

Gender Based Violence Against Women in Conflict and Post-Conflict Situations in Indonesia

Submission to the UN Committee on the Elimination of All Forms of Discrimination
Against Women (CEDAW)

Contribution for the Review of Indonesia during the 80th Session of the Committee



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About Asia Justice and Rights (AJAR):

Asia Justice and Rights (AJAR) is a regional human rights organisation based in Jakarta, Indonesia. AJAR works to increase the capacity of local and national organisations in the fight against entrenched impunity and to contribute to building cultures based on accountability, justice, and willingness to learn from the root causes of mass human rights violations in the Asia Pacific region.

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I. Introduction

Asia Justice and Rights (AJAR), Papuan Women Working Group (PWG) and PASKA Aceh submit this report for the UN Committee on the Elimination of All Forms of Discrimination Against Women (Committee) to facilitate its review of Indonesia during the Committee's 80th session.

AJAR is a regional human rights organisation whose aim is to strengthen human rights and contribute to the alleviation of entrenched impunity in the Asia-Pacific region. Its work focuses on countries in transition from a context of mass human rights violations to democracy. Working together with partner organizations in these countries, AJAR strives to build cultures based on accountability, justice, and a willingness to learn from the root causes of mass human rights violations and help prevent the recurrence of state-sanctioned human rights violations.

Papuan Women Working Group (PWG) is a working group focused on strengthening the voices of women victims of violence, taking steps to counter impunity with practical local action, and strengthening understanding about the socio-economic causes and impact of violence as experienced by Indigenous Papuan women.¹

Paska Aceh is a non-profit organization that focuses on the empowerment of victims of the Aceh conflict through the development of social and economic activities. Its mission is to strengthen the position of a peaceful Acehese society with socio-cultural and economic quality, encourage policy changes that are socially and gender equitable, and encourage local initiatives through integrated and sustainable community-based economic efforts.

AJAR, Papuan Women Working Group, and Paska Aceh have been working together to document victims' stories in conflict areas in Indonesia, Aceh and Papua. Since 2015, we have developed an approach using Participatory Action Research to preserve the stories from women victims and survivors, demand justice for the violations they endured, and conduct civil-society-led memorialization to remember those who suffered humiliation and prevent recurrence.

This submission provides an evaluation of CEDAW implementation by the Indonesia Government in relation to women in conflict.

II. General Situation of Indonesia's Women in Conflict

From 1965 to 1998, Suharto's "New Order" Regime led Indonesia, leaving scars of mass human rights violations in its wake across the archipelago, including in Aceh, East Timor, and Papua. Whereas the conflict in East Timor ended with independence in 1999 and in Aceh in 2005 with a peace accord, conflict still continues in Papua. After Suharto's fall, Indonesia passed several regulations that were inspired from the guarantee of the rule of law and the supremacy of human rights based on justice and truth. However, there is little effort to redress the situation of women victims affected by the 1965 atrocities, the 1998 May Riots, and in conflict areas, in particular facing a military operation such as Aceh, East Timor, and Papua.

Women continue to experience systematic and conflict-related violence. The absence of justice exacerbates these persisting problems. Impunity is the norm for most women victims of armed conflict and state violence, including victims of sexual violence. Women victims' struggle for economic survival affects their access to justice. They are vulnerable to new forms of violence including domestic violence and community violence. Lack of basic services,

¹ Members of the PWG are: SKP Merauke Diocese/El-Adpper, Merauke; KPKC GKI, Jayapura; ELSHAM Papua, Jayapura; Humi Inane, Wamena; Belantara Papua, Sorong; Asia Justice and Rights (AJAR).

facing health and reproductive health problems, and a continuation of trauma due to lack of concern from the government. However, they also have resilience as women survivors of conflict.²

Women in Aceh have suffered from the long-term impacts of war. Not only did they suffer when the men in their families were killed, disappeared, or had to flee to the mountains or forests, but also as victims of proxy violence, detained, tortured and raped as substitutes for the absent men. On-going violence and discrimination due to political stigmatization is a common and widespread issue in Papua, which has an increasing impact on the lives of Papuan women. They have suffered as victims of discrimination and violence, which includes domestic violence, sexual violation, and violence in the context of development projects.

There is a lack of fulfilment of women's right to truth, justice, reparations and non recurrence. Although there were peace processes in Aceh, Maluku and Central Sulawesi, women were not able to significantly participate during the process.

Although the women in Aceh started to cling onto hope through the newly established truth and reconciliation commission in 2016, many indigenous Papuan women still experience ongoing violence, both individual and collective, in their communities and tribes.

Women survivors have suffered immensely yet also possess deep wellsprings of strength and resourcefulness. We who wish to help lessen the burden of these women should readjust our approach to better serve their needs and aspirations for truth, justice, and healing, while also recognizing and remedying violations of their social and economic rights. The trauma suffered by women victims leaves them more vulnerable to new forms of violence, including violence from land conflict and religious or communal conflict, as well as domestic violence. When the community and local authorities around them do not know or appreciate their experiences of violations in the past, women victims may suffer further abuse or exploitation by their community.

Adopting a transitional justice framework, which include delivering justice, seeking truth, providing reparations and promoting guarantees of non-recurrence, allows for a holistic response to human rights violations that were conducted systematically and at an escalated rate. A failed transitional justice mechanism has serious implications for the present and future, as the cycles of impunity, ongoing restriction of freedom of expression and lack of accountability continues to occur.³

This submission will refer to the Indonesia's answer to the issue of "conflict," which Indonesia limited to the social conflict and sexual violence suffered by women and children in Papua.⁴ In its answer, Indonesia evaded its duty to explain the conditions suffered by women in post-conflict areas, such as Aceh and in Timor-Leste. Critically, the Committee highlighted as follows in article 27 of its Concluding Observations :

"...sexual violence, especially rape, has reportedly been a recurring form of violence against women during conflict, including the events of 1965, the 1974-1999 conflict in the then East Timor Province, the May 1998 riots, the conflict in Aceh Province, the deployment of security and defence forces in Maluku Province and Poso (Central Sulawesi Province) and the conflicts in East Java and Papua Provinces."⁵

Continual emphasis on the "social conflict," as seen in the "National Action Plan for Protection and Empowerment of

2 AJAR in 2016 has written a research report on the story of 140 women survivors of torture and other forms of violence from Indonesia, Timor-Leste and Myanmar. Based on participatory action research with women survivors, "Enduring Impunity" presents a new approach and knowledge on how women experience impunity in conflict and post-conflict settings in Southeast Asia. See more at: <http://www.asia-ajar.org/files/ENDURING%20IMPUNIY%20final-23%20Nov-press.pdf>

3 AJAR, Transitional Justice: Indonesia Case Study, 2017, available at <https://asia-ajar.org/wp-content/uploads/2018/12/English-Indonesia-Case-Study.pdf>

4 Based on CEDAW/C/IDN/RQ/8. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CE-DAW%2fC%2fIDN%2fRQ%2f8&Lang=en

5 Based on CEDAW/C/IDN/CO/6-7, 2012, Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIDN%2fCO%2f6-7&Lang=en

Women and Children in Social Conflicts (RAN P3A-KS)”⁶ and “Law No. 7/2012 on Social Conflict,”⁷ might hamper the urgency to highlight human rights violations that occurred during the conflict and that continue in the post-conflict period. In the current context, women in Papua still continue to endure State-led violence. Meanwhile, women in Timor-Leste and Aceh have not received redress and continue to endure trauma. Notably, even during their period of citizenship in Indonesia, women survivors of conflict in then-East Timor Province were not recognized as survivors of conflict.

There have been no commitments by the Indonesia Government to seek settlements to address past mass violations referenced above. Moreover, there has been a complete lack of comprehensive remedy consideration, let alone enactment, for women survivors. Such a holistic approach might include acknowledgement, recognition, and the fulfilment of survivors’ rights.

III. Legal framework

Indonesia has enacted the Human Rights Law (No. 39/1999) and the Human Rights Court Law (No. 26/2000). Human Rights Court Law establishing a mechanism to investigate and prosecute gross human rights violations, defined as crimes against humanity and genocide (but not including war crimes).

Based on the human rights court law, the human rights court heard three cases: the massacre of Tanjung Priok (1984), Timor-Leste (1999), and the Abepura case in Papua (2001) with evidence drawn from investigations conducted by the National Human Rights Commission (Komnas HAM) and the Attorney General’s Office (AGO). Nevertheless, these three cases resulted in the acquittal of all defendants, either by the first ruling or on appeal. No gender-based crimes have ever been brought to trial. Due to the lack of accountability process, there is an initiation to revise the human rights law and human rights court law.

The Law No. 13/2014 regarding the Protection of Witness and Victims regulated the victim’s right on restitution, rehabilitation, compensation, satisfaction, and non-repetition (of human rights violations). The regulation regarding restitution, compensation and rehabilitation is also stated within the human rights court law.

However, reparations are only provided if a court has acknowledged human rights violations. The National Witness and Protection Agency (LPSK) can provide referrals for urgent health and psychosocial services based on a recommendation from Komnas HAM of a person’s “legal status as a victim.” Notwithstanding the import of these services, the validity period to obtain urgent health and psychosocial services is only 6 months.

Papua and West Papua provinces were granted Special Autonomy status, mandated by Law No. 21 of 2001. This law recognized and granted Papua and West Papua provinces authority to regulate and manage local community interest according to Papuans aspirations and rights. In July 2021, the Government of Indonesia extended the status of Special Autonomy for Papua which had been running for 20 years through Law No. 21/2001. The extension of Papua’s special autonomy status was carried out without an in-depth evaluation. There was no consideration of the escalation of in violence that has occurred during 20 years of Papua Special Autonomy status, due to patterns of racism, sexism and gender-based violence targeting indigenous Papuans nor was there consideration of the need for accountability mechanisms for the violence committed against indigenous Papuans. Indigineous Papuans also were not involved in the discussion on the extension of Papua’s special autonomy status.

However, in the Special Autonomy Law of Papua, reconciliation and resolutions of problems in Papua are also encouraged, to provide recognition and disclosure of Papuan historical truth by establishing the local truth

6 Based on CEDAW/C/IDN/RQ/8 available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CE-DAW%2fC%2fIDN%2fRQ%2f8&Lang=en

7 Based on CEDAW/C/IDN/8 available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIDN%2f8&Lang=en

commission in Papua. In Papua Province, the Governor appointed a team from the University of Cendrawasih to analyze the establishment of Truth and Reconciliation in Papua. In West Papua Province, the consultation among civil society, academics and parliament is continuing in relation to establishing a local truth and reconciliation regulation. On the other hand, the establishment of a human rights court in Papua is supposed to investigate human rights violations in Papua. Even Though the violation is ongoing, there is no local Human Rights Court and Truth Commission in Papua.

In Aceh, Law No. 11 of 2006 on Aceh Province Special Autonomy was made after the 2005 peace agreement between Free Aceh Movement (Gerakan Aceh Merdeka, GAM) and Indonesia government. This Law has allowed the Aceh Government to implement and enforce Islamic law and an Islamic court. The Truth and Reconciliation Commission (Aceh TRC) and Aceh Human Rights Court were also mandated in this law to resolve human right violations cases. The protection of children and women's rights are mentioned in this law, obliging the Aceh Government to promote and protect children and women's rights and to implement empowerment efforts. A local permanent truth and reconciliation commission was established in 2016, while the human rights court stalled in the regulations. The Aceh TRC will finalize its first term in 2021. To date, the TRC has taken statements from more than 5140 victims, including 1102 women from 12 districts, and conducted three public hearings.⁸

In Timor-Leste (former East Timor), one of the remaining cases related to conflict is the issue of “stolen children” from Timor-Leste. These children were forcibly taken by Indonesia officials in the period of occupation of East Timor (1975-1999). The impact for the girls, now adult women, of being “stolen children” is particularly acute and related to the psychological trauma they suffered due to the experience of violence inside their adoptive families; some even mentioned facing sexual harassment. They are currently living in parts of Indonesia, unable to go back due to economic hardship, fear of rejection, and isolation. Many of their families in Timor-Leste are still looking for the girls, now adult women. Some of the families consider them missing persons or dead in conflict, as they have been separated for decades without contact. To date only limited support, without acknowledgement of women's “stolen” condition, is offered by Indonesia's Ministry of Foreign Affairs to support the reunification process.⁹

Recommendations:

- Revise the law to include redress for victims of serious crimes that ensure their rights to truth, justice and reparations, as well as measures to strengthen the independence and professionalism of the judiciary.
- Immediately enact the Bill of Elimination of Sexual Violence to protect women's rights that has been prioritized in the National Legislative Program of the year 2020-2021.

IV. Implementation of the violence against women in conflict

1. Prosecutions on all violence against women in conflict

We would like the committee to consider the reply of the state that is not answering the issue on the (CEDAW/C/IDN/Q/8, para 13) and to further examine on the issues that stated:

“...please provide information on steps taken to promptly investigate, prosecute and punish all acts of conflict-related gender-based and sexual violence against women, including such acts committed by security forces against indigenous women and against women in the Provinces of Papua and West Papua, and on steps

⁸ Aceh TRC updated, October 2020

⁹ AJAR, Long Journey Home: Stolen Children of Timor-Leste, see AJAR brief report in: <https://asia-ajar.org/2016/08/long-journey-home-stolen-children-timor-leste/>

taken to provide full and effective reparation, medical and psychological support and counselling to all victims. Please specify the number, type and outcome of such cases received and investigated by the AGO. Please explain measures taken to establish truth and reconciliation commissions and human rights courts at the local level and specify the number and outcomes of complaints related to gender-based violence against women and girls in conflict and post-conflict situations received by such commissions.”

To date, Indonesia only enacted prevention policies that are limited to social conflict. These policies are not able to respond to the urgency to bring gender-based crimes in post-conflict to trial. Also, no mention of the gender-based crimes in two ad hoc courts established to try two cases: the violence regarding the referendum in East Timor (1999), and a massacre that took place in Tanjung Priok, North Jakarta (1984). No further measures taken to investigate experience by women survivors of sexual violence in East Timor during Indonesian occupation (1975-1999)¹⁰. The last case to be tried by the human rights court was the Abepura case that took place in Papua (2001). All perpetrators were acquitted, and no gender-based crimes have ever been brought to trial.

Following the large-scale violence that occurred in May 1998, the National Commission on Violence against Women released a report on sexual violence on the May 1998 Riot and its impacts. The victims were mainly Indonesian Chinese ethnic women with ages ranging from 5 to 50 years old, and from varying marital status'. To date, the case is also abandoned with the insensitive demand for the victims to be testified publicly as the only way to fulfill the State's responsibility in addressing the victims' rights for the truth, justice, and recovery.¹¹ In addition, the National Commission on Human Rights conducted a pro justicia investigation into this case and issued its report in early 2005, as well as submitted it to the AGO for further investigation and duly prosecution process in January 2005. They recommended that the crimes against humanity occurred in this period, but the case was not followed up by the AGO.

In Aceh, Komnas HAM has completed ad hoc pro justicia inquiries into three cases of gross violations of human rights in Aceh: killings and acts of torture in Rumah Geudong, Pidie (1997-98, also including sexual violence), Simpang KKA, North Aceh (1999), and Jamboe Keupok, South Aceh (2003). The Commission has filed these cases to the AGO since 2016, but no further investigation on this case.

In Papua, Komnas HAM also completed ad hoc inquiries for cases called Wasior (2001-2002), Wamena (2003), and the Paniai (2014). Particularly in Wasior and Wamena, each has at least one woman as victims of sexual violence.¹² These cases are unresolved cases of gross human rights violations caused by the state apparatus in Papua. Similarly, AGO has not followed up the judicial process since 2004.

Indonesia recently awarded Eurico Guterres the “Bintang Jasa Utama,” the nation's third-highest civilian honorary medal in August 2021. His past history of involvement in pre- and post-independence massacres in Timor-Leste as a militia leader was seemingly not even considered. It is alleged, based on substantial evidence, that he was responsible for the murder of 1,400 Timorese and the forced expulsion of 500,000 from Dili as well as arson in 1999 after the people of then-East Timor Province voted for independence in a United Nations administered referendum.¹³ During the incidents he helped orchestrate, women also suffered from sexual violence.¹⁴ The Serious Crimes Unit issued

10 In 2018 AJAR has written a brief research report on the condition of children born from women victims of sexual abuse during human rights violations committed during the Indonesian occupation of Timor-Leste (1975-1999). See more at: http://asia-ajar.org/wp-content/uploads/2018/05/Final_Labarik-Funu_ENG_PressQuality.pdf

11 Komnas Perempuan, Documentation Report: Special Rapporteur Of National Commission on Violence Against Women Regarding Sexual Violence in May 1998 Riot And Its Impacts, available at https://lib.ohchr.org/HRBodies/UPR/Documents/session13/ID/Komnas_Perempuan_UPR_IDN_S13_2012_KomnasPerempuan_Annex6_E.pdf

12 Komnas HAM, Executive Summary: Investigation Reports on Gross Human Rights Violations, available at: https://perpustakaan.komnash-am.go.id/opackomnas/index.php?p=show_detail&id=10549&keywords=

13 United Nations General Assembly, “Situation of Human Rights in East Timor,” Note by the General Secretary, December 10, 1999. See also Indonesian Legal and Human Rights Association, “Ad Hoc Trials Are Far Away From International Standard,” May 5, 2002.

14 See U.N. Document A/54/26, S/2000/59 “Report of the International Commission of Inquiry on East Timor to the secretary-general,” 31 January, 2000, p.123. In particular, the TNI, as well as the Timorese militias, committed gross violations of fundamental human rights in a planned, systematic, and large-scale way. Ibid, p.60.

an indictment in his name but the proceedings did not advance due to unclear policy and a lack of commitment to accountability by Indonesia.¹⁵ Parallel with that process and pursuant to Indonesia's Human Rights Court Law, he was prosecuted in national court but remained free after appeal. (By contrast, some of the most high profile suspects, such as General Wiranto, were never even indicted and have gone on to have highly successful political or professional careers) The bestowal of one of the nation's top awards on Guterres by the Indonesian President is a betrayal of humanity and rules out justice for victims in Indonesia and Timor-Leste.

The promise of establishing a human rights court under the peace agreement has been abandoned because it is seen as too difficult, despite growing global recognition that the delivery of justice is related to preventing the rise of extremism. Just like the other cases, the AGO has returned all human rights violations in parts of Indonesia including Aceh and Papua to the commission, claiming that the files are administratively incomplete.¹⁶

The refusal of the AGO to follow up the gross past human rights violations, including the sexual violence mentioned above by the reply on the list of issues, still continues. Furthermore, the AGO has never provided any response regarding this situation. This failure to deliver justice reveals a systemic weakness in the judiciary and a lack of political will in the executive branch. Taken with the AGO's refusal to follow up on Komnas HAM inquiries into other cases, the Government is not pursuing justice for past gross human rights violations.¹⁷

On another note, women human rights defenders were attacked, intimidated and received terror threats because of their role in providing assistance to victims of human rights abuses and political activists who were facing criminal charges for peaceful political activity. While there is a progress from Komnas HAM to develop the standardized norm on human rights defenders¹⁸. However, the strong legal framework is still absent for the protection of human rights workers in Indonesia, particularly for women human rights defenders.

Across the region, serious cases of threat, intimidation and physical violence against women has occurred. In Papua, at least four women human rights lawyers who provided legal support in cases against local police authorities with allegations of human rights violations. While after the peace process in Aceh, women human rights defenders are sometimes accused of as being anti-Islam, in particular "anti-Shariah", and "secular, pluralist, liberal, imperialist" when they want to speak up on their rights.

Recommendations:

- Immediately resolve the impasse between Komnas HAM and the AGO by establishing an effective mechanism for cooperation between the two institutions under the President's supervision;
- Immediately conduct an audit towards the AGO regarding the case handling of gross human rights violations cases, which also affected women survivors, for accountability and transparency; that includes establishing an independent prosecutor which is free from political interest to prosecute the gross violations of human rights.
- Establish ad hoc human rights courts for all cases involving crimes against humanity that have been determined by Komnas HAM, which also prosecute violence against women in those cases.
- Establish the human rights court in Aceh and Papua, as mandated in the special local regulations of its

15 ICTJ, Justice Abandoned, 2005, available at: <https://www.ictj.org/sites/default/files/ICTJ-TimorLeste-Justice-Abandoned-2005-English.pdf>

16 The 12 alleged of crimes against humanity are: shootings of students at Trisakti and Semanggi I and II (1998-1999); the Panai case in Papua (2014); Wasior (2001-2002) and Wamena (2003) cases in Papua; the May Riots (1998); activist disappearances (1997-1998); the Talangsari case (1989); summary killings (1982-1985); 1965-66 atrocities; three cases in Aceh called Jambo Keupok, Aceh (2003), Simpang KKA (1999), Rumah Geudong (1989-1998); and Banyuwangi Killings on Black Magic Shaman (1998).

17 AJAR, Transitional Justice: Indonesia Case Study, available at <https://asia-ajar.org/wp-content/uploads/2018/12/English-Indonesia-Case-Study.pdf>

18 On February 7, 2021, the Komnas HAM Plenary Session has ratified and established Standard Norms and Regulations (SNP) on Human Rights Defenders as one of the steps to develop conducive conditions for human rights and as a response to the situation that there are no operational and implementable human rights norms standards within the framework to respect, protect, and fulfil the rights of human rights defenders in Indonesia. See more in Bahasa Indonesia: <https://www.komnasham.go.id/index.php/news/2021/9/8/1888/komnas-ham-sahkan-snp-pembela-ham.html>

provinces.

- Conduct effective and prompt investigations on allegations of human rights violations for violations against women human rights defenders and ensure the protection for women human rights defenders who face an even higher risk of physical violence and intimidation.
- To review the decision of awarding the alleged human rights criminal and take important steps to resolve cases of gross human rights violations as a whole.

2. Redress the women victims of violence as a result of conflict

We would like the committee consider the Indonesia response that is limiting its reply to the questions on the (CEDAW/C/IDN/Q/8, para 14) and to further examine the issue that stated:

“Please explain measures taken to adopt laws and policies to ensure the protection of women and girls from conflict-related gender-based violence and to implement existing laws and policies at the national and local levels, including Regulation No. 1/2011 of the Province of Papua, on the rehabilitation of women victims of human rights violations. Please provide data on the number of women who are victims of conflict-related gender-based violence, disaggregated by race, ethnicity, age, disability, nationality, geographical location, socioeconomic status and any other relevant factors. Please provide data on the number of prosecutions that have taken place, the convictions secured, the sentences handed down, the nature of remedies provided to the victims and the services provided for their rehabilitation.”

Since 2012, there has been no significant improvement on the UN Committee of CEDAW on the recommendation related to comprehensive reparations, particularly for sexual violence victims.

In Indonesia, the current human rights legislation allows reparations provided by a decision made by a court of law. Thus the demise of the human rights court has effectively blocked victims from receiving reparations. However, the LPSK is empowered to provide referrals for urgent health and psychosocial services for victims, including those whose cases were investigated by the national human rights commission. However, currently, LPSK integrated this assistance with the national policy health system (BPJS), the change makes the ongoing advocacy for acknowledgement for them as the victims disappeared, as they are now included in a public service mechanism.

In 2002, the Governor of Aceh initiated a compensation scheme under Islamic tradition, known as diyat, for the families of those killed or disappeared. The program pledged to provide three million IDR (around 300 USD) for each of 20,000 widows in Aceh. However, problems with transparency and lack of acknowledgment of the violations for which compensation was given led to victims' dissatisfaction.

Later, Aceh's Reintegration Agency (BRA) distributed aid for conflict-affected communities. This was also done without any special process to listen to victims living in these communities, thus providing little reparative impact for victims. A new hope on a reparation scheme might be realized through the ongoing work of the formal Aceh TRC that has the mandate to give recommendations for urgent and comprehensive reparations of victims to Aceh.

So far, 244 individuals have been recommended to the government of Aceh to receive urgent reparations, i.e., an immediate measure to provide emergency assistance, which includes medical and psychological assistance, entrepreneurship, social insurance, and administration registry with the priority of the elderly. The Aceh Government issued a Decree on The Determination of the Recipient of Urgent Reparations, the Fulfillment of Victims of Human Rights Violations, while the BRA will implement the decree. However, the government has yet provided any actual reparation in realizing “immediate reparation”¹⁹ for 58 women victims verified by the Aceh TRC. We are concerned

19 Aceh TRC proposed two reparation mechanisms for victims: urgent and comprehensive. The form of urgent reparations consists of 5 things; 1) medical; 2) psychological; 3) venture capital; 4) life guarantee; and 5) population status and prioritization for victims who are elderly. This urgent reparation will continue to be recommended by the Aceh TRC according to the needs of the victims. Meanwhile, the comprehensive reparations recommendation will be submitted by the Aceh TRC to the President of the Republic of Indonesia, the Governor of Aceh, and the Aceh DPR at the end of the 2016-2021

that the allocation of funds for urgent reparations implementation will only be available in the 2022 fiscal year.²⁰

The BRA is also the party mandated to implement urgent reparations, by the mandate of Qanun No. 6/2015 where BRA is an institution formed to implement a program of reintegration activities and efforts to strengthen peace in Aceh. However, the focus of BRA work so far has been more on former political prisoners and combatants, often criticized for ignoring civilian victims, including women victims.

In Papua, there is a local regulation as an improvement to protect the victims of human rights violations, which is the Local Law on the Rehabilitation of the Rights of Women Victims of Human Rights Violations (Perdasus No.1/2011), which was passed without public dissemination and remains lacking in sub-regulations. The regulations have not been implemented.

It is difficult for survivors of gender-based violence in conflict to speak about their experiences. If women victims can not prove that a sexual assault took place, then she risks being charged for adultery. There is also pressure from family and local leaders from women to remain silent about sexual violence as it brings shame to the community.²¹

With the absence of official acknowledgement and support from the government, women survivors continue to suffer trauma and long-term impact of the violations on their health, social, and financial livelihoods. There was a breakthrough from the LPSK that can provide referrals for urgent medical health and psychosocial services based on a recommendation from Komnas HAM of a person's "legal status as a victim". However, the validity period of the urgent health and psychosocial services is only for 6 months. Therefore, only a small number of survivors have access to this government-funded medical support.

In response to the lack of official truth-seeking processes of mass human rights violations, civil society has led the documentation and unofficial truth-seeking of mass human rights violations. A coalition of 50 NGOs called Koalisi Keadilan dan Pengungkapan Kebenaran (KKPK) or the Coalition for Justice and Truth conducted an unofficial truth initiative called "The Year of Truth" and launched a report concluding that systematic and widespread gender violence took place in conflict zones between 1965-2005.²²

In addition, AJAR, Paska Aceh and PWG conducted participatory action research developed by AJAR called "Stone & Flower",²³ which integrates human rights, legal, and psycho-social approaches to assist victims, particularly victims of sexual violence during conflict. It addresses human rights violations, the social and political impacts of violations, and provides an environment where healing can take place, although it might not yield the information desired for advocacy efforts.²⁴ The participatory action research was conducted in Aceh and Papua with hundreds of women impacted by conflicts.

Recommendations:

- Provide victims with comprehensive reparations that complement justice mechanisms, restore victims' trust, and provide social and economic programs, prioritizing rehabilitation for those impacted from conflict: women, the elderly, children, and those living in geographically isolated locations.
- Ensure effective programmes for women victims of state violence, which includes assistance for physical, psychological, economic and social effects of armed conflict on women.

period of the Aceh TRC. See more in Bahasa Indonesia at: <https://kkkr.acehprov.go.id/berita/kategori/news/ Pernyataan-kkkr-aceh-penetapan-penerima-reparasi-mendesak-korban-pelanggaran-ham>

20 National Commission on Violence Against Women, Press Release on the Commemoration of 16 years of Peace Accord in 2021. Available in Bahasa Indonesia at: <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-menyambut-16-tahun-nota-kesepahaman-helsinki-15-agustus-2021>.

21 AJAR, Enduring Impunity, available at: <http://www.asia-ajar.org/files/ENDURING%20IMPUNIY%20final-23%20Nov-press.pdf>

22 Coalition for Justice and Truth, Menemukan Kembali Indonesia, available at <http://www.asia-ajar.org/files/MENEMUKAN%20KEMBALI%20INDONESIA%20-%20BUKU%201.compressed.pdf>

23 AJAR, Stone & Flowers, available at <http://www.asia-ajar.org/files/stone%20%26%20flower.pdf>

24 Later, AJAR adapted these tools for work with survivors of torture and their communities. See "Mosaic: Rebuilding Lives and Communities after Torture" at: <https://asia-ajar.org/wp-content/uploads/2018/01/Mosaic-Unlearning-Impunity-Series-Manual-2018.pdf>

- Ensure the upcoming Aceh TRC recommendation for reparation for victims, particularly victims of sexual violence in Aceh conflict can be realized and tangibly implemented by the local and national governments. The Government of Aceh should provide the urgent reparation for the victims, particularly for victims of sexual violence, without any delay.
- Ensure the implementation of the Local Law on the Rehabilitation of the Rights of Women Victims of Human Rights Violations (Perdasus no.1/2011)
- Strengthen civil society initiatives in providing comprehensive assistance to victims of human rights violations, particularly women survivors during conflict.

3. Establishment of truth and reconciliation commission for the violence against women in conflict

We would like to report on the situation based the recommendation of article 28d of the 52nd Concluding Observation of CEDAW in 2012 that stated:

“To adopt the new draft law providing for the establishment of a national truth and reconciliation commission and to ensure that the commission has broad powers to receive complaints and investigate grave human rights violations; during the conflicts, and to establish counselling centres for women to overcome their traumatic experiences;”

A law to establish a national truth and reconciliation commission was passed in 2004, but struck down by the Constitutional Court after a judicial challenge. Civil society and victims’ groups sought an amendment in the articles that required victims to forgive perpetrators in order to receive reparations. However, the Constitutional Court then annulled the entire law, a defeat in the struggle against impunity. In early 2020 the Government initiated a revisit to the national truth commission law through a Presidential Decree. The law has not entered into discussion after the period of social restriction due to COVID-19.

However, In March 2021, the government shift its priority to draft a presidential regulation to address past gross human rights violations through a mechanism called Unit Kerja Presiden untuk Penanganan Peristiwa Pelanggaran Hak Asasi Manusia yang Berat or Presidential Work Unit for Handling Gross Human Rights Violations (UKP-PPHB) . The draft regulation overrides existing judicial laws that could be used to reveal the truth about past violations. The draft regulation also fails to address the issue of adequate reparations for the victims.²⁵

On the other hand, pressure by civil society in Aceh led to a local TRC law in 2013. The Aceh parliament has appointed seven commissioners and started to work in 2016. At the start of the establishment, there was little to no recognition by the Government. This resulted in the working condition of the Aceh TRC was based on voluntary measures with limited official recognition and support.

Aceh TRC has made several groundbreaking achievements, including statement takings of women victims of sexual violence and conducting three public hearings.²⁶ The total of 50 victims and their families involved in the public hearings, with officials also invited to give remarks on the process. Aceh TRC also received submissions on the situation of gender based violence, particularly on women from CSOs²⁷. By the end of 2021, Aceh TRC will be expected to release their first final report.

25 KontraS, Briefing Note on Selected Human Rights Issues in Indonesia, available at: <https://kontras.org/en/2021/05/25/briefing-note-on-selected-human-rights-issues-in-indonesia/>

26 AJAR, Aceh TRC Public Hearing in North Aceh: the Urgency to Provide Reparations for Victims, available at: <https://asia-ajar.org/2019/07/aceh-truth-and-reconciliation-commission-public-hearing-in-north-aceh-the-urgency-to-provide-reparation-for-victims/>

27 Acehkini, Data Perempuan Korban Kekerasan Seksual Masa Konflik Diserahkan RPUK ke KKR Aceh, available at <https://kumparan.com/aceh-kini/data-perempuan-korban-kekerasan-seksual-masa-konflik-diserahkan-rpuk-ke-kr-aceh-1uGjebAf5>

Meanwhile in Papua, The extension of special autonomy status through Law No. 2/2021 still provided a local human rights court and truth and reconciliation commission. However, the establishment of truth and reconciliation has been stalled until now.

One of the remaining cases related to conflict is the issue of “stolen children” from Timor-Leste, children who were forcibly taken by Indonesia officials in the period of occupation of East Timor (1975-1999). The impact for the girls, now adult women, of “stolen children” is particularly related to psychological trauma due to the experience of violence inside the adoptive families, some mentioned faced sexual harassment. To date, they are living in parts of Indonesia, unable to go back due to economic hardship, fear of rejection, and isolation. Many families in Timor-Leste still look for them, some consider them missing persons or dead in conflict, after being lost decades apart.²⁸

Recommendations:

- Establish the national truth commission with ensuring that any mechanisms to address past human rights violations not be used as a substitute for the responsibility of the criminal justice system to investigate and prosecute those responsible for grave human rights violations and crimes under international law.
- Ensure the effective establishment of the TRC in Aceh by acknowledging truth about the conflict, provide justice for victims and their families, and provide effective reparation for victims of the Aceh conflict in the framework of peace. A special treatment for comprehensive reparation should be delivered for women in conflict.
- Provide recognition and disclosure of Papua historical truth by establishing the local truth commission in Papua.
- Establish a bilateral commission with the Government of Timor-Leste to implement the recommendations of previous truth commissions (the Timor-Leste Commission for Reception, Truth, and Reconciliation/CAVR and the Indonesia and Timor-Leste Commission for Truth and Friendship/CTF) and ensure the acknowledgement and reparation of the Stolen Children in Timor-Leste, particularly to reunite victims in Indonesia to their families in Timor-Leste.
- Ratify the International Convention for the Protection of All Persons of Enforced Disappearances.

4. Fulfillment of the economic, social, and cultural livelihoods of the women in conflict areas including internally displaced women

We would like to report on the situation based on the Committee recommendation in article 28e of the 52nd Concluding Observation of CEDAW in 2012 that stated:

“To ensure the security of internally displaced women and to allocate adequate resources to meet their needs, in particular their access to a livelihood, water and education for themselves and their children;”

Alongside the attack against women in conflict's personal integrity, many women survivors also experience violations of their social and economic rights. These abuses include the loss of land and livelihoods, and exclusion from education and health care services, all undermined by their socio-economic wellbeing. The abuses are not only widespread but can often extend over many years.²⁹ With the absence of official acknowledgement and support from the government, women survivors continue to suffer long-term impact of the violations on their health, social, and economics. Women in conflict are also vulnerable to new forms of domestic and community violence. While domestic violence is widely experienced, there are only a few cases reported to the police, and less cases prosecuted in the judicial system.³⁰

28 AJAR, Long Journey Home: Stolen Children Timor Leste, available at <https://asia-ajar.org/2016/08/long-journey-home-stolen-children-timor-leste/>

29 AJAR, Surviving on Their Own, available at <http://asia-ajar.org/files/Surviving%20on%20Their%20Own%20-%20Small%20Size.pdf>

30 National Commission on Violence against Women release a report in Indonesia on the situation of Women in Aceh, including the domestic violence. Read more at: [https://www.komnasperempuan.go.id/file/pdf_file/2018/Publikasi/Catatan%20Dua%20Tahun%20Terakhir%20\(2011-2012\)%20Kekerasan%20Terhadap%20Perempuan%20di%20Aceh.pdf](https://www.komnasperempuan.go.id/file/pdf_file/2018/Publikasi/Catatan%20Dua%20Tahun%20Terakhir%20(2011-2012)%20Kekerasan%20Terhadap%20Perempuan%20di%20Aceh.pdf)

In Papua, on-going violence and discrimination is a common and widespread issue, which has an increasing impact on the lives of Papuan women. Lack of security of tenure for natural resources and traditional lands impede women's empowerment, and make indigenous women vulnerable to continued violence and discrimination. In Aceh, even though many policies enacted related to economic and livelihood access, women survivors are still left behind.

- Access to health service

Although there are national or local health schemes (with “health cards” such as BPJS, Papua Sehat, and Jaminan Kesehatan Aceh), women victims face difficulties in accessing these services, especially for sexual and reproductive health, and basic health services. In various places, women are unable to access health services because they do not have an identity card (Kartu Tanda Penduduk).

In Papua, women victims cannot pay transport costs, or come to a health facility where health workers are unavailable. Moreover, discrimination and marginalization of HIV-positive Papuan women remains a problem for on-going violence, since Papua has alarmingly high rates of HIV/AIDS cases. In Aceh, due to relatively high poverty, women victims have difficulties in accessing health services. The aforementioned factors leave many women even more vulnerable.³¹

- Internally displaced women in conflict situations

In Papua, communities have been displaced because of various conflicts, most notably those that occurred in Nduga in 2018, Intan Jaya in 2019, Aifat in 2020, and Maybrat in 2021 where many women and children have become internally displaced peoples. Fleeing from the ensuing bouts of fighting and raids, displaced villagers have sought refuge in neighbouring parts. Away from their own land and gardens, the IDPs are struggling to meet basic needs, and living in appalling makeshift conditions, where there is a lack of freedom from fear.

Recommendations:

- Acknowledge the existence of victims of human rights violations, particularly women victims in conflict and provide comprehensive reparation which includes support for socio economic, health and livelihood.
- Ensure that women in conflict are meaningfully involved in deliberations on development issues at all levels, including the decision making process for the socio economic and development policy.
- Ensure basic needs and livelihoods assistance, particularly for women and children in the temporary camps of IDPs; revoke the militaristic approach of sending troops and stop violence in conflict areas.
- Support various initiatives of women survivors and its community for their resilience in maintaining their livelihood.

5. Womens meaningful participation in post-conflict and peacebuilding processes

We would like to report on the situation based on the Committee in article 28f of the 52nd Concluding Observation of CEDAW in 2012 that stated:

“To include women in the post-conflict reconstruction and peacebuilding process;”

In Papua, a civil society push for peace talks between indigenous leaders and the central government has been on the boil for many years. But women's participation remains minimal. The political mechanism adopted the “Noken System” as a local wisdom and guideline for voting which provides affirmative support for indigenous Papuans. However, it has not been able to have a positive impact on increasing women's participation rights in politics. The calculation mechanism that has been represented by the tribal chief is very advantageous for men who have a more prominent position in custom (adat) structures, so that the women involved find it difficult to get votes.

In Aceh, although women played a major role in mitigating the conflict, providing humanitarian support to victims, monitoring human rights violations and advocating for peace, only one woman from the independence group of GAM participated in the official peace process.

Peace-building programs in Aceh have focused on disarmament and decommissioning, demobilization of the GAM, and reintegration of former combatants, including former woman combatant, Inong Bale. During the peace process, GAM turned in weapons, demobilized all military troops, and transformed it into the political Committee for the Transition in Aceh (known as KPA). While the Indonesian government relocated “non-organic” military and police personnel, released GAM's amnestied prisoners, which included women prisoners.³²

Later, the task of implementing the long-term reintegration program was given to the Aceh Reintegration Authority (BRA). However, it only focuses solely on social and economic programs and building a livelihood. Reparations for affected civilians were included in this broad reintegration strategy. Yet the MoU did not specifically use the term “victims” and did not mention women and children. Sharia law under Special Autonomy in Aceh has put in place a morality code that often results in discrimination against women.

The lack of meaningful participation results in inadequate assistance to those most in need. In Aceh's case, vulnerable groups, such as women, children, the elderly, and the disabled, receive insufficient support. This is partly because the program lacks targeted support for women—often the sole remaining caregivers—as all assistance to conflict-affected civilians has been provided on a community grant basis. Moreover, the focus on cash payments, rather than programs supporting sustained livelihoods, health, and education, has had a disparate impact on women, children, the elderly, and the disabled.³³

Recommendations:

- Ensure the equal participation and equal opportunities of women in peace or dialog processes towards adequate and sustained assistance on livelihoods programs and health and education services.
- Ensure affirmative policy for women in politics is meaningful, effective, and supported by customary law.
- Review the local regulation of Sharia in Aceh, as it must be inline with human rights principles.

6. Ratify and implement the Rome Statute of the International Criminal Court

We would like the committee to follow up its recommendation in article 28g of the 52nd Concluding Observation of CEDAW in 2012 that stated:

“To consider ratifying the Rome Statute of the International Criminal Court;”

Indonesia has actively participated in the process of forming the ICC on 17 July 1988 at the Diplomatic Conference in Rome. At that time, Indonesia had expressed its support for the ratification of the Rome Statute and the establishment of the ICC, ICC had also been announced in the National Action Plan for Human Rights (RANHAM) 2004-2009. However, there is no further agenda to ratify the ICC.

32 ICTJ, Negotiating Peace in Indonesia Prospect in Building Peace and Upholding Justice in Aceh and Maluku, 2009. available at: <https://www.ictj.org/sites/default/files/ICTJ-IFP-Indonesia-Negotiating-Peace-2009-English.pdf>

33 ICTJ, Considering Victims: the Aceh Peace Process from a Transitional Justice Perspective, available at: <https://www.ictj.org/sites/default/files/ICTJ-Indonesia-Aceh-Process-2008-English.pdf>

Recommendations:

- Accede and ratify to the Rome Statute of the International Criminal Court, incorporate its provisions into domestic law and implement it in policy and practice.
- Ensure Indonesian authorities revise the Law on Human Rights Courts to expand into including war crimes and other crimes under international law.

Respectfully submitted,
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