potential to rise.²¹ In the follow-up to the initial monitoring report, there is currently a Special Local Regulation on the Recovery of Papuan Women Victims of Violence and Human Rights Violations in the Papuan Provinces in addition to other programmes to strengthen local capacity in handling cases of VAW in Papua.²² As such, Komnas Perempuan urges the government to (a) place importance on dialogue with the people of Papua rather than taking a security approach in addressing the problems of Papua, (b) adopt a development plan according to the needs and voices of the indigenous people of Papua and focus on the solutions to the roots of the problems of injustice, discrimination, and violence in Papua, (c) reallocate monies from the exploitation of natural resources in Papua to the welfare of Papuans, (d) continue to strengthen the system and infrastructure of the handling and prevention of VAW, including by strengthening the cross-institutional coordination of agencies mandated with the elimination of violence against and the fulfilment of human rights of women, and (e) implement the Special Local regulation on Recovery mentioned above.

B5. Harmonization of laws and policies (Recommendation no. 7b)

Discriminatory policies enacted in the name of religion and morality

16. While decentralization has provided better opportunities for the fulfilment of human rights, Komnas Perempuan recorded that as at August 2011 there were 207 discriminatory policies in the name of religion and morality, 78 are targeting specifically on women.²³ The majority of these policies (200 of 207 policies) exist at district and provincial levels. At the national level, include in these discriminatory policies are: (a) Law No. 44 of 2008 on Pornography²⁴ and; (b) Ministry of Health Regulation No. 1636/MENKES/PER/XI/2010 regarding Female Circumcision.²⁵
17. Komnas Perempuan continuously encourages the Indonesian government to (a) develop legal frameworks, mechanisms, and guidelines to prevent and annul discriminatory policies²⁶ and ensure effective protection from VAW, (b) conduct harmonization of national and local policies with the Constitution and international standards on human rights,²⁷ (c) immediately annul and alter discriminatory policies enacted in the name of religion and morality and (d) continue programmes to strengthen the capacities of state institutions through cooperation with the three NHRIs, especially to prevent and handle discriminatory policies enacted in the name of religion and morality.

Discrimination against the adherents of indigenous faiths

18. Komnas Perempuan is concerned about the discrimination faced by women who are adherents of indigenous faiths, in presence of Law No. 23 of 2006 on Population Administration, especially in regards to their rights to equality before the law and government.²⁸ Komnas Perempuan hence urges the State to (a) register every indigenous faith on citizen identity cards as an affirmation of respect to

the right of religious freedom according to one's conscience, or, if not, implement the recommendations from the CERD committee on this issue, (b) improve the procedure for the renewal of marriage and birth certificates for adherents of indigenous faiths, (c) facilitate programmes to strengthen indigenous faiths as are available to other recognized religions, and (d) improve public education on the respect for the pluralism of Indonesian society as an inseparable part of human rights education.

Elimination of corporal punishment and the death penalty

19. Komnas Perempuan is concerned that public flogging is still carried out in Aceh²⁹ and that the regional regulation issued by the Aceh Parliament in 2009 that introduced stoning to death for those found guilty of adultery is not revoked. Komnas Perempuan recommends the government to (a) annul any regulations that prescribe flogging and stoning to death or other forms of corporal punishment,³⁰ (b) seriously examine the regulations on *kehalwat* (intimacy) and adultery in the provincial regions so that they do not contradict human rights principles, and (c) urge the Aceh government to use its special authority to establish a special independent mechanism for fulfilling women's human rights in Aceh.³¹

B6. Sharing of Best Practices and Involvement in Regional and International Forums (Recommendation 7a) and Strengthening NHRIs (Recommendation 7b)

20. Komnas Perempuan appreciates the proactive stance taken by the government in developing Indonesia's leadership on human rights issues.³² Komnas Perempuan urges the government to continue its support through the provision of adequate infrastructure so that all Indonesian representatives to human rights mechanisms can work effectively.
21. Komnas Perempuan has seen an increase in support of its role as a NHRI.³³ However, in its discussions with relevant state officials and civil society groups revealed that there is not yet a comprehensive understanding of the roles of NHRIs and that the issues of VAW are still considered less important issues or not seen as human rights violations.³⁴ Komnas Perempuan recommends (a) that the governmental bureaucracy reform team studies the important and strategic roles of the NHRIs, with particular focus on efforts to eliminate all forms of VAW, (b) that the Indonesian government considers strengthening the NHRIs through amendments to the Constitution, and (c) that the state increases its support to NHRIs particularly through following up on the findings and recommendations presented by Komnas Perempuan, Komnas HAM, and KPPI.

B7. Support for Programmes for Women (Recommendation 7c)

Services for women victims of violence

22. As at August 2011, there are more than 400 institutions established by the government and civil society to handle cases of VAW at the national, provincial, and regency/city levels.³⁵ Nevertheless, service institutions established by the government are not supported by proper infrastructure and human resources.³⁶ At the community level, women's crisis centres find difficulties in accessing public funds to assist victims.³⁷
23. To strengthen the capacity of service providers, the government needs to (a) develop policy frameworks and allocate enough funds for the development of infrastructure and human resources to ensure quality services for the recovery of women victims of violence, (b) strengthen the coordinating role and capacities of government to prevent and handle cases of VAW,³⁸ (c) strengthen the role and capacity of the police special unit for women victims, and (d) create programs to strengthen service providers, including those initiated by Komnas Perempuan to support the sustainability those institutions³⁹

Women Migrant Workers and Domestic Workers

24. Faced with the complex problems of discrimination, exploitation and violence experienced by women migrant workers, Indonesia still does not have a comprehensive mechanism to handle such cases and does not systematically provide recovery programmes.⁴⁰ Indonesian government should seriously tackle those problems, *inter alia*, by: (a) ensuring labour policy reforms, including the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the enactment of the Law on Domestic Workers, and the revision of Law No. 39 of 2004;⁴¹ (b) improving the monitoring and sanction scheme for workers agencies so that they place emphasis on the protection of the migrant workers; (c) developing comprehensive case-handling system for the problems of migrant workers, especially of those working as domestic workers;⁴² (e) ensuring that quality services for the handling of cases are available at Indonesian embassies.
25. Protection for domestic workers in this country is urgently needed.⁴³ The problems faced by domestic workers in Indonesia are not very different to the problems they are facing abroad.⁴⁴ As such, Komnas Perempuan recommends that the government (a) develops a complaint mechanism for domestic workers, (b) provides safe and comfortable shelters easily accessible by domestic workers who experience violence from their employers, and (c) promptly enacts the Bill on Domestic Workers to provide comprehensive protection for domestic workers.

Women of Minority Religious Groups

26. Komnas Perempuan is concerned with continual intolerance and violence against minority religious groups carried out in the name of religion. Women from these groups are particularly vulnerable to the violence and the impact of the situation, such as experienced by the women of Indonesian Christian Church (GKI) Yasmin,⁴⁵ Church of Batak Christian Protestant (HKBP) Ciketing-Bekasi,⁴⁶ and Ahmadiyah.⁴⁷ The situation has been aggravated by response of police on this matter.⁴⁸
27. Komnas Perempuan has been actively involved in policy review, monitoring, and campaigning against violence and discrimination in the name of religion directed against religious minorities. The situation will be improved significantly should the government (a) develop supervisory mechanisms to ensure that government officials follow the Supreme Court's order that promotes the protection of religious freedom, (b) ensure that law enforcement agencies provide protection to every citizen without exception, and to prosecute the perpetrators of intolerance and violence in the name of religion, (c) annul policies that prevent the enjoyment of the right of citizens to freely adhere to and worship according to their chosen religion, and to develop policies that protect that right and that increase respect for pluralism in Indonesian society, (d) accept the requests of the UN Special Rapporteurs, not limited to the one of Freedom of Religion, to visit Indonesia in order to advance the fulfilment of human rights in Indonesia, (e) develop recovery programmes for religious minorities who are victims of violence conducted in the name of religion, paying special attentions to the vulnerability and condition of women, and (f) to ensure fulfilment of the rights to education and self-development of children in religious minority communities.

¹ Komnas Perempuan was established following the demand of the civil society, especially the women movement, on state's responsibility regarding violence against women subsequent to the occurrences of mass rape and other sexual violence targeting on ethnic Chinese women during the May 1998 riots in Jakarta and several other major cities in Indonesia. Established based on Presidential Decree No. 181 of 1998 and later strengthened with Presidential Regulation No. 65 of 2005, Komnas Perempuan is an independent body with the authority to carry out public education, monitoring and fact finding, strategic research and policy examination, to provide policy recommendations to state institutions and to community organizations, and to develop networks at the local, national, regional, and international levels. This report, thus, focuses on the development and challenges of preventive efforts and handling of cases of VAW as an inseparable part of the efforts to uphold human rights.

² See annex 1 for the list of organizations participated in the consultation held by Komnas Perempuan on 27 October 2011. Joint consultation with the other two NHRIs, namely the National Commission on Human Rights (Komnas HAM) and the Indonesian Child Protection Commission (KPAI), and civil society organizations were conducted twice, namely on

7 and 18 November 2011. WCC Bengkulu, LBH Apik Lhokseumawe and Violet Grey submitted written information for this UPR report.

³ Komnas Perempuan received this information from a consultation with state ministries and institutions that discussed the implementation of the 2010-2014 Indonesia's National Medium Term Development Plan. In addition, through consultations with service providers between 2008 and 2011 Komnas Perempuan noted service provider organizations have developed activities in the form of joint training, workshops and case studies to strengthen the capacity of law enforcement officers in handling cases of VAW. Further, Komnas Perempuan has also conducted training, workshops on human rights, and developed modules that integrate human rights with a specific perspective on gender justice for law enforcement institutions (The Supreme Court, the Police, the Attorney General's Office, the Ministry of Women's Empowerment and Child Protection (KPPPA) and the Indonesian Lawyers Association (Peradi). As at September 2010, 180 law enforcement officers had participated in this training) and for the officials of the religious and general courts.

⁴ see Annex 2

⁵ This includes recommendations for the ratification of the Rome Statute of the International Criminal Court, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.

⁶ The commitments was stated in the 2011-2014 National Action Plan on Human Rights, which has been legalized through Presidential Regulation No. 23 of 2011.

⁷ The proposed revision of Marriage Law will prevent girl child marriage, polygamy, and the reinforcement of stereotypes of women's gender roles in the family. The revision of Law and Citizenship is guarantee equal rights for women and men to retain or change their citizenship, which is especially important for women victims of trafficking for the purpose of transnational marriages or sexual exploitation.

⁸ such as during the May 1998 Tragedy, the 1965 Tragedy, in Aceh and in Papua

⁹ Recommendations were presented by groups of people with disability before Komnas Perempuan during our consultation in June 2011.

¹⁰ Cases where WHRDs have been criminalized occurred in places such as Fatumnasi in East Nusa Tenggara, Serdang Bedage in North Sumatra, Luwuk Bangai in Central Sulawesi, Papua, Bengkulu, and Riau. In the case of Central Sulawesi for example, Komnas Perempuan has written a letter in support of Eva Susanti Bande, a woman human rights defender accused of sedition. She was arrested and sentenced to four years in prison. She is currently awaiting the verdict of the Supreme Court. Komnas Perempuan has provided a support letter for them however they are currently still awaiting the court's final ruling. In addition, WHRDs who are partners of Komnas Perempuan in Papua reported that they are stigmatized, threatened and their movements monitored. The efforts of civil society in fighting for the human rights of Papuan women victims of violence are not immune from the threat of being stigmatised as "supporters of separatism" and other acts of violence from security authorities and the government. They also cannot freely carry out fact-finding on acts of violence, especially those perpetrated by the state. Komnas Perempuan has been campaigning for protection for WHRDs and peace talk in Papua, however the result is yet to be seen.

¹¹ Since 2001 Komnas Perempuan has published Annual Notes (*Catatan Tahunan – Catahu*) which contain compilations of data on cases of VAW that are handled by service providing agencies all over Indonesia, both those run by the state and those by the community (see Annexes 3, 4, and 5 for Catahu 2008, 2009, and 2010. Data from 2011 will be published in March 2012). To date there are more than 300 agencies which have participated in the Catahu.

¹² The number of cases handled and recorded was 54,425 in 2008, 143,586 in 2009, and 105,103 in 2010. The dramatic increase data of VAW in 2009 was closely linked to the implementation of an open information policy in the courts. Meanwhile, the decrease in 2010 was related to the limitation in the capacities of these service providers, especially those managed by civil society groups.

¹³ Violence perpetrated by state officials included are complaints in 2010 from 395 women victims of forced eviction, 40 victims of trafficking, and 12 women victims of the implementation of discriminatory policies enacted in the name of religion and morality. Other cases include rape and sexual harassment by state officials (two of which were against female inmates), and the criminalization of women human rights defenders. One of the prison rape cases is occurred in Aceh in

2009 against a young woman, perpetrated by four officials of the *Wilayahul Hisbah* (the body that enforces regional regulations in relation to the implementation of the Islamic Sharia) when she was arrested under the charge of violating regulations on *kebalwat* or close proximity. Through its networks, Komnas Perempuan was able to monitor the entire court processes. Three of the perpetrators were found guilty and sentenced to eight years imprisonment while one perpetrator is still at large. In another case, in 2010 a woman detainee was repeatedly forced to perform oral sex in the Jayapura City Police detention facility in Papua. Komnas Perempuan met with the victim on March 2011 at the Abepura Prison, Papua, to obtain detailed information about the case and the recovery support she received. Police that the three officers identified as perpetrators were sentenced to 21 days in jail and had their ranks frozen for two periods.

¹⁴ In 9 provinces and 23 districts, local governments have introduced policies on handling cases of VAW, including by providing free *visum* (forensic statement) services to victims and by supporting the assistance and recovery of victims. In response to the advocacy of women's groups, the Supreme Court has published Circular Letter No. 10 of 2010 on the Guidelines for the Provision of Legal Aid that has enabled the implementation of circuit court proceedings by the Religious Courts and Legal Aid Posts at the Religious Courts, the District Courts, and the Administrative and Prodeo Courts. The implementation of circuit courts has opened the opportunity for women victims to file legal processes (divorces) with ease and free of charge. Apart from that, legal aid posts run by the Religious Courts, the District Courts, and the Administrative Courts have provided the opportunities for the public to obtain information on legal aid. A number of service providers informed Komnas Perempuan that this policy has provided greater access to justice for women victims of violence.

¹⁵ As revealed during the national consultation of Komnas Perempuan with service providers in October 2011, although there have been many programmes to strengthen the capacity of law enforcement and state officials on women human rights, there are still many officials who do not fully understand the problems of VAW. This affects the quality of their services and cases handling. The quick rate of rotation of staffs at law enforcement agencies and government institutions also has negative impacts on the development of effective cooperation in handling such cases.

¹⁶ In 2010, Komnas Perempuan also recorded three cases of forced dispersals of peaceful activities of LGBTIQ groups by violent groups carrying religious symbols. Incidents included the ILGA Conference in Surabaya, human rights training for LGBTIQ groups in Depok organized by the National Commission on Human Rights and the Arus Pelangi organization, and the Q film festival. Raids on prostitutes by the police and the Satuan Polisi Pamong Praja (Satpol PP) (the quasi-police agency used to enforce local regulations) open up opportunities for violence and other human rights violations against transvestites. Komnas Perempuan also recorded one case in which a transvestite died while trying to escape from the Satpol PP of Tangerang (2009), one case of arbitrary detention in Jakarta (2009; based a report by Arus Pelangi in 2011), three cases of physical violence and sexual harassment by Satpol PP members, and one case by the police, in Aceh (2008 – 2011; a report by Violet Grey, Aceh in 2011). None these cases was thoroughly investigated.

¹⁷ The report, for example include the information that (a) in its analysis of the past 10 years since the May 1998 Tragedy, Komnas Perempuan has found that the development of the fulfilment of human rights in Indonesia has not yet convinced the victims of sexual violence during the May 1998 Tragedy and their counsellors to speak out (full report, see annex 6). (b) Komnas Perempuan's monitoring results in Aceh, Maluku, and Poso that showed 261 cases of sexual exploitation caused by the placement of security forces without supervisory mechanisms or firm sanctions against the perpetrators (see annex 7). While appreciating the good intentions of security forces in following up on our report, Komnas Perempuan received complaints from victims in Poso who felt intimidated by the behaviour of security personnel who visited the homes of victims one by one. (c) During the monitoring of the fulfilment of women's human rights in post-conflict Aceh, Komnas Perempuan noted cases of women victims of rape and sexual torture having difficulties accessing the rehabilitation funds supposedly available for recovery after the armed conflict. Women victims who summoned all their courage to enquire about their rights were even charged—and thus felt ashamed—to prove they were victims based on legal proceedings that place the burden of proof on the women (see annex 9). This shows the urgency of hastening revisions to the KUHP and KUHAP, and calls for the government of Indonesia to ensure the recovery of women victims of violence, especially sexual violence, in the post-conflict reparation programme. (d) Komnas Perempuan's report on the gender based crimes against humanity against women committed in relation to 1965 Tragedy (see annex 8). Komnas Perempuan observes that investigation by Komnas HAM on the 1965 Tragedy, in which women also became victims of serious human rights violations, has made no progress since the report filed by Komnas Perempuan in late 2007.

¹⁸ To date, there is a woman victim who has accessed the psychological and medical aid through the facility provided by the Victims and Witness Protection Agency (LPSK). The facility was a result of the joint dialogue between Komnas Perempuan, LPSK, and Komnas HAM on March 2011 as a follow-up to develop a programme of psychological, medical, and psychosocial aid especially for victims of serious human rights violation.

¹⁹ The monitoring was conducted by a network of WHRDs in Papua, facilitated by Komnas Perempuan in cooperation with the Women Chamber of Papuan People Assembly. See annex 10 for full report of this monitoring. The monitoring

reveals that VAW in Papua is aggravated by the never-ending political conflicts; the state's territorial security approach; the control and exploitation of natural resources by the multinational extractive industry; the inability of the national and local governments to implement the Special Autonomy policies consistently and effectively; and values and cultural practices that subordinate women.

²⁰ In August 2011, Komnas Perempuan recorded at least 242 cases of violence and human rights violations against women perpetrated by the state in various forms including arbitrary detentions and forced disappearances, shootings and murders, rapes and sexual torture, sexual exploitation and slavery. The monitoring also shows that the control and exploitation of natural resources has caused the people of Papua, including women, to be expelled from their traditional land, to have difficulties accessing new work opportunities because investors prefer to hire from outside Papua, to be exposed to various impacts of ecological destruction. Domestic violence is the most common form of violence experienced by Papuan women, and the women are vulnerable to be trapped in prostitution, and to be vulnerable to HIV/AIDS contracted from their spouses. As recorded by Komnas Perempuan, a number of state institutions and civil society groups, there were 669 cases of domestic violence, including human rights violations in the form of polygamy or extra-marital affairs, economic abandonment, physical and psychological violence, marital rape, child rape, murders of female children, and the contraction of HIV/AIDS from husbands. The infusion of large funds without transparency and accountability of governance since the granting of special autonomy has contributed to an increase in the number of domestic violence cases in the form of polygamy and extra-marital affairs and physical and psychological violence caused by the over-consumption of alcohol. Women victims, HRDs, members of the Indigenous Working Group of the Papuan People Assembly, as well as experts in Papuan culture reported to Komnas Perempuan that the subordination of women in the Papuan cultural system and values play a significant role in the perpetuation of various forms of violence and discrimination against women and children, particularly in the division of labour, parenting patterns and decision making within families and communities.

²¹ During 2011 violence targeting civilians increased in Papua, creating fear and trauma among civilians and disrupting their daily activities. Komnas Perempuan is of the opinion that the government and security agencies have not yet made any serious efforts to stop the violence and ensure protection for civilians, especially women and children.

²² The initiatives include the establishment of a number of special women victim units by the police and the establishment of a coordinating body for handling cases of VAW by the women's bureau at provincial level and in a number of districts; gender education and training of law enforcement officers (police, prosecutors, and judges), the involvement of the women's bureau chief in pre-placement briefings for security officers in border areas (such as Merauke) and the involvement of women in the decision-making system.

²³ See annex 11 and 12. This means there have been an additional 53 discriminatory policies since the first time Komnas Perempuan officially reported them to national authorities in March 2009, despite the fact that policy harmonization has become one of the main agenda items of the National Medium Term Development Plan (RPJMN) of 2010-2014. The majority of these policies (200 of 207 policies) exist at district and provincial levels. Of the 207 policies, 78 specifically target women by regulating dress code (23 policies), and regulating prostitution and pornography (55 policies). Komnas Perempuan noted 75 cases of the criminalization of women due to the implementation of such discriminatory policies. Other than the legal consequences, Komnas Perempuan noted four cases where women suffered from discrimination because they were deemed to have violated regulations regarding compulsory dress codes based on a single interpretation based on symbols of a certain religion. Such discrimination is experienced in work places, in political participation, and in accessing public services in the form of aid for the poor. In its monitoring, Komnas Perempuan has also found that the dress codes have made women vulnerable to verbal and physical violence. Women victims of sexual violence such as rape and sexual harassment are vulnerable to re-victimization because they are deemed immoral women.

²⁴ The Law No. 44 of 2008 on Pornography was enacted amidst heated public controversy. This law takes protectionist and moralistic approaches in trying to prevent and solve the problem of pornography. It has the potential to violate the right to legal certainty and the right to freedom of expression for women. Komnas Perempuan therefore regrets the decision of the Constitutional Court to allow the Pornography Law to stand. Komnas Perempuan is conducting monitoring on the impact of the implementation of the law on women. Throughout 2009 and 2010, Komnas Perempuan recorded two cases of criminalization of women under the Pornography Law. The first involved four women victims of trafficking who were told to perform a striptease, and the second involved a young woman who had recorded herself having sex with her boyfriend to convince their parents to let them marry. In both cases, the women victims were sentenced to imprisonment because they were found to have violated the Pornography Law. In the first case, the victims were sentenced to two months and 15 days jail plus a fine of Rp. 1 million that was commuted to 2 months jail by the Bandung District Court under Chapter 34 and 36 of the Pornography Law. In the second case the victim was sentenced to seven months jail in Karang Anyar District Court Judges Council Decision No. 172/Pid.B/2009/PN.Kray. Law Enforcement Officials in consultation with Komnas Perempuan acknowledge that the criminalization of women victims is possible under the current formulation of the Pornography Law.

²⁵ Komnas Perempuan notes that Ministry of Health Regulation No. 1636/MENKES/PER/XI/2010 regarding Female Circumcision follows the same pattern as the 207 discriminatory policies in the name of religion and morality. Komnas Perempuan is of the view that the issuance of this regulation is a step backwards in the effort to eliminate violence and discrimination against women and hence encourages the Government to invoke the regulation. This regulation has altered the previous policy set out in Circular Letter of the Director General of Societal Health of the Health Ministry of the Republic of Indonesia No. HK.00.07.1.3.104.1047a of 2006, which prohibited medical staff from taking part in female circumcision due to the fact it confers no health benefit. On the contrary, the regulation now allows and elaborates in detail how female circumcision should be conducted by medical personnel. In short, it ‘medicalizes’ female circumcision. Female circumcision is one of the traditions that the Indonesian government must eliminate because it reinforces discriminatory perspectives towards women.

²⁶ Although improvement has been slow, one of the breakthroughs was the Supreme Court Regulation annulling the condition that an application for judicial review of local regulations had to be conducted within 180 days. The government has annulled more than thousand local regulation but all are related to retribution and other financial related issues, but none on the discriminatory policies in the name of religiosity and morality.

²⁷ Komnas Perempuan notes that legal inroads for affirmative action measures to eliminate discrimination against women are still opposed by many parties. For example, a decision of the Constitutional Court in 2008 stated that the proportional system based on a numbering list and the 30% minimum quota for women’s representation in the candidacies of legislative membership (Law No. 10 of 2008 on the Elections of the National House of Representatives and the Local House of Representatives) was “a stab in the feeling of justice and violates the people’s sovereignty in its substantial meaning” (Constitutional Court Decision No. 22/PUU-VI/2008 and 24/PUU-VI/2008). During the 2009 elections, a majority voting system was used, resulting in only one political party managing to fulfil the 30% quota for women. Therefore, the government needs to (a) take affirmation action measures for women’s political participation in proposals for policy changes in political packages, and (b) develop programmes to study and realize the concepts on affirmative action measures for women and other marginalized groups to obtain equal opportunities and benefits to achieve equality and justice.

²⁸ The discrimination against adherents of indigenous faiths is caused by the shortcomings in Law No. 1/PNPS/1965 regarding the Prevention of Religious Abuse and/or Defamation which has caused the state administration to treat adherents of indigenous faiths differently to adherents of recognized religions. Currently there are various ways for the adherents of indigenous faiths to fill out the ‘religion’ column on forms: with a minus sign (-), left blank, or filled with the word “faith” or “belief”. In the context of Indonesia’s social and political history, with the banning of communism and atheism, a minus sign or empty space in the Religion column can cause continued discrimination. Women adherents of indigenous faiths and members of minority groups as well as indigenous communities still cannot freely register their marriages. To register their marriages, the adherents of indigenous faiths are obliged to become a member of an organized faith organization. Yet to join an organization is a right, not an obligation. The new marriage certificate registration process now available to adherents of indigenous faiths who were married before the issuance of Government Regulation No. 37 of 2007 regarding the Implementation of Law No. 23 of 2006 regarding Population Administration cannot be easily accessed. The process only provides a two-year grace period from the issuance of the regulation, and those who have registered their marriages according to a certain recognized religion must divorce before they can re-register. The re-registration of marriage certificates is not by itself followed by the issuance of new birth certificates for children of the marriage who have already been registered as children born out of wedlock. Komnas Perempuan received a complaint from a woman adherent of an indigenous faith in West Java about the unpleasant treatment she experienced from state officials when she asked for the re-issuance of her child’s birth certificate following the renewal of her marriage certificate. A formal written answer was only provided after intervention was made, and even then only to explain that the documents submitted were already in compliance with the existing policy. The office only provided additional information on the reverse side of the child’s certificate stating the name of the father. This is different to a birth certificate of a child born of parents who are adherents of a recognized religion. The official in charge initially refused to provide answers and even threatened the victim with the loss of her job as a civil servant in the region.

²⁹ As at the end of 2010, 97 floggings had been conducted and 37 of such punishments were performed by civilians (Data from KontraS Aceh, 2010). More than 30% of the victims were women. Other than flogging, Komnas Perempuan received reports of women who were forcibly stripped naked, paraded around, splashed with sewage water, and forced to marry under the accusation of committing *kebalwat* (intimacy) or adultery.

³⁰ This also includes the urgency for the government of Indonesia to follow up on the recommendations already noted in the past UPR session to eliminate the death penalty in Indonesia. This is also in line with the Indonesian government’s advocacy for migrant workers currently facing the death penalty abroad, which according to the Ministry of Foreign Affairs (<http://nasional.vivanews.com/news/read/228120-inilah-data-303-tki-terancam-eksekusi-mati>. Tuesday, 21 June 2011) stands at 303 people.

³¹ As recommended by the women's groups in Aceh, the mechanism should have the mandate to monitor, receive complaints from the public, conduct analyses and provide policy recommendations to speed up the recovery efforts for women victims of violence

³² This is shown by the openness of the Indonesian government in requesting input from national human rights institutions and from civil society in order to develop human rights mechanisms at the Southeast Asian regional level and international level. It is important to note that the representatives of Indonesia to AICHR and ACWC, and to the independent human rights commission being developed by the Organisation of Islamic Cooperation, are experts jointly nominated by the government, national human rights institutions, and civil society.

³³ This support includes the Ministry of Foreign Affairs endorsing Komnas Perempuan's initiative in conducting an Asia-Pacific regional meetings to strengthen cooperation among human rights commissions and women's commissions. The last meeting in 2011 also used by Komnas Perempuan to hold a national consultation among NHRIs, civil society and the UN Independent Expert in the Field of Cultural Rights. This initiative was also made possible by the cooperation between Komnas Perempuan and the Office of the United Nations High Commissioner for Human Rights. Komnas Perempuan also appreciates the acknowledgment of the Ministry of Women's Empowerment and Child Protection in supporting its initiative to organize consultations with theologians and women leaders to discuss the women's peace initiative in the context of understanding UN Security Council Resolution No. 1325.

³⁴ Therefore there is often scant recognition for the important work done by Komnas Perempuan as a human rights enforcement mechanism that is independent, unique, and effective in support of the governance of a democratic state. Komnas Perempuan's data and recommendations have been used as references in the formulation of the policies of a number of executive, legislative, and judiciary institutions. The President of the Republic of Indonesia has repeatedly stated his appreciation and support for Komnas Perempuan.

³⁵ The majority of these are service units for women and children at the police (UPPA, 305 units), followed by the Centres for Integrated Services and Empowerment for Women and Children (*Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak - P2TP2A*, 113 units) under the coordination of the Ministry of Women's Empowerment and Child Protection, and crisis centres in hospitals (PKT and PPT, 63 units). There are also 42 women's crisis centres (WCC) established and run by the public, especially women's groups, located in more than 20 provinces.

³⁶ In the consultation with service providers, conducted on October 2011, highlighted most of the centres for integrated services and empowerment of women and children (P2TP2A) have been unable to function effectively and often fail to coordinate between service providers because the centres are more structural in nature.

³⁷ Although some regions have the funds to provide integrated services for women victims of violence, these funds are limited and are channelled through agencies run by the state. Community institutions have next to no chance of accessing the funds available. This situation is further complicated by policies of some international institutions requiring that grant funds only be accessed through government agencies.

³⁸ The role is supposedly played by the centres for integrated services and empowerment of women and children (P2TP2A) under the coordination of Ministry of Women Empowerment and Child Protection

³⁹ One of Komnas Perempuan's initiatives is *Pundi Perempuan*, a vehicle to collect public funds to provide support for the operational funds of service providers. Pundi Perempuan only manages to provide full annual supports to three institutions. As at 2011, Pundi Perempuan supports 41 service providers in 21 provinces in Indonesia, three groups or communities of victims and their families, and a woman human rights defender. The fundraising and the management of the funds gathered is organized together with *Indonesia Untuk Kemanusiaan*, a philanthropic organization. In addition, Komnas Perempuan also facilitates the programme to strengthen the capacity of service institutions through the *Forum Belajar Pengada Layanan* that to date has a membership of 131 service providers comprising 66 societal organisations and 65 government institutions.

⁴⁰ Recent cases include the execution of Ruyati (aged 54, a 2011 case) and the case of Sumiati binte Salan Mustapa (aged 23, a 2011 case) in which the court freed the employer, the perpetrator of violence. In the latter case the victim suffered excessive physical injuries to her face and body, with broken bones and lung problems caused by being cut, beaten, and burned. These cases are just the tip of the iceberg of the lack of protection for Indonesian women migrant workers. For full review of discrimination and violence experience by Indonesian women migrant worker, please see Annex 13.

⁴¹ The policy framework can also include a moratorium policy. However it has to be made in consultation with various parties, particularly regional governments from which migrant workers originate, the agencies, the rights groups and the general public, and especially the migrant workers themselves.

⁴² Not only in relation to the preparation of documents but also in providing workers with skills relevant to the needs of receiving countries, providing guarantees of legal protection and health and life insurance, providing monitoring mechanisms, and assisting in victim recovery. With regards to recovery, there must be special procedures to assist victims who are disabled, victims who are pregnant, and victims who have experienced sexual violence and suffer from psychological disorders.

⁴³ Domestic workers are viewed as unskilled workers, with low education or without adequate capabilities (e.g. language skills, technological mastery, quality of work as set by employers). From 2007 to 2011 there were 726 cases of violence, 536 cases of unpaid salaries, and 617 cases of unlawful confinement of women domestic workers recorded (a report from Jala PRT, 2011). These problems they are facing are rooted in discrimination against women still strong in the feudalistic culture of Indonesian society. The Anti Domestic Violence Act is not sufficient to protect the rights of domestic workers as it does not recognize the labour dimension of the power relation exists between the victims (domestic workers) and the perpetrators (the employers)

⁴⁴ Domestic workers are subjected to long working hours with average salaries falling far below the minimum wage; some are only paid a quarter of the minimum wage. There is no social security or health insurance. Komnas Perempuan also recorded that women domestic workers are often given inappropriate accommodation in which they are unable to rest properly, they have no privacy rights, and their rights to mobility and to organize themselves are limited.

⁴⁵ In a meeting with the women of the GKI Yasmin church congregation on 22 October 2011, Komnas Perempuan received complaints that they experience psychological exhaustion and are worried every Saturday evening about threats over their safety that they will face when they go to worship the next day. They are worried about religious education and the impact of discrimination on the character of their children and the fact that the children also have to face the threat of violence from violent groups. During a field visit conducted on 23 October 2011, Komnas Perempuan noted that the police officers at the location where the service is held seemed to allow the intimidation to continue.

⁴⁶ Likewise is the situation of the women of the HKBP Ciketing-Bekasi church congregation, with whom Komnas Perempuan consulted on 30 October 2011.⁴⁶ The agreement for an alternative place for the church has not yet been implemented; it was signed by the central government, the Bekasi city government, the local police, the military and local legislators, but has not yet been agreed by the Bekasi Communication Forum of Religious Groups and the Bekasi Religious Office.

⁴⁷ Komnas Perempuan's consultations with Ahmadiyah women conducted on 31 October 2011 and 4 November 2011 revealed the continuous intimidation faced by women, particularly subsequent to the attack against the Ahmadiyah community in Cikeusik on 6 February 2011. Komnas Perempuan received complaints from three women about the intimidation they experienced. The first woman, a victim in the Cikeusik attack, informed Komnas Perempuan that in April 2011, she was approached by a group of residents who threatened to evict her unless she left Ahmadiyah. Worried about her safety and that of her four children, she temporarily took refuge in the home of a relative. When they were moving out, her house was visited by approximately 20 members of the *Front Pembela Islam* who staged a demonstration in front of her house. She and her family then were moved to a safe house. The second woman informed Komnas Perempuan that she and four other women have temporarily stopped reciting Quran activities and routine meetings in their homes in North Jakarta because a policeman in plain clothes came and prohibited them from conducting any religious activities. Once they held another meeting but someone was watching and it was reported to the neighbourhood head who then reminded the women not to hold any further meetings. The third woman complained that policemen in plainclothes from the North Jakarta police came to her house. She refused to meet them because she was afraid. The officers then visited her husband at his work place and spoke to his superior. The husband was threatened with dismissal from his employment however this did not eventuate as his co-workers defended him and refused to allow him be terminated. Komnas Perempuan also received reports of the forced personnel transfers or forced resignation of five female teachers in the sub district of Ciampea, Bogor district, West Java province. The request was forwarded by the *Unit Pelaksana Teknis XV* of the Education Office in Ciampea, Entis Sutisna, at the request of community leaders. On 6 April 2011, the Ciampea police chief visited one of the teachers and stated that the police could not guarantee the teachers' safety. Because of these pressures, in the end the teachers agreed to be moved to several schools far away from their residences. They reported that in their new places of employment they continued to experience intimidation and are stigmatized for being members of Jemaah Ahmadiyah. Komnas Perempuan is also concerned about the education of girls and young women from minority religious communities who are victims of attacks in the name of religion. A young woman from an Ahmadiyah community in West Nusa Tenggara in 2009 told Komnas Perempuan that she and some of her friends could not continue to study at university because their parents had to flee their homes. They lost their property and livelihood following the attack on their community in 2005. She got married at a young age because her parents were convinced it would give her protection. The exact number of women in similar situations is not known; but situations such as these require special attention because violence against minority religious groups is still continuing. An Ahmadiyah girl reported that she was constantly blamed by

her teachers and schoolmates each time there was an attack on the Ahmadiyah community so much so that she feels uncomfortable and wants to move to another school.

⁴⁸ Komnas Perempuan received reports that local police repeatedly urged Ahmadiyah members to leave the congregation if they wished to remain safe. There are also reports that the police requested lists of members of Jemaah Ahmadiyah, such as in North Jakarta, consequently increasing the feeling of insecurity. Ahmadiyah women consulted by Komnas Perempuan mentioned that protection is currently only provided by members of the community. One woman reported that she feels safe in her home because her neighbours do not question the Ahmadiyah faith and especially because a local religious leader supports her and her family.