

Identity Card: Transwomen's Long Wait for Access to Justice and Equality

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Abstract

The Population Administration Law (UU Adminduk) regulates that the Identity Card (Kartu Tanda Penduduk/KTP) is the states' obligation facilitated by the Government and carried out by citizens. KTP is a tool to ensure that citizens are registered and their rights on civil, political, and social-economic are guaranteed. The absence of KTP causes multiple layers of the vulnerability of stigmatized and discriminated groups, namely transwomen. They are marginalized from access to justice and basic rights, before and in times of the COVID-19 pandemic. Various stigma, violence, and discrimination are experienced by transwomen who do not have access to KTP, which unfortunately is not anticipated by the Adminduk Law. This paper analyzes the implementation of the Adminduk Law related to the KTP mechanism for transwomen, particularly in times of the pandemic. Using the women's human rights framework, this paper shows substantive problems that potentially threaten access to justice and equality for transwomen.

Keywords: access to justice, women human rights framework, transwomen.

Introduction

In the past three months, several media outlets have reported on improved access to the identity card (KTP) service for trans women. Online media such as *national tempo.co* (07/13/2021), *republika.id* (08/25/21), *kabar banten.com* (08/25/21), and *yogya.suara.com* (01/09/21), as well as offline media, *Warta Kota* (08/20/21), have published stories about trans women gaining access to KTP services. The media also reported that some trans women have successfully registered their data with the Department of Population and Civil Administration (Disdukcapil), after years of not being able to register for a KTP. The registering of electronic identity cards (e-KTP) for trans women was mandated by the Directorate General of Demographics and Civil Records of the Ministry of Home Affairs to all implementing agencies in Indonesia.

Ownership of KTP is a widespread issue in Indonesia. However, this issue is of greater concern when it relates to trans women, who are also experiencing stigma and discrimination. Under Law No. 23 of 2006 on Population Administration, amended by Law No. 24 of 2013, access to KTP was granted for marginal groups such as trans women during the pandemic¹ because of pressure from many parties, non-government organizations (NGOs), and trans women. A number of protests arose after trans

women had difficulty obtaining social assistance during the pandemic because they didn't have a KTP.

Although trans women are not accommodated for in the gender column of KTP, the e-KTP service is a sign of progress in fulfilling trans women's civil rights as citizens. Another important aspect of the existence of a KTP for trans women is the State's recognition of trans women, who are not even recognized in the UU Adminduk. The existence of a KTP for trans women represents a successful initiative to achieve justice for this marginalized group.

As well as the KTP issue, trans women face multiple difficulties as a result of social, economic, political, and cultural injustices. The absence of a KTP makes them vulnerable to these injustices because of their uncertain citizenship as Indonesians. A further implication of the absence of administrative recognition is that there are no regulations that regulate services for trans women with special needs. Thus, they cannot access the services they need. In the Indonesian context, trans women are systematically excluded from population administration (UU Adminduk) access, because they still face difficulty in accessing a KTP. Therefore, trans women are a vulnerable group.

The Directorate General of Demographics and Civil Records of the Ministry of Home Affairs has instigated

an e-KTP registration service for trans women. But, is this small step big enough and substantive enough? This is an important question to answer to ensure that services to marginalized groups are not used merely as a tool to achieve UU Adminduk targets in the National Medium-Term Plan (RPJMN) 2020–2024, as regulated in Presidential Regulation Number 62 of 2019 on the National Strategy for the Acceleration of Civil Registration for the Development of Vital Statistics (Stranas APKSH).

This paper aims to answer the above question by using the framework of women's human rights to assess 3 (three) CEDAWⁱⁱ principles; (1) non-discrimination, (2) substantive equality, and (3) State obligation. The principles of non-discrimination and substantive equality are required for the presence of justice, which is observed through the fulfillment of State obligations; that is, respect, protection, and fulfillment of human rights. These three obligations are mandated in Article 28l paragraph 4 of the Indonesian Constitution's second amendment, which explicitly states that "the protection, promotion, enforcement, and fulfillment of human rights is the responsibility of the State, especially the Government."

The method used in this research is a policy study based on news reports and in-depth interviews with purposely selected participants. All data and experiences of trans women in accessing a KTP are the basis of gender and human rights analysis. Even though all transgender groups have faced problems with e-KTP services, this paper will focus on the experiences of waria/trans womenⁱⁱⁱ because many trans women registered for KTP services as soon as the Government opened access to them.

The Situation for Trans Women Without KTP: Before and During the Covid-19 Pandemic

Trans women represent one of the groups in Indonesia with sexual and gender diversity. The Ministry of Health recorded the number of waria/trans women^{iv} in Indonesian in 2020 at 34,695. This data was compiled from the number of trans women recorded by an HIV prevention and testing program. Trans women were recorded to be concentrated in regencies/cities in Java and big cities in Sumatra, Kalimantan, and Sulawesi (Ministry of Health 2020, pp. 33–34).

But in reality, trans women come from everywhere; with a variety of professions and expertise, as well as education and economic levels. According to some studies, the majority of trans women come from the

lower economic classes with low education levels. Consequently, they lack access to and opportunities for better jobs and careers. Many trans women work at beauty salons, in the entertainment industry, or serve as sex workers and street performers. These informal jobs are underpaid—below the Regional Minimum Wage (UMR)—with long working hours, and without legal and social protection (Sen & Bolsoy 2017; Badgett 2019). Another factor that worsens their vulnerability is social stigma and discrimination. Examples of the stigma faced by trans women are the 1997 Indonesian Ulema Council Fatwa that prohibits LGBT^v, and Fatwa Number 03/Munas-VIII/MUI/2010 on gender change (from male to female)^{vi}. These stigmas perpetuate systematic discrimination against LGBT groups, including trans women, which peaked in 2015 or early 2016. Human Rights Watch (2016) reported a series of public anti-LGBT statements made by Government officials, militant Islamists, and mainstream religious organizations. This hate speech fueled the proposal of a bill that posed serious long-term threats to the rights and safety of LGBT people in Indonesia.

Stigma and discrimination against LGBT people, especially trans women, creates obstacles for them to access KTP and other social security measures. A Jakarta study on trans women/transgender groups found that the fulfillment of the right to citizenship documents was still low within these groups; birth certificate (54%), family card (63%), and identity card (71%) (Praptoharjo et al. 2017). A Jaringan Gaya Warna Lentera Indonesia (GWL Ina) survey from 2017 in Bandar Lampung, Jakarta, Bandung and Manado, showed that 34.1% of the 989 trans women/respondents did not have a KTP. A survey by the AIDS Research Center Atma Jaya Catholic University of Indonesia on Transgender Quality of Life in Jakarta (2015) found that 29% of the 100 trans women/respondents interviewed did not have a KTP (Abdi 2021). This lack of ownership of citizenship documents creates obstacles in continuing education to a higher level. As a result, the majority of trans women have only graduated from junior high or high school.

The issue of not having a KTP can lead to various consequences. Even before the Covid-19 pandemic, trans women who did not have a KTP faced many problems, particularly during police crackdowns on order and security (ILO 2020, p. 7). The Covid-19 pandemic has created a range of new vulnerabilities for trans women. Health protocols and social restrictions that were enacted during the pandemic led to an increase in consumption and health costs. However, at the same time, the economy of trans women decreased. During the pandemic, the

informal work sector was one of the worst affected and, consequently, the trans women who worked in this sector become one of the most impacted groups.

Sanggar Swara's survey on the impact of Covid-19 on trans women in Jakarta, Banten, and West Java in March 2020 showed that about 640 respondents depended on their income as sex workers and/or street performers. Many of them lost their source of income because of the implementation of physical distancing regulations and, thus, were unable to fulfill their basic needs (Jaringan Transgender Indonesia 2020, p. 4).

Trans women's vulnerability is increased by their loss of access to basic necessities, housing, and jobs. A survey on the impact of Covid-19 on 42 LBQ (Lesbian, Bisexual, Queer) respondents in 12 provinces showed that 37.8% of LBQ and trans women did not have adequate access to food, 35.6% of them could not afford to pay rent, 20% could not pay for electricity, and 6.7% could not continue to run their businesses.

A report by Komnas Perempuan (the National Commission on Violence Against Women) on the impact of Covid-19 policies on women highlighted that trans women faced various barriers to accessing social security programs because they did not have an identity card as the relevant identity category was not yet available for KTP (2020, p. 32). This situation represents an obstacle to recognizing the rights of trans women as citizens to access social security programs during the pandemic.

Komnas Perempuan's findings are supported by the experiences of trans women. Trans women tend to be overlooked by the Government in the distribution of social assistance such as food assistance and cash transfer. Also, Forum Waria Indonesia recorded that about 50–60% of elderly trans women did not have a KTP—which is a requirement for receiving Government social assistance (Amindoni 2020). Furthermore, trans women also face difficulties in earning an income, especially those who work as street performers. Thus, trans women have to independently raise their own aid to mitigate the impact of the pandemic.

There are several reasons why trans women do not have a KTP. Among these are those who decided to leave their homes or were expelled from families who rejected them at a young age. The consequence of such an expulsion is that their names are crossed off their family cards, which then makes it difficult to apply for a KTP. Or, if they leave home, they are reluctant to return to apply for a KTP because of the stigma or discrimination from their families. Mental wounds and trauma are issues

that are difficult to resolve immediately, and they affect trans women's ability to access services. Further, a lack of knowledge and information about the procedures for applying for a KTP is also an obstacle for trans women in applying for a KTP.

The above findings confirm the data recorded by Susenas (2018) which showed that there were still vulnerable groups in Indonesia that faced obstacles in accessing administration services. The same conclusion was drawn by Rahmi et al. 2020 in the PUSKAPA report entitled Bridging Inclusion: Understanding Vulnerability in Indonesia's CRVS System. This survey showed that there was a number of vulnerable groups that were not accommodated for in the UU Adminduk.^{vii}

Justice Initiatives for Trans Women from Civil Society

In response to the challenges faced by trans women, especially during the pandemic, several civil society organizations (CSOs) that focus on issues related to gender and sexual minorities have carried out humanitarian programs to help them since 2020^{viii}. For a number of CSOs, advocating for e-KTP for trans women has been the top priority to achieve justice. For example, one NGO that focuses on this line of advocacy is Perkumpulan Suara Kita. Other CSOs—such as GWL Ina, Sanggar Swara, Forum Komunikasi Waria Indonesia—address the KTP issue as a case-based activity.

Perkumpulan Suara Kita, represented by its director, Hartoyo, has held discussions with Prof. Zudan Arif Fakhrulloh, Director General of Population and Civil Registration of the Ministry of Home Affairs. In April 2021, Perkumpulan Suara Kita held a virtual meeting with the Directorate General of Demographics and Civil Records of the Ministry of Home Affairs to seek a response from the Government about the situation of trans women who do not have a KTP. There were two main points discussed at the meeting, as stated by Hartoyo, the Perkumpulan Suara Kita representative:

The virtual meeting produced a commitment from the Director General of Demographics and Civil Records of the Ministry of Home Affairs to help provide access for trans women to ID cards, and an agreement from both parties to form a team. (Hartoyo 2021, interview, September 12th)

The Information Center of the Ministry of Home Affairs issued a press statement on April 24, 2021, in which it confirmed that the Department of Population and Civil Administration (Dukcapil) would help trans women to get citizenship documents. For those whose data has been

recorded, their birth names will be verified. Furthermore, the data collection does not have to be done in Jakarta but can be done in their place of residence and the Dukcapil will help them obtain an e-KTP based on their place of origin (Prasetya 2021).

This statement gives hope to many organizations, including Perkumpulan Suara Kita, an organization with many trans women from many areas across Indonesia as its members. On June 2021, The Ministry of Domestic Affairs of the Republic of Indonesia, through the Directorate General of Population and Civil Registration, launched Data Collection and Issuance Administrative Documents for Transgender Residents. Furthermore, the Ministry of Home Affairs issued a letter No. 470/11320/Dukcapil on Data Collection and Publishing of Administrative Documents for Transgender Residents dated August 26^x addressed to the Head of Population Unit and the Head of Department of Population and Civil Administration in all regencies and cities in Indonesia.

In response to this, Perkumpulan Suara Kita, supported by Yayasan Srikandi Sejati (YSS) and Indonesia AIDS Coalition (IAC), formed a community-based team to collect data in June 2021. This team aimed to support the commitment of the Ministry of Home Affairs by using a focal-point system, that is appointing key leaders to assist trans women. Hartoyo stated that this team reached out to trans women, accompanied them to the Dukcapil office, and assisted them during the process of applying for a KTP.

This community-based team has been working since June 2021 in Jakarta. And in other areas, we started 3 months ago. In the DKI area, except for the Thousand Islands, we sent 6 people to assist [the trans women]. We sent one person to Serang and Serang Regency, one person to Depok, two people to Cimahi City, and one person to Bandung. As for Bogor, there are three people. Two people are in Bekasi, Semarang, and Surabaya, and Yogyakarta. And one person is in Kuningan Regency. (Hartoyo, 2021, interview, September 10th)

The positive response from the Government to help trans women has encouraged the team. Hartoyo said that the team did not get any allowances but a transportation allowance to do the work. This justice initiative has resulted in trans women gaining to access services and social assistance.

The existence of the circular letter has made it easier for the team to process KTP, according to Yanti, a trans woman and member of the data collection team.

In the past, if we wanted to get a letter stamped by the head of RT/RW, we had to advocate first, because they

wouldn't give it to us right away. But now, we can get it right away. Now it's handled in the region, and there has been a confirmation from the Dukcapil. When we processed [the KTP], we were told the contact details and all we had to do was show the circular letter from the Dukcapil. The circular letter makes it easier for us because every RT/RW will receive the circular. (Yanti 2021, interview, September 13th)

According to Hartoyo, as of September 2021, of the 600 cases recorded by Perkumpulan Suara Kita, 256 trans women obtained a KTP. The 256 people were from Greater Jakarta and Serang (Banten). Yanti expressed her happiness at successfully processing KTP for trans women despite all the obstacles.

I have helped 15 trans women get a KTP. They are very happy because they have a KTP, and now they can register for vaccines, bank accounts, and social assistance. However, there are still some who cannot immediately use their KTP because their NIK (Population Identification Number) is not registered yet. They said they had to wait for 2 weeks. (Yanti 2021, interview, September 13th)

However, despite these successes, there are still obstacles faced by the service agencies and trans women. In some cases, trans women who lose their KTP suffer great psychological barriers because they have to provide a letter for loss of documents from the police.

If your KTP is lost, you have to provide a letter for loss of documents from the police. We don't want to do it, because we are afraid of police officers. They do not understand the administration process, they don't know about the citizenship documents. They are scared of questions. (Yanti 2021, interview, September 13th)

A survey conducted by Puzzle Indonesia (2020, p. 7) of 113 trans women in four areas—Bandung, Cimahi, Bandung Regency, and West Bandung—showed that trans women who were applying for a KTP still faced psychological barriers.^x

Currently, Perkumpulan Suara Kita continues to reach out, collect data, and assist trans women. All its data is continuously verified and documented. Perkumpulan Suara Kita's aim is for trans women in Indonesia to have a KTP. With a KTP, they are able to access services and support such as social assistance or social protection from BPJS (Health Social Security Agency). Bambang Prayudi, the Director of Perkumpulan Suara Kita, said many trans women suffered as a result of not having social protection when they became sick or lost their jobs. Thus, social protection is important, especially for elderly people.

I hope that trans women, including the elderly, will receive the same recognition in terms of legality as citizens and can access basic rights that require a KTP such as BPJS, access to health, education, and other social protections. (Prayudi 2021, interview, September 10th)

In regard to the underlying assumptions of social protection, the ILO Social Protection Floors Recommendation, 2012 (No. 202) mandates that each member State extends social security coverage to all in need by prioritizing universality, non-discrimination, and social inclusion (especially for those who work in the informal sector).

Substantive Problems in Achieving Access to Justice for Trans Women Through KTP: Women's Human Rights Framework

In accordance with international human rights treaties, the State has three main obligations; to respect, to protect, and to fulfill the human rights of every citizen. The obligation to respect means the State must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires the State to protect individuals and groups against human rights abuses. The obligation to fulfill means the State must take positive actions (legislative, administrative, judicial, and practical) to facilitate the enjoyment of basic human rights. Legally, this obligation is regulated in Article 28 Paragraph (4) of the Indonesian Constitution and Article 71 No. 39 of 1999 concerning Human Rights, which emphasize that the State has the obligation to fulfill human rights.^{xi}

In regards to fulfilling women's rights, CEDAW, which has been ratified into Law No. 7 of 1984, states in Article 2: Indonesia has several obligations to take action through policies to eliminate discrimination against women.^{xii} The definition of woman has been changed by Komnas Perempuan in Article 3 of the ECOSOC agreement to include not only persons who were born female, but also those who sociologically and psychologically consider themselves women. By this view, the understanding of "ensuring equal rights between men and women" includes—but is not limited to—transgender people (Komnas Perempuan 2019, p. 10).

This progress will certainly strengthen the State's obligation to fulfill the civil right of citizens to be recognized as individuals before the law—as guaranteed in the International Covenant on Civil and Political Rights, which has been ratified into Indonesian Law No. 12 of 2005, Article 16 concerning the Covenant on Civil and Political Rights. In addition—as mandated by Article 28G of the Indonesian Constitution, which regulates the right

to be free from threats, discrimination, and violence—citizens should be free from discrimination because of their gender identity. Moreover, CEDAW guarantees the principle of anti-discrimination, especially in Article 2b, which mandates the States Parties to make appropriate laws and regulations, including sanctions if necessary, prohibiting all discrimination against women. Furthermore, CEDAW's general recommendation No. 25 on temporary special measures states that States Parties are obliged to facilitate affirmative efforts in order to improve the position of women both *de facto* and *de jure*.

The fulfillment of civil rights and freedom from discrimination is important because it is a pre-condition of the fulfillment of other rights—such as the rights to work, education, health, to vote and be elected, and so on. The right to be recognized as a person before the law is a positive right, in that "respect" occurs when the State guarantees its people the fulfillment of their human rights. This is known as the concept of interdependence of human rights. The concept of interdependence of human rights arises from the universality that states the fulfillment and enjoyment of human rights apply to everyone without exception. One form of recognition of the rights of Indonesian citizens is through the provision of KTP as part of the UU Adminduk service.

The population administration services outlined in Article 1 Point 1 of the UU Adminduk relate to the issuance of population documents and collection of data through population registration, civil registration, management of population information, and the utilization of the results for public services and other sectors. The guiding principle for regulations on population administration is that services are carried out professionally and without discrimination.

There are two areas of population administration services in Indonesia; that is, population registration and civil registration. Population registration services are concerned with population identification numbers (NIK), identity cards (KTP), family cards (KK), and certificates of residence (change of address, recording status as limited stay or permanent residence). Civil registration services are concerned with keeping records of births, marriages, marriage applications, deaths, divorces, child adoptions, name changes, and nationality changes.

These two areas of population administration services are carried out by the Directorate General of Population Administration of the Ministry of Home Affairs. This paper will now examine two problems that arise in the issuance of KTP for trans women in terms of regulations and services by the implementing institution or agency.

Substantive Problems

By substantive problems, we are referring to the content of the regulations on population administration, which are principally problematic. We will consider two of the regulations on population administration issued by the Government. First, Government Regulation Number 40 of 2019 regarding the Implementation of Law Number 23 of 2006 as amended by Law Number 24 of 2013 on Population Administration—which serves as a technical guide for the implementation of the UU Adminduk. And, second, the Minister of Home Affairs Regulation concerning Data Collection and Issuance of Population Documents for Vulnerable Residents in Administrative Data.

The primary substantive problem here relates to the regulation of vulnerable groups in the Minister of Home Affairs Regulation Number 96 of 2019. This regulation categorizes 5 groups of vulnerable people. Those being^{xiii}: 1) The victims of natural disasters; 2) The victims of social disaster; 3) Displaced persons who are in: (a) an orphanage; (b) a nursing home; (c) a social service, (d) a mental hospital; (e) a correctional institution; or (f) other shelters; 4) Remote communities that are: (a) remote communities who live in one place permanently; or (b) nomadic communities; and 5) Residents that occupy forest areas, State lands and/or land in conflict.

Unfortunately, this regulation fails to recognize and protect individuals/groups who experience stigma or discrimination even though those who are excluded, discriminated against, and stigmatized usually experience layered vulnerabilities that lead to layered discrimination. A consequence of this is that trans women face a number of barriers to accessing services, deal with systems that are less responsive to their needs, and experience discriminatory treatment based on their gender and social identity.

The lack of regulation to protect these discriminated groups—coupled with the stigma that views them as a group that sits in opposition to cultural and religious values—is the root of the systematic marginalization of trans women from population administration services.

In relation to the principle of non-discrimination, as regulated in CEDAW, the form of discrimination experienced by trans women on the population administration/KTP issue represents a layered discrimination. The layered discrimination reflects the intersectionality of their vulnerabilities—including living in poverty, being a sexual minority, receiving a low level of education, and being marginalized from decision-

making processes. Referring to the principle of equality, they lose equality of access, participation, and benefits.

Reflecting on the above substantive problem, it is important for the Government to review the Minister of Home Affairs Regulation Number 96 of 2019 to redefine the vulnerable population. This redefinition will provide legal certainty for trans women, bring equality to the perspectives of service workers, and encourage the system to be more inclusive and substantive. In addition, the Government also needs to issue policies with technical regulations that will address the vulnerabilities of trans women. In terms of trans women's vulnerability because of social identity, there are two categories of vulnerability: 1) Residents whose identity status has not been recognized or has been neglected by the State; and 2) Residents who are stigmatized in society (Puskapa 2020). The Ministry of Home Affairs apparently does not have a service concept for residents with special needs, such as trans women who cannot be approached through a normative or document-based approach.

In addition, the involvement of community groups and CSOs, such as Perkumpulan Suara Kita, in addressing the UU Adminduk issue has not been appropriately regulated. According to Article 20 of the Minister of Home Affairs Regulation No. 11 of 2010 concerning Guidelines for Data Collection and Issuance of Population Documents for Vulnerable Populations in Administrative Data, amended by the Minister of Home Affairs Regulation No. 96 of 2019, the CSOs' involvement is limited to coordination efforts.

Article 20 stipulates that The Data Collection Team for Displaced Persons and Remote Communities in the Regency/City as referred to in Article 19 has the following duties: a) coordinating the implementation of data collection from abandoned people and remote communities with the Camat (subdistrict head)/Lurah (village head)/village officials, community leaders, and Non-Government Organizations (NGOs) engaged in the local community sector; b) carrying out socialization of data collection for displaced persons and remote communities; c) carrying out technical guidance on filling out forms and writing statement letters.

Meanwhile, Article 19 of the Regulation of the Minister of Home Affairs No. 11 of 2010, which regulates the members and structure of the Data Collection Team, does not mention the involvement of NGOs.

In terms of financing, Article 30 of Law No. 25 of 2009 only mentions sources of funding. This article states that the cost of data collection and issuance of population documents for vulnerable residents is sourced from the

State Budget (APBN) and the local Government Budget (APBD).

Further, there is no provision in the regulation that mentions that the participation of civil society is also important in obtaining financial support from the Government. This is because many CSOs, especially those that focus on issues of gender and sexual diversity, do not receive much support from donors because of the high sensitivity of the issue.

In the context of reporting, Article 26 Paragraph 1 of the UU Adminduk stipulates that if residents are unable to register their details on their own, they can be assisted by the agency or request assistance from others. However, according to the article, this refers to residents who are unable to carry out the activities on their own because of age, serious illness, physical disability, and mental disability. Similar provisions are outlined in Article 66 Paragraph 2 of Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration.

There is no provision that states stigmatization can be a legal reason to ask the implementing agencies to assist. Thus, it is important to address this problem, considering that CEDAW mandates that the States Parties make affirmative action for vulnerable groups.

Service Problems

These problems relate to the services provided by the implementing agency. Problems might stem from personal perspectives that affect service access, as well as service capacity and quality.

The implementing agency, in accordance with Article 8 (1) of the UU Adminduk, handles population administration affairs, and is responsible for registering and serving citizens, issuing documents, recording document data, and verifying and validating information submitted by residents for population registration and civil registration services.

The Minister of Home Affairs Regulation No. 96 of 2019 specifies the objectives of these services, which are 1) To collect data on vulnerable groups; 2) To offer administrative services to vulnerable groups; and 3) To use data on vulnerable groups to inform the planning of sector programs. These efforts have been carried out both before and during the Covid-19 pandemic.

In 2019, the Ministry of Home Affairs issued the Minister of Home Affairs Regulation Number 7 of 2019 concerning Online Population Administration Services.

Then, in response to the Covid-19 pandemic, in March 2020, the Ministry of Home Affairs issued Circular Letter No. 443 1/2978/DUKCAPIL. This circular letter stated that population administration services were to be carried out online until the end of the pandemic. It further stated that this move to online services applied to the Department of Population and Civil Administration in 467 regencies and cities across Indonesia. An exception was granted for urgent situations, such as for school purposes, BPJS, and access to hospital services. This exception was granted because of the need for in-person contact, such as to record fingerprints.

In August 2021, the Ministry of Home Affairs issued Circular Letter No. 470/11320/Dukcapil concerning Data Collection and Issuance of Administrative Documents for Transgender Residents. This circular instructed the Dukcapil in each region to collect data on transgender residents. This should be an easy process because there are no special requirements imposed on trans women for processing e-KTP, and the required documents for trans women are no different to those required from other citizens. However, if they want to change their name or gender on their KTP, they need to bring a determination document from the court.

Although population administration services have been conducted online, and Circular Letter No 470/11320/Dukcapil has ordered the provision of KTP services to transgender people, this situation does not necessarily indicate that there has been an improvement in the quality of service for trans women, mainly because a stigma still exists. This stigma is influenced by certain religious values and beliefs. The experiences of the data collection team of Perkumpulan Suara Kita indicate that the stigma comes from the implementing agencies and within communities.

There is another problem faced by trans women who do not have a KTP. The head of RT/RW sometimes does not want to sign or issue a domicile letter for trans women. Or the host—the dorm owner—doesn't want to sign the domicile letter for them. So, this normative requirement is just another obstacle for trans women. (Hartoyo 2021, interview, September 12th)

The obstacles at the bureaucratic level, combined with the negative perspectives of trans women held by the implementing agency, results in the quality of UU Adminduk services being suboptimal. Another instance of suboptimal service occurs if an officer requires trans women to return home to process other documents, such as a birth certificate. Yanti stated that, based on her experience in assisting trans women, many did not

want to return to their villages because of a fear of being stigmatized and harassed. Such harassment includes other people's ridicule and questions that the person's identity has changed, from male to female.

On a positive note, the issuance of the Minister of Home Affairs' Circular Letter No. 470 of 2014 concerning Policy Changes in the Implementation of Population Administration related to the recording of population data can be seen as an opportunity to encourage an inclusiveness of trans women. However, this regulation is often interpreted by the Department of Population and Civil Administration in regencies and cities as positioning officers at a certain level of authority and, thus, residents should come to them. That is, that the recording of population data still requires active participation from the community.

This condition can create accessibility issues for trans women because of psychological barriers, a lack of money to travel to the office, and an expectation that officers would come to them. However, during the pandemic, officers are also reluctant to reach out to trans women because of a fear of contracting the Covid-19 virus. Another problem is that trans women are unable to ask for help from others because they are excluded from the regulatory arrangements that would allow them to seek help.

Law No. 25 of 2009 concerning Public Services stipulates that it is important to involve society in determining appropriate standards of service. In fact, Article 25 states that participation by the community and the parties referred to in paragraph 2 needs to be supported by engaging a non-discriminatory principle, particularly in regards to the types of services, competency levels, the prioritization of deliberation, and paying attention to diversity. However, despite this emphasis on community involvement, there still exists a number of challenges.

The quality of service must be continuously monitored. This is because there are still many Dukcapil that are not independent and do not have public service awareness, even though initiative and the ability to make various breakthroughs are the modalities for public servants. They work because of the initiative of civil society. Furthermore, the initiative of each Dukcapil to collaborate with transgender people is limited. Of all the regions in Java, so far, there have been only the Dukcapil of Kuningan Regency and Tangerang City that spontaneously carried out independent processes without needing to be encouraged by civil society. (Hartoyo 2021, interview, September 13th)

The fulfillment of women's rights through the UU Adminduk is closely intersected with efforts to ensure

justice for them. This is because UU Adminduk intersects with a range of other sectors. Firstly, UU Adminduk data is used as the basis of service planning for other sectors. Secondly, specific data collection for vulnerable groups can complement the UU Adminduk data. Thirdly, residence and identity documents are needed for accessing basic services and other sectors. Fourth, other sectors benefit the residents in terms of UU Adminduk services. The Government's obligation to fulfill women's rights through the implementation of UU Adminduk must be viewed from the perspective of the State's human rights obligation to protect its people. Thus, this public service needs to cooperate with other sectors and parties to deliver that justice.

The types of cooperation needed include: 1) Collecting data on vulnerable groups to identify their needs; 2) Collecting data using a form that accommodates the needs of vulnerable groups; 3) Involving vulnerable groups in all data collection and outreach; 4) Involving basic service providers to identify the required documents for submission at the village/subdistrict, district/city levels; 5) Building an inter-ministerial/institutional referral system to accelerate the registration of UU Adminduk data and the use of the data.

Another service problem that arises in the data collection process relates to the geographical and mobility constraints in accessing the services, especially for those who live in the 3T areas (underdeveloped, outermost, and underdeveloped), elderly trans women, or trans women with disabilities. Other obstacles include the high cost of accessing the services, and not having sufficient information and capabilities to access the services. Meanwhile, the Ministry of Home Affairs and the Department of Population and Civil Registration (Disdukcapil) at the district/city levels seem to be having different patterns in carrying out their services. If it is not addressed immediately, these sectoral works will become the main obstacle to fulfilling the basic human rights of Indonesia's citizens.

Conclusion

Population administration services such as KTP serve an important function in fulfilling both women's rights and civil rights. Firstly, the existence of a KTP serves as a form of acknowledgment that a person has legality as a citizen. Secondly, this acknowledgment has implications for a person's involvement in the community—in national and State life. To be acknowledged means to be seen and treated as an equal, and to be allowed and empowered

to be involved in making decisions related to one's own interests and welfare. Accessing a KTP is the first step to larger and more significant justice initiatives for trans women and other marginalized groups.

The Indonesian Government has issued and implemented various UU Adminduk policies. In general, the ownership of legal identity documents has increased. However, the UU Adminduk system still faces substantive challenges in terms of the data recording system and its outreach to vulnerable groups such as trans women.

Although the Government has enacted various policies on population administration, the regulations have thus far failed to recognize trans women as a vulnerable group. Since the outbreak of the Covid-19 pandemic, attention has been placed on the difficulties faced by trans women in registering for a e-KTP through the Circular Letter No. 470/11320/DUKCAPIL concerning Data Collection and Issuance of Administrative Documents for Transgender Residents. This can be seen as a positive change that helps trans women get fairer access to UU Adminduk services.

It is important the Government ensures that this circular letter succeeds at the implementation level, especially as implementing regulations via circular letters has been seen to be highly dependent on the political will of actors and the political dynamics around them. Therefore, the Government needs to re-evaluate the definition of 'vulnerable groups' so that those who are stigmatized and discriminated against are acknowledged and accommodated for in the law. The Government needs to provide space for the various characteristics of the vulnerable group in administrative data that have not been touched by the law and the system.

Various problems that arise in delivering services—including the negative attitudes and stigmas from staff at the implementing agencies—need to be addressed in order to overcome discrimination based on social identity and gender. Therefore, it is important that the Government takes action to eliminate stigma about trans women, and strengthen the implementing agencies' understanding of transgender issues so they can support vulnerable groups, including trans women. Awareness of vulnerable groups with special needs should be addressed appropriately so that, in policy and implementation, services and the fulfillment of trans women's rights are not merely normative and document-oriented. In this case, the Government's work—its efforts to produce and improve policies that are inclusive and accommodate the experiences of trans women—need to be synergized with the work of CSOs.

This study found that trans women face enormous challenges as a result of the lack of State recognition, and it is CSOs that initiate justice initiatives for these vulnerable groups. *Suara Perempuan*, for example, plays a crucial role as a 'liaison group' for those who need a KTP. *Suara Perempuan* carries out outreach programs, assists with data collection, and provides assistance to vulnerable persons. It also lobbies the Government and seeks to ensure that the Government can meet the needs of trans women. In this regard, CSOs take on a supervisory function to ensure social assistance is provided to all citizens. Although this initiative to advance justice is currently carried out by CSOs, it is important for the Government to continue it in the future by allowing easier access to UU Adminduk services for transgender people. This study shows there exists a great potential to extend justice and equality to vulnerable groups, especially trans women, by ensuring a synergy between ministries/agencies, OPD (Regional Apparatus Organizations), and CSOs in reaching out to vulnerable groups in the area of administrative data.

Population administration services, and especially ownership of KTP, must be open to everyone and should not depend on political, social, or other conditions. The Covid-19 pandemic led to greater access to KTPs and other population administration services for trans women. However, this increased equality for trans women should not stop here. In the future—in a normal situation, or in any extraordinary situation—access to UU Adminduk services must be guaranteed for trans women, just like other citizens. As mandated by the constitution, the State should guarantee social justice for all people in Indonesia. Without discriminating on the basis of sex, gender, or sexual orientation, every citizen must have the same access to public services and the same protections from the State.

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Footnotes

- ⁱ E-KTP service using "jemput bola" method means that the officers visit the residents who need a KTP.
- ⁱⁱ CEDAW stands for The Convention on The Elimination of Discrimination Against Women. CEDAW has been ratified in Law No. 8 of 1974.
- ⁱⁱⁱ "Waria" is an Indonesian term for people who are assigned male at birth and grow up with a female gender identity. The word is a combination of "woman" and "man," and is sometimes translated in English as "transgender woman."
- ^{iv} The terminology used in this report is "waria", which refers to trans women.
- ^v On October 11, 1997, the Fatwa Commission of the Indonesian Council of Ulama issued a fatwa on transgender people that stated:
 - a) A trans woman is a man. They cannot be considered a trans women.
 - b) The trans woman's behavior is considered a deviation from human nature and God's provision and therefore strictly forbidden in Islam.
- ^{vi} The 8th MUI National Conference issued Fatwa No. 03/MUNAS-VIII/2010 (about Change and Perfection of Genitals) which states:

1. Genital change from male to female or vice versa is considered an illegitimate act (haram).
 2. Perfecting genitals in the case of khunṣā (ambiguous genitalia) via sex surgery is allowed.
- vii The vulnerable groups identified in this study include: 1) Indigenous people with local religions and beliefs; 2) Poor and very poor communities; 3) Children born from unofficial marriages between Indonesian citizens and foreign citizens; 4) Asylum seekers or refugees; 5) Children born to parents of different nationalities; 6) Second wives; 7) Female heads of household; 8) Children from polygamous marriages; 9) Married children; 10) Spouses of different nationalities; 11) People with domicile status issues; 12) Persons with disabilities; 13) Residents without legal identity documents; 14) Minority groups with a particular social identity, such as religion or ethnicity.
- viii CSOs who participate in raising aid/donations and distributing food assistance/cash to the trans women groups are Perkumpulan Suara Kita, Arus Pelangi, Sanggar Seroja, Forum Komunikasi Waria Indonesia, Ardhanary Institute, Sanggar Swara, Pondok Pesantren Waria Al-Fatah Yogyakarta, SPJ Yogyakarta, and Dapur Transpuan.
- ix The contents of the Circular Letter are:
1. Requesting the Directorate General of Dukcapil of the Ministry of Home Affairs check population data on transgender groups that have been submitted;
 2. Requesting the Head of Department of Population and Civil Administration in the Regencies/Cities to a) conduct biometric checks to ensure the relevant data is in the population database, ensure the ownership of the resident's documents or other documents, and ensure the completeness of all data; b) check the data carefully; and c) encourage transgender groups to provide the factual data.
3. Requesting the Head of the Provincial Department of Population and Civil Administration to: a) coordinate data collection and issuance of population documents by encouraging the Department of Population and Civil Administration in the Regencies/Cities to be more proactive; and b) provide guidance, monitoring, and supervision of the implementation of data collection and issuance of population documents.
- x 46.6% of the respondents stated that they did not feel comfortable when processing KTP due to their gender identity, 26.6% stated that they faced obstacles due to the lack of supporting documents such as a birth certificate and family card, 13.3% stated that their obstacle was due to a lack of finances, and 6.6% stated they lacked access to information.
- xi The Constitution regulates the State's obligations in fulfilling human rights including the right to be free from discrimination (Articles 27 and 28I Paragraph 2), the right to security (Article 28G Paragraph 1), and the right to be free from poverty and the right to receive social protection (Article 34).
- xii Article 1, CEDAW "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.
- xiii The five vulnerable groups are stated in several articles, including Article 2 (arrangement of groups in 5 categories); Article 10 concerning groups that are vulnerable to natural and social disasters; Article 13 concerning displaced persons and Article 16 concerning remote communities, and Article 18 concerning those who live in forest areas or on State land.

