

## Solidarity to Promote Transformative Justice: Providing Remedy for Victims of Sexual Violence

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### Abstract

The slow enactment of the Draft Law on the Elimination of Sexual Violence (RUU PKS) is a clear evidence that the political system in Indonesia has not been sensitive in responding to the issue of victims of sexual violence. Meanwhile, the existing justice system has not been able to provide justice for victims of sexual violence. Hence, feminists formulated justice that meets the needs of victims, which is known as transformative justice. Transformative justice supported by community solidarity can provide remedy for victims of sexual violence to have the courage to speak up and regain their destroyed self-esteem.

Keywords: Sexual Violence, Transformative Justice, Sexual Violence Victims, Speak Up, Solidarity.

### Introduction

Theories of justice include many definitions of justice, both universal and particular. However, justice from the perspective of the needs of women (victims of violence) is not definitively covered in the debate. Nussbaum (1999) states that gender subordination is seen as natural and that any related issues are rejected and ignored in political theories of justice. This statement of Martha Nussbaum emphasizes that justice according to the needs of women (victims) is often ignored in the justice discourse. Why? Aren't women the subjects that often become victims of violence? Thus, justice from the perspective of female victims should be considered. Victims of sexual violence still have to fight hard to achieve justice, but their experiences show that the justice represented by the justice system is still unfair.

The Draft Law on the Elimination of Sexual Violence (RUU PKS), which was developed and debated from 2013 to 2019, failed to be ratified in 2019, and changed its name to the Draft Bill on the Crime of Sexual Violence (RUU TPKS). In 2021, is an indication of how justice for victims of sexual violence has not been understood by policymakers, let alone enforced. Why does violence against women continue to exist? Why is the victim's perspective so difficult to understand? How effective is the current justice system? And what kind of justice do victims need?

Violence is deeply rooted in tradition, culture, religion, and the justice system (Arivia 2006). Sexual violence is a type of violence that connects violence with sexuality. This violence is also highly likely to be carried out by the State. State violence is often carried out by high-ranking State officials or the State in a system-wide manner—if the State adopts sexist attitudes and behaviors within its systems. Countries that encourage sexist attitudes further ensnare female victims of sexual violence (Olufemi 2020). Thus, in the process of realizing justice for victims of sexual violence, the victims feel re-victimized. The women (victims) may have hideous experiences at police stations, courts, consultation rooms, or even hospitals. Such experiences continue because of a lack of understanding by policymakers of the definition of justice for women (victims), which, in turn, has an impact on the justice system that is not sensitive to the needs of women (victims). The current legal system does not accommodate for the needs of victims. Instead of bringing victims closer to justice, the male-centric legal system often re-victimizes victims.

### Research Methodology

This research is a philosophical critique of the concept of justice that does not involve women's experiences. The capability approach theory—or Martha Nussbaum's 10

categories of welfare—is presented as an analytical knife, used to carve up the issues related to women's (victims) injustice. By applying this theory, we can show that many women—and especially women that are victims—are still far from prosperous. Hence, it could be interpreted that women have yet to really receive justice.

Lola Olufemi's theory of transformative justice and solidarity is also discussed here to show how feminist justice works. The theory of transformative justice is imperative in understanding the issue of justice and the justice system for victims of sexual violence. This is because justice and the justice system are not responsive to women's needs. Therefore, the transformative justice theory goes beyond that, and describes how the conventional justice system is unable or slow to resolve cases of violence against women. Transformative justice, however, offers a framework for achieving justice. Olufemi's solidarity theory demonstrates how transformative justice is able to achieve justice for women (victims) by encouraging cross-service activism.

This research is based on literacy studies and narratives of victims' experiences. In order to pursue justice for women (victims), this paper presents three cases of sexual violence that the author heard directly when she worked as an officer at Komnas Perempuan.

### **A Tradition of Violence: From Sexual Violence to State Violence**

Sexual violence is always connected to power. In a patriarchal society, women are often stigmatized as weak, irrational, and needing to be protected, while men are considered strong, rational and needed to protect women. These stigmas lead to inequality between men and women. The "strong" and "weak" stigmas also result in an unequal distribution of power (Arivia 2006). This stigma grew from an attempt to create an "ideal" situation, whereby men should protect women. However, this situation created the opposite; a prevalence of violence against women.<sup>1</sup>

Sexual violence is a type of violence that links violence with sexuality. It starts with words and gestures that harass persons or body parts, extending to forced undressing and unwanted touching, to coerced prostitution, sexual torture, and rape (Mailänder 2020). Elissa Mailänder, in an interview with *Sciences Po*, explained the history of sexual violence:

Feminist activists were the first to tackle this issue since the 1960s and to break the silence, by raising awareness, holding teach-ins, and giving a name to sexual harassment,

domestic violence, marital rape, etc. Second wave feminists understood speaking out as an act of defiance and resistance to the silence and shame imposed by politics, society, or the immediate social environment. Public actions in the 1970s and 1980s, such as Take Back the Night rallies in the USA or the women's shelters installed in London, Berlin, and Paris, framed sexual and domestic violence as a collective issue that all women faced, most systematically women of color. (Mailänder interview 2020, in *Sciences Po*)

Violence against women is deeply rooted in local cultures, traditions, and beliefs, and, as a result, it becomes common practice (Arivia 2006). The normalization of women as victims happens too often. Women, who are stigmatized as weak human beings, are perceived to be the natural victims of sexual violence. Without any intention to compare who was "hurt the most" the narrative and reaction is very different when the victim is a man. Recently, a sexual assault was committed by employees of the Indonesian Broadcasting Commission (*Komisi Penyiaran Indonesia, KPI*) against a male victim. The public was outraged, and boycotted the KPI. Public solidarity surfaced because such an incident is considered uncommon, and, hence, the widespread opinion was that there were issues that needed to be fixed. On the other hand, cases of violence against women, which significantly increase every year, are considered normal because of the assumption that women are natural victims.

In her article *Against Our Will: Men, Women, and Rape*, Susan Brownmiller explains that rape and sexual assault are a conscious process of intimidation by which all women are kept in a state of fear. When women are in a state of fear, inequality is preserved. Rape and sexual violence are an exercise of power in which men can perpetuate their dominance over women (Brownmiller in Schneir 1994). In this setting, the system in a patriarchal society continues on track. However, violence against women is not only conducted by individuals. Violence against women is very likely to occur on a mass scale. Moreover, rape has long been used in various political activities because this act is difficult to prosecute (Arivia 2006).

Feminism recognizes the link between the State and violence. State violence is often interpreted as referring to State officials who commit violence against women. However, State violence has a broader meaning. The most obvious form of State violence against women is the practice of State life that embraces "sexism" in its system. The State regulates everything about the lives of its citizens. The State regulates what is legal and illegal,

and the services that can be accessed. It also shapes the parameters of how we live. However, problems arise when the State enforces the sexism within the system to influence policies and laws. Wendy Brown, quoted by Olufemi, argues, “The tendency and what is unavoidable is that we talk about State as State but significantly State as ‘a source of power’ and ‘unlimited techniques’ ” (Olufemi 2020). The State is considered a source of unlimited power and techniques because it can regulate everything—even the female body. According to Olufemi, the manifestation of a sexist State can be seen from its regulations, its allocation of resources, and its monitoring methods, which aim to increase the oppression of women. This is done by limiting women’s freedom in all aspects (Olufemi 2020).

Given that the State possesses the power to allocate various resources, this means it has the capacity to accommodate the needs of victims of sexual violence. Further, the Indonesian Constitution mandates that the State should provide social justice for every citizen. However, in the context of Indonesia, the response to sexual emergency situations is limited. Komnas Perempuan’s 2020 Annual Report shows there were 299,911 female victims of sexual violence: incest, marital rape, sexual harassment, sexual exploitation, sexual intercourse, molestation, rape, attempted rape, sexual slavery, gender-based cyber violence (KBGS) and forced abortion. Despite the many cases of violence against women—and the varied types of violence—not all of these behaviors are regulated by law (Djauhari et al. 2014). The Indonesian State’s lack of seriousness in dealing with the issue of sexual violence is a manifestation of a sexist State. Although the data has shown that the sexual violence situation in Indonesia is an emergency, the State still does not make this issue a priority.

Sexual violence is one of many gender inequality issues that occur in Indonesia. If this issue is not taken seriously, and dealt with thoroughly, then equality and justice will be a mere illusion because without intervention, sexism will continue to go underground and will be difficult to monitor. Many policies are adopted to “protect” women; some of which can be found in various regulations governing women’s movement. Several regions have established curfews for women, with the aim of ensuring “women are safe”. The existence of such policies reveals a problematic patriarchal logic. According to these policies, women are victims who want to be protected. Instead of developing regulations to ensure that perpetrators do not commit violence against women, the State has responded to the situation by regulating and restricting

women’s bodies. Based on these rules, we can see that the logic of the State and policymakers considers women’s bodies as the problem and, thus, it must be removed to avoid any problems.

These policies are far from fair. These policies are born out of a monolithic view. Policymakers, who are mostly men, create policies based on their experiences and thoughts. A policy will fail to deliver justice when the group whose views on the policy ought to be voiced, but is instead silenced. A curfew policy in response to the high number of incidents of sexual violence in a region is by no means a justice initiative. In this policy, women’s bodies have become the centre of the problem. This policy, in spirit, exists to protect women, however, women who are outside their house during these hours are criminalized. Instead of providing protection, sexist policies such as these undermine women’s rights as human beings and citizens.

### ***The Unspeakable: Speaking Out for Justice***

Between 2019 and 2020, I, the author, was a volunteer at the Complaint and Referral Unit (UPR) at Komnas Perempuan. There, I learned to understand and practice the feminist principle of listening to women’s voices and seeking justice for victims. In feminist theory, the narrative of victims’ experiences is knowledge, but in the practice of State life, women’s experiences are often silenced and/or made absent from various policies. While working as a volunteer, I listened to the stories of many victims of sexual violence. At that time, I was the officer who received reports from victims of sexual violence. In a day, there were about five reports made in person, and many reports via telephone. This is only a snapshot of how cases of sexual violence continue to occur in Indonesia. Their voices are the voices that seek justice for the violence they have experienced. Who are the perpetrators? Husbands, co-workers, parents, boyfriends, strangers, and even the State.

In my opinion, Komnas Perempuan’s complaints unit is a justice initiative based on feminist principles. The concept of complaint and referral departs from the sense of caring for the condition of the victim. There is a desire to hear their stories and offer empowerment through much-needed assistance. In my opinion, the purpose of the complaints unit is to show the experiences of the victims, so they can be shared and become the basis to pressure for policies that recognize the reality on the ground.

The complaints unit is not big, but it provides hope for many people; for the victims who seek justice. In this paper, I will recount some of the cases of victims of sexual violence that I have handled. These stories are only a snapshot of the hundreds of thousands of cases of violence that were recorded in Komnas Perempuan's Annual Report. Cases of sexual violence are complex and multifaceted, but these three stories are important to show the patterns of violence and the inability of the State to provide justice for victims of sexual violence. Here are three stories that stay in my mind:<sup>2</sup>

### *Sexual Violence During Childhood Continues into Adulthood*

Nadia (not her real name) was 20 years old when she made a report to the UPR Komnas Perempuan. She reported that she was a victim of sexual violence perpetrated by a friend of her friend. The victim was 16 years old at the time of the incident. The victim was tricked by her friend (a woman). The victim was invited to go to a hotel. Her friend had asked to be accompanied to the hotel because she had business, but, after arriving at the hotel, the victim was locked in a hotel room with two adult men. The victim explained that there she had found out that her friend had sold her to the two men. The victim was raped, but had said "I don't want to report this person, sister," according to her report.

After the incident, the victim's friend invited the victim to go to a cafe. At the cafe, the victim was introduced to a man who, according to the victim, was the perpetrator. The victim and the perpetrator exchanged telephone numbers. Without the victim's permission, the victim's friend told the perpetrator what had happened at the hotel. The victim's friend told the perpetrator that the victim was not a virgin anymore. The victim felt very uncomfortable but could not do anything.

After this meeting, the perpetrator regularly contacted the victim. The perpetrator used the victim's virginity as a threat. The perpetrator often sent threatening messages on the phone, such as: "Come out, I'm already in front of your house. If you don't want to come out, I'll tell your parents that you're not a virgin anymore." Fearing this threat, the victim complied with the perpetrator's request. Every time the victim met with the perpetrator, he brought handcuffs and an official car belonging to his uncle, who is a military officer. The victim felt threatened. When she left her house to meet the perpetrator, the victim was immediately handcuffed and taken into his uncle's official car—all so the victim could serve the perpetrator's sexual desires.

The victim reported she had been threatened with a bullet. The perpetrator held a bullet and said: "This is a bullet. If you don't want to serve me, I will throw this at your body so it explodes and you'll die." The victim continued to be threatened so she would have sex with the perpetrator, until the victim became pregnant. When the victim fell pregnant, she immediately told the perpetrator, who called his mother in the village. Three days later, the perpetrator asked the victim to come to his house. When she arrived, the victim was told to drink an orange liquid that had been sent by the perpetrator's mother—the perpetrator said it was abortion liquid. The victim was scared so she drank the liquid. After three minutes, the perpetrator punched the victim in the stomach several times. The perpetrator said it was a procedure to terminate the pregnancy. However, the victim was still pregnant. The perpetrator then took the victim to an illegal abortion clinic to terminate her pregnancy. The victim said the pain was so unbearable that she almost died. The doctor (male) inserted a large tube into the victim's vagina and attached it to a very powerful vacuum to suck the fetus out of the uterus. After this incident, the victim and the perpetrator did not see each other again. However, after four years, the perpetrator came back into the victim's life by sending her a video of herself, unconscious and naked. The video was also sent by the perpetrator to the victim's friends via Instagram.

From this story, we can clearly see how patriarchal perspectives are not only preserved in the bodies of "men" but also in the bodies of "women". The victim's friend (female), who sold the victim to the men who raped her, treated the victim's body as a mere commodity. Then, the perpetrator's mother, who sent the abortion liquid, did so without considering the will and the body of the victim. This case shows that the victim had no authority over her body, and that the people around her did not consider the wants and welfare of her body. In a pregnancy that occurred because of a series of acts of sexual intimidation, the victim's body was again considered the source of the problem. The victim's body (and the fetus) are seen as a problem that must be terminated. This situation is the direct result of patriarchal views and practices.

The victim was trapped in a violent relationship because the perpetrator knew that she was not a virgin. The values of a patriarchal society deem that, for a woman, not being a virgin is a disgrace; a flaw that must be hidden. The fear of social sanctions, from both family and the community, compelled the victim to submit to

the threats of the perpetrator. The myth of virginity is still present in our society. Worse, the myth of virginity can be used by perpetrators as a tool to perpetuate violence. Through the above narrative, it is clear how perpetrators use symbols that represent “power”—such as the official car of his uncle who is a military officer, bullets, and handcuffs. At the time, the victim believed she could not do anything because the perpetrator was very powerful and, furthermore, she felt guilty because she was not a virgin anymore. In this case, it appears that rape is an act of power.

The violence experienced by the victim did not stop there. After the abortion, the perpetrator disappeared from the victim’s life. However, four years later, the perpetrator again threatened the victim’s life by sending a video of the victim being unconscious and not wearing clothes. The video was also sent by the perpetrator to the victim’s friends via Instagram.

In seeking justice for the victim, there were two things the victim hoped for; psychological treatment and cyber security. However, as the officer receiving the complaint, I also encouraged the victim to get a health check-up to ensure her reproductive system was healthy. I took this initiative because of the dangers that arose from the victim being forced to terminate her pregnancy through illegal means at an immature reproductive system age. The UPR mechanism provides a safe space for victims to tell their stories. The UPR volunteers listen to and document victims’ story, inquiring about needs and suggesting service or assistance. I referred Nadia’s case to three non-governmental organizations (NGOs); Pulih Foundation for psychological assistance, the Women’s Health Foundation for reproductive health consultations, and the Southeast Asian Freedom of Expression Network (SafeNet) for cyber security consultations. These types of justice initiatives need to be conducted, especially if we care about the needs of the victim.

### *Cyber-Based Sexual Violence*

Ana (not her real name) was 22 years old when she became the victim of a sexual assault perpetrated by her ex-boyfriend. While they were dating, the victim and the perpetrator had a consensual sexual relationship. Without the victim’s knowledge, the perpetrator recorded a sexual interaction on his cell phone. The victim felt the relationship was unhealthy, and she ended it. Several months later, the perpetrator called the victim, demanded to have sex and threatened her. The victim refused, and the perpetrator threatened to distribute

nude videos and photos of the victim. Despite these threats, the victim still refused.

The perpetrator eventually shared the photos on social media—Twitter, Facebook, and online forums. Feeling pressured and threatened, the victim finally agreed to the perpetrator’s demand—on the condition the perpetrator deleted the photos that had been widely shared. The perpetrator said the photos that had been shared could not be deleted, so he paid approximately IDR 80,000,000 for the service of a hacker. Three days later, the photos disappeared from social media. The perpetrator returned to the victim, asking for the money to pay the hacker. The victim said she could not afford the money. The perpetrator then made the victim promise to be his “sex slave” for life.

Sexual violence often happens in the private sphere. Several cases of violence reported to the UPR stemmed from relationships between a victim and perpetrator, which began with affection and a consensual sexual relationship. However, these relationships would turn violent when the victim no longer consented to the actions committed by the perpetrator. Because the relationship between the victim and the perpetrator started as an intimate relationship, it was not uncommon for the perpetrator to have access to the private data and information of the victim. In accordance with the patriarchal logic that considers women’s bodies a sexual object, perpetrators often use private data, in the form of photos and videos, to subjugate the victim to the perpetrator’s demands.

Gender-Based Cyber Violence (KBGS) is an extension of unresolved real-world violence. Perpetrators commit violence online, with the aim of embarrassing their victim through character assassination. Our justice system still considers KBGS as ordinary violence. In fact, victims can be charged with pornography offenses if they report the incidents in Indonesia. Efforts to protect victims of KBGS need to continue, especially as the number of victims continues to grow.<sup>3</sup>

Cases of cyber-based sexual violence have not received a serious response from the State. Civil society organizations such as the Southeast Asian Freedom of Expression Network (SafeNet) work to obtain justice for KBGS victims. SafeNet raises awareness of cyber security issues for women. In addition, it provides assistance in KBGS cases. One of the key messages that SafeNet continues to promote is “not knowingly—spreading private videos or photos to anyone”. If there is a cybercrime spreading photos or videos that look like us, then firmly

say it is not us. Justice for victims of sexual violence, especially KBGS, still falls short of expectations. To date, there is no comprehensive legal code to regulate cases of violence in the offline sphere, which makes it difficult for such violence to be proven and processed through legal means. KBGS has an even greater burden of proof. Apart from the absence of an overarching legal code for sexual violence cases, victims also face the likelihood of being criminalized because of the ITE Law and the Pornography Law.

The legal vacuum that regulates sexual violence cases magnifies the injustices experienced by victims. There are a number of advocacy initiatives carried out by civil society organizations that demonstrate the efforts for transformative justice that originate and are practiced at the grassroots level. In my opinion, these initiatives are a response to the legal situation that fails to respond to the reality of the situation.

### *Sexual Violence by Religious Leaders*

Sinta (not her real name) is 34 years old, and the wife of a religious leader. When the victim first met the perpetrator, he said he would make the victim his second wife, with the permission of his first wife. After the victim and the perpetrator got married, the victim began to feel uncomfortable. With many guests still around, the perpetrator said, “we’ll go to the hotel later”, with a perverted look on his face. The victim responded modestly. However, over time, the behavior of the perpetrator became more peculiar. The victim believed there was an “abnormality” in the way the perpetrator had sex. The victim was treated roughly several times during intercourse, and the perpetrator often asked to have anal intercourse, which the victim firmly refused. The victim also admitted that she was jealous because the perpetrator, her husband, often looked at other women.

Eventually, the victim was expelled from the house where they lived. The victim was forced to leave the house with her two children—a one-year-old and a three-month-old—fathered by the perpetrator. The victim did not know why she had been kicked out. She kept apologizing and begging not to be expelled. After the victim found a place to live, she found out the reason she had been expelled. According to information from the domestic worker, the perpetrator wanted to marry a girl from another area. The perpetrator’s first wife told the victim that, actually, the perpetrator had been married five times. The perpetrator’s first wife also explained that

the perpetrator often married women from different areas and later expelled them. The victim was divorced via a letter, and was given an *iddah* of IDR 1,000,000.

The victim described the perpetrator as a highly respected person—because he was a religious leader and a school owner. Religion is considered a “clean space”, but has been used by some people to hide, deceive, and perpetuate crimes. Other victims did not have the courage to report the violence they experienced because the perpetrator was a well-known religious leader. The perpetrator’s symbols of power managed to silence many of his victims. It is also feared that the perpetrator, a school owner, committed acts of violence against his students. Uncovering the actions of a perpetrator is very difficult, especially if the perpetrator is wealthy. Sinta’s perpetrator looked for his wives in remote areas, with the aim of finding naive women with a low education. As a result, his victims did not understand that they were victims of violence—let alone report the crime.

The three stories shared above depict the cruelty of perpetrators of sexual violence, and the extensive trauma they create. Despite the pressure and threats, and the terror they feel, some victims have a simple request: “I just want this to be over.” The victims were asked if they wanted to punish the perpetrator. Some answered no, out of fear. The victims’ testimonies reveal that our justice system neglects justice for victims. Despite everything, it is clear that talking and sharing stories about sexual violence is one path to healing. We need to re-learn how to remember and tell stories so that a remedy can be found (Arivia 2006).

### **Prison Is Not the Way Out**

We cannot generalize about using prison as a solution to this issue. However, during my time as a volunteer at Komnas Perempuan, I noticed several things about “what victims want”. The victims, who usually described their experiences in tears, feeling embarrassed, confused, and angry, ended with a simple request: “I just want this to be over.” When I would ask if they wanted to pursue criminal charges, most declined, or expressed a fear that if the perpetrator was free, “he will kill me”. These statements deepen our understanding of how justice should be served. We need to ask; Prison for perpetrators—is it effective? How effective is it? What happens after the perpetrator is free? These questions came to the victims’ minds and mine. So, is there an ideal justice for victims of sexual violence?

Imprisoning the perpetrator does not give peace to the victim. The perpetrator may be in prison, but this does not rule out the possibility of retribution being carried out by other people. Imprisonment sends the message that the problem is in the “body” of the perpetrator. In fact, crime and violence occur because of the patterns of danger that exist in the places where we live (Olufemi 2020). The world is governed in a way that disproportionately exposes women to violence. The more middle-class liberal feminists try to enforce the law on protection, the more we will find marginalized women (poor, lower class, trans, disabled) fall into danger (Olufemi 2020).

Policymaking is a way to access justice. However, we are too focused on making ideal policies and forget that most women in prison are victims of the policies we are pushing for (Olufemi 2020). Policies criminalize murderers, perpetrators of domestic violence, sex workers, and drug dealers. All these policies put more women in prison. However, the majority of female prisoners are victims of sexual violence or domestic violence, who committed crimes while trying to protect themselves (Olufemi 2020). Further, the majority of female drug dealers are victims of human trafficking. The struggle by women to survive within the patriarchal system traps them in policies that are supposed to protect them. In Indonesia, victims of gender-based cyber violence, whose cases are linked to the distribution of personal photos and videos, usually refuse to take their cases to court because they will be charged under the pornography law. Hence, feminists need to create a new justice system of their own.

### **The Theory of Justice: Transformative Justice, A New Way of Delivering Justice**

We have a lot of work to do to achieve the goal of creating a justice system that is friendly to women’s justice. Why? According to Jacques Lacan, quoted by Gadis Arivia in her book “Feminism: A Word of the Heart”, our social system is full of “symbolic rules”. Everything in our society is full of “symbolic rules”. If our children want to be successful in society, they must internalize these rules (Arivia 2006). Similarly, the justice system—which is linked to society—contains “symbolic rules”, which Lacan later called the “Law of the Father” (Arivia 2006). As a result, women do not know how to discuss, communicate, and create their own justice; not because women do not try, but because justice for women (victims) is not available. Thus, women need to create a narrative and enable a social system that allows justice for women to be realized.

In the classical discussion of justice, there is a debate about universal and particular justice. This debate examines the question: which theory of justice can bring about justice. Philosophers tend to develop theories that are not only methodologically sound, but are also applicable to the issue of injustice. The theories of justice that emerge are able to present the fundamentals for achieving prosperity—that is, which have an impact on justice for women (victims). Martha Nussbaum, in her book “Women and Human Development”, explains that to achieve justice we need access to the most fundamental things in human life. Nussbaum describes the 10 most fundamental things in human life, which she calls “Central Human Functional Capabilities”, as outlined here:

1. Life. Being able to live within a reasonable time; not dying prematurely.
2. Bodily Health. Being able to live a healthy life, including concerning reproductive health; getting good nutrition.
3. Bodily Integrity. Being able to go where you want to go or carry out activities freely without being subjected to violence or sexual harassment. Being able to get protection against violence, including sexual violence, sexual abuse of children, and domestic violence. Having the opportunity for sexual fulfillment, and having the right to decide on reproductive issues.
4. Senses, Imagination and Thought. Being able to use all of one’s senses to imagine, think, and also find new thoughts. Senses, imagination, and thought should help humans get a proper and free education. This includes obtaining education in literacy, mathematics, and research training. Being able to use imagination and mind to connect with one’s experiences as well as when producing self-expressive works and to use one’s own mind in choosing things including religion, education, music, and others. Being able to use one’s own mind in politics with safeguards on free speech.
5. Emotions. Being able to have compassion in thinking and love people outside of ourselves; to love, to grieve, to have experiences. Not having emotions that foster fear and anxiety resulting from being traumatized by a tragedy or feeling neglected. (Providing support for this capability means providing support for human associations that have difficulty building their capabilities)

6. Practical Reason. Being able to provide an understanding of good and evil and can engage in critical reflection on one's life plans.
7. Affiliation. (a) Being able to live with and for others, to know and see other human beings, to engage in social interactions; being able to have sympathy and compassion and have the capability for justice and friendship. (Protecting capabilities means protecting institutions that protect affiliation and at the same time protect freedom of association and political speech). (b) Having a basis of self-respect and not insulting others; and having proper and equal protection. Having protection from discrimination on the basis of race, gender, sexual orientation, religion, ethnicity, and nationality.
8. Other Species. Being able to live with animals, plants, and other things that are part of nature.
9. Play. Being able to laugh, play, and enjoy things that involve reactions (joking or laughing).
10. Control Over One's Environment. (a) Political. Being able to participate in political activities. Having the right to protection in relation to freedom of expression and in joining political associations. (b) Material. Being able to have the right to own property (movable or not). Having equal rights regarding property ownership and laws that protect it (Aprilia 2017, pp. 74–76).

Through Central Human Functional Capabilities, we can begin to reflect that not all of us have our welfare needs satisfied—that is, women. Thus, it can be concluded that justice for women falls far short of expectations. It is even possible to say that justice for women—and, more specifically, for female victims—is missing from the justice discourse.

Nussbaum has helped us explore the issue of welfare according to women's needs (which has an impact on women's justice). Yet, in order to achieve justice for women, Nussbaum emphasizes that there are 10 fundamental capabilities that should be used as basic values in the formulation of State policies, laws, and the justice system (Nussbaum 2000). Beyond that, Nussbaum's aforementioned 10 capabilities need to be used as benchmarks of justice for female victims in order to realize the goals of delivering transformative justice and transforming victims of sexual violence into complete and prosperous human beings.

The advocacy work carried out by a number of grassroots organizations seeks justice for victims by

focusing on non-institutional means through enabling social structures. Some organizations push for changes at the policy level, but changes at the policy level do not necessarily bring justice or real change to everyday life. Without empowering women and strengthening their knowledge of their rights, the same problems keep occurring. Without a change in awareness at the society level, the rule of law often goes silent and fails to respond to issues of injustice against women.

Based on my experiences as a UPR volunteer working with partners, service provider forums, and a number of civil society organizations working in the field of gender justice, justice initiatives carried out by these organizations seek to empower women, as narrated by Nussbaum in her 10 fundamental capabilities. These organizations seek to provide transformative justice for victims.

Transformative justice is a political framework and approach that is used to respond to violence, harm, and abuse (Mingus 2020). Basically, transformative justice aims at freeing victims from their trauma and restoring them to a complete person. Transformative justice also aims to respond to violence without creating more violence, and engages in harm reduction (Mingus 2020). Our justice system still relies on police, trials, decisions, and criminal acts to respond to violence against women. These methods can resolve cases of violence against women, however, the process is lengthy and some cases just disappear. For example, in the process of enacting the Draft Law on the Elimination of Sexual Violence (RUU PKS), which changed its name to the Draft Bill on the Crime of Sexual Violence (RUU TPKS), some important meanings have been lost. "Elimination" had been emphasized, not only to punish the perpetrator, but also to provide remedy for victims. By replacing the word "elimination" with "act", we can see that the need to provide remedy for victims is gone (Patresia 2021). In addition, inequalities in the justice system persist, such as in the Marriage Law No. 1/1974, which has not been amended, and the widespread view that perpetrators of State violence are above the law.

The principle of transformative justice offers us hope. Transformative justice does not rely on the law, prisons, and the police to achieve justice, but on community accountability (Olufemi 2020). Lola Olufemi, in her book "Feminism, Interrupted Disrupting Power", explains that in cases of sexual violence, we cannot rely on the existing justice system because, in this system, the victims are actually being re-victimized.

Instead, groups of friends, churches, mosques, and communities can come together and create a scheme to address a person's experience of violence (Olufemi 2020). This process might take the form of: community service, reflective practice, reaffirming commitment to values and practices, mediation, finding methods to cope with rage and shame, therapy, mental health support, and trauma-centered programs designed to identify the root causes of behavior (Olufemi 2020). In other words, transformative justice is one step ahead of other approaches because transformative justice enables social systems to work together in order to address cases of violence against women, and find ways to transform victims of sexual violence who experience trauma into complete human beings (Olufemi 2020).

Thus, as an effort to bring justice to women (victims), it is important to advance justice initiatives such as those practiced by Komnas Perempuan, which accommodate the experiences, aspirations, and needs of the victims based on their own narratives. Equally, we should collaborate with partners throughout Indonesia, including grassroots organizations from across service providers.

### **Creating Solidarity: Delivering Transformative Justice**

Solidarity, as it relates to feminism, can be interpreted as a strategic coalition of individuals who have a common vision for the future (Olufemi 2020). Solidarity is the heart of feminism, and cannot be eliminated in the common struggle. The idea of solidarity began with the emergence of the term "global sisterhood", which was being widely discussed at the end of the 20th century. The concept of solidarity calls for women across nations to know each other's needs and freedoms (Olufemi 2020). However, the idea of a "global sisterhood" lies on the idea of a "universal patriarchy"—a concept that says we face the same patriarchy or the same type of oppression wherever we are. This idea makes us aware that there is a gap between our experience of patriarchy and the experiences of other women (Olufemi 2020). This gap can be bridged by sharing and accepting our different experiences.

Although we need to acknowledge our different experiences, solidarity still needs to be tied with the same equivalent, namely mutual aid: ideas about the platform we live on, sources, legitimacy, aspirations, and expertise for us dismantle oppressive situations (Olufemi 2020). Solidarity has three dimensions—symbolic, practical, and aesthetic. Symbolic solidarity is usually depicted with songs, pictures, and protest poems that are

intended to focus attention on the work, not the creator. Practical solidarity is a sharing strategy, whereby tactics are analyzed to see whether they might be applicable in another context. Meanwhile, aesthetic solidarity refers to the beauty that arises from our solidarity; that makes us believe it is possible to change the future—to create the world that we want (Olufemi 2020).

In its justice initiatives for victims of sexual violence, Komnas Perempuan has adopted strategies of practical solidarity and aesthetic solidarity. Practical solidarity is manifested in Komnas Perempuan inviting victims to tell their stories, and then referring the victims to Komnas Perempuan's partners for further support. Meanwhile, aesthetic solidarity arises when a complaint officer knows that a case of violence, which was processed by Komnas Perempuan's partners, has been resolved.

We can say that feminist activists have found new and creative ways to neutralize tensions (Olufemi 2020). The new world—the world we wish for—is very possible. Activism is based on human consequences. Feminist activism offers a new strategy, focus, and power (Olufemi 2020). Feminist activism at a grassroots level has significance for victims of sexual violence. It promotes agency, resilience, and empowerment to provide a remedy for victims. It also act as an agent of social change. As Olufemi stated:

What solidarity offers to feminist movements at the most basic level is more bodies to do the work. The work of raising awareness, of building consciousness, of petitioning, striking, blocking roads, bridges, towns, the work of shutting down hostile governments. More people engaged in struggle means the practical work of resistance might be achieved with new speed, new vigor or, at the very least, a renewed energy. Solidarity refuses a narrow worldview and invites us to link our visions for the future to one another. It is also an affective experience: often it means bearing witness to the violence that takes place across the world and marking it where you are. (Olufemi 2020, p. 137)

Solidarity offers a very simple thing to feminist movements. If there are more people working—solving problems—then the problem will be resolved faster. Thus, we will have a place to share our sorrows, share our work, renew our energy, and share the victories we attain.

### **Closing**

What kind of world do we want to live in? This is an important question for feminism as it tackles various issues and interests (Olufemi 2020). In this context, it is women (victims) who can answer. In responding to

violence, the justice system—and even we—sometimes fail. This outcome could be because of the legacy of the punishment system, or the legacy of repeated violence. The violence that is rooted in our society has created a mindset that violence should be answered with violence, which makes us forget about the human consequences. But it goes beyond that—the issue is not just about the human consequences, which for some people are considered as a form of “tolerance for the perpetrators”. However, most of the victims’ needs are not properly accommodated for in the current justice system. In our justice system, and the debate on justice discourse, the needs and conditions of women (victims) are often overlooked. Women’s experiences need to be at the forefront, so the justice system can understand the justice the victims want.

The inability of the justice system to understand the needs of the victims led feminist activists to work at the grassroots level in order to achieve the life that we want—the life that victims want. In an attempt to answer the question, “what kind of world do we want to live in?”, justice initiatives such as community service, reflective practice, reaffirming commitment to values and practices, mediation, finding methods to cope with rage and shame, therapy, mental health support, and trauma-centered programs need to be carried out to accelerate the remedy process for victims. The speed at which the justice system responds to violence is not directly proportional to the daily increase in the number of victims of sexual violence. Therefore, the question, “what kind of world do we want to live in?”, which is reflective in nature, makes us realize that we cannot wait for justice to occur, but, rather, we must make it happen by using our own methods that are driven by the collective struggle of feminist activists and the social systems.

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## Foot Notes

- 1 The identities of the three victims are not disclosed. This research has been approved by Komnas Perempuan’s Coordinator of the Complaint and Referral Unit (UPR) Citra Adelina. The author asked for approval to write the victims’ stories on 6 September 2021. This research is in line with the procedures (not to publish the identities of the victims, perpetrators, company’s name, etc.).
- 2 The number of in-person complaints of gender-based cyber violence (online) or KBGS received by Komnas Perempuan, rose from 241 cases in 2019 to 940 cases in 2020. The same trend was also reported by service provider agencies: there were 126 cases in 2019 and 510 cases in 2020. The increasing number of cases of gender-based violence in the online space should be a serious concern for all parties (Komnas Perempuan 2021).
- 3 When the title is changed to Criminal Act of Sexual Violence, it is unlikely that a comprehensive prevention of sexual violence will be carried out. The important elements that were previously in the PKS Bill were not included in the Baleg draft version because the emphasis was on criminal acts, hence, the issue of remedy for victims was ignored. In fact, the PKS Bill was drafted because the criminal handling failed to respond to the needs of the victims (Kirandita 2021).