

**Independent Report of
Non-Government Organizations**

**Concerning the
Implementation of the Convention
on the Elimination of
All Forms of Discrimination Against Women
(CEDAW)
in Indonesia**

**Prepared by
CEDAW Working Group Initiative
(CWGI)**

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Foreword

This report is the result of monitoring and critical analyses by non-government organizations (NGO) in Indonesia concerning the implementation of CEDAW throughout the years 1998-2007. This report is made on the basis of the mechanism of the CEDAW committee that makes it possible for non-government organizations to propose a shadow report as a counterpart/ alternative report to the report prepared by the Government of the Republic of Indonesia.

This CEDAW report is the second report made by non-government organizations in Indonesia. This report is prepared by 10 non-government organizations grouped under the *CEDAW Working Group Initiative* (CWGI) and with the participation of 46 non-government organizations serving as data contributors, academicians, experts, individuals and a team of editors whose role is to harmonize the writing of this report. The process of the drawing up of this report is finally completed thanks to the support of UNIFEM and the involvement of IWRAW-Asia Pacific during the consultation process.

The content of this report reflects the results of the work of non-government organizations in an effort to enhance the status of the life of women from discriminatory action arising from social, political and cultural systems. Within that context, the objective of the drawing up of this report is to provide an intact picture of discriminatory action experienced by women in order to enhance the status of their life. Simultaneously, this report looks at the effort of the Government of the Republic of Indonesia in implementing Act No. 7/1984 concerning CEDAW ratification.

The main part of this report is discussed in-depth in Chapter 3. Chapter 2 in this report explains the social, economic and political situation of Indonesia from the perspective of non-government organizations. Chapter 3 of this report will describe the situation of women in Indonesia and forms of discrimination experienced on the basis of articles enshrined in CEDAW. CWGI and parties involved in the drawing up of this report have classified 10 issues related to discriminatory action against women that need to be given priority, that is:

1. The responsibility of the State to eliminate discrimination (Articles 1 – 5).
2. Trafficking in women (Article 6)
3. Women in Political and public life (Article 7)
4. Citizenship (Article 9)
5. Women's education (Article 10)
6. Women's right to work (Article 11)
7. Women's Reproductive Health and Rights (Article 12)
8. Women in rural areas (Article 14)
9. Equality before the law (Article 15)
10. Marriage and family law (Article 16)

The above-mentioned issues are the critical issues that must be responded by the State by using its political and economic resources as maximal as possible.

Executive Summary

The complexity of economic, political, social and cultural problems in Indonesia within the period of 1998-2007 cannot be separated from a series of problems that impact on discriminatory action against women including the process of pauperization of women that is caused by minimum access to justice, education, health, and decision making. Amidst poverty that continues to choke the life of women, the stronger tide of religious fundamentalism and cultural absolutism currently make life more difficult for women.

Religious fundamentalism and cultural absolutism have become inspiration and a basis for the formulation of public policies at both national as well as local levels. Apart from this, religious and cultural leaders have systematically influenced the people's mindset [the pattern of thoughts] and behavior towards the direction of anti-tolerance and anti-diversity. The process of the mainstreaming of Islamic laws and cultural practices in public policies and public life behavior has, in fact, restricted women's freedom of movement and expression by prohibiting a woman to go out in the evening/ night without being accompanied by a male who is a member of her family and by regulating the way a woman must dress up in public. Propagandas that regard women as a source of immorality have been systematically conducted in both the public as well as private spheres.

The Constitution of the Republic of Indonesia declares that every person has equal position before the law. With this declaration, every person, be the person a man or a woman, shall have the constitutional guarantee to access justice through the process and decision of a court of law that are honest and equitable. However, as a matter of fact, the Indonesian Penal Code (*KUHP*) and the Indonesian Civil Code (*KUH-Perdata*) that have so far been used as legal bases to try criminal cases and hear civil cases still adopt the gender-neutral paradigm. The Indonesian Penal Code positions a woman equally to a boy child under several provisions, for example, the provisions concerning the sale of persons. In civil cases such as in the event of divorce, it is difficult for women to have the court's decision executed as far as common possession of assets, child support, and alimony are concerned. Likewise, the Indonesian Law of Procedure and Evidence (*KUHAP*) has so far failed to address the procedure associated with the burden of proof that is sensitive to women. Interrogation of women and children either as perpetrators or victims is still carried out by manipulating their vulnerability and even by cornering them. Law enforcement facilities do not adopt equality values either. This can be seen from the unavailability of special detention rooms for women in police and prosecutor offices. Women detainees are usually detained in rooms designated for police guards on duty or in other rooms.

In the field of education, the backwardness of women is evidenced in the extremely high illiteracy rate among women in Indonesia. The illiteracy ratio of women to men is one hundred percent (one hundred to one), which means that there are one

hundred illiterate women for one illiterate man, or the number of illiterate women is one hundred times greater than the number of illiterate men. This situation exists because of the still prevailing patriarchic culture which prioritizes men as the main beneficiaries of education because women are still considered second-class citizens and are supposed to just stay at home to take care of family so that it is not necessary to give them education.

Women's reproductive health and rights is highlighted in this report because there is no regulation explicitly that recognize women's reproductive rights as a part of women's right. This situation is contradictory to article 12 subsection of CEDAW. Health insurance for women, especially with regard to reproductive health, has not received maximal attention from the State. The maternal mortality rate is still high and is not undergoing a significant decline. For two decades, the maternal mortality rate has continued to be above 300 per 100,000 life births (*See Appendix 6*). One of the reasons for the high maternal mortality rate is the termination of pregnancy in an unsafe way (unsafe abortion: accounts for 11 % of Mother Mortality Rate/MMR). Abortion belongs to criminal acts and is penalized by the Penal Code. This has generated a lot of clandestine practices of abortion that jeopardize the life of women. Amendment of the health law is a must in order to give women's legal protection which should provide a set of criteria as to when or under which condition shall be allowed as well as requirements concerning standards of service (including counseling programs before and after) and the competence that medical officers (assigned to terminate pregnancy) must meet. With such arrangements, abortion cannot be performed arbitrarily nor can it be commercialized.

Since the practice of female circumcision is still going on, it is an urgent need to develop and implement national legislation and policies prohibiting this custom, especially demedicalization of this practice by midwives and traditional birth attendants (TBAs). The government should prosecute the perpetrators of such practices that are harmful to the health of women and girls in Indonesia.

When it comes to the making of decisions in public space, women have to face cultural challenges institutionalized in the entire political systems and mechanisms of the State, thus resulting in the negligible representation of women in public decision-making processes. As a result, various policies of the State are not responsive to the interests of women and in several cases even discriminate against women.

Discrimination against women that happens in peaceful times is replicated even worse in conflict situations in which women belong to the most vulnerable groups to be casualties. Women are often used as life shields for groups involved in conflicts. The position of women is often considered as a symbol of honor for a group or a community so that aggression against and subjugation of women are often assigned with the meaning of attacking the honor of the opponent. Aggression against women often takes the form of sexual aggression. The State does nothing to prevent sexual crimes against women, tends to indulge in ignorance and does not provide justice to those who become victims. This is reflected in the Ad-Hoc Human Rights Court for serious human rights violation in East Timor after the referendum in which not even one single sexual crime case against women was tried despite the report of the East

Timor Truth and Reconciliation Commission that cases of sexual crimes in the form of rapes and sexual slavery of women took place throughout the year 1999. The same is also true for sexual crimes occurring during conflicts in Papua, Aceh, Maluku, and Poso that have never been brought to court. Each conflict that is ended with a peaceful agreement seldom involves women as a party to the agreement; as a result, the needs of women during the recovery process tend to be ignored.

In situations where natural disasters strike, women's fundamental rights are often ignored as a result of the politics of providing aids that is discriminatory against women. Emergency aids are often given to male household heads. A female household head or a woman who has lost her husband in the natural disaster must prove that she is entitled to the aid by showing official documents such as her family card. Moreover, women's practical needs in evacuation areas such as sanitary napkins, female undergarments/ underwear, and reproductive health services such as contraceptives are not addressed. Women are often subjected to sexual violence in the refugee camps that are not friendly towards women or girl child.

Since ratifying CEDAW in 1984, the government of Indonesia has made effort to eliminate discrimination against women, in particular through regulations that it makes or amends. Another effort that the government of the Republic of Indonesia has made is signing the Optional Protocol to CEDAW in February 2002 but until now, the government of the Republic of Indonesia has not ratified the Optional Protocol in question. Unfortunately, the State is also not consistent and half-hearted in carrying out its commitments. There is still a gap between written policies and their actual implementation. On the one hand, the State has been good enough at making a legal breakthrough that side with women. On the other hand, the country has created numerous regulations both at national and local levels that paradoxically discriminate against women.

Cultural and structural constraints have become special challenges in the implementation of CEDAW in Indonesia. Cultural constraints refer to patriarchic culture that is still deeply ingrained in both Indonesian society and state officials as materialized in stereotypical views of women, cultural norms, traditional practices and gender-biased interpretation of religious teachings. On the other hand, structural constraints include poor understanding of CEDAW on the part of state officials and society, the fact that women's rights have not become institutional part of law in the making and enforcement of law, court rulings, policies, program and budgetary planning, weakness on the part of state institutions to apply human rights standards (as reflected in the deficiency of understanding, expertise, methodology, and capacity on the part of state officials).

Concerning the various discriminatory actions that have arisen, CWGI summaries important notes:

1. There are a number of laws and regulations at national and local levels that are discriminatory against women and clearly against CEDAW.
2. The government has not earnestly integrated CEDAW and the principles contained in it in a number of policies it produces. It is proven that there are

many legislative products that ignore the aspect of eliminating discrimination against women.

3. CEDAW has not become an integral part in the implementation of the existing policies and has not been institutionalized in state institutions. CEDAW is used as a mere legal basis and there is no earnest desire to give effect to it.

Based on the above mentioned, CWGI and other parties involved in the drawing up of this report recommend the government to take a number of measures such as:

1. Revising a number of policies that clearly discriminate against women both at national level in the form of national acts/ laws and at local level in the form of local government regulations.
2. Urging the government to rescind a number of local government regulations that are discriminatory and clearly contradictory to the higher legal umbrella [higher laws and regulations].
3. Institutionalization of Act No 7 of the year 1984 concerning the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women in the judiciary system.
4. Strictly enforce of law to prevention discrimination against women ,conducted by either individuals or groups
5. Raising public awareness of the importance of respecting the fundamental rights of women as fundamental human rights and promoting them.

Chapter 1

The Process of Writing the Report

This independent report of NGOs arranged by CEDAW Working Group Initiative (CWGI) which consist of 10 women organizations, i.e : Aliansi Pelangi Antar Bangsa, Seknas KPI, Kalyanamitra, LBH Apik Jakarta, Mitra Perempuan, Rahima, Rumpun Gema Perempuan, Solidaritas Perempuan, Yayasan Kesehatan Perempuan, dan Yayasan Jurnal Perempuan. CWGI has two main goals, i.e: to prepare an independent report of NGOs on CEDAW implementation and to monitor the CEDAW implementation in Indonesia. In doing their activities, CWGI was supported by *United Nations Development Fund for Women (UNIFEM) for CEDAW South East Asia Programme*, and also the involvement of IWRAW-Asia Pacific in the consultation process.

In making this report, CWGI involved 48 non-government organizations from several areas in Indonesia, academicians, experts, individuals, and editors who had taken the role to edit and re-write the draft report. The phase of activities which had been conducted by CWGI were :

1. Making and submitting *Summary of Critical Issue* to CEDAW Committee, through IWRAW AP in 30 January 2007. This *Summary of Critical Issue* contains of 7 critical issues, ie :1) The responsibility of the State to eliminate discrimination, 2) Trafficking in women, 3) Women in Political and public life, 4) Citizenship, 5) Women's right to work, 6) Women Reproductive Health and Right, and 7) Marriage and family law. This *Critical Issues* become alternative information/materials for CEDAW Committee in writing their list of questions related with state report of government of Republic Indonesia
2. After submitting of *Summary of Critical Issue to CEDAW committee*, the next step is making draft of Independent Report of NGOs. For initial step, CWGI conducted thematic discussion based on 7 critical issues to get more data and information about the problems of discrimination against women in Indonesia. The result of data and information from thematic discussion becomes materials for CWGI in making Independent Report of NGOs.
3. To provide a comprehensive report, CWGI involved 110 NGO in Indonesia by sending questionnaire to get information related to several form of discrimination against women in Indonesia.
4. After all the data and information had been collected, CWGI began to write the first draft of the report. This first draft report was discussed in a Workshop: **"Making an Independet Report of NGOs"**, which was conducted on 5-7 May 2007 in Wisma PKBI Jakarta. During the three (3) days workshop the team of editors were invited, beside those NGO's representatives from Jakarta and also from outside Jakarta. The goal of this workshop is to get input from

the several NGOs in Indonesia on the above mentioned critical issues which need to raise up in the report, and also more sharpening the draft of report writing.

5. And then, the editor team and the core team which worked together in the workshop on 5-7 May 2007, revised the first draft, based on inputs from the many participants in the workshop. Finally, the core team re-write the second draft which then delivered to the team of editors.
6. As the final step, the second draft were discussed together in a FGD sessions that was conducted on 14 May 2007 in Jakarta and at the end the report writing was finalized by 2 editors. The final report was translated to an English version and then submitted to the CEDAW Committee on 25 May 2007 through IWRAW AP.

Chapter 2

Overview of Indonesia's Latest Situation

This overview of Indonesia's latest situation will explain four basic issues that influence the order of life of Indonesians as a society, particularly as far as women are concerned. The four social development issues include (a) Political Development, (b) Legal and Human Rights Development, (c) Economic Development and (d) Disasters.

a. Political Development

1. The fall of Soeharto's authoritarian New Order regime in the year 1998 has brought about fundamental changes in the country's macro social and political order and provided strong ground for democracy to grow in Indonesia. Since the stepping down of President Soeharto until to date, changes in presidency have occurred four times in Indonesia. The Presidents who have come and go include Baharuddin Jusuf Habibie (in the period of the year 1999), Abdurrahman Wahid/ Gus Dur (in the period of 1999-2001), Megawati Soekarno Putri (in the period of 2002-2004), and the incumbent Susilo Bambang Yudhoyono/ SBY (in the period of 2005-2009).

2. Women's movement in Indonesia has succeeded in driving each president to make a breakthrough initiative through the issuance of policies that side with the interests of women. During the administration of President BJ Habibie, the National Women Commission (Komnas Perempuan) was established through Presidential Decree (Keppres) Number 181 of the year 1998. During the administration of President Abdurrahman Wahid, Presidential Instruction (Inpres) Number 9 of the year 2000 concerning Gender Mainstreaming was issued. The Presidential Instruction requires each institution that convenes the government administration to integrate gender mainstreaming into their programs and budgets. During that period, the National Plan of Action on the Elimination of Violence against Women was formulated, and that was in the year 2000.

3. Megawati, who is currently the only woman president of Indonesia, has issued several policies concerning women including the official adoption of Law Number 23 of the Year 2004 concerning the Elimination of Domestic Violence, Presidential Decree (Keppres) Number 87 of the Year 2002 concerning the National Action Plan (RAN) for the Elimination of Sexual and Commercial Exploitation of Children, and Presidential Decision Number 88 of the Year 2002 concerning the National Plan of Action on the Elimination of Trafficking in Women and Children.

4. In its struggle to have women represented in the decision-making bodies at both central and local levels, the civil society movement in Indonesia has succeeded in getting *affirmative action* put in place by having a quota of 30 % for women representatives being formally introduced into legislative bodies. Even though the quota regulation is not imperative and does not immediately change the masculine and patriarchic political systems, it suffices to open up a political domain for women.

5. During the administration of the incumbent president, Susilo Bambang Yudhoyono (or his initials, SBY, as he is commonly known), several policies have been produced,

including the amendment to the old Citizenship Law into Law Number 12 of the Year 2006, which enables an Indonesian woman who is married to a male foreigner to be referred to as a source of citizenship for their children and also enables her to sponsor her foreign husband's change of citizenship. During this period, the Law concerning the Elimination of the Crime of Trafficking in Persons (PTPPO) Number 21 of the Year 2007 has been enacted

6. On the other hand, however, SBY is the only president busily interfering in and making comments on how women should dress and how women should behave. He also intentionally lets no action be taken over the long-drawn pros and the cons in the deliberation of the Draft Bill on Pornography and Porno-action, which tends to control the integrity of women's body and women's freedom of movement and to criminalize the women who become the victims [of pornography and porn acts]. To add insult to injury, vice president Jusuf Kalla gave a contra-productive response to efforts to eliminate the trafficking in women through his statement that justified the practice of a contract of marriage between a local Indonesian woman and a male foreign expatriate for the length of his stay (*kawin kontrak*) in several regions in Indonesia, which is a prostitution practice in disguise.

7. The gate of democracy in Indonesia has started to open through a change in the presidential election system from the previous one in which the People's Consultative Assembly elected the president to the current one in which people directly elect the president democratically. The same also holds true for the election of local government chiefs [district chiefs or mayors] whom people elect directly. Responding to the aspiration of local people who want decentralization of power from the central government and the sharing of revenues in a more equitable way for local governments, the central government has thus enact Law Number 22 of the Year 1999 concerning Regional Autonomy that revised by Law Number 32 of the Year 2004, which, in essence, provides more authority to local governments to convene/organize their own administration and to make use of economic resources in their respective regions. This act is ideally also aimed at enhancing public service for grass-root communities by positioning autonomy at district level.

8. However, the application of the Regional Autonomy system suffers from a deviation when tendency arises on the part of local governments to use their newfound authority excessively to regulate people in their regions including when it comes to the etiquette or way of behaving on a day-to-day basis. There are even many products of law in the form of local government regulations that are issued only for the purpose of increasing local revenues and several regulations that deviate from higher statutory regulations.

9. Fundamentalists groups use regional autonomy to apply for the Islamic Sharia and influence local policy makers to make local regulations that are discriminatory against women on behalf of the morality of the people and religion. Within the context of Regional Autonomy, the Central Government *case quo* (which in this case is represented by) the Ministry of Home Affairs has synchronized [rescinded] 899 local government regulations that cause high cost economy and hamper investment. However, none of the local government regulations that violate human rights and

discriminate against women is included in the list of laws to repeal. The preference of the Ministry of Home Affairs to let local regulations that violate human rights and discriminate against women go unchecked and continue to be applicable indicates its silent approval of the preservation of very discriminatory attitude and action against women.

10. After the reform movement, the pro-democracy movement has changed all aspects of life. The press, which used to be under the control of the government and was used as a propaganda tool to maintain stability and the government's status quo, has, since the reform era, been given the broadest freedom to voice the aspiration of the people and to simultaneously serve as a means of control of the government conduct. On the other hand, however, the press industry has explored violence excessively both visually and in print. The press has also tended to ignore the journalistic code of ethics when covering victims of violence, especially women and girl children.

b. Legal and Human Rights Development

11. The year 1998 provided an important momentum for the development of law in Indonesia. The most fundamental change was the urge to amend the 1945 State Constitution (known as UUD'45), which has amended four times within the period from 1999 to 2006. The most significant progress in the amendment to the 1945 Constitution was the inclusion of a special chapter on the guarantee of fundamental human rights including the rights of the child, the rights of the minority and the rights of women, and the acceptance of the proposal of the civil society to establish a Constitutional Court in the amendment to the 1945 Constitution in the year 2001.

12. However, the process of amending the 1945 Constitution was marred by efforts to incorporate the Islamic Sharia into the amendment and this gave rise to pros and cons among political elites. The 1945 Constitution is the highest legal basis in Indonesia that serves as a basis for the making of all policies in Indonesia starting from the national level down to the local level. The application of the Islamic Sharia through the application of the policies of the State is considered opposing the philosophy of Indonesians as a nation, which is Pancasila, because there would be no more respect to other religions and beliefs and this denies the reality of diversity that exists in Indonesia. The Draft Bill concerning Pornography and Porno Actions currently being deliberated by the legislative is an example of a legal product that refers to the Islamic Sharia. This draft bill has the potential to divide the unity and sense of nationality of Indonesians as a pluralist and multicultural nation and to criminalize the woman's body.

12. Several national products of law that serve as an effort to protect human rights in Indonesia include, among others,

1. The amendment to the 1945 Constitution, in particular article 28D (1) that says "every person has the right to equitable legal recognition, guarantee, protection, and certainty and to equal treatment before the law,"

2. Presidential Decree (Keppres) Number 83 of the year 1998 concerning Ratification of ILO Convention No. 87 of the year 1948 about freedom for union/ organization and protection for rights to organization.
3. ILO Convention No 29 of the year 1930 about forced labor which has ratified in the year 1950
4. Law No 20 of the year 1999 concerning ratification of ILO Convention No. 138 of the year 1973 about Minimum Age for working
5. Law No 21 of the year 1999 concerning ratification of ILO Convention No. 111 of the year 1958 about Equal Remuneration
6. ILO Convention No. 100 of the year 1951, which has ratified by Act No. 80 of the year 1987 about
7. Law Number 5 of the year 1998 concerning the Ratification of Anti-Torture Convention,
8. Law Number 19 of the Year 1999 concerning the Ratification of ILO Convention No.105 on the Abolishment of Forced Labor,
9. Act No.20/1999 concerning the Ratification of ILO Convention No. 138 on Minimum Age for Admission to Employment,
10. Law Number 80 of the Year 87 concerning the ratification of ILO Convention Number 100 on equal pay for men and women for work of equal value,
11. Law Number 29 of the Year 1999 concerning the Ratification of the Anti Racial Discrimination Convention, Act Number 39 of the Year 1999 concerning Human Rights, Act No.1/2000 concerning the Ratification of ILO Convention No. 182 on the Worst Forms of Child Labor, Act No.23/ 2002 concerning Child Protection and Presidential Decision No 36 of the Year 1990 concerning the Ratification on the Convention of the Rights of the Child. And lastly, the ratification of the International Convenan on Civil and Political Rights through Law No 12 of the year 2005 and the ratification of the International Convenan on Economic, Social and Cultural Rights through Law No 11 of the year 2005.

13. The ratification of these various conventions can actually be seen as the commitment of the Government of Indonesia to international efforts to provide guarantee and fulfillment of human rights, women's rights and children's rights. However, even though Indonesia has committed itself to several international legal instruments through the ratification of conventions, the implementation is not yet maximal because there is gap between policy and implementation. Human rights protection and enforcement in Indonesia is just limited to mere regulations. There is no proof of commitment and political will on the part of the State to actually and seriously implement the regulations. Cases of human rights violations that have gone unresolved abound (such as the May 1998 case, the Talangsari case, the Tanjung Priok case, the Kedung Ombo case, cases in conflict areas such as in Aceh, Ambon, Poso, Papua, Sampit) whose perpetrators have never been touched by legal sanctions. Impunity has been built and maintained in the Indonesian legal systems when confronted with grave human rights violation in the past including the violation of women human rights.

14. There is effort in Promoting Human Rights in Indonesia when the state consider to formulate a Truth and Reconciliation Commission. However the law that govern the Commission has ignore the survivors interests of justice. Later the human rights

group has submitted the law to the Constitutional Court for withdrawal. The withdrawal of the law concerning the Truth and Reconciliation Commission and the fact that Indonesia now has no alternatif mechanism for handling gross human rights violation cases outside of formal court, make the survivors more suffers.

15. However, there has been progress in law enforcement efforts in Indonesia with the establishment of the Constitutional Court in August 2003 on the basis of Act No 24 of the Year 2003 concerning the Constitutional Court that makes it possible for civil society to institute legal proceedings against acts or laws that contradict the legal products above them or are detrimental to the interests and rights of civil society. Another effort to enforce human rights is reflected in the establishment of the Corruption Eradication Commission (KPK) based on Act No. 31/ 1999 concerning Tindak Pidana Korupsi (TIPIKOR). KPK is independent institution whose job is to investigate cases of corruption that occur within the State's institutions. Although there has formed of KPK, the corruption cases are still happened from apparatus in low level until apparatus in high level. This caused of tehre was no beurocracy reform, especially in Police institution and judiciary, and also the role of Task Force Team of TIPIKOR was not running maximally to monitor the corruption cases until local level.

c. Economic Development

16. Over the last ten years (1998-2007) economic development and efforts to eradicate poverty have been worsening. The worsening of the Indonesian economy is attributable to the government's decision to accept a loan amounting to US\$ 7,3 billions for foreign exchange reserves and to follow the International Monetary Fund's programs. Since the first signing of the Letter of Intent (LOI) and the Memorandum Of Economic And Financial Policies (MEFP) with IMF¹, Indonesia has suffered from economic meltdown.

17. The Government of Indonesia has been trapped in the practice of pauperization [of its own population] because the policies it was required to pursue under the Letter of Intent and the MEFP were [pro-economic growth] macroeconomic policies [at the expense of social benefits/ interests] (that consisted of tight fiscal and monetary policies and [the floating of] the exchange rate of the Indonesian rupiah against foreign currencies, and external financing), the restructuring of the financial sector, structural reform programs (Structural Adjustment Programs) in the field of Foreign Trade and Investment, Deregulation and Privatization, Social Safety Net and simplification of environmental policies [designed to] make it easy for investors to invest in Indonesia [without too much concern for the environment].

18. This pauperization process has resulted in women being subjected to economic hardship/ violence by the State. The demand to close 16 banks, the urge to increase

¹ Indonesia signed LOI and MEFP for the first time on October 30, 1997. For the period of 7 years (1997 – 2004), 20 LOI and MEFP have been signed. From 2005 to 2006 Indonesia went into the Post Program Monitoring (PPM) and in November 2006, Indonesia's debts to IMF had been repaid in full.

the prices of 9 basic commodities, and the politics to float the foreign exchange rate of the Indonesian currency by subjecting it to international market forces have resulted in the bankruptcy of the industrial sector and a mass termination of employment. Women as workers at the middle to lower levels were the first victims of the mass termination of employment.

19. The foreign exchange rate politics have caused the skyrocketing of prices of formula milk for babies, thus making common people unable to buy them. This economic crisis situation prompted women movement (including Suara Ibu Peduli) to demonstrate in the early part of the reform era (the year 1998) and develop cooperative movement (Gerakan Koperasi) by selling milk and basic needs cheaply to help poor people.

20. The abolition of subsidies (within the framework of the tight fiscal policy) and the privatization of the health sector (within the framework of trade liberalization), such as the abolition of free public health service centers, the increase in the prices of medicine, the abolition of budgets for midwives in villages have made health services no longer accessible by women and children and this has reduced the degree of health of women and children, increased the mortality rate among children under five and the mortality rate among mothers in childbirth.

21. The removal of subsidies and liberalization of trade in oil and gas have resulted in an increase in the price of oil fuels far beyond people's purchasing power. For ten years, the price of kerosene for household needs had undergone changes from IDR 280/ liter in the year 1998 to IDR 2,200/ liter in the year 2006, and the price of premium (gas) from IDR 600/ liter in the year 1998 to IDR 5,500 / liter in the year 2006. The policy that put the prices of oil fuels in line with free market prices were intended to enable foreign investors in the field of oil and gas exploration to retail their products in Indonesia, through the opening of, for instance, Shell and Petronas gas stations. This price hike has created a domino effect. It has triggered an increase in the prices of various food commodities and in transport costs. Moreover, the government has also been pressurized to increase the prices of rice, soybean, sugar and wheat in accordance with the world prices for such commodities and to allow [foreign] agricultural products to be freely imported into Indonesia.

22. Meanwhile, during the ten years in question, the government was unable to increase the income of the people and overcome high unemployment rate. Women traditionally held as household financial caretakers, supposed to provide their parents, husband and children with water and food and keep the house suffered from grave economic pressure. The burden of life on women continued to increase. Women were burdened not only with the demand to take care of household needs but also with the demand to earn a living to help make ends meet for their family.

23. This burden was made heavier with the policy of privatizing the educational sector that caused the cost of education and the cost of equipment to support education to soar. Under such circumstances, children's opportunity, especially the opportunity of girl child, to obtain education higher than elementary and secondary school became

very little. In some cases, female children were force to married at an early age to help ease the [financial] burden of the family or to pay off the family's debts.

24. Economic pressure for ten years has resulted in the escalation of poverty figures from year to year whose impacts have led to the greater number of cases of malnutrition among children and women, the increasing number of victims of trafficking in women and children, and the emergence of cases of suicide committed by children and women because stress and depression.

25. Confronted with such pressure, women's groups have made various efforts to alleviate the situation such as by way of policy lobbying and by staging demonstration to reject price increase. However, the political pressure of international financial institutions such as the International Monetary Fund (IMF), the World Bank (WB) and the Asian Development Bank exerted through the threat of cancellation of the disbursement of the much-needed loans caused the government to incline its ears to listen to and follow what such institutions want.

26. When it comes to efforts to raise the State's income, the Government of Indonesia has been advised to increase the number of Indonesian Migrant Workers and be clear about setting the target of the number of Indonesian Migrant Workers to be sent abroad. The government has also been asked to increase its ability to control the amount of money sent by Indonesian Migrant Workers to their family back home [remittances] in Indonesia. Since the coming into force of this policy, particularly since Presidential Instruction No 5 of the Year 2003 also known as the White Paper took effect, millions of women have been encouraged to become migrant workers. On the other hand, however, the government has not provided [them with] decent protection.

27. For ten years, hundred thousands female migrant workers have suffered from various infringements of human rights. Hundreds of migrant workers have died without a clear account as to the causes of their deaths while the other tens of them are liable to death sentences in foreign countries and left without significant support and protection from the Government of Indonesia. Act Number 39 of the year 2004 concerning the Placement (Employment) and Protection of Indonesian Migrant Workers in Foreign Countries does not provide migrant workers with full guarantee of protection as this act is more concerned with the placement of migrant workers. This act is created solely to further the interests of labor recruitment agencies rather than to protect migrant workers who are mostly women.

28. The impacts of economic policies have also caused female workers to suffer, and their suffering started when Indonesia obeyed the World Trade Organization (WTO) agreement to revoke the quota for commercial/ trade products. Since then, many factories have been closed and their laborers, the majority of whom are women, become jobless. Economic threat and hardship in years to come have become increasingly real along with the adoption of Act No. 25 Year 2007 about Foreign Investment that makes it easy for investors to apply the outsourcing system, to eliminate normative rights and to relocate or move their assets and business.

29. There have been some cases, among others, in which the relocation of factories posed a security and justice threat to workers, particularly to female laborers. Dozens of footwear factories² have closed their business in Indonesia and relocated their factories into another country, leaving behind thousands of their laborers who are mostly women without giving them their wages and severance pay that are their due.

d. Natural Disasters

30. The effects of global warming arising from rapid industrialization and the excessive use of environmentally unfriendly fuels and the felling of tropical forests have contributed to the chaos in the global climate and weather. Extremely heavy rainfall has caused natural disasters almost everywhere. Big flood in Jakarta early this year (2007) has drowned a lot of residential/ housing complexes and stopped the activities of their inhabitants. Landslides in Padang (West Sumatra) and Banjarnegara have claimed lives. Tornadoes/ storms have wreaked havoc on residential areas in Sleman and Yogyakarta. Even some places in Kalimantan and Sulawesi that have never been flooded before were not spared. This time they were subjected to prolonged flooding. As a result, harvests failed. Rice-producing agricultural centers were lacking in foodstuffs. On the contrary, protracted dry season scorched East Nusa Tenggara.

31. By the end of 2005, tsunami hit Aceh and Nias, followed by other natural disasters one after another until the year 2007. On the one hand, the tsunami in Aceh has claimed tens of thousands of human lives and destroyed almost all buildings in Aceh. On the other, this disaster has opened up the door of Aceh to receive international attention and aids and has transformed Aceh from a military emergency area into humanitarian emergency area. Earthquakes and volcano eruptions have also occurred one after another in almost all regions throughout Indonesia. National and international solidarity was aroused following various natural disasters in Indonesia. Reconstruction and recovery programs are being implemented in Aceh, Nias, Yogyakarta and other disaster-stricken areas. Foreign aids in the form of grants and loans have helped ensure the continuation of reconstruction and social recovery process. In some cases, however, the people of the affected areas have less involvement and participation in the process. Symptoms of dependency of people in disaster-stricken areas on foreign aids have started to be visible. Community issues that they should be able to resolve themselves have now been dependently left to foreign programs and aids for settlement. This dependency is also the result of aid policy that is oriented towards giving instead of empowering.

Chapter 3

Implementation of CEDAW in Indonesia

² Such as Tong Yang Indonesia, Dong Joe and those producing Reebok and Spotec.

This chapter is the result of monitoring conducted by non-government organizations of efforts to eliminate discrimination against women in Indonesia within the period of 1998-2007. This monitoring is based on articles enshrined in CEDAW that has been ratified by the Government of Indonesia.

1. The State's responsibility to eliminate discrimination (Articles 1 – 5)

32. The main substance of articles 1–5 under CEDAW is that the State legally guarantees all efforts of eliminating discrimination against women through a number of policies or legal regulations. The responsibility of the State is not limited to the process of formulating what discrimination is all about. The State is also responsible to make supporting regulations, including conducting evaluation and revocation of policies that discriminate against women.

33. Since the ratification of CEDAW in the year 1984, the Government of Indonesia has made effort to eliminate discrimination against women, in particular through drafted or amended regulations³. Unfortunately, the State is not consistent in and is not whole-heartedly carrying out its commitment. On the one hand, the State has already done sufficiently well in making a legal breakthrough in women's favor but on the other hand, the State has, quite the contrary, created a number of regulations that discriminate against women. Unfortunately, the state is not consistent in doing their commitment.

34. Discrimination against women in a number of statutory laws and regulations has not been explicitly defined. A number of statutory laws and regulations only contain the principle of non-discrimination on whatever basis in general, without specifically referring to discrimination against women. Article 5 of Law No 13 of the Year 2003 concerning Labor states that every person has the same right to have a job without being discriminated against. Article 6 states that every worker/ laborer has the right to equal treatment without discrimination from their employer. Articles 5 and 6 of the act have indeed mentioned the word "discrimination" but failed to firmly make it more specific by referring it to discrimination against women.

36. The government has not amended a number of laws that are still discriminatory against women, that is, the Penal Code (KUHP), the Penal Code Procedure (KUHAP), Law Number 23 of the Year 1992 concerning Health, Act Number 1 of the Year 1974 concerning Marriage and Law Number 39 of the Year 2004 concerning Placement (Employment) and Protection of Indonesian Workers in Foreign Countries (PPTKILN), and Law Number 23 of the Year 2006 concerning Administration and Population. Apart from containing a gender-biased paradigm, the law has a real impact on the life of women and migrant laborers are reduced to mere trade commodities.

37. The State does not take concrete action to revoke local government regulations that clearly discriminate against women. The State has even let discriminatory

³ See Appendix I on the list of laws and other regulations produced throughout the years 1998-2007 concerning women's fundamental rights.

practices happen such as in the case of rejection by the Supreme Court of judicial review filed against Local Regulation No 8 of the year 2005 of the Government of the City of Tangerang concerning the Prohibition of Prostitution. This local regulation of the city of Tangerang, especially subsection 1 of article 4, is very discriminatory and detrimental to women because it points to women as a source of prostitution⁴.

38. This Decision of the Supreme Court is contradictory to the spirit of anti-discrimination against women whose legal certainty is guaranteed under a number of laws such as Law Number 07 of the year 1984 concerning the Ratification of CEDAW, Act Number 39 of the Year 1999 concerning Human Rights, Act Number 29 of the Year 1999 concerning the Ratification of the Elimination of Racial Discrimination, Act Number 11 of the Year 2005 concerning the Ratification of the United Nations Covenant on Economic, Social and Cultural Rights, Act No 12/2005 concerning the Ratification of the Covenant of Civil and Political Rights, and the Penal Code Procedure (KUHP). The rejection has also set a bad precedent for the legal certainty concerning the advocacy for the elimination of discriminatory local regulations in Indonesia.

39. As far as local regulations that oppose higher legal regulations are concerned, the government through the Ministry of Home Affairs has, from 1999 to March 2006, rescinded 899 problem local regulations. Ironically, the problem local regulations subjected to such repeal are only those that concern the issue of local taxation, local monetary charges for the use of public space and or facilities, and third-party contributions while problem local regulations pertaining to citizens' rights in politics/ [the rights to be involved in a political process or course of action] and in public life remain untouched at all.

40. The edict of the Indonesian Council of Ulemas (MUI)⁵ Number 287 of the year 2001 concerning pornography and porno-action⁶ has prompted a group of people to push for the drawing up of Anti-Pornography and Porno-action Draft Bill (RUU APP)

⁴ Local Regulation of the City of Tangerang Number 8 of the Year 2005 concerning the Prohibition of Prostitution, subsection (1) of article 4: "Every person whose attitude or behavior is suspicious so as to give rise to an assumption that the person/ they are prostitutes are prohibited to be on the streets, in open spaces, inns, lodgings, hotels, boarding houses, residents' houses/ contracted/ rented houses, coffee houses, places of entertainment, buildings for the presentation of performances, on street corners or alleys or other places in the city".

⁵ The Indonesian Council of Ulemas (MUI) is a religious institution established by the government that is authorized to issue edicts concerning general religious issues that relate to Indonesian Muslims nationally; and religious issues in one region that are suspected to be able to spread to other regions. MUI is financed by the State through the National/ State Budget of Revenues and Expenditures (APBN). MUI edicts serve as ulemas' answers or explanations concerning religious issues and applicable to the public; an edict is the result of a Commission's Session concerning a legal issue that has been approved by Commission members in the Commission's Session in question. The result of the Session is adopted through the Decision of Edict by the Governing Body in the form of a Letter of Decision of Edict of the Indonesian Council of Ulemas (SKF-MUI) based on the Scriptures of Allah/ the Koran (*Kitabullah*) and the respected body of traditions regarding the deeds, pronouncements, examples and things silently approved by the Prophet, cited by Muslims as a guide to personal and communal behavior (*Sunnah Rasul yang mu tabarah*), and not in opposition to the benefit of Muslims.

⁶ See Appendix 2 for the content of MUI's Edict on pornography and porno-action.

till the deliberation of the draft bill reached the level of Commission at the House of People's Representatives of the Republic of Indonesia. It is a pity that the State, represented by the House of People's Representatives and the Government through the State Ministry for the Empowerment of Women, does not reject the draft bill but quite on the contrary even make effort to have the draft bill adopted and passed into law even though the bill substantially limited women's freedom expression and criminalizes the women's body.

41. Within the context of regional autonomy, local governments have the authority to regulate their own regions as enshrined under Law Number 22 of the Year 1999 concerning regional autonomy that was then amended to Law No 32 of the year 2004. By virtue of this Act, local governments have broader authority to draw up local regulations. Of a number of local regulations that have been put in place, some give rise to discriminatory action against women such as the Anti-Prostitution local regulation, the Anti-Immorality local regulation, and other local regulations that are based on the interpretation of Islamic law (*sharia*) that show gender bias⁷.

42. In spite of this, there are also local regulations that accommodate the needs of women such as Local Regulation Number 6 of the Year 2004 concerning the Elimination of Trafficking in Women and Children in North Sumatra, Local Regulation Number 1 of the Year 2004 concerning the Prevention and Eradication of Human Trafficking, in particular Trafficking in Women and Children in North Sulawesi, Local Regulation Number 6 of the Year 2006 concerning Integrated Service for Women and Children Who Are The Victims of Acts of Violence in Lampung, Local Regulation Number 4 of the Year 2006 concerning the Prevention of Trafficking in Lampung, and Local Regulation Number 9 of the Year 2005 concerning the Protection for the victim Women and Children Victim Violence in East Java.

43. In addition to letting discriminatory treatments continue to go on, the State, too, does not seriously implement a number of policies that may prevent and eliminate acts of discrimination. In order to eliminate domestic violence, the State has made Law Number 23 of the Year 2004 concerning the Elimination of Domestic Violence (UU PKDRT). However, the Law does not apply to perpetrators from military circles despite the issuance of the Decree of People's Consultative Assembly (TAP MPR) No VII/2000 concerning the separation of the Criminal Court of General Jurisdiction from the Criminal Court of Military Jurisdiction that makes it possible for military perpetrators to be tried in a Criminal Court of General Jurisdiction. The handling of violence against women who the perpetrators are military, only processing in military court and most of the perpetrators from military only punished by administrative sanction.

⁷ Act No. 14 of the Year 2006 concerning the Government of Aceh mandates the application of the existing *qanun* (local regulations), from the year 2002 until the year 2005, including those that discriminate against women, that is, Qanun No. 10 of the year 2002 on Sharia-based Administration of Justice; Qanun No. 11 of the year 2002 on the Implementation of Sharia in terms of Islamic Religious Obligations and the Propagation of Islam; Qanun No. 12 of the year 2003 on Alcoholic Drinks and the like; Qanun No. 13 of the year 2003 on Gambling; Qanun No. 14 Tahun 2003 on Indecency/Impropriety involving an unchaperoned, unmarried man and woman.

44. The same also applies to Law Number 32 of the year 2002 concerning Broadcasting. The Law recommends the formation of the Indonesian Broadcasting Commission (KPI). This KPI has the authority to monitor and revoke/ remove broadcasting materials displayed on the media that are not in line with the provisions stipulated under the Law. When it comes to the implementation of the Law, however, the KPI is still not maximal in making selection so that there are still a lot of shows with violence nuances or shows that are discriminatory against marginal groups, women and children. Many programs presented/displayed in the electronic media are gender-biased and preserve the stereotypical role of women in Indonesia Society.

45. The State has also turned a blind eye to the practice of polygamy that abounds in Indonesia. In the year 2003, a number of groups of pro-polygamy people went even further by presenting and distributing a token of appreciation in the form of a polygamy award to a number of community figureheads/ leaders and public officials who are polygamous and support polygamy. President Susilo Bambang Yudhoyono responded to this phenomenon by pointing to the need to amend Government Regulation Number 10 of the Year 1983 in order to broaden its applicability and scope in that the prohibition to have more than one wife shall be applied not only to civil servants but also to state officials and local government officials. However, efforts to follow up the plan to amend the Government Regulation has until now remained in the dark.

The Role of the Non-Government Organizations

46. To deal with discriminatory policies, non-government organizations have created a policy advocacy network at national as well as local levels including, among others, the Pro-legnas (Pro-National Legislation) Pro-Perempuan (Pro-Women) Network (JKP3)⁸, Anti Discriminatory Local Regulations Coalition (Kantif)⁹, National Alliance for Penal Code Reform¹⁰ and so on. To handle the issue of polygamy, non-government organizations have mobilized anti-polygamy movement, which is channeled through, among others, the GNTPPB (National Movement of Not Voting for Unscrupulous Politicians), and the raising of public awareness through various public activities and campaigns in the mass media.

Recommendations

⁸ JKP3 has advocated the adoption/ amendment/ contesting of Domestic Violence Act (UU PKDRT), Eradication of Human Trafficking Act (UU PTPPO), Citizenship Act, Health Act, Marriage Act, Witness and Victim Protection Act, Anti Pornography and Porno-action Draft Bill (RUU APP) and a number of other public policies.

⁹ Kantif has filed a judicial review against Local Regulation of Tangerang Number 8 of the Year 2005 concerning advocacy for Prostitution and Draft Bill of Depok concerning the Prohibition of Prostitution.

¹⁰ This Alliance advocates the amendment to the Penal Code, one chapter of which deals with the crime of immorality that is still discriminatory against women.

47. To address a number of issues related to the responsibility of the State, some recommendations proposed by non-government organizations as improvement measures are as follows:

1. Explicitly state the principle of no discrimination against women in all policies, laws and regulations in Indonesia.
2. It is necessary to prioritize legislation programs, in particular, Amendment to Act No. 1 of the Year 1974 concerning Marriage, Act No. 23 of the Year 1992 concerning Health, the Penal Code (KUHP), the Penal Code Procedure (KUHAP), Act No. 39 of the Year 2004 concerning Placement (Employment) and Protection of Indonesian Workers in Foreign Countries, Act No. 23 of the Year 2006 concerning the Administration of Population.
3. Local Legislation Programs that give more priority to the stoppage of the applicability of local regulations that are discriminatory against women because they do not accommodate the interests of the people and do not apply the participatory principle in their deliberation. The government must synchronize discriminatory local governments with higher laws using the perspective of human rights so that their detrimental impacts on the people can be minimized.
4. Related with polygami eradication in Indonesia, state has to accelerate changes and revoke government regulations immediately related to marriages that are still discriminatory against women, including Government Regulation Number 9 of the year 1975, Government Regulation Number 10 of the year 1983 in conjunction with Government Regulation No. 45 of the year 1990
5. Canceling the deliberation of the draft bill on Pornography and Porno-action because the bill has the potential to create discrimination against women and to criminalize the female body.
6. State has to commit for implementing the policies that have been made to prevent and eradicate discrimination against women
7. To maximize the effect of Act Number 23 of the Year 2004 concerning Elimination of Domestic Violence, innovation is required in terms of promoting it to the general public and law enforcers, for example, by incorporating the materials on domestic violence and of Act No. 23 of the Year 2004 on Elimination of Domestic Violence in the pre-marital courses of all religions.
8. Imposition of legal sanctions on perpetrators of domestic violence who come from the military on the basis of Act No. 23 of the year 2004 concerning Elimination of Domestic Violence
9. The Indonesia Broadcasting Commission (KPI) has to monitor intensively and revoke/ remove broadcasting materials displayed on the media that are not in line with the provisions stipulated under the Act. Number 32 Year 2002 concerning broadcasting and also broadcasting materials which are preserve the stereotypical role of women in society.

2. Trafficking in women (Article 6)

48. Trafficking in women for sexual or labor exploitation is a problem that still requires great attention in Indonesia. The International Organization for Migration (IOM) has reported that 1,966 persons in Indonesia have fallen victim to human trafficking, and of these, 1,757 or 89% are women.

49. The trafficking in women in Indonesia is a very complex problem. Scantiness of information provided to people in rural and isolated areas on the danger and modus of trafficking in women and children (footnotes: in Indramayu, the culture of selling one's own daughters into prostitution is still prevailing because female children are considered as a family commodity and property), weak law enforcement, poverty and a low level of education and skills are the push factors behind the large number of cases of trafficking in women in Indonesia.

50. On the human trafficking map, Indonesia is not only a sending country but also a transit country and a receiving country. The issue of human trafficking in Indonesia does not only relate to the sending of victims to foreign countries but also to the sending of victims domestically for the purpose of exploitation¹¹.

51. In Indonesia, the modus of trafficking in persons has until now become more 'creative' and sophisticated, varying from among others, brides to order, the State's artistic ambassadors, child adoption, sale of babies, sale of children for the business of pornography, drugs trafficking, undocumented domestic or migrant workers to the newest variations in which recruited children are employed as street children as sex commodity (and thus have to work as beggars), to serve pedophiles or to be the victim of the trade in human organs. Most of the victims of trafficking in women and girls are subjected to sexual exploitation and converted to prostitutes spread in a number of prostitution dens.

52. A modus of trafficking in persons that is often used is a calculated deception of prospective Indonesian Migrant Workers by Indonesian Migrant Workers recruitment agents and the use of pregnant Female Indonesian Migrant Workers as assets by Indonesian Migrant Workers recruitment agents. In cases of migrant workers becoming victims of trafficking, illegal (undocumented) migrant workers and migrant workers who have lost their passports or whose passports are held by their employers, both transit and receiving/ destination countries treat them as illegal immigrants and deport them without giving them opportunity to stay or continue to stay, work and earn a decent living in the transit/ receiving countries in question.

53. Various efforts have been made, both by the government as well as by a number of non-government organizations, starting from campaigns, the advocacy of victims, the advocacy of policies to build a common alliance for the prevention of and the education on and the raising of awareness of the danger of human trafficking and so on. In March 2007, as a result of the non-government organizations' insistence and intensive pressure towards the government and legislative institutions, Law No. 21 of the year 2007 concerning the Eradication of the Crime of Trafficking in Persons

¹¹ See Appendix 3 on the map of Indonesian regions serving as the source area, the transit area and the receiving area for the trafficking in women and children.

(PTPPO) is finally enacted as a legal umbrella for the eradication of human trafficking¹².

54. Even though various efforts have been made, including by introducing Law Number 21 of the Year 2007 concerning the Eradication of the Crime of Trafficking in Persons (PTPPO), the practice of trafficking in women is still very difficult to eradicate because of the involvement of the State's apparatuses [public officials] from the neighborhood/ commune level (community leaders) up to the leadership in immigration offices that are supposed to provide protection to the victims of trafficking. It is at the neighborhood/ commune level in which falsification of age on official documents such as ID cards, birth certificates and passports commonly occurs; this is necessary to enable under-age girls recruited as migrant workers to comply with the minimum age requirement to work abroad. [Indonesia law does not allow citizens under the age of 18 to travel aboard on work visas and many destination countries also restrict work visas to people over 18 or even over 25.] Immigration officers, too, are implicated in the falsification of documents. In the city of Entikong in West Kalimantan, for example, the immigration office as passport provider often abuse its authority by facilitating the falsification of documents. Moreover, the powerful force of mafia and syndicates of trafficking in women at international, national and local levels poses a big problem in the eradication of trafficking in women and children. It is the involvement of many parties that makes trafficking in women and children continue to abound.

55. The Indonesian Council of Ulemas of the Year 2005 responded to this phenomenon of the briskness of trafficking in women and children by issuing an edict that prohibits the sending of female labor abroad. According to MUI, this edict is intended to protect women from human trafficking. In fact, however, the edict restricts the right of women to work because the issue of trafficking in women and children is not the issue of women who work abroad but the issue of lack of protection provided to women who work either at home or abroad.

The Roles of the Non-Government Organization

56. In relation to the brisk issue of trafficking in women and children, non-government organizations have taken the initiative to carry out a number of activities such as campaigning, networking with the government and a number of civil society organizations, providing education to prevent trafficking in women and children, advocating the adoption of anti-trafficking policies such as the Law on the Elimination of the Crime of Trafficking in Persons (UU PTPPO) and a number of local

¹² In addition to efforts to have the Act on the Eradication of the Crime of Trafficking in Persons adopted, other efforts that have also been made include the drawing up of National Action Plan No 87/ 2003 to Eliminate Sexual and Commercial Exploitation of Children; the drawing up of National Action Plan for the Elimination of Trafficking in Persons (Presidential Decision No 88/ 2003); the erection of shelters for victims of trafficking in women and children in Dumai; the signing of the Palermo Protokol of the year 2000 on the elimination of trafficking in women; the making of local regulations on trafficking; the establishment of BNP2TKI (National Agency for the Protection and Placement of Indonesian Migrant Workers) in order to reduce the level of trafficking and so on.

regulations. Non-government organizations have also made effort to identify and collect data on the victims of human trafficking in critical enclaves and rehabilitate them.

Recommendations

57. The recommendations proposed by non-government organizations are as follows:

1. Promoting awareness and understanding of Law Number 21 of the year 2007 concerning the eradication of the crime of trafficking in persons (PTPPO) among law enforcement officials and the general public, and broadly disseminating information to people in rural and isolated areas on the danger and modus of trafficking in persons
2. Building a consistency in the control mechanism (monitoring) of the implementation of the Act concerning the eradication of the crime of trafficking in persons (UU PTPPO) in order to find out how effective the Act is, when implemented, in protecting women.
3. To immediately make the implementing government regulation for Law Number 21 of the Year 2007 on the Eradication of the Crime of Trafficking in Persons (PTPPO), including its legal enforcement (administrative sanctions to be imposed on implicated government officials need to be specified by the State Administrative Court)
4. To harmonize all the existing and would-be policies, laws and regulations with Law Number 21 of the Year 2007 as the umbrella law.
5. The State needs to allocate funds for the protection of women victims of trafficking, their family and also the witnesses
6. To cooperate with transit and receiving countries in order to get them to respect the rights of migrant laborers and to refrain from treating migrant laborers like illegal immigrants despite their arrival without passports because their passports are kept or have been made to go missing by their employer, including to give opportunity to migrant laborers to continue to stay in receiving countries and get the opportunity to earn a decent living.
7. To prepare instruments, infrastructure and mechanism to implement the Law on the Eradication of the Crime of Trafficking in Persons (UU PTPPO) at the central level down to the village level
8. To abolish the edict of the Indonesian Council of Ulemas of the year 2005 that prohibits women from working abroad.
9. To strengthen the network of anti human trafficking non-government organizations nationally as well as internationally in order to ensure that the protection of women from human trafficking is in compliance with human rights standards.
10. To fortify documentation (database) on the crime of trafficking in women and children by collecting information on this area from various parties for use as advocacy materials for the government and campaign materials for the eradication of the crime of human trafficking.
11. To build consistency in the control mechanism (monitoring) of the implementation of UU PTPPO in order to see the effectiveness of the implementation of UU PTPPO for women's protection.

12. To inspect more closely and close the holding centers of Indonesian Labor Recruitment Companies (PJTKI) which put restriction on the freedom of movement of prospective Indonesian Migrant Workers (TKI) and regard pregnant Migrant Workers as an asset¹³.

3. Women in Politics and Public Life (Article 7)

58. The involvement of women in politics and public life is guaranteed by the 1945 Constitution of the State of the Republic of Indonesia and enshrined in the Constitution under subsection 1 of Article 27 concerning equality before law and subsection 1 of Article 28 H concerning special treatment to get the same opportunity and benefits for equality and justice. The involvement of women in politics has also been guaranteed by law through Law Number 7 of the Year 1984 concerning the Elimination of all Forms of Discrimination Against Women, Act Number 12 of the Year 2005 concerning the Ratification of the United Nations Covenant on Civil and Political Rights, Law Number 31 of the Year 2002 concerning Political Parties and Law Number 12 of the Year 2003 concerning General Election. In addition to the above-mentioned guarantee provided by the Constitution and a number of laws, the involvement of women in politics is also guaranteed in a number of government policies such as in the Presidential Instruction (Inpres) No. 9 of the Year 2000 on Gender Mainstreaming¹⁴.

59. In this report, the [right] of women [to be involved in politics or in a political course of action] refers to the [right of women to actively participate in the] process of making decisions starting from determining problem priorities, problem formulation, problem analysis to decision making; from planning to budgetary allocation and the formulation of public policies from the village level to national level. Meanwhile, the participation of women in public life refers to the participation of women as citizens in carrying out their public responsibility. Representation is a process involving various actors with regard to decision making/ the submission of a political agenda that represents the interests of a group, an organization or a political party.

60. The right of women to participate in politics/ a political course of action and in public life are based on the existence of women in politics/ a political process and not just on numbers. There is no democracy without women's representation. And Special Temporary Measures (TKS) are absolutely necessary to create equal and equitable partnership between women and men. The three aspects become the deepest basis for understanding because women's involvement does not only emphasize on the representation of women in a political process but also on how

¹³ In a number of cases, prospective pregnant female workers are usually be given accommodation and treatment until their babies are born. However, after their babies are born, they are required to pay all the costs associated with pregnancy/ childbirth care and treatment. If they are not able to pay, their babies will be withheld and sold to pay off their debts.

¹⁴ See Appendix 4, on the list of laws produced throughout the years 1998 – 2007 that relate to political process and public life of women.

women's quality can influence the mindset of the members of parliament on the importance of gender equality in public policies produced by parliament.

61. Many different efforts have been made to drive and encourage women to get involved in politics and to participate in public life by the government as well as by non-government organizations. There have been many regulations made by lawmakers (involving the legislative, executive and judicial branches of government) that address equality of rights between men and women and yet the implementation of these regulations has not brought much change in women's involvement in politics and public life.

62. Until now there still exist statutory regulations at local level that result in the loss of women's access to politics/ political processes and public life such as the ones in the Special Capital Region of Jakarta and in Nanggroe Aceh Darussalam (NAD). In Jakarta, the regulation that governs the election of an urban village council states that household heads shall conduct such election. But the Marriage Act defines a household head as a male. This provision is enshrined in Local Regulation Number 5 of the Year 2000 in DKI Jakarta Province and Letter of Decision of the Governor of the Special Capital Region of Jakarta Number 15 of the Year 2001.

63. Meanwhile, Nanggroe Aceh Darussalam's Local Regulation on the Election of Local Government Chief of the year 2006 stipulates that a local government chief shall be an *imam* (an Islamic priest/ leader who exercises spiritual and temporal leadership over a Muslim region). From the religious point of view, an imam is traditionally a male and is still supposed to be as such. This adversely affects the prospect of capable women to become local government chiefs because the imams that society recognizes are male.

64. Thus far, the various measures taken by the government with regard to the representation/ involvement of women in politics/ a political course of action and a public occupation (legislative, executive and judicial branches of government) have not been optimal. The State's seriousness in guaranteeing women's involvement and leadership [in politics] is still doubted. Article 65 of Act Number 12 of the Year 2003 concerning Election does not fully guarantee women's opportunity to enter politics.

65. It is thus not surprising that not many women are involved in determining priority interests, the formulation of policies, planning and budgeting/ the allocation of sources of development despite the fact that in the 2004 General Election, women accounted for 53% of total voters. Compared to the result of the 1999 General Election, women's representation in the House of Representatives has increased by only 3%, that is, from 9% to 11%. (*See Table 1*)

Table 1

Number of Women compared to Men in the House of Representatives of the Republic of Indonesia/ DPR-RI (F = Female, M = Male, T = Total)

| No | Political Parties | 2004 – 2009 | | | | | 1999 – 2004 | | | | |
|----|-------------------|-------------|-------|-----|-------|-----|-------------|------|-----|-------|------|
| | | F | % | M | % | T | F | % | M | % | T |
| 01 | Golkar Party | 19 | 14,28 | 114 | 85,71 | 133 | 16 | 13,3 | 104 | 86,7 | 120 |
| 02 | PDI-P | 12 | 11,11 | 96 | 88,88 | 108 | 15 | 9,8 | 138 | 90,2 | 153 |
| 03 | PPP | 3 | 5,26 | 54 | 94,74 | 57 | 3 | 5,2 | 55 | 94,8 | 58 |
| 04 | Demokrat Party | 8 | 14,04 | 49 | 85,71 | 57 | - | - | - | - | |
| 05 | PKB | 7 | 13,20 | 46 | 86,79 | 53 | 3 | 5,9 | 48 | 94,45 | 51 |
| 06 | PAN | 7 | 13,20 | 42 | 85,71 | 49 | 2 | 4,9 | 39 | 94,1 | 41 |
| 07 | PKS | 5 | 10,41 | 43 | 89,58 | 48 | - | - | - | - | - |
| 08 | PBR | 2 | 15,38 | 11 | 84,61 | 13 | - | - | - | - | - |
| 09 | PBB | 0 | | 11 | 100 | 11 | 1 | 7,7 | 12 | 92,3 | 13 |
| 10 | PDS | 2 | 25 | 8 | 75 | 10 | - | - | - | - | - |
| 11 | PKPI | 0 | | 3 | 100 | 3 | - | - | - | - | - |
| 12 | Merdeka Party | 0 | | 2 | 100 | 2 | - | - | - | - | - |
| 13 | PKPB | 0 | | 2 | 100 | 2 | - | - | - | - | - |
| 14 | PPDK | 0 | | 2 | 100 | 2 | - | - | - | - | - |
| 15 | PPIB | 0 | | 1 | 100 | 1 | - | - | - | - | - |
| 16 | PPDI | 0 | | 1 | 100 | 1 | - | - | - | - | - |
| | Total | 65 | 11,81 | 485 | | 550 | 40 | 9,2 | 395 | 90,8 | 436* |

1. Total number of representatives of DPR-RI during the years 1999 – 2004 = 500 (The rest were representatives from the Indonesian Defense Forces (TNI) and other parties that do not pass the electoral threshold)
2. **Source:** CETRO

66. In addition to the still low participation of women in politics / in the activities of political parties in legislative bodies, the number of women who manage to occupy political positions is also insignificant. Of 49 Justices in the Supreme Court, only 8 or (16,3%) are women (*see Table 2*).

**Table 2
Number of State Officials (Judges/ Justices) in Judicial Bodies
According to Sex (M = Male, F = Female)**

| Occupying a position in | M | % | F | % | Total |
|---------------------------------|------|-------|------|-------|-------|
| Supreme Court | 41 | 83,7 | 8 | 16,3 | 49 |
| High Court | 392 | 80,0 | 98 | 20,0 | 490 |
| District Court | 2064 | 82,23 | 446 | 17,77 | 2,510 |
| High State Administrative Court | 30 | 90,91 | 3 | 9,09 | 33 |
| State Administrative Court | 140 | 79,70 | 37 | 20,90 | 177 |
| High Religious Court | 654 | 76,04 | 196 | 23,06 | 850 |
| Religious Court | 6042 | 73,34 | 2196 | 26,66 | 8238 |
| High Military Tribunal | 3 | 75,0 | 1 | 25,0 | 4 |

| | | | | | |
|-------------------|------|-------|------|-------|-------|
| Military Tribunal | 60 | 90,91 | 6 | 9,09 | 66 |
| Total | 9426 | 75,91 | 2991 | 24,09 | 12417 |

Source: Supreme Court, January 2005 (in the National Action Plan for the Enhancement of Women's Quality of Life of the Years 2005 – 2009, Ministry for the Empowerment of Women)

67. Meanwhile, the data on the number of civil servants (PNS) show that of 645 civil servants occupying echelon-1 positions, only 63 or about 9,77% are women; the rest, 582 or 90,23%, are men (*see Table 3*).

Table 3
Number of Civil Servants (PNS) according to Occupation and Sex

| Occupying | L | % | P | % | Total |
|-------------------------------|-----------|-------|-----------|-------|-----------|
| An Echelon I position | 582 | 90.23 | 63 | 9.77 | 645 |
| An Echelon II position | 10.500 | 93.29 | 755 | 6.71 | 11.255 |
| An Echelon III position | 47.887 | 86.44 | 7.509 | 13.56 | 55.396 |
| An Echelon IV position | 167.217 | 77.91 | 47.422 | 22.09 | 214.639 |
| An Echelon V position | 10.793 | 77.68 | 3.102 | 22.32 | 13.895 |
| A certain functional position | 924.939 | 48.71 | 973.986 | 51.29 | 1.898.925 |
| Total | 2.191.471 | 58.57 | 1.550.024 | 41.43 | 3.741.495 |

Source : BKN, December 2005 (in the National Action Plan for the Enhancement of Women's Quality of Life of the Years 2005 – 2009, Ministry for the Empowerment of Women)

68. In the direct election of local government chiefs, the involvement of women in politics (political processes) has not been "taken." In year 2005-2006, only 17 female candidates who have finally been elected District Chiefs in the direct election of local government chiefs. This result shows that the local government chief electoral system has not been able to open broad opportunity for women to get involved in politics.

69. The political process that has taken place has not been able to accommodate the interests of minority groups (the disabled, widows, senior citizens/ the elderly, lesbians, bisexuals and transsexuals (LBT)). Because they are considered as mere minority groups and their existence has not even been recognized, these groups are given no room to use their political rights. This results in the loss of women's political rights in such groups.

Constraints for Women in Political and Public Life

70. Of course, there are many factors as to why this political process cannot accommodate women's interests, given that there are structural, institutional and cultural constraints. As far as structural constraints are concerned, women's involvement in politics is still obstructed by a number of half-hearted laws and regulations. The open proportional electoral system currently in use is still "half-hearted" in giving [political] opportunity to women. With a lot of power being assigned to political parties, the non-compulsory Special Temporary Measure of [setting aside a] 30% [quota for] female legislative candidates (as provided for under subsection 1 of article 65 of the Act concerning General Election) has resulted in the ineffectiveness of increased representation of women in politics [the measure has managed to increase women's representation in politics and yet this is not effective].

Women have indeed been recruited [and made to enter politics but] only as a means to fulfill the [quota] requirement determined by the General Electoral Commission (KPU).

71. Women's involvement in politics is also stymied institutionally, as is the case in bureaucratic institutions, political parties, religious institutions, educational institutions and so on. In political parties, for example, not many women are involved in the stewardship of political parties of which they are members or in the process of determining the parties' policies and aspirations; the political parties themselves do not fully take the interests of women into consideration. [So far,] political parties have not given opportunity to female political cadres to actively get involved in political processes yet, not to mention political processes in which money politics reign supreme. To women, this situation is very detrimental because women do not want such a system.

72. A particular constraint that still strongly hinders women in entering politics is cultural constraint. This constraint is the main constraint for the creation of gender equality not only in political domain but also in other issues. Cultural constraints are built systematically through traditions in society, interpretation of religious values and public policies that view the position of women in society as not equal to that of men. This situation among others makes women lose their confidence in their own potentials. For example, politics are always perceived and identified as a dirty game unsuitable for women. This assumption is detrimental to women, because women's political aspirations cannot be channeled. Meanwhile, the media does not fully support the role of women in public space. In many presentations, the media still confirms the stereotype role of women.

Non-Government Organizations Efforts

73. In order to increase the representation of women in politics, groups of non-government organizations have taken various actions such as advising the government and also political parties to push for the formulation of a special temporary measure to provide women with a minimum quota of 30% in laws as well as in the constitution/ articles of association of an organization. In addition to policy advocacies, political education, civil education, and voter education at all levels (from the village level up to the national level) and to build a network of women and politics (KPPI, a Network of Women and Politics), alliances at national and local levels on the amendment of political laws.

74. Groups of non-government organizations have also made effort to strengthen [to empower] potential women in executive, legislative and judicial positions from village level up to national level by way of campaigns in the print and electronic media nationally and locally, and by integrating special temporary measures and the importance of the representation of women in strategic institutions and integrated policies in the cadre-formation modules of mass organizations/ civil society organizations.

Recommendations

75. Non-government organizations' recommendations to improve and increase the representation of women in politics and public life are as follows:

1. Reforming statutory laws and regulations through a variety of affirmative action in order to increase the number of women [represented] in various decision making institutions at both local and national levels; the statutory laws and regulations to reform include the Act Number 12 Year 2002 concerning Political Parties, the Act Number 12 Year 2003 concerning General Election, the Act Number 31 Year 2004 concerning Local Autonomy, the Act Number 22 Year 2007 that governs Direct Election of Local Government Chiefs, the Act that governs the convening/ organization of General Election, Local Regulation Number 5 of the Year 2000 in DKI Jakarta Province and Letter of Decision of the Governor of the Special Capital Region of Jakarta Number 15 of the Year 2001;
2. Changing the policy in the bureaucracy surrounding the appointment of government officials in which the appointment of government officials should not be based on echelon but on their skills/ expertise;
3. Pushing the government to improve the quality of public policies by making them fairer on women. The government must be more serious in integrating gender dimension into public policies by strengthening institutional capacity to empower women at local level as focal points and to empower women within government agencies.
4. Improving the quality of women public officials including the quality of female legislative candidates so that women's involvement in politics is not just for the sake of their gender but also because they possess special criteria that qualify them to become politicians and to fight for the interests of women;
5. Urging the revocation of local regulations that block the involvement of women in politics;
6. In addition to legislative reforms and the introduction of affirmative policies, [the current] political systems, too, need to be reformed to make them friendlier and more accommodative towards women.
7. Conducting political education at constituent/ grass-root level to enable women to have more understanding of their rights in politics.
8. Creating synergy and coordination between those active in women's movement and women in policy making positions.

4. Citizenship (Article 9)

76. Citizenship is a potential problem area for Indonesian women because an Indonesian woman risks losing her Indonesian citizenship not only when she marries a man of different nationality (mixed coupled marriage) but also when she lives or

works abroad. The government's effort to eliminate discrimination against women with regard to citizenship is reflected in the adoption of Act Number 12 of the Year 2005, which is the result of the amendment to Act No. 62 of the Year 1958 concerning Citizenship. Amendment was carried out because the 1958 Act did not provide an Indonesian woman formally married to a man of foreign citizenship with the right to pass her Indonesian citizenship on to her children unless she is not married or the nationality of the father of her children is unknown.

77. The adoption of the new Act No. 12 of the Year 2006 concerning Citizenship is a breakthrough in the field of law. With this Act, Indonesian women are able to pass her Indonesian citizenship on to her children irrespective of whether or not she is married with the father of her children and whether or not the father has nationality. Moreover, her children are allowed to have dual nationality until they reach the age limit of 18+3, which means that once they are 18 years old, they can start choosing the nationality of either their mother or their father and they have three years to think about which nationality to choose before finally having to opt for one at the age of 21.

78. The spirit of eliminating discrimination in respect of citizenship that the government exhibits is only at regulatory level because the government is still persistently maintaining detrimental articles, and the fear of the possibility of adults having dual citizenship makes this Act be subjected to the Citizenship Act of other countries and thus, the government does not really have the intention to protect its citizens who are "forced" to migrate to another country as referred to under letter (i) of article 23 of the Indonesian Citizenship Act, which states:

"A person shall lose citizenship if residing outside of the territory of the State of the Republic of Indonesia for 5 (five) years consecutively not within the framework of the State's duty, without valid reasons and without deliberately reiterating the wish to continue to become Indonesian Citizen before the 5 (five) year timeframe comes to an end, and if every five year thereafter the person in question does not put forward a statement of wish to continue to become Indonesian Citizen to the Representation of the Republic of Indonesia whose area of work covers the residence of the person in question although the said Representation of the Republic of Indonesia has notified the person in question in writing as long as the person in question does not become stateless."

79. This means that a person will lose Indonesian citizenship just for administrative reasons that are not principal. Even though the conditions that a person has to be in order to lose Indonesian citizenship are quite a lot that it is almost impossible for a person to lose citizenship because of this paragraph, this is precisely the reason why this paragraph is futile. This paragraph has the potential to be detrimental to Indonesian migrant workers who are mostly women because this paragraph would be dangerous if read or perceived in a fragmented manner by repressive bureaucrats and

may be used as a tool to oppress citizens who in this case are female migrant workers¹⁵

80. Another illogical article is subsection (1) of article 26, which states:

“A female Indonesian Citizen who is married to a man of foreign citizenship shall lose the citizenship of the Republic of Indonesia if according to the law of the country of origin of her husband the wife’s citizenship shall follow the husband’s citizenship as a result of the marriage”.

This article makes the Citizenship Act of the State of Indonesia be subjected to the Citizenship Acts of other countries and puts the Indonesian woman in a vulnerable position. Even if she continues to stay in Indonesia, she may lose her Indonesian citizenship just because the law of the country of her foreign husband requires the wife to follow [to adopt] the husband’s citizenship. This article also puts the Indonesian woman in a difficult position when she lives in the country of her husband and is confronted with the problem of domestic violence.

81. Inability to master local language and the fear of her husband make it difficult for a woman to access legal protection in the country where she domiciles. This has also been experienced by women who are the women victims of trafficking under the guise of mail order brides and artistic/ tourism ambassadors and then subjected to sexual exploitation for commercial purposes. And instead of protecting such women, which is supposed to be its responsibility, Indonesia “washes its hands” by requiring them to lose their Indonesian citizenship and to voluntarily follow their husband’s foreign citizenship.

82. The problem that now arises is lack of synchronization on the part of other laws that are adopted after the introduction of the new Citizenship Law. For example, if a child is born to a father who is not an Indonesian citizen and a mother who is an Indonesian citizen after the adoption and enactment of Act No. 12/ 2006 on Citizenship, the child is automatically an Indonesian citizen (and may have dual citizenship). However, when it comes to the official recording of the birth of the child at the Indonesian registry office, the applicable law is Act No. 23/ 2006 on the Administration of Population and the registry office will thus continue to register the child as an alien in compliance with the old ruling that requires the citizenship of the child to follow that of the child’s father.

83. Another problem is that the Government Regulation (PP) and the Ministerial Regulation (Permen) issued as implementing regulations for this Act No.12 of the year 2006 are very far from effort to “protect” women. Prior to the issuance of the Government Regulation and the Ministerial Regulation, there were concerns among spouses in mixed marriage as to how much money they have to pay in order to process the registration of the citizenship of their children. Experience has shown that processing residence permit in Indonesia for children of foreign citizenship is very expensive whereas during the deliberation of the Draft Bill that was passed into Act

¹⁵ The Memorandum of Understanding (MoU) between the Government of the Republic of Indonesia and the Government of Malaysia that was created in Bali in year 2006, entitles Malaysian employers to hold the passport of female [Indonesian] migrant workers they employ.

No. 12 of the Year 2006, “the cost” that must be paid is only the administrative cost which must not exceed the cost for the making of residential documents such as a Resident’s Identity Card (KTP).

84. It turns out that the Government Regulation (PP) No.19 of the year 2007 concerning Non-Tax State Income/ Revenues that was issued in February 2007 requires parents especially a mother who wants her children -- who have so far become the victims of discrimination of the “Old Citizenship Act” -- to have Indonesian citizenship to pay IDR 500,000 (five hundred thousand Indonesian Rupiah) per child. Apparently, this is a new form of discrimination because if the father is an Indonesian citizen, the child will automatically become an Indonesian citizen irrespective of the mother’s citizenship. However, if the mother is an Indonesian citizen but the father is not, the child will be considered an alien and be treated as such but is allowed to become an Indonesian citizen for the processing of which payment must be made. This is a form of discrimination against women with regard to the citizenship of the child.

Action Taken By Non-Government Organizations

85. Various community organizations, particularly spouses in mixed coupled marriage directly affected by these discriminatory pieces of legislation, have made effort to overcome the detrimental problem. The effort includes approaching and lobbying the Ministry of Law and Human Rights (including the Minister of Law and Human Rights, Directorate-General of Immigration, Directorate-General of Laws and Regulations), the Ministry for Women’s Empowerment, and the National Commission for Women in order to advocate amendment to discriminatory regulations.

86. Approach have also been made to various bodies, committees/ commissions and members of the House of Representatives for the purpose of such policy advocacy, and process of deliberating a citizenship draft bill at the House of Representatives has been initiated. Prior to and during the course of this process, non-government organizations/ community organizations provided inputs to both committees and individual members in the form of proposed amendments, alternative draft bills, and supporting data. In these efforts, there has been strong support from non-government organizations grouped under the Prolegnas (Pro-National Legislation), Pro Perempuan (Pro-Women) Network. (JKP-3)

87. Another effort made was collecting data/ sample cases by facilitating discussions on the issue of citizenship in various places and via emails, and by building public awareness of issues pertaining to citizenship by having them raised in the mass media.

Recommendations

88. The spirit that will be achieved through the adoption of Law No. 12 of the Year 2006 is to apply a regulation that is not discriminatory against women, and to

provide overall protection to Indonesian citizens wherever they are. Thus, that which the government and communities need to do is:

1. To monitor the implementation of Law No. 12 of the Year 2006 concerning Citizenship.
2. To simplify any Government Regulations or Ministerial Regulations pertaining to Law No. 12 of the Year 2006 in such a way that every rightful person is able to make use of this law without discrimination, for example, by eliminating incriminating requirements. Even if identity documents are required, the identity of one of the parents who is an Indonesian citizen (either the father or the mother) shall suffice as a proof that the child who needs a document of Indonesian citizenship is indeed the child of a father or a mother whose citizenship is Indonesian.
3. Administrative costs must be reduced (lowered) and must not exceed the cost for the processing of identity documents such as Resident' Identity Card because this only concerns regular administrative cost and is not a tax or cost imposed on aliens.
4. Other laws issued after Law No. 12 of the Year 2006 on Citizenship must refer to it and must not contradictory to what has been established by this Act so that Law No. 12 of the Year 2006 can be fully implemented. Therefore, immediate synchronization with Law No. 23 of the year 2006 on the Administration of Population (UU Adminduk) is required because the latter is still referring to the old Citizenship Law.
5. It is advisable that leeway be given to the family (not just to the children) in a mixed marriage to enable them to have dual citizenship, particularly to the woman (the mother/ the wife) in the family. This is intended to seriously and fully protect the woman, in particular when she is an Indonesian citizen living abroad following her foreign citizen husband or she is a foreign citizen living in Indonesia following her Indonesian citizen husband.
6. The spirit to protect citizens, in particular with a view to eliminate all forms of discrimination against women, must be made known and promoted to all bureaucrats. Sensitizing on-duty bureaucrats to this is very much needed because so far women are subjected to pressure when arranging for the processing of official documents/ papers and are positioned in a condition in which they are required to pay not in accordance with the tariff; otherwise they will not be entertained.

5. Women's Education (Article 10)

89. In the field of education, the Government of the Republic of Indonesia has committed to the international agreement on Education For All (*EFA*) that guarantees every citizen to have quality and free basic education and to Millennium Development Goals (MDGs) that targets the achievement of basic education for all and gender equality in education by 2015.

90. In general, the government's effort to improve people's access to education has been made by, among others, issuing Law Number 20 of the year 2003 concerning National Education System (*Sisdiknas*). Under the Act, females and males have the same right to get free 9-year basic education. However, various efforts that have so far

been made have not taken gender dimension into account, meaning that the current policies have not considered different levels of educational need between men and women. As a result, increased access to education so far belongs to male children rather than female children. In order to give important priority to education, on the basis of the Law on National Educational System, the State guarantees that 20% of the total state budget is allocated to education.

91. In order to reduce illiteracy rate, the government has developed the KEJAR (Work While Learn) program consisting of PACKAGE A, PACKAGE B, and PACKAGE C, which is actually a catching-up education scheme aimed at school dropouts who wish to continue schooling while working at the same time with the expectation to get equalizing certificates of graduation that are equal to elementary school, junior high school and senior high school certificates of graduation . Such alternative educational is intended for school dropouts and puts no age limit. This program does not hit the right target because it does not prioritize women. In general, students participating in PACKAGES A, B, and C of the KEJAR program are male while the majority of school dropouts and illiterates are female. There are many Indonesian women who have dropped out of school and who are not able to benefit from the program. This is affected by the view of society that is still gender-biased and considers women inferior in education. Moreover, this program has not been administered/ applied to all targeted regions. It has not covered poor urban and or rural areas and isolated areas.

92. Even though a number of policies have been issued, that does not mean that the quality of education, especially the quality of women's education, has increased significantly. There is a gap in education between men and women. This gap in the field of education is clearly reflected in the number of illiterate women, which is twice or even three times greater than the number of illiterate men. The Indonesian Central Bureau of Statistics (BPS) data for the year 2003 show that there were 10,643,823 illiterate women and 5,042,338 illiterate men. This means that there was a 100% difference between the two. Differences between women and men in terms of illiteracy are found not only on national scale but also in almost all regions in Indonesia. (See Table 4 for details)

Table 4
Number of Illiterate Population aged 10 and over according to Province and Sex in the Year 2003

| No | Province | Total | | | | | |
|----|----------------|----------------------|------------|------------|------------------------------|-----------|-----------|
| | | Number of Population | | | Number of Illiterate Persons | | |
| | | M | F | M+F | M | F | M+F |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | West Java | 15.378.431 | 15.084.194 | 30.462.625 | 502.327 | 1.167.655 | 1.669.982 |
| 2 | East Java | 14.886.810 | 15.399.765 | 30.286.575 | 1.427.894 | 3.124.387 | 4.552.281 |
| 3 | Central Java | 13.094.875 | 13.388.342 | 26.483.217 | 1.006.153 | 2.311.709 | 3.317.862 |
| 4 | North Sumatera | 4.630.695 | 4.661.264 | 9.291.959 | 70.473 | 189.557 | 260.030 |
| 5 | D K I Jakarta | 3.594.954 | 3.612.766 | 7.207.720 | 30.766 | 74.886 | 105.652 |

| | | | | | | | |
|----|--------------------|------------|------------|-------------|-----------|------------|------------|
| 6 | Banten | 3.545.383 | 3.461.815 | 7.007.198 | 111.703 | 266.933 | 378.636 |
| 7 | South Sulawesi | 3.164.255 | 3.359.717 | 6.523.972 | 396.285 | 578.881 | 975.166 |
| 8 | Lampung | 2.864.162 | 2.682.265 | 5.546.427 | 136.512 | 265.696 | 402.208 |
| 9 | South Sumatera | 2.602.133 | 2.576.683 | 5.178.816 | 63.932 | 155.969 | 219.901 |
| 10 | Riau | 2.209.201 | 2.122.992 | 4.332.193 | 49.311 | 101.080 | 150.391 |
| 11 | West Sumatera | 1.684.543 | 1.796.842 | 3.481.385 | 40.281 | 95.533 | 135.814 |
| 12 | Aceh | 1.656.148 | 1.672.321 | 3.328.469 | 30.026 | 78.079 | 108.105 |
| 13 | West Nusa Tenggara | 1.492.594 | 1.651.912 | 3.144.506 | 226.176 | 443.936 | 670.112 |
| 14 | West Kalimantan | 1.595.092 | 1.494.506 | 3.089.598 | 107.679 | 229.395 | 337.074 |
| 15 | East Nusa Tenggara | 1.504.013 | 1.536.968 | 3.040.981 | 169.807 | 241.276 | 411.083 |
| 16 | Bali | 1.386.523 | 1.387.105 | 2.773.628 | 122.779 | 269.540 | 392.319 |
| 17 | D I Yogyakarta | 1.362.174 | 1.400.978 | 2.763.152 | 107.794 | 251.799 | 359.593 |
| 18 | South Kalimantan | 1.251.413 | 1.282.200 | 2.533.613 | 40.983 | 105.209 | 146.192 |
| 19 | East Kalimantan | 1.113.076 | 1.025.571 | 2.138.647 | 31.328 | 67.505 | 98.833 |
| 20 | Jambi | 1.032.748 | 1.005.216 | 2.037.964 | 21.984 | 66.040 | 88.024 |
| 21 | Papua | 919.568 | 861.082 | 1.780.650 | 172.831 | 243.653 | 416.484 |
| 22 | North Sulawesi | 891.686 | 846.570 | 1.738.256 | 8.294 | 8.944 | 17.238 |
| 23 | Central Sulawesi | 891.096 | 840.564 | 1.731.660 | 36.572 | 63.481 | 100.053 |
| 24 | Central Kalimantan | 744.634 | 690.179 | 1.434.813 | 16.491 | 31.959 | 48.450 |
| 25 | Southeast Sulawesi | 706.527 | 700.838 | 1.407.365 | 39.897 | 75.613 | 115.510 |
| 26 | Bengkulu | 610.252 | 593.386 | 1.203.638 | 20.201 | 46.450 | 66.651 |
| 27 | Maluku | 467.411 | 467.468 | 934.879 | 8.371 | 15.576 | 23.947 |
| 28 | Bangka Belitung | 380.469 | 379.709 | 760.178 | 18.715 | 38.650 | 57.365 |
| 29 | Gorontalo | 338.652 | 349.660 | 688.312 | 17.814 | 17.981 | 35.795 |
| 30 | North Maluku | 324.193 | 321.640 | 645.833 | 8.959 | 16.451 | 25.410 |
| | Indonesia | 86.323.711 | 86.654.518 | 172.978.229 | 5.042.338 | 10.643.823 | 15.686.161 |

Source: BPS 2003

94. In addition to the problem of illiteracy, another problem standing in the way of improving women's education in Indonesia is the high school dropout rate among young women at higher levels of education. The tendency to drop out of school among young women is very high especially in poor families. They do not prioritize the education of their daughters. The choice to continue education is often given to male children because culturally they (men) will later on become family breadwinners.

95. The problem of dropping out of school and illiteracy may also be attributable to lack of access to the structure and infrastructure of education such as in the village on the Nain Island, North Sulawesi, which has no junior and senior high schools at all and may in turn contribute to the high rate of illiteracy and school dropout among women in the Province of North Sulawesi.

96. Effort to enhance women's education has also met with the privatization of education, thus reducing women's access to higher education because the cost of education is increasingly expensive. Abolishment of subsidies, particularly the ones provided to universities, makes the cost of university education become very expensive and this makes university education become increasingly inaccessible and

unaffordable for the poor. The privatization of education makes poor families unable to send all their children to school and under such circumstances they normally prioritize their sons to go to school or to continue schooling. The application of decentralization shifts the burden of the financing of education from the central government to local governments and this poses a problem for regions that do not have sufficient resources. A likely “trend” among local governments is to turn education as a source of locally generated revenues (PAD).

97. That which is the most worrying about the privatization of education is that it is applied to state schools/ universities that the State is supposed to free from the cost of education. If even the State assumes no responsibility for access to education, how can the quality of education of its citizens become better? From the perspective of human rights, education is a basic right of the people and the State must provide free and good quality education in order to fulfill this basic right.

98. A problem that continues to beset education is gender bias in educational curricula at all levels. No systemic changes have been made/ introduced to the educational curricula at all levels, for example in the subjects of Indonesian language, history and Pancasila [state ideology] and civics education (PPKN). Even though the Law Number 20 Year 2003 concerning the National Education System has incorporated gender perspective in the system of national education (as provided for under articles 4 and 5), the fact remains that the educational curricula at all levels still show gender bias.

99. More sadly, in some schools there is a prohibition to continue schooling for married women, pregnant women, people with HIV/ AIDS, children with different sexual orientation, rape victims, wedlock children, and children without birth certificates. Ironically, pregnant and married women are ousted from school without being provided with alternative education. These problems clearly indicate discrimination against women.

100. Although in The Fourth Amendment to the 1945 Constitution of the State of the Republic of Indonesia, in Subsection 4 of Article 31, provides a guarantee that 20% of the state budget will be allotted to or put aside for education. However, the actual budgetary allocation is still low (11%) and it does not accord with the mandate of Act Number 20 of the year 2003 concerning the System of National Education (Sisdiknas) to allocate 20% of the total state budget (APBN) for education. As a result of the low budgetary allocation for education, the quality of education, too, remains low in terms of the availability of educational facilities, structure and infrastructure, teachers’ fees and the number of teachers. This adversely affects the funding for the enhancement of the capacity of teachers who are mostly women (particularly the teachers for kindergartens, elementary schools and extraordinary schools (schools for the mentally retarded)).

101. Another problem is the emergence of various regulations in a number of regions between 2005 and 2007 concerning the dress code for male and female students, which, for example, obliges students to wear Muslim attire every Friday or bars students from being promoted to the next higher grade in general secondary school if they have not concluded reading through the Koran¹⁶ and this results in women's rights and accessibility to education being pulled out because if they dare to disobey such regulations, their right to education will be gone. Meanwhile, education in conflict and disaster areas is getting even less attention from the government. School facilities, structure and infrastructure in conflict and disaster areas are very inadequate and in a state of exigency. The availability of teaching personnel and textbooks is very limited.

102. There is one more problem affecting the education systems in Indonesia, that is, the application of a militaristic pattern of education that emphasizes on violence. One obvious case in point concerns the Institute of Public Administration (IPDN) in Sumedang, West Java. Such a pattern of education has resulted in the death of a number of students of the Institute [in which 34 deaths have occurred since 1993 according to the list compiled by Inu Kencana Syafii, the IPDN lecturer who spoke out about violence at the school, where corporal punishment and bullying are frequently used as a tool of discipline] This pattern [and culture] of violence has led to a number of abuses at female students in the form of sexual harassment. For fear of being subjected to abuse and violence, many prospective female students do not dare to go to the Institute to pursue higher education and this practically closes women's access to the Institute.

Action Taken by Non-Government Organizations

103. To address a number of problems experienced by women, non-government organizations in Indonesia have carried out a number of activities such as promoting alternative literacy education for women, advocating gender dimension in educational policies, and providing education and training on gender equality to communities, students and self-help community organizations. Moreover, non-government organizations have also conducted monitoring of the allocation of funds for education in the state budget (APBN) and advocated the allocation of a minimum of 5 % of the total budget allotted to education for women's education.

Recommendations

104. From the list of problems affecting education mentioned above, there are some recommendation for the government :

1. The implementation of the KEJAR program's PACKAGES A, B, and C. The duty and responsibility of the State is not limited only to the promotion of public's awareness and understanding but more than that, that is, to make available structure, infrastructure and teaching personnel for this program. And the main target of this program is its implementation in poor urban and rural areas or areas

¹⁶ Liputan media (Kasus Yogya bagi SMU Negeri, Banjarnegara, Indramayu, Cirebon, Tangerang, dan Tasikmalaya, Cianjur)

with high illiteracy rate and high school dropout rate, in particular where the majority of illiterates and school dropouts are women.

2. It is recommended that gender-mainstreaming programs should incorporate gender education for teachers, which is currently not the case so that many teaching systems and methods for teachers are still gender-biased.
3. Affirmative action is needed for female scholarship recipients as one of the mechanisms to reduce the school dropout rate.
4. Effect should be given to the 20% allocation of the total fund of the state budget for education in accordance with the mandate of the Act on the National Education System.
5. It is recommended that a number of regulations that govern the dress code in the education system be eliminated because this will deny access to education for the entire community especially the religious minority
6. It is recommended that Law Number 32 of the Year 2002 concerning Child Protection be enforced, in particular to address cases of sexual harassment, rape, and pedophilia.
7. It is recommended that educational aids for conflict and disaster areas be prioritized, and this should include the provision of structure and infrastructure of education.
8. It is recommended that alternative literacy education for women be realized. Such alternative education should integrate the process of learning how to read and how to write by combining women's experiences in life and their life skills. The main target beneficiaries of this program should be mothers who work in the domestic sector, women who work in the informal sector, and female laborers.
9. It is recommended that education be provided for life through a program that offers education for life. This means that under this program, illiterate housewives aged 35 and over should be given the opportunity to learn how to read and write and to catch up [to make up for their lack of education when they were younger].
10. It is recommended that special schools be provided complete with structure and infrastructure for children with different ability (autistic children and children with special physical needs/different ability).
11. It is recommended that the militaristic pattern of education [applicable in a certain institute of education] that has resulted in deaths and obstruction of women's access to the institute of education be eliminated.

6. Women's Reproductive Health (Article 12)

105. Reproductive health and reproductive rights are highlighted in this report in accordance with Article 12 of CEDAW that covers four important health components which [shall] receive a guarantee [or which shall be ensured], that is: (1) health maintenance service guarantee for women, (2) family planning service guarantee on a basis of equality of men and women, (3) appropriate services for women in connection with pregnancy, confinement and the post-natal period, granting free services where necessary according to the condition of the women in question and (4) the provision of adequate nutrition during pregnancy and lactation.

106. In addition to Article 12 of CEDAW, there are many other [CEDAW] articles in support of reproductive health that pertain to legislative and regulatory amendments

as provided for under articles 2 and 3 (“to adopt appropriate legislative and other measures”; “shall take in all fields... all appropriate measures including legislation”), changes in social behavior in society as provided for under article 5 (“to modify the social and cultural patterns of conduct”), counseling, information and education in the field of family health and welfare including the provision of family planning advice and reproductive health protection in the world of work as provided for under article 11, women’s reproductive health facilities in rural areas and information, counseling, education and services in family planning (Article 14, 2b) and reproductive rights (article 16 /1e). The United Nations Recommendation No 24 also guarantees access to cheap but high quality health services including sexual health, [and urges] the allocation of funds and human resources, the introduction of gender perspective, the prioritization of handling Unwanted Pregnancy, the reduction of Maternal Mortality Rate, amendment to regulations that penalize the act of aborting pregnancy, and the opening up of access to medication for people living with HIV/AIDS and the getting rid of the stigmatization of such people.

107. After 23 years of CEDAW ratification with Law No 7 of the year 1984, the Government of Indonesia has not, as a matter of fact, fulfilled its obligations to fulfill women’s health and reproductive rights. This is reflected in the following records of health condition of women across the country:

a. Maternal Mortality Rate Remains High

108. As of 2003, the Indonesian Demographic Health Survey (SDKI) recorded 307 maternal deaths per 100,000 life births (*See Appendix 7*). But this data is not accurate because the survey did not involve four provinces (believed to be the sufficiently large contributors of maternal mortality, namely, NAD (Aceh), East Maluku, Maluku and Papua) and as a result, the survey made a Big Sampling Error. According to UNICEF report (2004), the maternal mortality rate in Indonesia is 380 per 100,000 life births. Of these, around 19,000 Indonesian women die every year because of complications during pregnancy and childbirth (Budiharsana, 2003). In other words, every half an hour there is a woman who dies in Indonesia because of complications related to pregnancy, delivery, and post-partum.

109. Reasons for the high maternal mortality rate include bleeding (42%), eclampsia (13%), abortion (11%), infection (10%), parturition that is too long (9%) and others (15%) (*See Appendix 7*). The abortion referred to as contributing to the maternal mortality rate here is unsafe abortion which performed by unskilled and unauthorized trained health personnel. Women who terminated their pregnancy were mostly married women (who account for 87%), and the main reasons for it were psychosocial (57,5%) and “family planning failure” (36%), according to Women’s Health Foundation research conducted in 2002.

Law No. 23 of the year 1992 concerning Health does not guarantee access to women’s reproductive health care services with regard to abortion because of the confusion of article 15 that blocks access to abortion service and finally leads to endless debates.

110. The government's policy on pregnancy, delivery and post-partum services through *Safe Motherhood, Making Pregnancy Safer, Basic Emergency Obstetric Neonatus Care* (BEONEC) and *Comprehensive Emergency Obstetric Neonatus Care* (CEONEC) programs has not worked optimally as evidenced in their inability to reduce Maternal Mortality Rate. Even reproductive health programs have not been made into priority programs so that no [financial/ budgetary] allocation is made for activities associated with such programs.

111. Women's reproductive health services are getting more and more difficult to be accessed by the community, in particular the poor community after the privatization of state-owned Local General Hospitals (RSUD) and public health clinics/ centers that are required to contribute locally generated revenues to the local government's coffer. As a result, people who need health services are required to pay. This makes the situation more difficult for the poor to access health services because they are very expensive. The policy of providing health insurance for the poor (ASKESKIN) and issuing poor family cards (Gakin) to poor families has not been able to serve the poor because the requirement that one has to meet in order to get them is very discriminatory. The cards are distributed only to the poor with permanent residency and they must prove their permanent residency by showing their family cards.

b. Family Planning

112. Currently, Indonesia has a population of 222 million people who are projected to become 250 million people by the year 2015 (in which Indonesia will become the fourth most populous country in the world after China, India and the U.S.). However, the quality of the population is a matter of grave concern, as reflected in the low Human Development Index, in which Indonesia ranks the 110th out of 167 countries (HDI Report 2006). Family planning programs in Indonesia have not shown a significant progress and this is reflected in the rate of unmet need (9%) that remains high and the Total Fertility Rate (TFR) of 2,6%.

113. Factors hindering the continuation of Family Planning Programs are 1) the influence of decentralization: since the decentralization took effect in the year 2001, family planning programs (which used to be under the control of the central government) have been merged into the programs of local government institutions at district/ city level. As a consequence, the programs become unfocused and their budgetary allocation is getting smaller; 2) the availability of contraceptives: contraceptives are getting more difficult to be had/ accessed by people, particularly by women, because of their unavailability or because of lack of money to buy them. 3) Low rate of male participation in family planning: contraception service is still gender-biased, male contribution is only 2,5% even though it is mentioned in family planning programs that family planning is targeted at spouses of fertile age (PUS). Consistent use of condoms does not work. One of the reasons is the wrong assumption that condoms are porous. 4) Counseling, information and education on family planning are still lacking. 5). Family planning services are still discriminatory, only aimed at married couples and often provided without counseling.

c. Adolescent Reproductive Health (ARH)

114. Adolescent (persons aged 10-19) in Indonesia account for 30,2% of the entire population, and are thus the largest in ASEAN. Ten percent (10%) of female aged 15-19 are already married and even have at least one child. The number of married female adolescent aged 15-19 who died in the course of pregnancy, childbirth and post-childbirth is twice or four times greater than their counterparts who are older than 20 years old when they get married. The age at which adolescent become sexually active for the first time is getting younger. Reproductive health education for adolescent is still considered unacceptable and has not been adopted in the national education curricula yet.

115. Reproductive health problems among adolescent include: (1) circumcision performed on female children, a practice which still continues until now despite admonitions from the Ministry of Health but which continues to be endorsed by the followers of a religion (Islam). Circumcision on female children has even started to be practiced in regions/ districts that have never known such a practice before. Mass circumcision on female children has even been practiced in several regions (according to the 2005 study of Mitra Inti Foundation). Female circumcision is dangerous because it can lead to death particularly when performed on baby girls infants (WHO 2006). (2) Female adolescent experiencing Unwanted Pregnancy are usually expelled from school or married off by their parents despite their early age, and some of them overcome this problem by resorting to unsafe abortion. (3) In many villages, early marriage are still the custom and most of them right there after get pregnant. This is one of the reason the number of adolescent (15-19 years old) who get pregnant at an early age in the villages is twice the number of their counterparts in urban areas, accounting for 14% and 7% respectively. (4) The rate of Sexually Transmitted Diseases including HIV/ AIDS among adolescent is on the rise.

116. Other problems experienced by adolescents are :

1. Even though there are already Guidebooks on Public Health Centers Care For adolescents, most Public Health Centers are not accustomed to accepting adolescents who come to them with reproductive health problems (such as STD and HIV/AIDS).
2. Lack of Counseling, Information and Education as well as reproductive health services for adolescents. The provision of contraceptive services to those who are not yet married is not part of the national family planning programs. Discrimination against adolescents still happening: limits contraception usage to married couples, would increase the probability of unwanted pregnancy as well as sexual transmitted diseases (infections). Condom using are considered only for married male.

d. HIV and AIDS

117. This problem relates to discriminatory attitude against female persons living with HIV/ AIDS. The rate of HIV/ AIDS has increased sharply and based on the

latest data on March 31, 2007, there were a total of 15,378 people living with HIV/AIDS, of whom 6,449 were HIV positive and 8,988 had AIDS. Initially, the transmission of the virus is mostly found among those engaging in [unsafe] homosexual/ heterosexual contacts. But now the virus has spread to injecting drugs users (IDU) as well. And the number of infected women is increasing. The tendency of transmission from mother to infant, too, is increasing and there are many wives who have been infected by their promiscuous husbands. Stigma and discrimination is a typical problem constantly faced by HIV-positive women, in particular the stigma of being “morally loose women” despite the fact that the transmission of the virus is not just limited to that particular issue. Women living with HIV/ AIDS feel that this stigma puts a much heavier burden on their life.

e. Working Women

118. The important role of women in the economic sector is reflected in the increasing participation of female labor force, which accounted for 46,23% (in 2004). In general, women are economically active in the primary sector (46,01%) and the tertiary sector (39,62%) but most of them work in the informal sector/ economy (54,82%) as petty traders, domestic helps, and quite many of them work as family workers without pay. The conditions of women who work in the formal sector are not always better than the conditions of their counterparts who work in the informal sector.

119. Problems faced by female workers as far as their reproductive health is concerned are this: (1) a female worker in the industrial and service sectors with the status of permanent employee, according to Law No.13/ 2003 concerning Labor, is entitled to [paid] maternity leave. In reality, however, she will not be paid during the leave if she is unable to show her marriage certificate or prove that her marriage has been officially registered because the owner of the company where she works will link her entitlement to paid maternity leave to Law No.1 of the year 1974 concerning marriage [and use its provisions on the legality of marriage as proven by a marriage certificate as a basis for determining her entitlement to paid maternity leave]. But this [ruling] cannot be applied to couples that get married in rural areas because only 30% of officially married couples in Indonesia have marriage certificates. (2) Female workers in companies/ factories cannot take menstrual leave if they cannot prove that they are having their period by producing a doctor’s note attesting this.

f. Women’s Nutritional Status

120. Indonesian women’s nutritional status is still showing conditions that are not yet optimal. This can be seen from the Chronic Energy Deficiency number among pregnant women, which stood at 33,8 in the year 2001, while the anemic number

among pregnant women was 40,1 (2001). This poor nutrition condition is also apparent among female adolescents (aged 10-19), which accounts for 30%.

Table 5
Women's Nutritional Status

| Women's nutritional status | Data (%) | Survey Year | Source | | |
|--|-----------------|--------------------|--|------|-------------------------|
| Chronic Energy Deficiency: | | | | | |
| 1. Women aged 15-19 (adolescents) | 24,8 | 2001 | Ministry of Health 2002 | | |
| 2. Pregnant women | 33,8 | | | | |
| Anemia: | | | | | |
| 3. Women aged 15-19 | 26,4 | 2001 | SDKI 2001 and Ministry of Health 2002 and 2003 | | |
| 4. Pregnant women | 40,1 | | | | |
| 5. Women in urban areas | 23,8 | | | | |
| 6. Women in rural areas | 28,5 | | | | |
| 7. Female adolescents (aged 10-19) | 30 | | | | |
| 8. Male adolescents (aged 10-19) | 20,9 | | | | |
| Health impairment due to iodine deficiency on pregnant women | 4,2 | | | 2001 | Ministry of Health 2002 |

Source : Department of Health, year 2002 and 2003

121. Effort on the part of the government to provide nutrition to pregnant and lactating women is very minimal. The De-concentration Fund that was launched in 2006, especially allocated to woman (mother)-and-child health, has not been used to improve the nutrition level of pregnant and lactating women.

g. Special Groups and Minorities

122. Despite their existence, special groups such as groups of prostituted women, groups of prostituted female children, groups of [physically and or mentally] disabled women, groups of female senior citizens and groups of LBT (Lesbians, female Bisexuals and Transsexuals) in Indonesia have not yet received humane treatment from society. As a result, these minority groups have difficulties to access reproductive health services. As far as prostituted women are concerned, for example, because they are stigmatized as immoral groups that destroy the moral of society, they are denied health services. They do not use the available public health service structure because of fear that people would discriminate against them due to their activities although activities that they perform cannot be seen in a black and white fashion. It should be borne in mind that prostituted women are there because of poverty and not a few of them have fallen victim to trafficking in women and children.

123. Recommendations:

1. The government should guarantee the availability of optimal [health] services for pregnant women, women in childbirth and post-childbirth as an indicator for reducing maternal mortality rate.
2. Legal protection should provide a boundary as to when [or in which case] abortion should be allowed, and standards of service and competence of medical officers

should be set and adopted in regulations. With this arrangement, abortion cannot be carried out haphazardly or at will or commercialized. Abortion procedure must involve counseling program preceding the abortion, which shall provide information and education in dealing with reproductive health problems on women.

3. The government is obliged to provide counseling, information and education on reproductive health, family planning, HIV and AIDS, STD and non-discriminatory services.
4. The government must guarantee and provide settlement measures in the event of side effects or contraceptive failure.
5. Every person has the right to receive non-discriminatory family planning services. Reproductive health services using age parameters should be prohibited.
6. Family planning is part of reproductive health and the arrangement for family planning should rest with the Draft Bill on Health and not on the Draft Bill on Population and Family Welfare.
7. A formal curriculum on reproductive health education for adolescents should be created and distributed to adolescents at school as a separate subject and not integrated into other subjects.
8. The government must make regulations to govern [maternal] leave for female adolescents who get pregnant while still going to school and not expel them from school.
9. Groups of Peer Educators should be formed to reach out to all adolescents, irrespective of whether they go to school or not, and to provide them with information on reproductive health, in order for them to get the right and correct information.
10. The role of hospitals and public health centers should be optimized to enable them to provide service that cares for teenagers without stigmatizing and discriminating against them.
11. The amendment to the Act on Health must have a separate chapter or article on adolescents reproductive health, which must not be combined with the chapter or the article on mother-and-child health and must not be removed at all.
12. Women, particularly those infected with HIV/ AIDS or other STDs, should be involved in the making of decisions for determining policies and the development of related programs.
13. The legal status of the circular decree from the Director General for Public Health Development on the de-medicalization of Female Circumcision by Health Personnel should be enhanced and made into a binding regulation.
14. The government should guarantee protection for the fulfillment of the rights of people living with HIV and AIDS, the availability of ARV (Anti Retro Viral) medicines without stigmatization and discrimination, which must be specifically stated through and incorporated in the Amendment to the Act on Health whose process is currently ongoing.
15. The government must regularly control companies to ensure that the companies will give menstrual leave without a doctor's note and maternity leave without linking it with a marriage certificate and to treat the two types of leave as paid leave.
16. The government must make available inspectors (inspection personnel) in a proportional number [to the number of companies] in order to monitor [and

- inspect] any [possible] violations committed by companies to women's reproductive health rights. Companies which did violations should be sanctioned.
17. The process of privatization of state-owned Local General Hospitals must be stopped. Users fees should be prohibited for poor women.
 18. There must be an inter- and cross-departmental program with the perspective of and which accommodate the need of the disabled, the elderly, and minority groups; for example, there must be clinics and integrated health service posts for the elderly.
 19. There must be guaranteed reproductive health protection for women with sexual orientation other than heterosexual and for other minority groups such as prostituted women, the elderly and widows from various forms of discriminatory actions.

7. Women's Right to Work (Article 11)

Formal Workers

124. Women who work in the formal sector/ economy (formal female workers) are still facing a number of serious basic problems pertaining to their rights as workers and their rights as women. As female workers, they have to face numerous acts of discrimination arising from their womanhood which present problems for them when requesting menstrual leave and maternity leave from their employer, when getting pregnant, when lactating, when asking their employer to give them a crèche, when experiencing sexual harassment, and so on.

125. Normatively, the minimum needs of female workers are on average different from those of male workers. Women's daily needs are fairly great compared to men's. For example, female workers need sanitary napkins when having a period. This need is a basic need that women have every month. However, minimum wages are on average determined without distinguishing the difference between the needs of female workers and those of their male counterparts. The same standard of minimum wages is set for and applied to both sexes.

126. Even though a number of women's rights have been protected through Law Number 13 of the year 2003 concerning Labor, in Indonesia, most companies do not pay attention to problems specifically experienced by female workers. There are indeed a large number of female workers but this does not mean that the fulfillment of their rights is guaranteed. Menstrual leave is a case in point. Law No. 13 year 2003 clearly provides for menstrual leave twice a month and yet, in a number of cases, female laborers are denied such leave.

126. A female worker is always considered to be single (not married). Even though she already has a family, husband and children, she receives no social security benefits at all. Because her marital status is made to remain single, she receives neither family allowance nor social security benefits for her husband and children. Even though all laws make a pledge of non-discrimination, it turns out that it is still very difficult to implement/ fulfill it in real life.

127. When it comes to promotion, it is very difficult for a woman to get the promotion she deserves. In general, women work in the labor-intensive industrial sector such as in garment, footwear, cigarette and electronics manufacturing companies. This industrial sector does not need professional workers. What it takes is simply persistence, which gradually makes the worker skilled. The system at work in this sector requires workers to perform just one type of work every day for years. Women with only elementary school education and even without the ability to read and write may, and are accepted to, work there.

128. The outsourcing system of work, which is still applicable in the labor system, is very detrimental to female workers. As outsourced workers, female laborers do not receive the entitlements they deserve such as maternity allowance during pregnancy and childbirth that requires a lot of money. Companies are quite happy with the outsourcing system because with this system, their expenditures can be reduced.

129. As far as employment age is concerned, female laborers already reaching the age of 40 (forty) are subjected to continual annoyance by their employer until they become increasingly exasperated, are no longer able to withstand and continue to work in such a situation and finally resign and are replaced by female workers who have just completed their schooling, be they junior or senior high school graduates, and are still single. This practice is difficult to stop because as a matter of fact, there are less job opportunities than jobseekers [more supply than demand].

Migrant Laborers

130. Indonesia is one of the fairly large migrant-laborers sending countries. Almost every year there are thousands of migrant laborers leaving Indonesia for overseas employment and most of them are women (see Table 6). This great number of migrant laborers is not without problems. Precisely because of their great number, they experience both discrimination and exploitation. Indonesian migrant laborers experience problems not only during the course of their employment. They are already plagued with a variety of problems at all levels of migration starting from pre-departure, placement (or employment) and post-employment¹⁷.

Table 6
Composition of Indonesian Migrant Laborers
By Sex

| Years | Female | Male | Total |
|--------------|---------------|-------------|--------------|
| 1969-1974 | | | 5.624 |
| 1974-1979 | 3.817 | 12.235 | 16.052 |
| 1979-1984 | 55.000 | 41.410 | 96.410 |
| 1984-1989 | 198.735 | 93.527 | 292.262 |
| 1989-1999 | 442.210 | 208.962 | 651.172 |
| 1994-1998 | 699.946 | 349.681 | 1.049.627 |

¹⁷ See Appendix 5 concerning the problems of Indonesian migrant laborers. The map of problems is the result of NGO workshop facilitated by CWGI in order to elicit inputs for the drawing up of NGO's Independent Report on CEDAW implementation in Indonesia, in Jakarta on May 10, 2007

| | | | |
|-----------|-----------|---------|-----------|
| 2001-2004 | 1.146.454 | 347.315 | 1.493.769 |
|-----------|-----------|---------|-----------|

Source: Komnas Perempuan. Processed from the data of the Directorate General of PPTKILN, of the Ministry of Manpower and Transmigration

131. Data on cases issued by the Consortium of Indonesian Migrant Laborers (Kopbumi) and Indonesian Migrant Laborers Union (SBMI) in the year 2005 recorded no fewer than 19 cases of deaths, 101 cases of torture accompanied by rape, and 117 cases of lost contacts. Meanwhile, there are 4,100 other cases befalling migrant laborers such as deportation, trafficking, unpaid wages and long working hours.¹⁸

132. So far, the problems that Indonesian migrant laborers are facing have not been handled seriously. The Indonesian government is not serious enough in providing protection to migrant laborers even though it receives a fairly large foreign exchange contribution from their remittances. The lack of seriousness on the part of the government in providing protection to migrant laborers, in particularly to female migrant laborers, makes migrant laborers vulnerable to human trafficking.

133. A number of policies that the government has issued do not help much to provide protection, and even have the potential to create problems associated with discrimination. One of the paragraphs in The Memorandum of Understanding (MOU) between The Government of Indonesia and The Government of Malaysia year 2002 concerning Migrant Laborers provides for the holding of Indonesian Migrant Laborers' official documents, in particular passports, by their Malaysian Employers. This ruling is obviously detrimental to Indonesian Migrant Laborers because it renders them increasingly powerless, and if they are in trouble or their wages are not paid, it would be difficult for migrant laborers to report their complaints/ grievances.

134. Law Number 39 of the Year 2004 concerning the Placement and Protection of Indonesian Workers Abroad only governs the mechanism for the placement of migrant laborers. The Act does not get into the area of protection. The same also holds true for the newest Citizenship Act, in which the requirement to report for migrant laborers who have been working abroad for five years does not take into consideration the situation of migrant laborers who are not allowed to go out of the house of their employer and thus risk losing their Indonesian citizenship.

Domestic Workers

135. Many domestic workers experience the problem of discrimination against women because in general, domestic work is carried out by women. An assortment of problems found in this sector include low wages, inadequate facilities for work, no social security, no health (including reproductive health) insurance, no occupational

¹⁸ Voice of Human Rights News, June 17, 2006 in "Reforms Shackled by Bureaucracy: Notes of Initial Monitoring Results of Presidential Instruction Number 06 of the Year 2006 on the Policy for Reforming the System of Placement and Protection of Indonesian Workers," presented by Komnas Perempuan, GPPBM, HRWG, Kopbumi, LBH Jakarta, SBMI and Solidaritas Perempuan, in December 2006

safety insurance, vulnerability to violence/ abuse (physical, psychical, sexual, economic, social), limited access to information, communication, socialization and organization, and generally there are no holidays and leave.

136. The Central Bureau of Statistics (the National Statistics Agency) on the basis of Module Population Survey of the year 2001 revealed that there were 570,059 domestic workers in Indonesia and of these, 152,184 (or 26,7 percent of them) were child domestic workers. Various circles are of the opinion that these figures are too low (and constitute an underestimate). Then, in the year 2002, the International Labor Organization (ILO) in cooperation with the Social Welfare Department of the School of Social Sciences and Politics of the University of Indonesia conducted a survey to find out the number of child domestic workers. This survey found 688,132 child domestic workers, which account for 34.82 percent of a total of 2,593,399 domestic workers throughout Indonesia.

137. One of the factors that indicate that domestic work is one of the worst types of labor is the low wages that domestic workers receive. In a survey conducted by ILO (IPEC) concerning domestic workers in East Jakarta and Bekasi, information was obtained that the monthly wages that domestic workers received were very varied, ranging from IDR 60,000 equal to US\$ 6.00 at the lowest and IDR 500,000 equal to US\$ 50.00 at the highest.

138. A survey conducted by Rumpun Gema Perempuan on the working conditions of domestic workers in the year 2005 found that the majority of domestic workers being surveyed were still young. Some domestic workers started to work at the age of older than 10 years old (that is between 10-14 years of age), but most of them started to work at the age of 15 to 23. Young women who work as domestic workers abound because domestic work is a job that does not require high level of education and skills. Another factor is the demand of employers who mostly want young (child) domestic workers by reason of submissiveness associated with the callowness of young age and lower wages.

139. Unfortunately, in spite of the problems plaguing domestic workers, Law Number 13 of the Year 2003 concerning Labor does not cover domestic workers and does not include them into the general legislative system in order to govern their employment. In other words, domestic workers in Indonesia are not yet recognized as workers but as “helpers” [as suggested by the term ‘domestic help’]. As a result, there is no clear regulation governing the job of domestic workers, their legal protection and social security as well as guarantee for their reproductive health.

The Role of the Non-Government Organization

140. Various efforts have been made to improve the welfare of domestic workers such as efforts to build domestic workers’ capacity, organize them, accompany and help them when they are on the case, campaign to enable them to get holidays, a contract of employment and campaign for the drawing up of a Draft Bill on Domestic Workers and so on. The same also holds true for the handling of migrant laborers. A number of

non-government organizations have carried out a number of activities such as policy advocacy, providing accompaniment and assistance, socialization and training of migrant laborers, and establishing a network with like-minded institutions.

Recommendations

141. In order to provide concrete protection to female workers, it is recommended to:

1. Ratify ILO Convention Number 156 Year 1981 concerning Workers with Family Responsibilities
2. Ratify ILO Convention Number 183 concerning Maternity Protection
3. Adopt the Protocol of the Convention on the Right of the Child
4. Amend the Law Number 13 of the Year 2003 concerning Labor, which provides for outsourcing which is detrimental to female workers particularly when it comes to the protection of their reproductive health.
5. Amend the Act on the Placement and Protection of Indonesian Workers Abroad (PPTKILN) to make it have more perspective on human rights.
6. Exercise law enforcement against companies that violate the rights of female laborers and enforce the protection of female laborers in accordance with Law Number 13 of the Year 2003 concerning Labor.
7. Distinguish the needs of female laborers from those of male laborers in order to determine the average minimum needs of laborers.
8. Provide legal recognition to domestic workers and domestic workers' organizations by way of legislative measures.
9. Build commitments to promote efforts to protect domestic workers.
10. Make policies and programs related efforts to provide specific protection to domestic workers.
11. Recommend local governments to make local regulations pertaining to the issue of protecting domestic workers.

12. Rural Women and Poverty (Article 14)

142. In general, the situation of rural women has not shown any significant progress, especially in economic matters. Various economic progresses have not given significant impacts on rural women. In several aspects, rural women are confronted with the process of pauperization structurally in the form of agricultural policies. The involvement and role of women in political processes at village level have not materialized.

143. Economically, rural women are still under constraint in terms of access to economic resources. The job mostly taken up by women is working as contract laborers in return for wages that are not decent for day-to-day living. The limited access of women is attributable to several factors including, among others, their position as women in household. As women, they are not responsible for earning a living for their family. If women do work, what they work and the remuneration they earn are considered as additional income even though the amount is greater. This prompts women to choose jobs that are not far from their household life.

144. Even though they have never been considered as the main breadwinner, rural women are not free from responsibility to earn a living. As a result, their workload is much greater, because outside home, they have to work hard to earn a living and inside home, they have to take care of their household, while the wages they receive are very little. The heaviness of the double burden of rural women in the economic sector has pushed them to leave their village and to perform whatever work is available for them in order to earn a living even though they may have to work as a domestic worker, or go abroad to become a migrant worker, or even work as a commercial sex worker.

145. From the aspect of education, the majority of rural women has low elementary school education or never goes to school at all. Women have shorter or more limited educational opportunity because the culture of the local community is still very discriminatory against women. Formal education is very expensive for rural women. Meanwhile, the government tends to be indifferent to and take no responsibility for the condition of the education of rural women.

146. Women's health condition is not very good, in order not to refer to it as "very poor." Health facilities that women particularly need are very limited and are of low quality. Access to health information, particularly to information on female reproductive health, is very poor. Frequently there are auxiliary public health centers in rural areas but their quality and service are poor, and they are geographically difficult to access by women.

147. Women in rural areas often have low awareness of the importance of organizing them self because of their narrow and strictly limited opportunities. This makes it difficult for them to occupy a position in a decision-making institution at village level. There is no clear and firm regulation that requires women to get involved in the making of policies at village level. This has also resulted in the very small number of female political party cadres at village level while the orientation of political parties towards the formation of female cadres in rural areas is very little.

148. Rural women have a very poor access to political information because of the limited availability of technology, transportation, education and the many domestic burdens that rural women have to bear. The very strong patron-client culture has killed the critical political awareness of women. Meanwhile, the very small budget that can be set aside from village funds has caused villages to have less initiative to allocate a budget for women empowerment programs.

Action taken by the Government

149. In 1999 the government and the House of Representatives had produced Law No 22/ 1999 concerning Local Autonomy. The substance of this Act provides women with the opportunity to be represented in Village Government Body. This Act also provides opportunity to reject various programs, be they from the State or from the private sector, which do not involve the general public in the process of planning, implementation and evaluation.

150. A government policy that to a certain extent affects the life of women in rural areas is Law Number 7 of the Year 2004 concerning Water Resources. This Act governs the policy on the privatization of water [resources] whose impacts will threaten the life of women and families. This Act is followed by several local implementing regulations such as Local Regulation No. 29 of the Year 2004 of the district of Lumajang, East Java, concerning Permit for the Use of Underground and Surface Water. Similar regulations concerning the privatization of water from mountain water absorption areas are also found in other regions such as in South Sumatra and Yogyakarta.

151. In 2007 Indonesia has adopted Law Number 25 of the year 2007 concerning Foreign Investment. The existence of this law has provided opportunity to foreign investors to exploit Indonesian water resources for 95 years. This constitutes continual threats to women's and children's access to and control of natural resources. The Foreign Investment Act has the potential to preserve the poverty of rural women and their children.

The Role of the Non-Government Organization

152. With regard to the issues affecting rural women, a number of non-government organizations have made a number of efforts such as providing political education to rural women, building female economic groups, organizing, campaigning for women's rights, establishing a network with various groups including with the media to open up the access of rural women, policy advocacy and a number of other activities.

Recommendations

153. The recommendation that should taken by government are :

1. Reviewing the Investment Law and its impacts that are detrimental to rural women
2. Studying Free Trade regulations whose impacts pauperize women's economy
3. The State needs to adopt "protective" politics towards the real sector economy

13. Equality Before the Law (Article 15)

154. The government has made effort to equalize the position of women and men before the law through the guarantee enshrined under the 1945 Constitution, article 27 (1), which says, "All citizens are equal in their position before the law and the government are obliged to uphold the law without any reservations". Similar spirit can also be found in other laws and regulations including, among others, in Law No. 39 of the year 1999 concerning Human Rights, article 3 (2); Act No. 1 of the year 1974 concerning Marriage, article 31 (2), in which it is governed that "each party (husband and wife) has the right to conduct a legal act"; and article 36 (2): "as for their respective property that they bring along into the marriage, husband or wife has the full right to conduct a legal act concerning their respective property".

155. Despite receiving legal guarantee, the principles of equality before the law have not been fully implemented. Both the Penal Code and the Civil Code were compiled using the gender-neutral principle. Substantially, this does not create discrimination but does so at implementation level. In civil cases such as in the event of divorce, there is no security for women and children to get their rights that have been decided by the court such as the right to livelihood, the right to take care of children, the right to common property, the right to inheritances, and the right to get the money for children education, if the right to look after the children is awarded to wife.

156. The availability of legal structure and infrastructure in many places has not shown the principles of equality, for example, when it comes to the process of detention. Several police offices do not provide a special detention room for women. Female detainees are often put in a room inside the police office that is actually not intended as a detention room, for example, in the room designated for police guards on duty or in the interrogation room. This practice can be found in a district police office (Polres) or in a sub-district police (Polsek) office, and because the female detainees are not put in a detention room, they are often required to clean the room.

157. Female detainees are also subjected to humiliating and discriminatory treatments by law enforcers, for example, during interrogation in which female victims or female and children perpetrators are cornered. The result of the monitoring conducted by some non-government organizations points to discriminatory questions or statements made by law enforcers in connection with cases of violence against women. Some examples of such discriminatory treatments are as follows :

In a session during the investigation of a rape case, the police ask the victim: *“After you have been successfully raped or have sex with the suspected man, did you get some sexual pleasure or how was it?”*

In a case of sexual abuse of a child, the police ask the five-year-old victim, *“Did the victim feel pleased when being groped by the perpetrator? Did the victim herself ask the perpetrator to grope her?”*

In a case of embezzlement, the prosecutor makes a statement in connection with the money demanded from the suspect, who is a female: *“Well, you are such a beauty, surely you would be able to get the money”;*

In a case of trafficking in women, the judge asks the victim, who is presented in the court as a witness, *“You said during the lockup you had had sex 10 times; how many times did you feel pleased?”*

158. In a case where a woman is brought to trial for throwing away her unwanted baby, the judge asks the female defendant, *"Were you willing when you were asked to 'play the game of doctor injecting patient' [to have sex]? You were willing, weren't you? The proof is that you are silent, eh... you were enjoying it, right?"*¹⁹. Sexual harrashment is often experienced by women and female children during examination.

159. The legal substance in several regulations indiscriminately treats female adults and female children alike, particularly when they become or serve as victims. Such indiscriminate treatment is apparent from the arrangement of the elements of the crime, the interpretation of the substance [of the crime], and the law enforcement exercised to redress it. For example, the arrangement under Act Number 23 of the Year 2004 concerning Elimination of Domestic Violence treats child and wife alike and does not distinguish a domestic violence crime against a child from the one committed against a wife. As a result, the legal proceedings taken and the ensuing sanctions imposed on account of the crime are indiscriminately and disturbingly the same, with a total disregard of whether the crime is committed against a wife or another adult family member or whether it is perpetrated against a child.

160. The same also holds true for Law Number 13 of the Year 2006 concerning Witness and Victim Protection. This Law does not distinguish the type and mechanism of protection for adult victims and witnesses from the ones for children ignoring the fact that a female adult's need for protection is very different from a female child's. A child needs special attention and approach and consideration must be given to the impacts of the case endured by the child on the child's mental and psychological development. Moreover, this Act does not provide immediate protection to women and children who become victims of abuse/ violence. Medical aid and psychosocial rehabilitation are only given to victims of grave violation of human rights as determined by the Institute for Witness and Victim Protection (LPSK). This may be referred to as a weak factor of the Law because violence against of women and children is not categorized as a serious human rights violation.

161. As far as the administration of population and marriage are concerned, discrimination against women (female adults and children) still exists at implementation level. For example, Law Number 21 of the Year 2006 concerning the Administration of Population is still discriminatory against a couple who gets married in a traditional way or according to or following the procedures of a religion or belief apart from the ones recognized by the State.

¹⁹ Results of monitoring of the judiciary (the Police, Prosecutors' Office and Courts) carried out by the integrated network for the monitoring of criminal trials in several regions such as Kupang, Manado, Jakarta, Medan and Palembang in the 2004-2005 period

162. When it comes to the right to personal identity as a citizen, discrimination of treatment still abounds as apparent in the refusal to provide elderly residents' identity cards (with lifelong applicability) to female senior citizens who are the political victims of the aborted movement of September 30, 1965²⁰ to seize control of the government, commonly perceived as the coup of the now outlawed Indonesian Communist Party, the continual application of SBKRI (Certificate of Proof of Indonesian Citizenship) to Indonesian citizens of foreign (Chinese) descent in spite of the fact that this policy has been abolished, the complications deliberately inflicted on Indonesians of Chinese descent when they are applying for resident's identity cards²¹.

163. As for children's birth certificates, many Indonesian children still do not have birth certificates because of the [administrative and bureaucratic] difficulties one has to deal with in order to obtain them if the child was born out of wedlock or if the child's parents are married but without a marriage certificate. Another constraint comes from the many local regulations that set additional requirements for the obtainment of birth certificates even though Law Number 23 of the Year 2002 concerning Child Protection provides for the obtainment of birth certificates free of charge (*gratis*). As for the obtainment of birth certificates for children born out of wedlock, Article 100 of the Compilation of Islamic Law provides for the application for such certificates at the local village/ ward/ neighborhood administrative unit with a letter of recommendation from an authorized government official.

164. Women who are the victims of political conspiracy (such as the one involving Zone of Military Operations (DOM) in Aceh, conflicts in Papua, "Japanese' comfort women" (Jugun Ianfu), the movement of September 30, 1965, the May 1998 riots, conflicts in Poso, Maluku, East Timor, etc.) find it difficult to obtain justice and to get back their legal rights. As a result, women in those conflict areas have been victimized twice, firstly, to the heated political conspiracy and secondly, to those who took advantage of their womanhood. Discrimination against legal justice is reflected in the ignorance or inaction on the part of the State as is apparent from the fact that any effort to disclose the truth about the cases resulting from or left behind by the conflicts mentioned above is being dragged out endlessly.

165. During the state of military emergency imposed on Aceh, there are 331 cases of abuses/ violence, 16 of which are against women according to data collected by Flower Aceh from May 2003 to March 2004. Rape, sexual harassment, abuse/ battery, and murder are types of violence frequently experienced by Acehnese women during the state of military emergency. Regrettably, there is no regulation to handle acts of violence that destroy the dignity of women such as sexual violence, sexual harassment and sexual abuse in conflict areas -- including in evacuation camps and

²⁰ Findings from those assisted by Syarikat Indonesia

²¹ Case in Community in Cina Benteng, West Jakarta , which they have to pay very expensive for making ID card.

prisons – and such acts are not infrequently committed by military as well as civil personnel.

166. After the application of Law Number 11 of the Year 2006 concerning the Government of Aceh, the existing local regulations (qanun) have started to be applied. This Act on the Government of Aceh proposes about 90 local regulations [that can be reasonably] suspected to be discriminatory against women. Therefore, it is necessary to firmly reiterate the procedures for the making of statutory regulations in accordance with Act No.10 of the Year 2004 concerning the Making of Statutory Regulations, one of which provides for the participatory principle in the making of statutory regulations.

The Role of the Non-Government Organizations

167. Having made various efforts to get equal rights before the law, a number of non-government organizations have attempted to facilitate the settlement of conflicts involving several cases of grave human rights crimes through the mechanism of “Private KKR” and by filing grievances to the Ombudsman Commission at central level as well as at local level as alternative settlement²². Another attempt has been to approach and lobby law enforcers both personally and institutionally, especially on behalf of the settlement of cases of violence against women, through government policies, institutional policies and budgetary policies.

168. To strengthen their activities, non-government organizations have expanded the network for the handling of cases or the network for policy advocacy among women’s non-government organizations and other human rights non-government organizations. Non-government organizations have also provided gender-based legal training to law enforcers and policy advocacy and accompaniment and assistance to female victims of violence.

Recommendations

169. The recommendation that should be taken by the government :

- 1 The government needs to make regulations in order to protect victims in conflict areas, including providing a guarantee of access to justice before law and the restoration of rights that have been taken away. With cases of mass violence against women and children, which still abound in conflict areas as a result of political conspiracy (escalation), remaining unresolved, ratification of CEDAW optional protocol is immediately called for as an alternative for the settlement of cases of violence against women (female adults and children) to provide justice to victims.
- 2 With regard to peace building and the involvement of women in finding solutions to conflicts, Indonesia needs to adopt UN Resolution No. 132 concerning women

²² This has been carried out by Syarikat Indonesia; support to the political victims of the September 30, 65 movement has been given by Lingkar Tutar Perempuan and Jaringan Kerja Budaya

and peace in order to provide more assurance to the participation of women in conflict areas in peace-building processes.

- 3 Involvement of non-government organizations in the process of drawing up policies derived from Act Number 13 of the Year 2006 concerning Witness and Victim Protection, such as the provision of aid, service and protection for victims and witnesses, for example, in the drafting of government regulations concerning the formation of Witness and Victim Protection Institute (LPSK) down to local level, and ensuring the existence of individuals/ personnel with gender perspective who will later on occupy a position in LPSK.
- 4 The government, using the participatory principle, needs to make regulations that ensure the implementation of court rulings on cases of violence against women that are subjected to civil proceedings, including the imposition of sanctions if the rulings are not executed.
- 5 The government needs to raise public awareness of the separation between the criminal court of general jurisdiction and the criminal court of military jurisdiction for military personnel who have committed a general crime. This will help women and children who are the victims of gender-based violence involving military perpetrators so that legal justice can be had by the victims without running into conflicts with bureaucracy and internal courts in military institutions.
- 6 It is necessary to conduct a survey on traditional regulations that are still discriminatory against women and approach needs to be made to traditional leaders/ figureheads to instill in them new understanding on gender so that gender equality and equitability in the life of the community can be slowly but surely realized.

14. Marriage and Family Law (Article 16)

170. Indonesian laws and regulations that specifically govern matters pertaining to marriage and family relationship are Law No. 1 of the Year 1974 concerning Marriage and Government Regulation No. 9 of the Year 1975 concerning the Implementation of Law No. 1 of the Year 1974. In laws and government regulations made applicable prior to the ratification by Indonesia of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through Act No. 7 of the Year 1984, there is a number of articles that govern marriage and family relationship in Indonesia that stand in opposition to article 16, subsections 1 and 2, of CEDAW.

171. Discrimination is still found in a number of articles that govern the right to step into the phase of marriage, child marriage and the setting of minimum age for marriage, the rights and responsibility of husband and wife in the course of marriage, the termination of marriage, and polygamy.

172. In addition, exclusively to the followers of the Islamic religion in Indonesia, the government also applies Presidential Instruction No. 1 of the Year 1991 concerning the Compilation of Islamic Law (KHI), which also governs matters pertaining to marriage and family relationship exclusively addressed to Muslims. With the KHI made applicable, many decisions by the Judges of Religious Courts on marriage and

family cases among Muslims have been made using the Compilation of Islamic Law as reference, and thus ignoring the National Marriage Law.

173. As far as its contents are concerned, the Compilation of Islamic Law indeed governs the same things as the ones governed under the Marriage Act, that is, on marriage and family relationship. However, the Compilation of Islamic Law is more influenced by the interpretation of Islamic teachings as it incorporates the views of Islamic system of jurisprudence serving as the legal foundation of Islamic religious, political and civil life (*Fiqh*). The Ministry of Religious Affairs in the year 2004 had made a Counter Legal Draft against the Compilation of Islamic Law which was then published by the Gender Mainstreaming Team of the Ministry of Religious Affairs. But a year later, the Minister of Religious Affairs froze the Counter Legal Draft. The government has since continued efforts to strengthen the legal status of the Compilation of Islamic Law in the legislation by incorporating it into the Draft Bill on Applied Law for Religious Courts.

174. The laws and regulations mentioned above still apply articles that do not respect and do not guarantee the realization of the equality of rights between women and men.

a. The right to step into the life's phase of marriage

175. The provision under Law No. 1 of the year 1974 concerning Marriage, subsection (2) of article 6, still imposes a restriction on the marriage between a woman and a man younger than 21 years of age in that permission from the parents of both the woman and the man is required. Even though subsection 1 of article 6 of the same Act stipulates that a marriage must be based on agreement of both sides, that is, the prospective bride and the bridegroom, the right to step into a marriage is not fully granted to those under 21 because permission from their parents is still required. This also stands in opposition to the Convention on the Right of the Child and Law Number 23 of the year 2002 concerning Child Protection that stipulates that the age limit for a child to remain under the control of the child's parents is only up to 18.

176. The right that the parents have to give permission to their children to get married opens up opportunity for the parents to force their children to get married before the age of 21 and even at the age below 18. A survey involving 240 respondents on the island of Madura finds:

“... there are several families that have married off their daughters at the age below 17. Marrying off daughters at early age is generally practiced by families that have already paired off their daughters since they are still small even since they are still in their mothers' womb, as a consequence of the vow (solemn promise) that their parents have ever made to other families who are usually their friends or their close acquaintances”.²³

²³ Rachmah Ida Sunat, **Madurese Women in the Shackles of Tradition** (Yogyakarta: Gadjah Mada University Press, 2005), page 38.

177. The number of female children married off at a very young age with the permission of their parents is found in the data collected from eight districts with the Madurese sub-culture as follows:

Table 7
The Age of Women in 8 Districts with Madurese Sub-culture Upon Marriage

| Districts | Married off at the age of or less than 16 |
|-------------|---|
| Bondowoso | 67,61 % |
| Situbondo | 62,08 % |
| Probolinggo | 58,56 % |
| Pasuruan | 44,77 % |
| Bangkalan | 29,75 % |
| Sampang | 38,65 % |
| Pamekasan | 46,37 % |
| Sumenep | 55,45 % |

Source: National Social Economic Survey (Susenas), 2000

b. Child Marriage and Minimum Age for Marriage

178. Subsection 1 of article 7 of Law No. 1 of the year 1974 concerning Marriage sets the minimum age for marriage for women, which is 16 years old, and for men, which is 19 years old. This opens up the possibility of the practice of female child marriages in Indonesia. The setting of minimum age for women to get married in Indonesia is contradictory to CEDAW, Convention the Right of the Child, and Act Number 23 of the year 2002 concerning Child Protection, given that the practice of marrying off one's daughters at the age below 18 should have been prevented and eliminated as demanded by the Conventions mentioned above and the Act on Child Protection.

179. According to the data of the Central Bureau of Statistics, the number of West Nusa Tenggara women who get married at early age, that is, at the age below 20, is quite great. The definition of what 'early age' means is relative but according to several studies on the ideal minimum age for women to get married and become pregnant from the aspect of health as well as from the psychological aspect, it is mentioned that the ideal age for women to get married is after they are older than 20. In their campaign programs, the government, which in this case is represented by the Ministry of Religious Affairs, District/ City Health Services, National Family Planning Coordinating Board (BKKBN) or other related agencies, promotes 20 as the ideal age to get married. However, this is not effective enough to resolve the problem of the practice of marrying off daughters at a very young age because Act Number 1 of the year 1974 on Marriage makes that possible.²⁴

180. The following is the data on the number (%) of the first marriage among women at a very young age that still frequently happens in several regions:

²⁴ Wini Tamtiari, **Awig-Awig, Melindungi Perempuan dari KDRT?** (Customary Regulations, Protecting Women from Domestic Violence?) (Yogyakarta: Gadjah Mada University Press, 2005), pages 73-74

Table 8
Women Who Get Married For the First Time in the 10–16 age bracket and the 17–18 age bracket in West Nusa Tenggara

| Years | The 10–16 age bracket | The 17–18 age bracket |
|-------|-----------------------|-----------------------|
| 1996 | 14,2 % | 28,1 % |
| 1997 | 14,4 % | 28,4 % |
| 1998 | 10 % | 27,1 % |
| 1999 | 8,2 % | 28,7 % |
| 2003 | 9,5 % | 27,6 % |

Source: National Social Economic Survey (Susenas), 2000

Table 9
Women Who Were Younger than 15 When They Got Married For the First Time

| Districts | % |
|----------------|------|
| West Lombok | 18,6 |
| Mataram | 10,7 |
| Central Lombok | 20,7 |
| East Lombok | 35,3 |

Source: National Social Economic Survey (Susenas), 2000

181. A survey concerning marriage practices among female children in Lombok finds the following phenomenon:

"Officially, according to records at the Local [District] Offices of the Ministry of Religious Affairs of West Nusa Tenggara, there is no woman who gets married at the age under 16 and no man who gets married at the age under 19. Said the informant (a government officer with the Religious Affairs Office (KUA)), if the applicants do not fulfill the marriage requirements, including the requirement of minimum age for admission to marriage, the Marriage Registrar (PPN) will not register the marriage. However, the fact found shows many children under 15 are married. There are two things that may cause such underage marriages go unregistered at or by the Religious Affairs Office. Firstly, the marriage is conducted underhand, that is, not registered, and secondly, falsification of identity has occurred in order for the marriage to meet the requirement to be registered at the Religious Affairs Office".²⁵

182. Practices of marrying off female children at early age are also found in the survey conducted in five areas of the Jakarta of low-class women who work to earn a living (249 respondents). Of them, 71,49 % are married (178 people), and it turns out that 8,4 % of the ones who are married get married for the first time in the 12-15 age bracket and 42,7 % get married in their teenage years (16-19 years)²⁶. The data also shows differences of the age at which they first get married among those coming from

²⁵ Idem, pages 74-75.

²⁶ Henny Wiludjeng, Attashendartini Habsjah & Dhevy Setya Wibawa, **Impacts of the Formalization of Gender Roles on Low-Class Women in Jakarta** (Jakarta: Center of Community Development Studies of the Atmajaya Catholic University of Jakarta in cooperation with LBH APIK Jakarta, 2005), page 21.

different regions of origin. It is found that those who get married the most in the 12–19 age bracket come from West Java (63%), followed by those who come from the Special Capital Region of Jakarta (56%), and East Java (50%) while those who get married for the first time at the age of adulthood (over 20 years old) are found to come from Central Java (62%) and from Sumatera and Kalimantan (70%)²⁷.

c. The rights and responsibility of wife and husband in marriage and divorce

183. Regulations concerning the right and responsibility of husband and wife in marriage in Indonesia are still unbalanced and discriminatory against women. The arrangement is ascribable to Law No. 1 of the year 1974 concerning Marriage. Subsection 3 of article 31 of the Act distinguishes the role of husband from the one of wife in marriage in that husband is the head of the family and wife is the housewife. Accompanying such division of role is the wife's obligation to do her best to take care of household affairs and the husband's obligation to protect his wife and provide every necessity of life for the household in accordance with his ability (subsection 2 of article 34).

184. Division of role between a woman and man during their marriage restricts the freedom to have equal rights and responsibility between husband and wife in marriage. For example, as a legal consequence and result of the formalization of such roles, if a wife does not take care of household affairs at home and work outside home to finance all the needs of life of her household, she may be accused of not carrying out her obligations as a good housewife as required under Act Number 1 of the year 1974. As a result of the implementation of such a law, the relationship between husband and wife becomes unbalanced.

185. The formalization of the roles of women and men in marriage and the unbalanced relationship between husband and wife show not only gender inequity made legitimate by law but also open up possibility of domination and violence against women in marriage relationship. This is reflected in the survey conducted by the LSPPA team in the year 1999:

“..... amongst the Javanese people in Limbangan, Central Java, who are Muslims, to a child has been introduced, since early age, norms of division of roles in household. Women as housewives have the obligation to serve the need of consumption of the family and to take care of children. Women are considered not allowed to become the head of the household, particularly to be in charge of the function of regulator and 'judge.' Men have the obligation to be the head of the family. As long as a man still has a wife, he is not allowed to be too involved in the day-to-day chores or household duties that may result in the reduction of his dignity”²⁸.

186. Husband's cruelty against wife in marriage is still difficult to disclose and is far from the reach of legal protection because many marriages are still not registered at the registry office or the Religious Affairs Office. Law No. 1 of the year 1974

²⁷ Idem, page 24.

²⁸ Idem, page 2.

concerning Marriage only protects registered marriages. Thus, a woman whose marriage is unregistered is not entitled to have her rights in such a marriage legally protected. The same also holds true for the children who were born in such a marriage. The marriage Law is still contradictory to Act No. 23 of the year 2004 concerning the Elimination of Domestic Violence that aims at providing protection to women from violence in marriage.

187. In Indonesia, there is no National Statistics that records data [or statistics] on Violence against Women including Domestic Violence. Reports from Women's Crisis Center (WCC), police offices, medical service institutions and other institutions (such as courts, psychological service institutions, etc) show that cases of violence against women are on the rise. Data from the National Commission of Anti-Violence against Women show that 82% of 15,515 women who reported violence are married and the perpetrators are their own husbands (2006)²⁹. Statistical data from a Women Crisis Center (WCC) in Jakarta (Mitra Perempuan's WCC) show that it handles about 455 cases per year and that 9 out of 10 women who have requested help from WCC have been subjected to more than just one type of violence (physical, psychical, sexual, or economic pressure and abandonment)³⁰.

188. Even though Law Number 23 of the year 2004 has already declared domestic violence a crime, has prohibited it and rules that those committing it will be prosecuted and penalized, the Compilation of Islamic Law still allows domestic violence against wives, as provided for under article 48 of the Compilation concerning *Nusyuz* (wife's disobedience towards husband). This article provides authority to husband to commit violence against wife.

189. Another form of discrimination against women provided for under the Compilation of Islamic Law refers to the obligation imposed on a divorced wife to wait for three months (known as *masa iddah*, which is generally a period of 100 days) during which she is not allowed to marry another man. Such waiting obligation is only imposed on women and never on men.

190. The application of customary traditions in a community that makes it possible for violence against wife in marriage to occur takes place in several regions in Indonesia. In East Nusa Tenggara, for instance, there is a Belis tradition (the giving of a dowry in the form of a good(an article by a would-be husband to a would-be wife). The giving of the dowry is intended as a token of appreciation to the woman. In practice, however, this tradition can be wrongly interpreted and be used as a tool to legitimize violence that the husband or his family inflicts on or commits against the wife that he/ his family has "bought" with the dowry and is therefore entitled to have control over her.

²⁹ National Commission of Anti-Violence against Women, **At Home, in Evacuation and in a Court of Law: Violence against Women from Region to Region, Records of Violence against Women of the year 2006** (Jakarta: Komnas Perempuan), page 10.

³⁰ Mitra Perempuan's *Women's Crisis Center, Statistics on Domestic Violence, Data Sheet of the year 2005*

191. Many marriages which are conducted according to a tradition or a religion are considered valid by local communities even though they are not registered officially are marriages that are mostly detrimental to women and children because marriages that are protected by law are only those that have been registered at a civil registry office or a religious affairs office. As a result, there are many instances in which a woman whose marriage is not registered officially is abandoned together with her children when her husband deserts them. Another example concerns contract marriages, which are performed according to the Islamic religion (*nikah mut'ah/ trial marriages*). Such marriages, which are not registered at a civil registry office, abound in several regions in Indonesia. A community organization in Lombok has noted that almost 70% of couples in Lombok have not officially registered their marriages because they cannot afford to pay for the cost.

d. Discrimination in the form of polygamy

192. Religions and traditions play a very significant role in the practice and tradition of polygamy in Indonesia. The practice of polygamy has been ongoing long before Islam entered Indonesia. Anthropological researches show that the practice of polygamy on the island of Java has already existed before the advent of Islam on the island where Balinese communities whose religion was Balinese Hinduism had already practiced polygamy. The Balinese Hinduism initially comes from Java. It entered Bali during the era of the Kingdom of Majapahit.³¹ Polygamy on the island of Bali is also legitimized by Hinduism.³² Then, the tradition and practice of polygamy were reinforced through the introduction of Islam and its spread in early 13th century. Islam allows a Muslim husband to have more than one wife even though there is a limit of four wives for which the interpretation of the Koran's An-Nisa (4) verse 3 is used as a basis. This tradition and practice of polygamy have since been there and have been going on for centuries in society because they get strong protection from Islamic teachings, and are then legitimized by the State through an Act that has provided for it since 1974 until now.

193. Subsection 2 of article 4 of Marriage Law governs the reasons for polygamy in that a husband may have more than one wife by using one of three reasons related to the condition of his wife, that is:

1. Wife is unable to carry out her obligations as a wife;
2. Wife becomes physically disabled or catches an incurable disease;
3. Wife is unable to give birth to a child as a descendant.

The husband's request for polygamy can be submitted to the court with the approval of his wife and with a guarantee that he will fairly treat his wives and children.

194. Such arrangement does not provide protection to women as wives with the physical conditions mentioned above from discrimination. Such conditions can, quite the contrary, be used as reasons to legitimize discriminatory treatments towards

³¹ James A. Boon, **The Anthropological Romance of Bali** 1597-1972 (Cambridge: Cambridge University Press 1977), pages 1-7.

³² R. Van Eck, "The fate of women in Bali, in Marai Ulfah Subadio and T.O. Ihromi (editor), **Role and Position of Indonesian Women** (Yogyakarta: Gadjah Mada University Press, 1983), page 56.

women, which lessen the enjoyment of the fundamental rights of women in marriage relationship.

195. According to legislation, a request or application for polygamy must be made to a Religious Court, which would then decide whether or not to grant the request. However, in most cases, husbands practice polygamy without the ruling of the Religious Court so that the number of cases examined in court sessions is only a few. There has even been a legal charge brought by a husband to the Constitutional Court (2007)³³. He rejected the provision of Act No. 1/1974 that requires a husband to first get permission from a Religious Court before he can practice polygamy. He reasoned that the Religious Court had no authority to govern this issue because in his opinion, Islamic law does not govern it that way.

Table 8
Number of cases tried at the Religious Court of Selong in East Lombok

| Year | Permission for polygamy | Declaration of divorce | Suit for divorce |
|-----------------|-------------------------|------------------------|------------------|
| 1998 | 6 | 57 | 572 |
| 1999 | 2 | 68 | 496 |
| 2000 | 18 | 77 | 451 |
| 2001 | 11 | 68 | 487 |
| 2002 | 9 | 44 | 453 |
| 2003 | 8 | 35 | 391 |
| 2004 (5 months) | 5 | 13 | 184 |

Source: The Office of the Religious Court of Selong, East Lombok

The above-mentioned table shows the number of applications for getting the permission to practice polygamy filed/ made by husbands in a Religious Court in East Lombok. In addition, many polygamy cases are also found in the suit for divorce filed by wives for the reason that they are unwilling to give a go-ahead to their husband to practice polygamy or because their husband has already practiced polygamy without their approval or their knowledge. And because the wife does not want to be forced to accept her husband's wish to take another wife, the option is to sue her husband for divorce.

196. In addition to Marriage Act, the government has also applied a regulation that governs permits for polygamous marriages and divorce for Civil Servants, that is, Government Regulation Number 10 of the year 1983 and Government Regulation Number 45 of the year 1990 concerning marriage and divorce permits for civil servants. These two government regulations make it possible for government officials who are the superiors of civil servants to make an intervention by giving their support (permission) to male civil servants who want to take another wife and also to make another intervention by not giving permission to female civil servants who are willing to be taken wife by a polygamous husband to marry the man.

³³ Media Indonesia daily, Jakarta: May 11,2007.

197. Such intervention from the government is clearly very discriminatory against women and does not provide protection to female civil servants from discrimination in the form of polygamy.

198. Article 4 of Government Regulation No. 10 of the year 1983 stipulates that:

1. A male civil servant who wishes to have more than one wife is required to first obtain permission from government official [his boss].
2. A female civil servant is not allowed to become a second/ third/ fourth wife.
3. The request for permission as referred to under subsection (1) must be made in writing.
4. In the letter of request as referred to under subsection (3), complete reasons must be stated as to why the request for permission to have more than one wife is made.

Efforts to Respond to Critical Issues

199. Efforts that the [Central] Government makes nationally and local governments make are very varied and have not responded to critical issues as a whole. Meanwhile, efforts that civil society including non-government organizations and academicians make have not been fully supported by the government. Several notes below refer to efforts that the government and civil society have made:

1. Legal protection measures for women proposed by communities and approved by the government and the parliament have been issued in the form of Act No. 23 of the year 2004 concerning Elimination of Domestic Violence and Government Regulation No. 4 of the year 2006 concerning Organization and Collaboration for the Recovery of Domestic Violence Victims. This Act and Regulation belong to a significant legal protection framework for the elimination of violence against women, in particular, domestic violence, and to support the efforts of women's organizations and the government in providing services, accompaniment/ assistance, rehabilitation of victims and crisis centers for women (Women's Crisis Centers).
2. Efforts to amend the Marriage Act and a number of related government regulations have become a plan of action that the government carries out or that is proposed by community. However, the drafts of the amendment to the Act and government regulations have not been included into the list of priority for the amendment to national legislation, which is referred to as the National Legislation Priority. On the other hand, civil society including non-government organizations and academicians have pressurized the government and the House of Representatives to amend the Marriage Act and associated government regulations.
3. The government through the Ministry of Religious Affairs in the year 2004 has developed a Counter Legal Draft against the Compilation of Islamic Law (published by the Gender Mainstreaming Team) which is full of criticisms and proposals to revise the Compilation of Islamic Law. But a year later, the Minister for Religious Affairs froze the Counter Legal Draft. What's more, the government attempted to strengthen the legal status of the Compilation of Islamic Law by incorporating it into the Draft Bill on Applied Law for Religious

Courts. This measure does not respond to critical issues at all and becomes a regress in efforts to eliminate discrimination against women. On the other hand, civil society and non-government organizations support the Counter Legal Draft against the Compilation of Islamic Law and urge the amendment of Compilation of Islamic Law articles that are still fraught with issues that are critical and discriminatory against women.

4. There is a number of government regulations at local level that legitimize practices of discrimination against women in marriage including the government regulation on polygamy issued by the Local Government in Lombok, which, in practice, enables men to practice polygamy by paying a sum of money.
5. Non-government organizations, research institutions and universities have conducted a lot of surveys/ researches and collection of data on the issue of discrimination and violence against women. Many of the results of such surveys are used as references for advocating changes in policies, laws and regulations as proposed by non-government organizations and the House of Representatives.

Recommendations

200. There are some recommendation that should be taken by the government :

1. To immediately accelerate the amendment to the Marriage Act, in particular to articles that govern child marriages and the age limit for marriage, the right to get married, the formalization of the role and responsibility of husband and wife in marriage and divorce, the promotion of the principle of monogamy and the refusal of polygamy.
2. To immediately accelerate changes and revoke government regulations related to marriages that are still discriminatory against women, including Government Regulation Number 9 of the year 1975, Government Regulation Number 10 of the year 1983 in conjunction with Government Regulation No. 45 of the year 1990 and the Compilation of Islamic Law including the Draft Bill on Applied Law for Religious Courts.
3. The government in cooperation with community should carry out monitoring and prevention of practices of marrying off female children under the guise of the application of customary traditions, religious practices/ conventions or because such marriages are arranged/ forced by parents and due to the pressure of local [cultural, religious] environment.

Appendix

PROFILE

Members of CEDAW Working Group Initiative

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Details about organization members of CEDAW Working Group Initiative :

1. Aliansi Pelangi Antar Bangsa (APAB)

Aliansi Pelangi Antar Bangsa is coalition of individuals and organizations who are concerned about the difficulties and discrimination faced by people in mixed Indonesian-foreign marriages. Since September 2002, APAB has campaigned for changes in the laws that have an adverse impact on children, wives and husbands in mixed marriage families. For mixed marriage families, these laws threaten the rights that are supposedly guaranteed by Indonesia's own laws on child protection and by its ratification of international conventions on human rights and discrimination. APAB advocates to parliament and the government and raises awareness among the public about the need to change these laws, many of which were made many years ago in response to certain political or social conditions.

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2. Kalyanamitra (Women's Communication and Information Center)

Kalyanamitra was founded in Jakarta on 28 March 1985. It started as an independent women organization that initially brought up issues on women workers, by processing information for discussion materials among grass root women. As a non-government organization, Kalyanamitra working in the areas of community building, documentation and dissemination of critical information (publication), woman-specific library, education and awareness building of women issues, campaign, feminism advocacy to the promotion of gender-sensitive policies. Together with other institutions or influences, Kalyanamitra takes part in promoting women rights, developing and strengthening the network for promoting a social movement that liberates women from all kinds of violence, poverty, and underdevelopment toward democratic, and socially impartial society.

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3. Indonesian Women's Coalition for Justice and Democracy (Koalisi Perempuan Indonesia/ KPI)

This organization was established in Yogyakarta, on December 17, 1998. The Establishment this organization was declared by women activist groups in Jakarta with support from 75 women activists from another areas. This action was a part of reform movement in demonstration activities during Soeharto era. Koalisi Perempuan Indonesia is women organization which has high commitment and struggle for justice and democracy with their principles and values of honesty, openness, equity, equality, sisterhood, freedom, social democracy, pluralism, etc.

Koalisi Perempuan Indonesia has 66 branch in several areas in Indonesia, which consist of 400 “Balai Perempuan” (Women Grassroot Communities) at villages level. The organization has 4 main programs : political education for women, organization development, information and documentation, and advocacy for public policy. There are 18 sectors/ group of issues in KPI, such as women farmers, widows, LBT, fisherwomen, migrant workers, labor, teenager/ student, sexual workers, etc.

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4. Legal Aids of Indonesian Women's Association for Justice (LBH APIK)

LBH-APIK was formed by APIK, (Womens Association for Justice) which was established since 2001. LBH-APIK Jakarta is non government organization that aims to create a society that is just, prosperous and democratic by promoting equality between men and women in all aspects of life, including politics, economy, society and culture. LBH-APIK works to promote the development of a legal system that can take the perspective of women; that is, a just legal system that considers the patterns of power relations in society, especially male-female relations. LBH-APIK Jakarta provides legal protection for women in and out of court; carries out research and policy studies; handles legal problems, as well as distributing various types of information about the law and gender through various forms of media. LBH-APIK Jakarta also facilitates learning in order to encourage a change in the attitudes, culture and way of thinking among society and government agencies, to produce a legal system and government policies that are fair and reflect a gender perspective.

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5. Mitra Perempuan (Women's Crisis Centre)

This organization was established on June 28, 1995 in Jakarta. Mitra Perempuan concerns in giving hotline services, counselling, and assistance (medical assistance, law, and shelter) for women and children victim of violence, especially for domestic violence cases. Mitra Perempuan always has relationship/ networking for charity and humanity, to eliminate violence against women.

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6. Rahima (Center for Training and Information on Islam and Women's Rights)

Rahima, the Centre for Education and Information on Islam and Women's Rights Issues is a non-government organization that focuses on the empowerment of women with an Islamic perspective. Rahima has developed in response to the need for information regarding women's rights issues within Islam. In the beginning Rahima's focus was on the training and dissemination of information (concerning women rights within Islam) to local community Muslim groups and Pesantrens (Islamic boarding schools) but, with increasing interest in gender issues in Indonesia in recent times, Rahima has now extended its network to women's NGOs, Islamic women organizations and university groups e.t.c.

Rahima also concern in motivating and encouraging Islamic discourses, in order to strengthen the position of women within Islamic society. Through strengthening the position of women (based on equality and justice) and raising gender awareness, Rahima hopes to create a public democracy within Indonesian society.

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7. Rumpun Gema Perempuan

This organization has concern in advocacy for domestic workers rights. Rumpun Gema Perempuan goal's are giving opportunity to domestic workers to get education based on their potential and interest, capacity building for strengthening their emotional , intellectual, and spiritual, facilitating domestic workers to develop togetherness among them, and developing participation of society in empowering the domestic workers. Rumpun Gema Perempuan has 7 "*Griya Rumpun*" (domestic workers activity center) in their communities in Jakarta, Bogor, Depok, Tangerang, and Bekasi. The Griya Rumpun managed by some field workers, domestic workers, and also involved society participation in Rumpun Gema Perempuan community's.

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8. Solidaritas Perempuan (Women's Solidarity for Human Rights)

Solidaritas Perempuan (SP) was established in 10 December 1990. The first legal status of SP was Foundation, but since 1993, they change the legal status become Union with individual. Solidaritas Perempuan has their vision to develop social and democratic condition, based on ecology awareness, pluralism, and anti-violence which stand in equal relation system men and women, in which they share equally access and control for natural resources, social, cultural, economy, and politic. Solidaritas Perempuan has 13 communities in some areas, such as in Aceh, Deli Serdang (North Sumatera), Padang (West Sumatera), Palembang, Lampung, Yogyakarta (central of Java), Mataram (West Nusa Tenggara), Palu (Central of Sulawesi), Bojonegoro (East Java), Kendari (South East Sulawesi), etc. Solidaritas Perempuan has 5 main programs ; Research, Training, Workshop, and Seminar; Campaign; Law Assistance; Strengthening of Organization; and Policy Advocacy.

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9. Yayasan Kesehatan Perempuan (Women Health Foundation)

Women's Health Foundation was established in Jakarta on June 19, 2001, to respond many controversial issues related to women's reproductive health. Beside, WHF focusing in activities to empower women in order to exercise their reproductive health and rights without being violated, discriminated and feared. Their mission are: 1) to support efforts to ensure legal protection for women's sexual and reproductive health. 2) to urge policy development and strategic implementation which ensure access to quality and affordable reproductive health care without any discrimination. 3) to promote information and to disseminate publications that raise public awareness/understanding on reproductive rights and equal status of women and men.

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10. Yayasan Jurnal Perempuan (Women Journal Foundation)

Yayasan Jurnal Perempuan (Women Journal Foundation) is an women organization which established since 1995 in Jakarta. The organization's mission is raising awareness about women rights through publication journal and books, and also research/ analyse and disseminate information of gender equality. They are aware that information can empower women and men towards society with gender justice. As organization which taking position as media, they have 5 main programs; women journal, women journal radio, publication of books and feminism analyse, women journal video, and women journal on line. All of programs raise and campaign about the thematic of women issues.

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