

INDONESIA

Oversight and monitoring of gender issues in justice reform

The independent Indonesian National Commission on Violence Against Women (*Komnas Perempuan*) was established in response to demands by women leaders and activists from a broad political spectrum for state accountability on the mass rapes that occurred during the 1998 riots.¹ The demand was made amidst national controversy challenging the truth of a citizen's report on the mass rapes, on the basis of the fact that none of the reported 152 rape victims – all of whom came from a racial minority targeted during the riots—came forward to speak publicly on the attacks.²

Komnas Perempuan was established by a Presidential Decree in 1998³ after lengthy negotiations between women leaders and the President's office, particularly with regard to its independent status, the procedure for selecting commissioners, and the naming of this commission.⁴ While violence against women was the entry point, the mandate of this commission was then defined more broadly in terms of protecting and promoting women's human rights.⁵ Since its establishment, *Komnas Perempuan* has in fact given priority to addressing the violence and human rights violations that women experience during armed conflict, as well as the issues of women victims of domestic violence; women servants working in Indonesian households, or overseas as migrant workers; women victims of sexual assaults whose cases are being processed in courts; women living in conflict areas; women who fulfil head-of-household roles; and village dwelling women living in poverty.⁶

The mandate of the *Komnas Perempuan* covers two fundamental objectives:⁷

1. To develop an environment conducive to the elimination of all forms of violence against women and the enforcement of women's human rights in Indonesia
2. To strengthen efforts aimed at preventing and addressing violence against women and to protect women's human rights.

To these ends, the commission is tasked with:⁸

- Providing information and recommendations to the government, legislative and judicial bodies, as well as civil society organisations facilitating and advocating for the formulation and ratification of a legal and policy framework that is conducive to preventing and addressing all forms of violence against Indonesian women, and protecting, enforcing and promoting women's human rights.
- Promoting public awareness on all forms of violence against Indonesian women and on efforts to prevent, address and eliminate violence against women.
- Undertaking monitoring activities, including fact finding and documenting all forms of violence against women and violations of women's human rights and then publicising the results of such activities so as to encourage necessary steps towards ensuring accountability for and addressing of issues uncovered in the monitoring process.

To fulfill its monitoring mandate, *Komnas Perempuan* compiles yearly data on cases of violence against women handled by government (e.g., police, attorney general, courts, hospitals) and NGOs around the country. It gauges annual trends in violence against women, making estimates on the number of cases per year. Its annual reports are then made public, allowing government agencies, civil society and the public in general to keep

1 C.A. Coppel, *Violent Conflicts in Indonesia: Analysis, Representation, Resolution* (London: Routledge Contemporary Southeast Asia Series, 2006).

2 See: Citizens for Justice and Peace, *Concerned Citizens Tribunal—Gujarat 2002: An Inquiry into the Carnage in Gujarat* (Gujarat: Citizens for Justice and Peace, 2002), <http://www.sabrang.com/tribunal/vol2/womenvio.html> (accessed May 28, 2009).

3 Later superseded by Presidential Decree No. 65/2005.

4 The original proposal put forward by the President was for the commission to be under the Ministry of Women's Affairs and named the "National Commission for the Protection of Women." Originally, the President was also to be responsible for hand-picking several individuals to be commissioners.

5 The Presidential Decree establishing this commission refers, in fact, to two relevant international conventions: the Declaration of the Elimination of Violence Against Women (CEDAW), and the Convention Against Torture (CAT).

6 See: Humantrafficking.org web-site at: <http://www.humantrafficking.org/organizations/114> (accessed May 28, 2009).

7 See: Presidential Decree No. 65/2005.

8 See: UNFPA, *Terms of Reference: Needs Assessment of Komnas Perempuan* (New York: UNFPA), 12, <http://indonesia.unfpa.org/TOR-%20FPA-CONS-KP%20Assessment.pdf> (accessed May 28, 2009).

INDONESIA

Oversight and monitoring of gender issues in justice reform

track of progress and setbacks, year by year.⁹ Furthermore, it annually compiles data on violence against women cases being handled by women's crisis centers, police, the general prosecutors' office, and courts from around the country. The data is processed to provide a comprehensive national picture, and analyzed to identify broad trends and recommendations for action. The report is launched to the media, distributed to partner organisations in government and civil society, and uploaded to Komnas Perempuan's website.¹⁰ This partnership also includes policy dialogues with decision-makers, the development of curricula aimed at developing a gender-sensitive criminal justice system, as well as moot court competitions on violence against women in law schools. The Commission is also facilitating the growth, networking, and capacity building of women's groups, which provide services in counseling, legal services, and policy advocacy.¹¹

While *Komnas Perempuan* receives complaints from individual victims of violence, it only carries out direct monitoring on cases which are considered systematic or state violence.¹² Fact finding is started only under a specific request from the victim community, so as to prevent unilateral intervention by a national institution. For direct monitoring, *Komnas Perempuan* sends its representatives—Commissioners as well as trained staff members—to the location in which systematic violence against women or state violence has occurred. Cases of systematic violence which *Komnas Perempuan* has addressed include those in armed conflict situations, as part of trafficking practices, and those connected to structural poverty and abusive social-economic policies. The commission also carries out monitoring of new laws and regulations on women's rights. For example, it participated, together with women's organisations, in the active campaigning for a Domestic Violence Law, which was finally ratified in September 2004.¹³

Komnas Perempuan reports its work annually to the general public, through a public accountability forum gathering government officials, NGO activists, media, and other concerned citizens. Moreover, in 2005, the commission developed a new monitoring mechanism, which follows the model set by that of UN Special Rapporteurs within the Human Rights Council. The first of *Komnas Perempuan*'s Special Rapporteurs was identified for Aceh, specifically in response to the complex vulnerabilities deriving from more than ten years of armed conflict.

While its mandate designates it as a national women's human rights institution, *Komnas Perempuan* does not have any formal investigative powers, like the Indonesian National Human Rights Commission, nor an authority comparable to a civil court. Its role is mainly concerned with standard setting and policy change. In doing so, however, it still raises the gendered dimension of critical issues, and functions as a common ground for civil society, government, and law enforcement agencies to formulate together a new vision for the nation's future.

9 Harsano, *Indonesia's National Machinery for Gender Justice: Komnas Perempuan and its Monitoring and Oversight Role*, December 2005. <http://www.ubphunu-ncfaw.gov.vn/print.asp?newsid=1450&catid=220&lang=e> (accessed May 28, 2009).

10 Idem.

11 See: www.asiafoundation.org/pdf/indo_wpp.pdf.

12 Individual domestic violence cases instead, are referred to community-based centers, which directly provide services to the victims.

13 Law No. 23/2004 on the Elimination of Domestic Violence. See: National Commission on Violence Against Women (Komnas Perempuan), *Indonesia's Compliance with the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Issues for Discussion with the Committee Against Torture*, Jakarta, April 2008, http://www2.ohchr.org/english/bodies/cat/docs/ngos/Komnasperempuan_Indonesia40th.doc (accessed May 28, 2009).