

Women and Justice Initiatives

Editorial

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Articles

Feminist Social Justice: Interruption towards Universalism, Abstraction, and Impartiality
Abby Gina Boang Manalu

Peace or Justice? Transformation for Women in Conflict and Post Conflict Areas in Papua and Aceh
Sri Lestari Wahyuningroem

Voice of the Silence "Cenderawasih": Papuan Women's Struggle to Reach Justice
Diana Binkor Jenbise

Solidarity Promotes Transformative Justice: Objectify Recovery for Sexual Violence Victims
Iqraa Runi Aprilia

Initiating Justice for Sexual Violence Victims via Hashtag Activism: Opportunity and Vulnerability in Contemporary Indonesia
Andi Misbahul Pratiwi

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

Women Survivors' Agency in Promoting Transitional Justice Initiative at the Local Level
Mulki Makmun & Atnike Nova Sigi

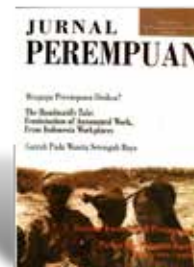
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ADDRESS

Jalan Tanah Manisan No. 72, RT 07 RW 03, Kel. Cipinang Cempedak, Kec. Jatinegara, Jakarta Timur
Telp: (+62) 812 1098 3075
E-mail : yjp@jurnalperempuan.com redaksi@jurnalperempuan.com
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Contents

Editorial

Women and Justice Initiatives	v-vi
<i>Abby Gina Boang Manalu</i>	

Articles

• Feminist Social Justice: Interruption towards Universalism, Abstraction, and Impartiality	153-163
<i>Abby Gina Boang Manalu</i>	
• Peace or Justice? Transformation for Women in Conflict and Post Conflict Areas in Papua and Aceh	165-175
<i>Sri Lestari Wahyuningroem</i>	
• Voice of the Silence “Cenderawasih”: Papuan Women’s Struggle to Reach Justice	177-185
<i>Diana Binkor Jenbise</i>	
• Solidarity Promotes Transformative Justice: Objectify Recovery for Sexual Violence Victims	187-196
<i>Iqraa Runi Aprilia</i>	
• Initiating Justice for Sexual Violence Victims via Hashtag Activism: Opportunity and Vulnerability in Contemporary Indonesia	197-206
<i>Andi Misbahul Pratiwi</i>	
• Identity Card: Transwomen’s Long Wait for Access to Justice and Equality	207-217
<i>Theresia Iswarini</i>	
• Women Survivors’ Agency in Promoting Transitional Justice Initiative at the Local Level	219-227
<i>Mulki Makmun & Atnike Nova Sigiro</i>	

Women and Justice Initiatives

In a patriarchal culture and society, women in various places experience injustice and discrimination. They are the second-class group in society. Some theories of justice have attempted to formulate what justice is and what procedures to be followed to transform society into an egalitarian order that upholds respect for human rights. Ironically, a number of justice ideas that we are familiar with and which have been implemented in a number of policy initiatives often fail to examine the structure of injustice caused by sex and gender (Kiss 2000). In a patriarchal culture and society, since the beginning, women have been deprived of access to equal opportunities in politics, social, economics, law and culture. Systematically, women have been made subordinate to men.

In this edition, *Jurnal Perempuan* (JP) focuses on three approaches to discuss justice. The first article by Abby Gina discusses a theoretical approach of the concept of justice from feminist philosophical theories. The concept of feminist justice is important to ensure that the voices of women and vulnerable groups are accommodated as “the concrete other”. The notion of justice feminism defines justice based on care, participation, recognition of the voices of marginalized groups, the presence of a complex understanding of oppression, and dialogue that opens the reinterpretation of meaning and ensures social transformation through activism. This key concept of feminist justice exists in various feminist justice initiatives.

The second article discusses cases in Indonesia using a transitional justice approach. This approach emphasizes resolution for past human rights violations by ensuring their non-recurrence. In this article, Sri Lestari Wahyuningroem discusses two main approaches—peace and transitional justice—in some studies and programs in conflict/post-conflict areas in Aceh and Papua. Unfortunately, both approaches normatively do not have a significant impact on the fulfilment of women's rights because they do not examine and provide solutions for structural injustice. Thus, to ensure justice for women in Aceh and Papua during conflict and post-conflict periods, each approach must ensure that women are involved in the process of decision-making.

The third article entitled *Voice of the Silence “Cenderawasih”: Papuan Women's Struggle to Reach Justice* is written by Diana Binkor Jenbise. By conducting

feminist storytelling method, this article illustrates the complexities of injustice experienced by Papuan women, the interplay between patriarchal local custom, ethnic discrimination against Papuans, and conflict situations. Why does this thing happen? It happens because efforts to recover from conflicts do not involve feminist perspectives, and the women's experience and interests are not accommodated in the initiative of recovery. Consequently, the analysis and solutions offered tend to fail to examine and deconstruct the structure of gender inequality that is rooted in culture. Thus, when the conflict ends, women remain “the other”, as they keep being in an unfair condition because of the patriarchal culture, conflict, lack of recovery and empowerment for the suffering and trauma they have experienced.

The research article by Mulki Makmun & Atnike Nova Sigiro (2021) shows a number of justice initiatives to ensure the recovery and empowerment of women in post-conflict situations. This article discusses woman survivors in the provinces of Central Sulawesi, Aceh, and Yogyakarta, who have contributed to bring about transitional justice at the local level. This article narrates the agency of woman survivors in initiating a number of formal and informal initiatives to support recovery and community solidarity.

The article by Iqraa Runi Aprilia specifically advances the discourse of justice at a different level of transformative justice other than transitional justice. Aprilia emphasizes that the discussion of justice has to be based on transformative justice. This paper shows how transformative justice is able to achieve justice for women (victims) on the basis of community strength, driven by activism from various services. Transformative justice exists as a response to the inability of conventional justice to resolve cases of violence against women. Transformative justice is an effective approach to justice and is able to provide contextual responses, because the basis of its advocacy is the concrete experience of victims.

Andi Misbahul Pratiwi's research discusses another dimension of feminist justice discourse by examining digital technology and discussing the use of hashtags in activism. This article narrates the opportunity of justice for victims through hashtag strategy. The hashtag strategy/activism allows victims' stories to be documented, published, and to get attention, support, and pressure from the public to get the case processed fairly.

The last article by Theresia Iswarini critically discusses another dimension of justice discussion; justice for trans women. This article analyses the implementation of the Adminduk (Population Administration) Law on the mechanism of KTP (ID card) service for trans women. This article shows that trans women often experience multiple layers of violence and are deprived of their basic rights as human beings and as citizens because of their sexuality, gender identity and expression. This article shows that in the midst of discriminatory situations against trans women in a society and/or in a country, social activism by civil society organizations has created justice initiatives for trans women as a marginal group.

The articles of this edition show that the dimension of feminism is needed to ensure inclusive justice for women and vulnerable groups. Feminism critically views that in a patriarchal society, injustice against women occurs in a network of interlocking schemes (hooks 2006). That is, women experience injustice not only because of their sex as women but also because of other social identities that are intertwined around them which affect the complexity of oppression.

The articles of JP 110 Women and Justice Initiatives demonstrate the power and specificity of feminist justice initiatives, and state that when it comes to justice, the concrete experience of women, vulnerable groups, and victims are the basis of knowledge. Also, the research articles in this edition show a number of justice initiatives that are based on community strength and solidarity. In the transformative justice approach, it is seen that the community seeks security and recovery apart from the state system—responding to violence without reproducing violence. The articles of JP 110 criticize effort in achieving justice that has been a legalistic-oriented approach which tends to fail to reflect the needs and empowerment of the most vulnerable groups due to their gender, sexuality, ethnicity, and the like.

This edition aims to show that the dimension of feminism is the basis of thought and activism that supports justice for marginalized identities—for all marginal groups. The feminist perspective of justice initiative is an effort to produce a new model of egalitarian society. It is able to recognize and respect human rights without ignoring the structure of gender inequality and other inequalities in society. **(Abby Gina)**

Abstracts

Abby Gina Boang Manalu

Departemen Filsafat, Fakultas Ilmu Pengetahuan Budaya,
Universitas Indonesia

**Feminist Social Justice:
Interruption towards Universalism, Abstraction, and
Impartiality**

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 153-163, 1 table,
19 references

This paper is a theoretical study toward the philosophical idea of justice that excludes the feminist perspective. Since Greek philosophy, the discussion of justice has been one of the central of social theories. The concept of justice is the center of moral and theoretical theory. The idea of justice becomes very important because it determines how the political, social, and economic practices in a society. The discourse of justice should be starting from the concrete situation of injustice. Ironically, various injustices rooted in gender discrimination often escape the analysis of mainstream justice theories. In society, sex and gender categories are intertwined with one's status, power, opportunity, and position in society. As a critique of the discriminatory mainstream justice discourse, this paper demonstrates the importance of accommodating the ethical principles of interactive universalism to ensure that justice is not deprived of the principle of caring. This paper finds that a feminist social justice approach is what is needed to respond to the current situation.

Keywords: feminist social justice, the other, intersectionality, interactive universalism

Sri Lestari Wahyuningroem

Universitas Pembangunan Nasional Veteran Jakarta

**Peace or Justice?
Transformation for Women in Conflict and Post Conflict
Areas in Papua and Aceh**

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 165-175, 38
references

In conflict or post-conflict contexts, women experience layered violence: both daily and structural. The two main approaches commonly used in studies and programs in both contexts are peace and transitional justice. Both give a focus on violence experienced by women, but are not sufficient to provide analysis and solutions to the occurrence of structural injustice experienced by women. This paper is a reflection of the long journey of the author's involvement in both approaches. The main question of this paper is: how can peace and transitional justice provide solutions to transform structural injustices experienced by women in conflict and post-conflict areas? Where to start?

Keyword: violence against women, transformative, peace, transitional justice

Diana Binkor Jenbise

STFT GKI I.S.Kijne

**Voice of the Silence "Cenderawasih":
Papuan Women's Struggle to Reach Justice**

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 177-185, 13
references

This article emphasizes the importance of raising the issue of Papuan women's empowerment and struggle for justice. This research is to answer, what is justice according to Papuan women and how are Papuan women's efforts to achieve justice for their identity and the land of Papua? In answering questions and the realities faced by women in achieving justice, this research seeks freedom of talks about the rights of Papuan women in the life of the state and society. However, there are a patriarchal system and a state that make it difficult in listening to and responding to women's voices about justice. It takes time and effort to change this old paradigm. Through the first form of storytelling, we can place the story of the identity of a Papuan woman and her pride as a symbol of cenderawasih with dark skin and curly hair. Papuan women must not remain silent and must fight for justice.

Keywords: justice for papuan women, papuan women storytelling; papuan women; silence cenderawasih; telling story

Iqraa Runi Aprilia

Alumni of Ilmu Filsafat FIB Universitas Indonesia

**Solidarity Promotes Transformative Justice:
Objectify Recovery for Sexual Violence Victims**

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 187-196, 11
references

The slow ratification of the elimination of sexual violence draft law is evidence that the political system in Indonesia insensitive in responding to the issue of sexual violence victims. Meanwhile, the existing justice system has not been able to provide justice for sexual violence victims. That is why feminists formulate a justice that can meet the needs of sexual violence victims, which is called transformative justice. Transformative justice supported by community solidarity can bring about recovery for sexual violence victims to have courage to speak up and regain their destroyed self-esteem.

Keywords: sexual violence, transformative justice, sexual violence victims, speak up, solidarity

Andi Misbahul Pratiwi

Pusat Riset Gender Universitas Indonesia

**Initiating Justice for Sexual Violence Victims via
Hashtag Activism: Opportunity and Vulnerability
in Contemporary Indonesia**

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 197-206, 1 table,
39 references

Digital technology brings new opportunities to accessing justice for women and marginalized groups after being excluded from conventional-masculine technology for decades. In the internet era, the use of social media has become very massive and intensive, therefore feminist activism in this digital space is unavoidable. Hashtag activism has become popular since the #MeToo movement and such an opportunity to seek justice for victims and survivors through voicing and documenting their voices. The use of hashtags (#) opens up opportunities for victims' stories to be documented, connect with other stories, and go viral. In Indonesia, the use of hashtags in activism also occurs in more local contexts such as #KitaAgni, #SavelbuNuril, #UlitTidakAman, #KamiBersamaKorban, and #ShakkanRUUPKS. Some hashtag activism has succeeded in initiating follow-up actions in the offline world, although not always viral stories get satisfactory case resolutions. This study uses a qualitative approach, and collecting the data through literature studies, especially on feminist theories around

technology and digital such as; Science and Technology Studies (STS) feminism, cyberfeminism, technofeminism, and feminist digital activism. This paper finds that the digital space is a contested space where there are opportunities and vulnerabilities for victims, activists, and netizens to seek justice through hashtag activism.

Keywords: hashtag activism, justice initiation, digital feminism, new technology, digital vulnerability.

Theresia Iswarini

Perkumpulan Suara Kita Board of Supervisors Member

Identity Card:

Transwomen's Long Wait for Access to Justice and Equality

Jurnal Perempuan, Vol. 26 No. 3, December 2021, page. 207-217, 26 references

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 vulnerability of stigmatized and discriminated groups, namely transwomen. They are marginalised from access to justice and basic rights, before and in a time of COVID-19 pandemic. Various stigma, violence and discrimination are experienced by transwomen who do not have access to KTP, which unfortunately does not anticipated by the Adminduk Law. This paper analyzes the implementation of the Adminduk Law related to KTP mechanism for transwomen, particularly in a time of pandemic. Using the women human rights framework, this paper shows substantive problems that potentially threaten access to justice and equality of transwomen.

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

Mulki Makmun¹ & Atnike Nova Sigiro²

Asia Justice and Rights (AJAR)¹ & Universitas Paramadina²

Women Survivors' Agency in Promoting Transitional Justice Initiative at the Local Level

Jurnal Perempuan, Vol. 26 No. 3, DeCember 2021, page. 219-227, 22 references

This article will describe the contribution of women survivors of human rights violations in promoting transitional justice initiatives at the local or community level in Indonesia. In their marginal position, both as women and victims of human rights violations, the women survivors show their agencies to face social, political, cultural and structural barriers. The initiatives and participation of women survivors in Central Sulawesi, Aceh, and Yogyakarta Province, have contributed to the emergence of transitional justice models at the local level, such as apologies for victims, health assistance programs, scholarships, and truth-telling. These transitional justice initiatives at the local level not only fill the gap in the accountability that should be borne by the state, but they also strengthen the implementation of transitional justice mechanisms organized by the state or government, both at the local and national levels.

Keywords: transitional justice, women survivors, transitional justice local initiatives, human rights violations

Feminist Social Justice: Interruption toward Universalism, Abstraction, and Impartiality

Abby Gina Boang Manalu

Departemen Filsafat, Fakultas Ilmu Pengetahuan Budaya, Universitas Indonesia, Kampus UI Depok,
Jawa Barat, Indonesia 16424

abby@jurnalperempuan.com

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Abstract

This paper is a theoretical study toward the philosophical idea of justice that excludes the feminist perspective. Since Greek philosophy, the discussion of justice has been one of the central of social theories. The concept of justice is the center of moral and theoretical theory. The idea of justice becomes very important because it determines how the political, social, and economic practices in a society. The discourse of justice should be starting from the concrete situation of injustice. Ironically, various injustices rooted in gender discrimination often escape the analysis of mainstream justice theories. In society, sex and gender categories are intertwined with one's status, power, opportunity, and position in society. As a critique of the discriminatory mainstream justice discourse, this paper demonstrates the importance of accommodating the ethical principles of interactive universalism to ensure that justice is not deprived of the principle of caring. This paper finds that a feminist social justice approach is what is needed to respond to the current situation.

Keywords: feminist social justice, the other, intersectionality, interactive universalism

Introduction

Every day, in many parts of the world, women face social injustice and discrimination. Women often experience violence, torture, and discriminatory treatment at home, the workplace, and the communities. Hence, gender-based injustice and discrimination should be recognized and examined in the discussion of social justice concepts and practices.

Kant's legacy of the mainstream theory of justice—Rawls believes that justice should be based on liberty and equality (Rawls 1971). By this view, everyone has an obligation to respect the liberty and dignity of others. With this idea, everyone has a responsibility to improve their capacity to pursue the life they want, based on what they think is the most important. Unfortunately, human dignity is often violated because of gender and sexuality (Benhabib 1992; Nussbaum 1999).

In many countries, including Indonesia, there are many women whose rights to liberty and equality are violated because of their gender and sexuality. In the context of land and forest access and governance, for example, Andi Pratiwi & Abby Gina's research on *Jurnal Perempuan* 103 entitled *Rural Women's Agency on Forest and Land Governance in The Midst of Change: Case*

Study in Five Provinces (2019) showed that there was a problem of inequality of women's access to land and forests due to their gender. The research showed that social structures—cultural values excluded the women from land access and governance. Also, the exclusion of women from resources stemmed from the assumption that affairs in the public sphere were the domain of men. The patriarchal bias made the subjectivity of women as citizens and as human beings doubted.

Gender bias has been a challenge for women's groups in obtaining legal recognition of their profession as fisherwomen. On *Jurnal Perempuan* 95 research on fisherwomen, Arivia & Gina (2017); Pratiwi & Gina (2017) argued that in the fisheries sector, the existence of women was not recognized. Given the fact that women physically work in the fishery, the fishery still belongs to masculine work. Hence, recognition from the community and country for women in the fisheries is still absent. Whilst, legal recognition is the basis of social security. In the case of fisher women in Morodemak and Dipasena, they have to struggle to be recognized as fisher women, not housewives.

The principles of justice in liberal tradition uphold equal respect for humans, but practically, throughout

the eras, violations of basic human rights due to sexual orientation, gender identity and expression happen when individuals or communities are not in a heteronormative matrix.

Sri Agustin, the Director of Ardhanary Institute (2021), on her research entitled *The Black Box* showed various crimes against women in their households due to their sexual orientations as LBT (Lesbian, Bisexual, Transgender). Agustin explained that there were LBT women who were forced into marriage by their families in order to follow heterosexual norms, some other cases showed that there were corrective rapes against LBT women committed by their families for the sake of the woman's sexual orientation. Rape is not about sexual relation, but about practicing violence. Rape is an exercise of power to dominate a woman's body with the intention of dehumanizing others (Griffin 1971). Ironically, the theory of justice in general is unable to see that these crimes and injustices are closely related to complex problems of oppression and discrimination.

The mainstream theory of justice, from Hobbes to Rawls, tried to design principles and procedures of justice whose starting point was the abstraction of the community's experience and interests of the protection of rights as a part of society. A number of achievements of the theory of justice were then used as the basis of policies, institutional practices, legal products, and so on. As a result, institutional practices that referred to the mainstream theory of justice failed to analyze the structure of social inequality caused by gender relations, thus often failing to provide justice for the most vulnerable groups. The mainstream theory of justice failed to recognize that a concrete situation and intersection of social identities could bring multiple social inequalities to a person or a community. Due to the insufficient coverage of the mainstream theory of justice, feminists then introduced a new justice that accommodates obedience and diversity of experiences of women and other marginalized groups.

The main feminist critique of the mainstream theory of justice relies on the idea of abstract subject, disembodied, out of context— historicity, and gender-neutral. Furthermore, feminists such as Philips (1993), Young (1990), and Benhabib (1992), view that the discussion of justice in the context of democracy is gender-blind. The mainstream theory of justice fails to explain that the patriarchal system of society has an asymmetric impact on women. Thus, feminist scholars work on some projects of justice through caring as an entry point of the involvement and recognition of the voice of the concrete other.

Seyla Benhabib, a Turkish-American philosopher, is one of the important thinkers who promote the feminist concept of social justice. Benhabib tries to bridge the principles of justice and ethics of care to inclusive justice. The idea of interactive universalism is expected to be a procedure that ensures justice by treating differences. According to Benhabib, the theory of justice must rely on an open and inclusive conversation. By this view, justice must involve engagement and dialogue between all parties. Apart from the monologic mainstream theory of justice, the feminist theory of justice is exercised in a dialogical manner in order to broaden understanding, recognition, and concern.

This paper narrates a number of feminists' ideas, one of which is Benhabib's interactive universalism as one of the social justice procedures. Feminist social justice approach ensures care; the understanding of the types of oppression; participation of concrete other; iterative dialogue, and activism. Participation and conversation are the keywords of feminist justice theory because open conversation always produces iteration^[1] in society.

Research Method

This research is a literature study rooted in the concept of "mainstream" justice from John Rawls (1921-2002). He was a political philosopher of the liberal tradition. In his writing entitled *Theory of Justice* (1971), Rawls designed the principles of justice to present a just society based on the ideas of liberty and equality. Rawls's thinking is an important achievement in the discourse of justice, however, in the spirit of universalism and objectivism, Rawls fails to accommodate the situation of inequality in society caused by the gender system. Rawls, like other mainstream justice theorists, established gender-blind principles of justice.

Using the method of critical reflection, this paper shows that feminists try to frame theories of justice by referring to concrete realities in society. By referring to the feminist theory of justice, especially Seyla Benhabib's interactive universalism, it is shown that there needs to be a new attitude in discussing justice. The concept of mainstream justice is derived from abstract subject (Kant's legacy) and universal subjects. This justice responds to injustice by focusing on legalistic procedures and policies in general. However, a number of studies have shown that injustice does not disappear or reduce only by inducing changes at the legalistic level but also by examining and revitalizing the core issue, culture, and meaning in society and civilization.

The Concept of Social Justice

Justice is a core moral and political philosophy. The principle of justice is the basis for individuals to interact with others. The idea of justice is also very important as the basis for various social institutions that exist in society. Traditionally, the idea of justice is closely related to the concept of equality. In academia, the idea of social justice is closely related to John Rawls' thought (1971). Rawls' thought talks a lot about the basic structure of society.

For us, the primary subject of justice is the basic structure of society, or more exactly, how the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions, I understand the political constitution and the principal economic and social arrangements (Rawls 1971, p. 6).

The basic structure of society in Rawls' thought refers to social institutions that distribute rights—duties also determine the distribution of benefits from social cooperation. Furthermore, Rawls imagines that those who respond to or are involved with this basic structure are men. According to him, justice must be examined in this structure. In his theory of justice, he also states that the family is an institution where awareness and the justice system should be instilled in the individuals. In *A Theory of Justice* (1971), Rawls proposes the idea of the original position, the veil of ignorance, the principle (maximin)^[iii] to ensure that everyone chooses rationally and in a structured manner that will lead to a situation of justice.

The original position principle in Rawls' theory insists everyone to think of a hypothetical position in which everyone has no information about themselves. By this view, everyone does not know their age, educational background, economic status, ethnicity, interest and talent, physical condition whether they are disabled or not, sexual orientation, gender, and the like, because they are behind the veil of ignorance. The information that a person knows is only about the existence of primary needs for a person to survive, namely; freedom; chance; income; and self-respect as a human being.

Among the essential features of this situation is that no one knows his place in society, his class position, or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance (Rawls 1971, p. 118).

According to Rawls, the subject in the original position and the veil of ignorance, will rationally choose the fairest choice—without bias in order to ensure that he or she is not harmed. Thus, according to Rawls the distribution of income, opportunity, and welfare will be fair. In a simple manner, Rawls insists us to imagine that every subject is in the same situation, abstract, and universal. For him, to ensure justice, elements such as information of identity and social context need to be eliminated because they will potentially bias someone's choice. In this regard, if someone is asked to determine what is good for the group, they will choose a biased background, biased culture, and so on.

Rawls in his theory of justice is very concerned with the issue of the distribution of basic needs. According to Rawls, the distribution can be carried out fairly by ensuring that the distribution process is carried out based on equal opportunity and the difference principle. Rawls argues that inequality occurs if this condition creates the greatest benefit to the least advantaged group. The difference principle is important to ensure that no one arbitrarily exploits the maximum benefit and to ensure that the most vulnerable group in society is protected. According to Rawls, society needs to adopt the difference principle if they want a situation where no one gains or loses arbitrarily in the distribution of social assets (Rawls, 1971, p. 102).

Rawls' thought was very progressive in his time because it took into account the difference principles. The different situation is described in idea of the generalized other. This idea is the forerunner to consideration of the aspect of justice in distribution. That is, he has noticed that in society, on the one hand, there are groups of people with privileges, but on the other hand, there are vulnerable groups that are less privileged. Rawls' theory of justice also has an important meaning because it has succeeded in framing a justice procedure. However, feminist scholars, in particular Benhabib (1992), criticize Rawls' original position. In particular, Benhabib views that in order to ensure inclusive justice, the idea of the generalized other is not enough, because justice in reality is very complex and requires a contextual response. The concept of the generalized other has opened the room for recognition of the existence of vulnerable groups but has failed to see that there is a much more complex type of inequality.

Rawls has tried to protect vulnerable and non-privileged groups in society through the concept of the generalized other^[iii], but the problem is, the standpoint of the generalized other is abstract. It is problematic,

especially when this ethical concept is being applied to policies or program plans of a country or social institution.

A number of feminist scholars argue that the justice theory approach which focuses on the generalized other is unable to see the gender structure that has already positioned women as a disadvantaged group. Furthermore, this theory is also unable to see that it is not only gender but also the intersection of gender with other social identities that can bring layered injustice to vulnerable groups. The idea of intersectionality which is currently a major concern of feminist groups is completely impossible to recognize, involve or accommodate in an approach based on the principles of classical liberalism originated from the abstract and universal subject.

The Gender Blind Justice

The theory of justice is actually centered on questions about how and why people are treated differently. The theory of justice should question what the justification is if a person can be treated differently in social institutions such as law, tradition, values, and cultural practices. By focusing on this question, feminist scholars see that the gender category is very relevant and should be brought into the discourse of justice. Feminists narrate that in the long history of civilization, women's rights are limited. Also, women face a lot of restrictions formally and informally due to their sex. In the context of Rawls' phenomenal theory of justice, although there has been much progress, there is still a big problem because the feminists' agenda for equality and justice is not accommodated.

He fails entirely to address the justice of the gender system, which—with its roots in the sex roles of the family and with its branches extending into virtually every corner of our lives—is one of the fundamental structures of our society. If, however, we read Rawls taking seriously both the notion that those behind the veil of ignorance are sexless persons, and the requirement that the family and the gender system as basic social institutions are to be subject to scrutiny, constructive feminist criticism of these contemporary institutions follows. So, also, do hidden difficulties for a Rawlsian theory of justice in a gendered society (Okin 1987, p. 65).

According to Susan Moller Okin (1946-2004), a feminist of the liberal tradition, Rawls' theory of justice fails to address the issue of justice in the gender system. Meanwhile, gender inequality in family institution is reproduced and spreads to almost all basic structures of society. However, Rawls considers that the people who are behind the veil of ignorance are human beings

without sex. However, for feminists, especially Okin, when it comes to family justice, it is a social institution that needs to be examined.

Rawls indicates on several occasions that a person's sex is a morally arbitrary and contingent characteristic, and although he states explicitly that the family itself is one of those basic social institutions to which the principles of justice must apply, his theory of justice fails to develop either of these convictions (Okin 1987, p. 45).

According to Okin, Rawls' idea of the subject of the original position behind the veil of ignorance is inconsistent and gender-biased. Because at the beginning of the conversation about family, Rawls assumed that the family institution was a fair institution built with a fraternity perspective. He imagined that the subjects involved in the discourse of justice were men. They talked to each other, and they made political moral choices. He saw that in the public decision process, the man as the head of the family was the representative of his family. A number of feminist scholars argue that this idea is problematic because it naturalizes that in the family institution, men are the ones who make decisions in the public sphere. This is why women's interests are often ignored in public decisions and policies; their voices are unheard.

According to feminist scholars, social, political, economic, legal, and cultural structures have positioned women in an unfair position (Kiss 2017, p. 487). Systematically, the naturalization of sex and gender in the social structure has positioned women as subordinate to men. The implication of the naturalization of gender norms in the social system is that the issue of discrimination and oppression against women is not considered as a form of social injustice. Oppression against women is considered a natural thing—an everyday problem.

In Rawls' theory of justice, Rawls clearly shows that the imagined subject involved in the social contract is a man. Ironically, this theory is inconsistent with the veil of ignorance which states that a person does not know his or her original position, sex, gender, and so on. However, it is built from the abstract subject of the man who is the head of the family.

Why is Rawls' subject a man? In the patriarchal tradition, there is a metaphysical assumption that men are autonomous subjects and are able to make rational decisions, so that they are entitled to be involved in the public sphere. While women are basically defined as disordered beings, not fully moral subjects, not having the capacity for reasoning like men, failing to grow in the Oedipal period, and so on, thus, making the credibility of

women as moral subjects who speak about public matters, and the justice has been questioned (Okin 1987, p. 43).

Gender inequality in the family, in relation to the gender division of labor, has an impact on the absence of equal opportunity as imagined by Rawls. The assumption is, everything related to women is part of the private sphere, thus, it is not the domain of law and policy. So, this theory of justice has problems with the main principle of feminism which advocates "the personal is political". Standpoint feminists believe that liberalism theories and movements that demand civil rights fail to accommodate injustice and oppression that occur in the personal sphere. Carol Hanisch (1970), a radical feminist, points that the idea of the personal is political brings personal issues such as domestic violence and injustice as political issues.

This framework is the basic reason why it is difficult to pass policies to regulate household affairs. For example, the process of promulgation of the Domestic Violence Bill, or currently related to the ratification of the Elimination of Sexual Violence Bill which alludes to domestic violence. There are still many patriarchal beliefs and practices that consider household affairs are not the public domain. Based on this logic, crimes in the private sphere are often considered private, thus, not a legal or state affair. Therefore, as a response to the theory of justice and civil rights movement that do not accommodate justice for women, feminist theory then examines the issue of social inequality against women due to the gender structure operates within the beliefs, moral practices, and methodological approaches to existing theories of ethics and justice.

The Ethics of Care as the Initial Step to Recognize the Voice of the Concrete Other

Feminists' responses to the mainstream theory of justice vary. Some argue that the concept of justice which excludes women's voices and experience negates the principle of justice. Moreover, some others argue that at least another idea is needed to replace the word of justice. The idea of ethics of care brings women's experiences and aspirations into the discourse of justice theory. Many feminists radicalize, juxtapose, and substitute the idea of justice with the idea of care.

In response to the failure of "mainstream" theory of justice to accommodate the interests and experience of women, in 1982, Carol Gilligan's ethics of care demonstrated another way to respond to social problems. Gilligan is an American feminist, ethicist, and psychologist. If the mainstream ethics are built on reflection that has the nuance of fraternity, initially, the ethics of care has the nuance of maternity. The main contribution of feminism to the discourse of justice through the ethics of care is as a foundation of political recognition. The ethics of care theory brings the narrative of women's concrete experience into knowledge.

Gilligan's ethics of care (1982) is a response to Kohlberg's gender-biased theory of moral development. Lawrence Kohlberg, a psychologist known primarily for his research into moral psychology and development (1927-1987) as well as other misogynistic philosophers, viewed that naturally, there were essential differences in the way women and men reasoned and made moral decisions. Kohlberg stated that women could not achieve perfect moral development. Gilligan in his book entitled *In a Different Voice* responds to the idea not as incompetence but as a different capacity for reason.

In the ethics of care, Gilligan raises the idea that there are differences in reasoning between women and men. Women focus more on responsibilities than on the distribution of rights. For Gilligan, women's reasoning is based on context and narrative rather than formal and abstract models. It is like the idea of justice which is built on the foundation of rights and obligations. According to Gilligan, care is built on responsibility and relationships (Gilligan 1982, p. 19). This ethic is very concerned about the uniqueness and fulfillment of the needs of the other.

The ethics of care and justice possibly happen only when there is an attitude of empathy towards the other. It is important to rest on the idea that each other is built from a different concrete history, identity and affective structure. In short, the idea of care requires every moral subject to understand the needs of the other, including what motivates them, what they are aiming for, and what they want. This idea has become a solid foundation of the politics of recognition. The idea of care demands recognition of particularity. Then, the implication of recognition is being responsive to the needs of the other.

Table 1.
Comparison of the Principle of Justice and the Ethics of Care

Principles of Justice	Ethics of Care
The issues and subjects discussed are abstract	The issues and subjects discussed are concrete
Subject has no sex (sexless)	Subject has sex
Universal	Particular
It examines injustice in the public sphere	It examines injustice in the private sphere
Equality	Equity
Rights-oriented	Responsibility-driven
Impartial	Partial
Distribution	Politics of recognition

Source: Jaggar (1995) & Kiss (2017), abstracted by the author

In feminism, several schools of thought argue that the theory of justice needs to be abandoned and replaced with other ideas, because it has a fundamental flaw; it fails to map the issue of gender inequality. Some thinkers argue that the notion of justice is no longer relevant and needs to be replaced by the principle of care (Noddings 1986). Nel Noddings is a feminist who focuses on educational theory and the ethics of care theory. Her idea of rejecting the concept of justice certainly receives criticism from non-feminists and feminists. Because the concept of care without clear principles and procedures has the potential to produce injustice. The theory of care without a clear distribution procedure produces ambiguity, such as there is no limit on who is the giver and the receiver, who can expect and demand care, how we distribute care to our own community or to the other. Another lack of the theory of care is how care relates to social responsibilities and benefits that have been regulated and discussed in social contract theory and mainstream theory of justice.

The idea of care—feminine ethic imagines that with the principle of interrelation, many social conflicts can be resolved by the principle of care. But this idea must be examined. Because this is only possible to happen when there is an understanding and cooperation from all parties, whereas in a social context, such situations are often not real (Sterba 1994).

Although it lacks in procedures, the idea of care has an important meaning in the discourse of justice, because it is an interruption that demands justice to be discussed in a concrete and not an abstract situation. The spirit of care is to present accommodative justice to the current humanitarian situation, which must have sensitivity, responsiveness, and empathy. Without accommodating this idea, feminists believe that the transformation of

society towards justice is impossible. It is proven that idea of the mainstream justice that is deprived of the involvement of women's knowledge has failed to bring about good world order.

Project of modernism intensively discussed justice by referring to the social contract, but in that period of time, crimes against humanity, war, exploitation of humans and the environment, racism, and other social problems were flourishing. The main theory of justice ignored the diversity of human situations, the possibility of individuals and/or groups to become marginalized communities, and there were also sub-marginal groups as the most vulnerable groups. Then, feminist reflection based on concrete experience became the basis of advocacy for the recognition of differences and affirmative needs for vulnerable groups.

Based on the approach of care, a number of policy initiatives that are responsive to concrete situations have begun to be carried out. Therefore, the idea of ethics of care raises the questions of what kind of fair treatment should be done to those who are vulnerable and who will do the care job. Some of the theories of justice refer to Rawls' (1971) difference principle which ensures that the most vulnerable groups are protected and benefited (maximin principle), but feminists detect that Rawls' attention to iterating on the family structure, distribution of rights within the institution is very little, or nothing at all. Meanwhile, inequality in the most primary social institutions occurs in the family.

Disappointment among feminists towards the "mainstream" theory of justice is due to the negation of the experience of women, the experience of discrimination within the family institution, and the distinctive public-private sphere in the theory of justice.

The idea of mainstream justice thus turns a blind eye to a number of discriminatory phenomena in the family. In fact, to transform society into a situation of justice, the context of community needs to be identified, examined, and intervened. Life in the domestic sphere is the most subtle institution in building a society. At that point, injustice is perpetuating, then public life as its extension can certainly replicate the situation of injustice.

The idea of care becomes important as an interruption to the stability of the theory of justice, but the essentialist nuance of the ethics of care should be examined carefully. Do not let the excessive association of care with the feminine character drag back the naturalization of gender, reinforce the sexist division of roles, in which women are transferred to private space, nurturing, domestic area, while men are re-naturalized as public, rational, and political beings. The glorification of ethical values based on the reflection of paternal or maternal experiences is not sufficient to produce social justice.

Abstraction & Impartiality

Rawls' theory of justice is problematic because it inherits a Kantian deontological ethic, especially in terms of excessive abstraction. For feminists, the justice approach needs to be built on concrete human experience. That is, when it comes to public decisions or policies regarding the distribution of social burdens and benefits, it is important to use a bottom-up scheme. For many feminists, an overly abstract theory of justice has implications for the co-optation of the substance of justice itself.

Feminism believes that the invisibility of women's experiences in the theory of justice results in undetected and categorized violence and deprivation of rights and opportunities against women as a form of injustice. In the context of feminism, the abstraction of sex and gender tends to fall into neglectful generalizations on particularities.

The ethics of care have had a great impact by becoming a starting point for recognition of the other, but in the history of feminist, it turns out that the examination of injustice which stops at categories of sex and gender in general is also problematic. Because the subject of woman is removed from the context, although it is true that in almost all parts of the world, women experience discrimination from patriarchy, but contemporary feminist thought views that there are special situations that also need to be seriously examined. Sex and gender

categories need to be seen within the framework of intersectionality. Kimberle Crenshaw (1989) sees that in the context of marginalization, for example, black women experience several types of oppression at the same time: they come from the working class, they are women, and they are black. However, in many theories of justice, including classical liberal feminism, this experience of intersectionality is not recognized. Because the oppression only reflects the experience of white middle class women. This means that different economic, social, political, cultural and civic contexts are negated.

Another idea that has attracted the attention of critics of feminism theory is impartiality, Young (1990) & Benhabib (1992) believe that the impartiality offered by the "mainstream" theory of justice is a veil to perpetuate hierarchy and to perpetuate the interests of dominant groups. Young suggested that the notions of universalism and impartiality should be abandoned. Furthermore, in the current context, the principle of justice must engage the principles of particularity, heterogeneity, and partiality.

The abstraction principle of Kant's deontology, the issue of injustice and oppression of women becomes invisible. The oppression that is discussed is usually only a question of distribution. The oppression is actually broad and complex in scope. It is the tyrannical practice of the ruler/dominant group towards the lower hierarchical group. Structural oppression means the widespread and systematic practice of oppression in economic, political, cultural, and family institutions (Young 1990). Women as one of the vulnerable groups are their targets, but because the subjects in the main justice theory are abstract, general, bodiless, and genderless subjects, the theory fails to see it as a form of injustice. In a simple term, oppression reduces a person's chances of becoming human.

In Young's idea (1990), there are at least five types of oppression, including: (1) Exploitation—using other people's labor to gain profits without providing fair compensation. Another type of oppression is (2) Powerlessness, a situation where vulnerable and powerless people are governed and controlled by those who hold power. The next type of oppression is (3) Marginalization, the practice of exclusion of individuals and/or groups from equal opportunities, for example the marginalization of communities based on ethnicity, gender, and sexuality. This oppression is internalized. Thus, the victims are not able to describe the situation of injustice they experience. In other words, they are silenced. Another oppression is (4) Cultural Imperialism, a situation

where certain cultures are considered superior to other cultures, which also results in exclusion. The practice of cultural imperialism can be found in patriarchal culture, white culture as well as in heteronormative culture. The last type of oppression is (5) Violence. Violence is a form of oppression that is easy to recognize. The violence aims to harass and humiliate others. For Young, universalism and impartiality as the basic principles of justice theory create inequality for women and vulnerable groups.

Just like Young, Benhabib also sees a number of problems with the principles and application of universalism, but she believes that the principle of universality can still be maintained by revitalizing some of its aspects. According to her, universal principles are there when the moral conversations are open. In response to a top-bottom as well as bottom-up approach to justice; abstract vs concrete; universal vs particular, Benhabib offers a procedure of justice via interactive universalism ethics.

Feminist Social Justice: An Effort to Bridge Justice and Care

Benhabib views that there is a gap in the Kantian theory of justice. According to her, the theory of justice that only accommodates the generalized other is not enough. However, Benhabib believes that some parts of mainstream justice principles can still be used as the basis of social justice feminism. For Benhabib, the invisibility of women—gender in the theories of justice cannot simply be solved by placing the category of women in the theory of justice. According to her, the exclusion of women needs to be recognized. Issues such as the affective aspect in the idea of care that has been removed and the daily interactions of the concrete other that have been silenced need to be discussed.

In the ethics of interactive universalism, Benhabib radicalizes the idea of the generalized other by entering into conversations about the concrete other. In contemporary moral theory, these two ideas are considered incompatible with each other and even positioned as antagonists. Not only these two ideas, the logic of the dichotomy also operates on the notion of autonomy and nurturing; independence and attachment; public and domestic; and even further on the idea of justice with the good life. The aim of radicalization of the idea of the concrete other in the ethical theory of interactive universalism is not to eliminate the generalized other, nor to build a moral theory specifically compatible with particular ideas, but to show that there

are limitations to the discourse of justice that rely on universal moral ideas (Benhabib 1992, p. 158).

The starting point of the concrete other obliges every moral agent to see others as rational beings who carry a concrete history, that each person carries their own constitution of identity and affective constitution. With this starting point, we abstract what builds our commonality and focus on individuality. That is, the idea of the concrete other is a concept to ensure that the universalism discourse does not fail to examine the particularity aspect. With the concrete other, ethical discourse has the possibility to consider the ideological limits and biases that arise from the morality of universalism through previous untested and thoughtless oppositions. Substitutionalist universalism (Rawlsian model) has ignored the concrete other, while interactive universalism recognizes that every generalized other is also a concrete other from a meta-ethical and normative perspective. The idea of the concrete other becomes the basis or offer, so that the ethics of justice and the ethics of care are possible to bridge. With this idea, it is possible to think about the gender prepositions of both ideas.

The idea of interactive universalism believes that normative conflicts can be resolved rationally on the basis of fairness and also the principle of reciprocity. The moral view of interactive universalism begins with differences as the basis of reflection and action. That is, universality is a regulatory idea that does not reject the body of the subject and does not reject the inherent identity, but this idea commits to develop moral attitudes and also encourage political transformation that can produce perspectives that can be accepted and agreed by everyone.

Universality is not an ideal consensus of a fictitious self but rather based on a concrete process of moral and political dialogue that is embodied and strives for autonomy (Benhabib 1992, p. 152-153). The interesting thing about this idea is the dream of a just global society which refers to cosmopolitan norms. Universalism is not understood as an idea that eliminates plurality but as a prerequisite for maintaining and growing diversity which refers to the aspect of fulfilling human rights. The notion of justice by the feminists, especially Benhabib, has spoken about justice in a global context. The principle of mainstream justice concerning the recognition of the concrete other, the recognition of equal rights for everyone needs to be understood as the basis of global justice. This means that the principle of equal respect for everyone is universal, not dependent on membership in a country/community, but in the spirit of cosmopolitanism,

it does not mean that the particularity and connection of a person to the community (social cultural context) is eliminated.

According to Benhabib, the discussion of justice must go together with the ideas of solidarity, friendship, love, and care. With the ethics of care, we will ask questions and try to answer the needs of the other. Benhabib stated, when we treat the other based on the above norms, then we not only recognize their humanity (universality) but also their individuality (particularity) (Benhabib 1986, p. 341).

For Benhabib, social justice feminism can only be guaranteed through moral conversations that recognize and involve everyone. For her, justice is a process of understanding and giving empathy for the other. The better and deeper our understanding of the concrete other or situations of different people, the better our moral sympathy and understanding of justice will be. Each of us will be more sensitive to the oppression of the concrete other, as will our commitment to fight for it.

Research conducted by Jurnal Perempuan on Rural Women's Agency on Forest and Land Governance (Pratiwi & Gina 2019) showed that without a feminist justice approach, the voice of rural women as a concrete other was not recognized and accommodated in the discussion of equitable access to forest and land governance. A number of studies also showed that even though policies and programs for gender mainstreaming had been designed and established, there was a gap in the implementation. More so often, the issue of gender structure fails to be recognized and intervened. Consequently, instead of achieving justice, the public policies fail to intervene in the core issue.

The importance of feminist justice approach can be seen in the feminist-based research on fisherwomen. Efforts to provide justice in the form of acknowledgment the existence of fisherwomen start from knowledge that comes from women's daily lives. The struggle for recognition of the existence of fisherwomen starts from their concrete experience as fisherwomen. Fisherwomen as subjects and citizens, need to be involved in the formulation of existing policies. In the context of women, political recognition of their existence can only occur by ensuring that fisherwomen as a marginal group are involved in public discussion, in formulating policies related to their interests. In Young's oppression approach (1990), fisherwomen experience almost all types of violence, they are exploited as unpaid or unpaid workers and marginalized because there is no acknowledgement of their profession. They experience violence from their

families, communities, and the state. Without the feminist approach, the problem of fisherwomen can only be seen from one dimension, namely economic inequality, but with care, acknowledgement, and involvement of the concrete other, the structure of injustice becomes clear.

With feminist justice theory, it appears that despite gender mainstreaming and promises to promote gender equality through the country's programs, it turns out that the absence of an equal moral conversation and the application of the interactive ethical principles of feminism make the fisherwomen's struggles experience multiple obstacles. Although there is a Gender Mainstreaming program in every ministry, there is always a gap between policy and the implementation. Recognition of the profession of fisherwomen is impeded at the levels of RT (Neighborhood Unit), RW (Community Unit), and the Village Head, therefore the members of parliament (DPR RI – House of Representatives) are still thinking and acting in a patriarchal pattern. The difficulty of recognition of women's occupation as fisherwomen on identity cards—from housewives to fisherwomen—is caused by the prejudice and stigma of gender in the culture of the community. That is, the principle of moral discussion in terms of discussing social justice needs to start from the principle of care, the willingness to listen, the will to understand the other, and the expansion of understanding (Benhabib 1992). Losing them, then, as in the case of rural women's agency on forest and land governance and fisherwomen, justice does not really accommodate women's interests. Furthermore, Benhabib believes that in inclusive conversation, cultural iteration is possible. Conversation always results in a reinterpretation of meaning and cultural practices will occur. The involvement of the concrete other voices can change the structure of injustice.

In the context of research on fisherwomen in rural women's agency on forest and land governance conducted by Jurnal Perempuan, it is also shown that social justice feminism always starts from activism. Although a number of justice theories have talked about the meta-ethics and normative of justice, without social activism or praxis, change is impossible to happen. Social justice feminism ensures that justice that is pursued through legalistic channels and procedures involves women's concrete experience at the grassroots. It is also important to look at the women's agency and their good work. Justice can only be found by bridging the concrete experience of the other in the language of policies. McLaren (2008) states that failure to involve justice for

women often occurs because the struggle for justice is not carried out holistically. It is not enough to resolve injustice cases by legalistic procedures without changing awareness and practices at the local level.

The principle of interactive universalism shows that iteration in society—culture can only be done when all parties are involved in an equal and open conversation. Feminist social justice is there by presenting policies that are gender sensitive but also empower and support contextual responses by society. Social justice feminism presents policies that are gender-sensitive, empower, and support contextual responses by society.

Feminist social justice theory is based on care and the involvement of concrete other voices. This approach is sharpened by the notion of intersectionalism. In the mainstream feminism thought which is strongly influenced by classical liberalism, gender inequality is believed to be one-faced, but nowadays, feminist justice theory can more sharply dismantle layer upon layer of injustice against women and other minority groups. In the context of gender diversity and sexuality, for example, the idea of intersectional feminism theory of justice is able to show that rape has a plural faces. Agustine's research (2021) showed that it was not only gender norms that are the basis of rape against women's bodies, but a heteronormative matrix that was manifested in hatred of LGBTQ as the concrete other (survivors' narratives), as the basis and justification for rape of body considered the other. The theory of intersectionality is able to see that in reality, gender inequality experienced by women is plural and complex. This theory of justice is able to detect that it is not only gender as the basis for exclusion and discrimination, but also other identities such as sexuality, ethnicity, religion, age, and so on that can produce multiple discriminations. This theory is able to recognize, who is in a position with privilege and who is not. Various gender discrimination practices that lead to current injustice can be examined from a sharper lens; injustice operates in interlocking conditions.

The concept of gender-blind justice is ultimately manifested in public policies and the social structure of society. The failure to recognize and involve the concrete other has implications for the failure to implement social justice. Justice orientation is often targeted from the legalistic path without touching the efforts of change at the grassroots. According to Young (1990), injustice cannot be overcome simply by changing rules and policies. Furthermore, Benhabib states that injustice in culture and society can only be done through continuous conversation, because in conversation, every cultural

meaning and norm undergoes iteration. Culture is not a final meaning, but a dynamic contestation.

Closing

Within the body of feminism, there are actually a variety of ideas about justice. Also, feminist theories pay attention to justice in different ways. Some theories focus on examining justice in relation to the institution of the family, some focus on the exclusion of women from the distribution of rights, and some other talk about the roots of the exclusion of women from ethical discourse. However, what each idea has in common is that naturalization of sex and gender or biological essentialism is the basis of the exclusion and discrimination of women.

Feminist approaches that adhere to the tradition of Rawlsian justice theory and those that prioritize the idea of care share the belief that sex and gender affect social status, power, and opportunity. Feminists believe that the exclusion of women from the public sphere is a manifestation of patriarchal ideology which positions women as the other in society and subordinate to men.

Feminists' examination of the discourse of justice has come to the conclusion that the social contract and the principles of justice are not constructed in an inclusive manner. Since the very beginning, all social rules have been built and maintained to defend the interests of the dominant group—men. Although Rawls's theory of justice has slightly considered that there are situations where certain groups/individuals are present in society with a set of privileges, Rawls's theory of justice contains a fundamental flaw because it is unable to map the issue of gender inequality.

Feminists have found that the gender system has systematically excluded women from equal rewards and equal opportunities. The presence of care is the entrance to the politics of recognition. Through the discourse of care which is identified as feminine nature, Gilligan was the first who brought the experience of women to ethical discourse. Although the idea of care contains a number of problems, it provides a basis for recognition, empathy, the existence of a concrete other, the importance of consideration of social context, the notion of equity, and intersectionality.

Based on the history of feminist thought and activism, there are at least a number of procedures to ensure justice, they are: (1) the acceptance and practice of care; (2) coming from an analysis of the existence of different oppressions (in Young's concept there are 5 types of oppression), (3) the recognition and acceptance

of the concrete other, this idea becomes important as the basis of intersectionalism in feminism, (4) the practice of democratic iterations; the involvement of all parties in conversations that result in the redefinition and reinterpretation of values and culture, and (5) activism. Feminist theory believes that justice is not only changed in an ethical or conceptual framework but must also change the level of social praxis.

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Footnotes

- ^[i] The concept of democratic iterations is Benhabib's idea which is developed from the idea of iterability. Both believe that repetition always results in alteration or change. Benhabib uses this iteration idea to generate ideas about the ideal democracy that is sensitive to excluded and marginal constituencies. The idea of democratic iterations arises from concerns that many individuals and collective groups (immigrants) in a country whose uniqueness or collective identity are not accommodated by the country. Consequently, they are not accommodated, recognized, thus, they are excluded from the fulfillment of citizenship rights. Benhabib offers the idea of iterations as a normative and institutional solution to the paradox of democratic legitimacy. Democratic iterations are a way to mediate the formation of the will of the majority in the implementation of cosmopolitan norms.
- ^[ii] Maximin is an acronym for maximize the minimum, which means choosing the option that provides the maximum benefit or good for the most vulnerable people.
- ^[iii] The generalized other is a concept of subject built on Kant's universal moral tradition. Universal moral believes that everyone has equal rights. The generalized other articulates the experience of a group of people which represents human experience universally. According to Benhabib, the generalized other does not reflect universal human experience but reflects the experience of male adults, white (western) people, who own property or come from professionals. The idea of generalized other presupposes that everyone is in a symmetrical and substitutional position.

Peace or Justice? Transformation for Women in Conflict and Post Conflict Areas in Papua and Aceh

Sri Lestari Wahyuningroem

Universitas Pembangunan Nasional Veteran Jakarta
Jl. RS. Fatmawati Raya, Pd. Labu, Kec. Cilandak, Daerah Khusus Ibu kota Jakarta 12450

swahyuningroem@upnvj.ac.id

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Abstract

In conflict or post-conflict contexts, women experience layered violence: both daily and structural. The two main approaches commonly used in studies and programs in both contexts are peace and transitional justice. Both give a focus on violence experienced by women, but are not sufficient to provide analysis and solutions to the occurrence of structural injustice experienced by women. This paper is a reflection of the long journey of the author's involvement in both approaches. The main question of this paper is: how can peace and transitional justice provide solutions to transform structural injustices experienced by women in conflict and post-conflict areas? Where to start?

Keyword: violence against women, transformative, peace, transitional justice

Introduction

This paper discusses the limitation of the peace and transitional justice approach in responding to the structural injustice experienced by women in conflict areas and suggests a transformative conception of justice.

Intervention in conflict and post-conflict conditions are generally dominated by two approaches: peace and transitional justice. The peace approach focuses on resolving conflicts and ensuring that conflicts do not recur in the future. Meanwhile, in particular, transitional justice emphasizes resolving past human rights violations and ensuring that they do not repeat in the future. In practice, both academics and practitioners of these two approaches often work separately to fulfill their respective promises.

Both of these approaches view that conflicts and gross violations of human rights have an impact on women as well. Women become victims directly and indirectly due to their gender role in society. The path of peace or justice becomes the offer of the ultimate goal of resolving conflicts and gross violations of human rights, which are assumed to have a good impact on women's experience of violence.

The author is narrating these two approaches by viewing two different contexts: conflict and post-conflict. The context of conflict is represented by

Papua, which has been in tension until this very day. As for the post-conflict, the author tackles Aceh as the representation. Although Aceh and Papua have very different characters in terms of people and conflict, there is a structural injustice experienced by women in both regions regarding conflict and the response to it, which contributes to women's experience of violence.

This paper is a reflection of the author's experience of more than two decades participating in both areas as an academic and practitioner. This paper starts from a single question: how can the approach to peace and transitional justice be able to answer and help women get out of the structural injustices they experience in both conflict and post-conflict situations? Also, this paper examines what policies in Indonesia that have the potential to become a formal basis for transformative forms of justice in Aceh and Papua. The author's initial research on conflict in Aceh began in 2000, and has been involved in several more intensive post-peace and transition justice research and programs since 2005. Meanwhile, the author's involvement in research and programs, especially transitional justice in Papua, began in 2008. The data in this paper is partially developed by the author from those various studies as well as observations during the author's involvement with the communities, especially women's groups affected by conflict in the two regions. In addition, the author also uses secondary data such

as news, investigation reports and documentation, and published research findings.

The arguments in this paper refer to three things. First, neither the peace approach nor the transitional justice approach can fully accommodate the problems of structural injustice experienced by women during conflict and post-conflict periods due to a number of limitations. Second, the limitations can be overcome by adjusting the transformative goals that can have an impact on justice for women in conflict and post-conflict areas. Third, there is a potential for transformative justice in a number of policies in Indonesia, especially those related to Aceh and Papua. From the context of Aceh and Papua, there are a lot of lessons that can be reflected in other contexts both in Indonesia and in other parts of the world.

The Experience of Violence against Women in Aceh and Papua

In June this year, the Jantho Syar'iyah Court in Aceh ruled to acquit two suspects of raping an 11-year-old girl. The two people are the victim's father and uncle. Although this verdict was later overturned in the Supreme Court and the perpetrators were sentenced to 600 months in prison, this case adds to the series of cases of violence against women in Aceh, which totaled 791 cases in 2020 according to the Data on Cases of Violence against Women and Children in Aceh, the Office of Women's Empowerment and Child Protection in Aceh Province.

Meanwhile, in Papua, as of the end of February this year, there were 37,466 refugees from Nduga and Intan Jaya, the two areas that have been in turmoil since late 2018 due to shootings between the Indonesian National Army (TNI) and the Free Papua Movement-National Liberation Army (TPN OPM). Of the 37,466 refugees, 206 mothers and children died, of which 21 were adult women. Most of this number died due to cold and deteriorating health, although there were also gunshot wounds (July 2021). Some women were also forced to give birth to their children in the forest, and there were babies who did not survive due to a bad natural environment.

The two cases above are a small part of women's experience in two regions: Aceh and Papua. These two provinces in the eastern and western parts of Indonesia are experiencing a long conflict of separatism and gross violations of human rights. In Aceh, conflict with the central government began shortly after the independence of the Republic of Indonesia and went through several stages. Two periods of resistance were during the Darul Islam (DI/TII) led by Daud Beureuh

(1953-1962) and the resistance period for the Free Aceh Movement (GAM) led by Hasan Tiro (1976-2005). Aceh was designated a Military Operations Area from 1989 to 1998, in line with political changes in Jakarta. In 2003, Aceh declared a Military Region and the conflict escalated in the following years. Peace was achieved after the great tsunami hit Aceh in late 2004. The Indonesian government and GAM, mediated by a third party from Sweden, agreed to a peace agreement in Helsinki and marked a new period in the land of Nanggroe. This agreement was strengthened by Law no. 11 of 2006 concerning the Government of Aceh (UUPA). In Papua, conflict with the Indonesian central government had started since Dutch colonialism ended in 1963, and the United Nations handed over Papua under Indonesian control until the Act of Free Choice (Pepera) in 1969.

A total of approximately one thousand people who were representatives of the Papuan, some of them were under threat, and the result of the Pepera decided that Papua is part of the unitary territory of Indonesia. When the political change took place in Jakarta, Papua was also in turmoil and participated in voicing its aspirations to get out of the repression of the central government. In 1999, one hundred Papuans went to President BJ Habibie to discuss the situation in Papua and their demands. In 2001, Jakarta established the status of a special autonomous region through Law no. 21 of 2001 concerning Special Autonomy for Papua (UU Otsus Papua) whose period will end this year. As of this writing, Papua is still in a conflict which impacts various forms of gross violations of human rights.

Despite the different contexts and histories, women in both Aceh and Papua have the same vulnerability to violence. In this paper, violence is not seen as a single case or event. Violence, especially against women, is seen in a broader context, as something that arises because of the power relations that exist in society. In most societies, women are positioned in unequal power relations, even powerless.

According to Gredy et al. (2010), violence in this regard is divided into two: everyday violence and structural violence. Everyday violence is direct and personal. Perpetrators and victims of violence can be identified immediately, so are the form of violence and its impact on the individual. Meanwhile, structural violence is perpetrated by social institutions against vulnerable groups because of the omission of injustice and discrimination. Farmer called this structural violence "the social machinery of oppression" (Farmer 2004, p. 307), or the social machine of oppression, which signifies

that this violence is indirect and invisible. Injustice and discrimination, in some contexts, are normalized and considered as given because women carry out domestic roles and are marginalized in public access. Indirectly, structural violence and everyday violence are two interrelated things because everyday violence is actually a product of structural violence in the form of oppression, marginalization, and impoverishment.

Women in particular become objects of everyday and structural violence due to unequal gender relations in society. The implication of the injustice and inequality of gender relations is that women are not only vulnerable to poverty, but they are also vulnerable to violent and discriminatory practices in the conflict in society. Even in the post-conflict period, violence still occurs and women are often victims of repeated everyday violence. This violence can occur in domestic areas such as in the family environment, as well as in public areas.

We need to understand the experience of women in Papua and Aceh in such situations. Conflict exacerbates pre-existing structural injustices by increasing the intensity of everyday violence. Report on Documenting Violence Against Women in Papua, *Stop Sudah!* (2010) shows the complexity of the types of violence experienced by women in Papua. Of the 261 cases, there are three forms of violence, namely violence supported and perpetrated by the State, family violence, and layered violence (certain forms of violence that have an impact on other forms of violence). Violence by the State takes the form of sexual and non-sexual violence. Sexual violence such as: rape, sexual slavery, sexual torture, forced abortion, sexual exploitation and issues related to the use of contraceptives (KB) and attempted rape. Meanwhile, non-sexual activities include murder, attempted murder/shooting, torture, arbitrary detention, displacement, destruction and confiscation of property. Meanwhile, domestic violence includes physical, psychological and sexual violence in the form of: polygamy/cheating, abuse, economic neglect, marital rape, psychological violence, restriction of movement and forced marriage, and women suffering HIV/AIDS transmitted by their husbands or partners.

Meanwhile in Aceh, the National Commission on Violence against Women (Komnas Perempuan) found 103 cases of violence against women in thirteen cities/districts in Aceh. These cases occurred during the military operations 1989-1998, the peace dialogue period (2000-May 2003), the Military Emergency and Civil Emergency (May 2003 – August 2005, 65 cases), and after the Peace MoU (after August, 2005). Most of these cases involved

state officials and the Free Aceh Movement (GAM) as perpetrators, but some also involved ordinary civilians. Interestingly, this report also found five cases of violence related to the implementation of the *Qanun*, for example, as a result of the implementation of regional regulations regarding dress, *khalwat* (being alone with the opposite sex who is not their family), and *maisir* (gambling). In the post-conflict, there were several reports of violence against women carried out by the Provincial/District/City Governments in Aceh and non-governmental organizations that assisted the victims of violence.

Not only the victims of conflict, former female combatants or known as *Inong Balee* also did not find justice even though peace was achieved in the Helsinki MoU in 2005. (Wahyuningroem 2018; Wahyuningroem 2008; Uning 2009; Rahmawati et al. 2018). Many of them continue to experience discrimination, especially in terms of economic and political access. In addition, the other biggest problem is health, which also affects their ability to earn a living, especially for widows and female heads of household. In contrast to male ex-combatants, women's roles and leadership during the conflict did not receive sufficient recognition from both GAM and society (Uning 2009; Rahmawati et al. 2018)

Peace and Transitional Justice: Two Approaches to Conflict and Post-conflict

In Papua and Aceh, a number of institutions at the local, national, and international levels, have paid attention to the conflict and its impact on communities in the two regions. The two main approaches that these parties take in Aceh and Papua are peace and transitional justice. Before discussing how these two approaches work in Aceh, the author will discuss the scope of each approach.

The peace approach began to develop four decades ago. Johan Galtung, whose work is often referred to by academics and practitioners in this field, mentions three aspects of peace, namely peacekeeping, peacemaking, and peacebuilding. Peacekeeping is an intervention that is carried out when a conflict is protracted and involves violence. The two main functions of peacekeeping are a means of separation or an effort to break up the two warring parties so that they can stop confrontation, and build peace through communication and economic and political regeneration (Fetherston 2000). Some of the advantages of peacekeeping include legitimacy, burden sharing, the ability to deploy soldiers and police in various parts of the world, and integrate with civilian peacekeepers. The United Nations (UN) has peacekeeping

to ensure security with three basic principles: Consent of the parties; Impartiality; Non-use of force except in self-defence and defence of the mandate. Peacekeeping operations aim to facilitate the political process, assist in the disarmament, demobilization, and reintegration of former combatants; support the organization of elections, protect and promote human rights and assist in restoring the rule of law.

Peacemaking is a series of efforts to produce a peace agreement for the conflicting parties. It aims to bring conflict and violence into dialogue by seeking a middle ground and agreement on existing differences through the representation of particular institutions such as the United Nations (UN) or other peace mediation platforms. In addition to the United Nations and these mediators, other actors include governments, regional organizations, groups of countries, individuals or non-governmental organizations. According to Article 33 of the United Nations Charter, negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, belong to peaceful settlement of disputes. Also, mediation can be processed through the International Court of Justice or ICJ (Ouellet 2003).

Peacebuilding is an effort to identify and promote sustainable peace and prevent the recurrence of conflict. Some of the efforts include restoration of order, training for security personnel, promotion of human rights, reform and strengthening of government institutions (Fetherston 2000). This intervention is carried out by addressing various key issues that affect the functioning of society and the state as well as strengthening national capacities effectively. Peacebuilding also strives for a country to make a smooth transition from conflict to peace and to make peace an absolute condition for sustainable development.

Compared with studies and interventions of peace approach, studies on transitional justice in various places in the world have developed in the last twenty years or so. Paige Arthur (2009) argues that for most activists and practitioners, the emergence of the field of study on transitional justice is a consequence of the development of the wider human rights movement, especially in the context of democratization in Latin America and Southern European countries in the 1970s and 1980s. Democracy activists in government tried to find new and creative ways to deal with past injustices. They began to develop a transitional justice framework to strengthen the new democracy and to fulfill the moral and legal obligations articulated by both domestic and international human

rights movements. Although conflicts and human rights violations do not specifically arise from the context of conflict, this approach recognizes that they arise from authoritarian regimes.

The Secretary-General of the United Nations (2004) defined transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.” Efforts to resolve cases of past injustice can be carried out by the state through various steps and mechanisms. The mechanisms most frequently mentioned in the literature are prosecution initiatives, truth-seeking, reparations, institutional reform. Prosecution initiatives aim to provide legal justice for victims and to establish or strengthen justice systems and the rule of law in countries in transition. Also, these efforts aim to reflect a new set of social norms based on respect for human rights and serve as a starting point for reform process and build trust in government institutions (Van Zyl 2005, p. 211). The truth-seeking mechanism is an attempt to establish the truth about past crimes. Included in these mechanisms are truth commissions—non-judicial or quasi-judicial investigative bodies which map patterns and unearth the human rights violations—or other national and international efforts such as major historical research or documentation of violence and victims of violence, and the excavation of graves or exhumations. In many contexts, truth-telling is linked to reconciliation as most experts believe reconciliation can only be achieved if the past victims get official recognition of the truth.

Reparations take into account physical requirements, or moral obligations to victims and survivors of human rights violations. Reparations can include monetary compensation and non-material measures including symbolic acknowledgments such as formal apologies, and memorials. Unlike prosecution initiatives, truth-seeking, and institutional reform, reparations mechanism focuses more on the experience and needs of the victims directly.

Meanwhile, scientists believe that reforming institutions that have a history of perpetrators of violence, including security and legal institutions, is a necessity to prevent the recurrence of patterns of violations. One form of concrete reform is to implement an evaluation mechanism or career track record, also known as vetting. The term ‘vetting’ tends to overlap the illustrative term referring to the post-communist context (Duthie 2007, pp. 17-18).

In addition to these four mechanisms, there has also been extensive study and debate on amnesty and its role in implementing transitional justice. Tricia Olsen et al. (2010) define amnesty as “an official state declaration that individuals or groups accused or convicted of committing human rights violations will not be prosecuted or will be pardoned for their crimes and released from prison”. There has been a paradigmatic shift in the last decade in international human rights and international criminal law; amnesty should only be carried out under legal requirements. That is, to be valid, an amnesty must conform to the norm of law, or comply with the “qualified amnesty”: must not preclude prosecution for war crimes, treaty crimes, and crimes against humanity (Laplante 2009, p. 4).

In both the peace and transitional justice approaches, women are also an important part of the study and its programs. Generally, studies of these two approaches focus on women as victims of conflict and victims of gross violations of human rights because of their gender role in society. Women are not only victims of violence as individuals but also as collective symbols targeted by the enemy to dominate the collective.

Starting from the experience that women are a vulnerable group in conflict situations or gross violations of human rights, it is important to ensure that women become one of the main beneficiaries as well as agents of peace and transitional justice. Both the peace and transitional justice approaches require the involvement of women at various levels. In decision-making, from peace agreements to implementation of peace and transitional justice mechanisms, women must be included to ensure programs recognize women’s specific experience and needs, including in relation to families and children. Likewise, in the implementation of policies and programs, a significant number of women must be able to access and be present. In the peace approach, women are active agents who use their own networks and strategies to ensure sustainable peace. Also, women must actively participate in the mechanism for resolving past human rights violations and ensure that sexual violence does not negate efforts to reveal the truth, justice, and reparations.

The issue of women is one of the other things that actually shows a link between the peace approach and transitional justice. Debates about which came first, peace or justice are often intertwined. Thus, in recent years, the two approaches have been considered as a complementary imperative (Simpson 2017, p. 3).

The problem is, the principles of these two approaches often exist at the normative level. Simpson (2017) sees

that the normative approach can be a challenge in practice. For example, prosecution process of those most responsible for past human rights violations is often difficult when the choice is to continue the peaceful situation which disturbed by tensions between the conflicting parties. Transitional justice practitioners who mostly have a background in human rights, vehemently demand the principles of universal justice regulated in international laws to be enforced so that victims get justice, and there are standards to ensure non-repetition in the future, although it can raise tensions on the parties who have agreed to make peace. At the same time, the peace practitioners who wish that bloodshed would not repeat, strive to ensure that peace continues even though they often abandon the principles of justice or truth-telling.

This tension is also seen in the post-conflict dynamics in Aceh and the conflict in Papua. In Aceh, the Helsinki MoU which was later strengthened in Law No. 11/2006 on The Governing of Aceh (UUPA) requires the Indonesian government to establish a number of transitional justice mechanisms such as the Court of Human Rights, Aceh Truth and Reconciliation Commission (TRC), and granting amnesty. After the MoU, the post-conflict peacebuilding program in Aceh focused on three aspects: disarmament and decommissioning, demobilization of GAM (the Free Aceh Movement), and reintegration of ex-combatants. Clarke, Wandita, and Samsidar (2008) note that these processes marginalize the narratives and experience of victims so that the transitional justice agenda is abandoned.

Attention to the issue of human rights violations and transitional justice got attention after civil society pushed a number of agendas in the MoU, particularly the establishment of Aceh Truth and Reconciliation Commission. For several years, civil society advocated and lobbied various parties, both the Government and the Regional Government as well as GAM elements in a number of local and national parties. The cancellation of the Law on Truth and Reconciliation Commission (the TRC Law) at the national level by the Constitutional Court also had an impact on this effort. It is because in the provisions of the UUPA, the Aceh TRC is institutionally under the National TRC, although this is not required in the MoU, it is a political product that forms the basis for the UUPA. Civil society’s efforts to establish the Aceh TRC (KKRA) were ultimately successful with the promulgation of Qanun No. 17 of 2013 concerning the Aceh Truth and Reconciliation Commission. The Aceh

TRC started working in 2016 and is currently finalizing its commissioners' first term report.

In Papua, elements of transitional justice are contained in the Special Autonomy Law, particularly in relation to the Court of Human Rights and TRC. However, as the conflict continues, these mechanisms have never been seriously realized by the Government. The lack of government commitment, especially in Jakarta, is one of the main factors (ICTJ & ELSHAM 2012). The only Court of Human Rights that has ever been conducted was for the shooting of a number of students in the Abepura incident in 2000. No one was sentenced by the Court and the National Commission on Human Rights' investigator regarding the bloody Wasior and Wamena events in 2003 and 2004, and has never been followed up by the Attorney General's Office.

Prior to the Special Autonomy Law, the Indonesian Institute of Sciences (LIPI) conducted research entitled *Papua Road Map*. This research investigates the conflict from 2004 to 2008 in Papua and points out four main issues of the ongoing conflict in Papua: 1) marginalization and discrimination; 2) the failure of development; 3) state violence and human rights violations; and (4) the history and political status of Papua (Widjojo, 2009). This study views comprehensively at various complex dimensions in the conflict in Papua, which make conflict resolution fail because they only see the conflict partially. Of the four problems, LIPI recommends two solutions, including a combination of transitional justice and peace approaches, namely reconciliation, court of human rights, and peace dialogue.

In practice, these two recommendations cannot be implemented simultaneously. The Court of Human Rights and TRC as part of the transitional justice approach cannot take place effectively if there is no peace in Papua. The leadership in Jakarta to this day has ruled out this possibility. As said by Muridan Widjojo, one of the JDP (Papua Peace Network) initiators from LIPI, to the author in 2013, "this initiative is like mowing weeds to clear the yard. When the yard is cleared, then we can sit together to discuss the transitional justice mechanism." The LIPI team becomes one of the initiators of the formation of the Papua Peace Network (JDP) who works with civil society to propose a peace dialogue between various elements in Papua and the Indonesian government. This initiative is the most developed to date in terms of peacemaking efforts in Papua. Unlike Aceh, efforts to resolve the conflict in Papua are closed to the possibility of involving parties outside Indonesia.

Beyond the Conflict: Transformation and Justice for Women

Practitioners and academics have seen the role and experience of women in Aceh and Papua in both approaches. The most dominant focus is related to the experience of violence against women. Violence against women in Aceh was studied earlier, before Aceh emerged from the conflict (Wahyuningroem 2000; Noerdin 2005). In the post-conflict, the monitoring of violence and access to information to document violence against women in Aceh has become much easier. Meanwhile in Papua, Komnas Perempuan took the initiative to document violence against women in Papua in 2009 (Komnas Perempuan, 2010). Several other studies were also uniquely conducted by Asia Justice and Rights (AJAR), which prioritized reparations and truth-telling by women victims (Wandita & Yolanda 2017)

The experience of violence against women in the approach to peace and transitional justice is analyzed in more depth in several international studies. In 2013, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) issued General Recommendation No. 30 as a reference for countries that signed the CEDAW Convention, including Indonesia, in an attempt to eliminate discrimination and violence against women in the context of conflict. Then, in 2015 the United Nations issued three studies on the UN body and programs of the issue of preventing, handling, and resolving armed conflicts globally. The three studies are: (1) *Global Study on the Implementation of United Nations Security Council Resolution 1325*, which examines the progress of implementing commitments on the WPS agenda; (2) *Report of the Advisory Group of Experts for the UN Peace Building Architecture* to investigate the approach of the United Nations in an effort to build peace; and (3) *Report of the High-level Independent Panel on Peace Operation* to investigate the needs and approach of the United Nations for peacekeeping.

The three studies state that the fulfillment of women's rights needs to pay attention to at least three things. First, the fact that emerging conflicts in various parts of the world have become more complex and involved more parties including non-state actors such as corporations, smugglers, local and international actors. The root of the conflict becomes complex by involving the identity and conservatism of certain values which often oppress women. Second, conflict changes and their impacts must be understood in terms of the needs and conditions

faced by women in certain conflict situations. Third, these studies recognize the plurality of groups, including women, so they have different needs. However, an inclusive and equitable approach is still needed in terms of conflict prevention and resolution. Moreover, the main thing in this context is equal participation.

In particular, *Global Study on the Implementation of United Nations Security Council Resolution 1325* analyzes various changes in conflict and challenges for women in creating peace and justice. In its analysis, this study sees the need for a transformative approach to ensure the protection and fulfillment of women's rights in conflict areas. This need is considered not fully able to be accommodated by various mechanisms of the transitional peace and justice framework. The main criticism is related to women's participation, as well as limitations in recognizing and intervening in structural injustices in society.

In terms of women's roles and participation, UN Women (2015) states that in practice, transitional justice mechanisms do not provide sufficient space for women's involvement. The experience of women's violence is only presented in various transitional justice mechanisms to photograph the spectrum of violence that occurs women are almost never involved in the planning to implementation stages, especially in terms of leadership, but does not contribute to an analysis of the roots of the conflict that causes the violence. Transitional justice mechanisms fail to involve women because both war and peace efforts are male-dominated areas, so the absence of women has an impact on the design and implementation of mechanisms that are unable to recognize women's experience and needs (UN Women 2015, pp. 109-110).

The second critique of transitional justice relates to its inability to recognize and intervene in the structures of injustice and vulnerability generated by systems of war and repressive rule (UN Women 2015, p. 110). In this case, women are reduced to their experience of violence without trying to analyze gender relations that lead to violence. In other words, everyday violence is a major concern in transitional justice without being able to relate it to structural violence. In addition, transitional justice is also unable to intervene in the five challenges needed for structural transformation in society as identified by Gready & Robins (2014): (1) poverty and inequality; (2) resource exploitation and environmental degradation; (3) high levels of political, social and criminal violence; (4) weak institutions and role of the state; and (5) continued marginalization of

certain groups including women and children. If these five things are not handled properly, there will always be a potential for conflict and security threats.

Seeing the relationship between daily violence and structural conditions, feminist studies highlight the intersection between gender analysis and other identities that allow discrimination and opportunities for women to end oppression. These studies emphasize the need for a holistic approach that accommodates the universalism of human rights, recognizes the roots of individual and structural violence, and analyzes the social and economic hierarchies that exist in society. Such studies allow us to understand the intertwined identities and the power relations, and emphasizes efforts to deal with it from the bottom up, and see opportunities not only limited to formal legal, thus enabling a wider socio-political response.

The transformative approach is an option to meet those expectations and is considered relevant in the context of recent global changes and dynamics. However, the transformative approach is not intended to replace transitional justice, but rather becomes a more advanced stage that needs to be applied from various existing mechanisms. In simple terms, transformative justice is understood as a strategy and approach to conflict and post-conflict management that is directed at fundamental and sustainable changes in society. The main objective is to identify various violations of women's human rights during the conflict and post-conflict, and to increase women's access and participation in planning and implementing transitional justice. Transformative justice has the potential to strengthen communication for sustainable peace (Lambourne 2009), and to provide space to look at communities affected by systematic violence and the possibility of breaking up with structural violence (Eriksson 2009).

Not only for conflict and post-conflict contexts, transformative approach is also useful for the conflict-free society. In this conflict-free society, security issues, especially for marginalized groups, are also a concern (Pankhurst 2003). Recognizing structural violence will also help to identify the effective role of the state in dealing with and preventing violence and discrimination against subordinate groups, especially women, and also ensuring that the violence will not repeat in the future. In addition, another important thing is the role that non-state actors can play, including various elements of civil society and human rights defenders, and ensuring the participation of these elements in all processes.

Formal Legal Framework as Initial Capital for Transformative Justice for Women

Is there room for a more transformative application of justice for women? Although the transformative aspect still needs to be mainstreamed into conflict and post-conflict studies and programs in Aceh and Papua, academics, practitioners, and the government need to look at the potential and existing formal foundations as a starting point. This foundation is a number of commitments and policies that exist in Indonesia at the national and regional levels.

Komnas Perempuan has conducted policy studies related to the protection and fulfillment of the rights of women victims in conflict areas (Yentriyani et al. 2018). The author outlines this policy within the framework of transformative justice into several spaces: (1) recognition of the root of structural problems in society, (2) civil & political, and economic, social, & cultural approaches in handling conflicts and violence against women, (3) involvement and participation of women and the wider community, and (4) strengthening the role of the State.

In terms of acknowledging structural issues in the root causes of conflict and integrating these structural issues in conflict management, several laws recognize the fact of discrimination and violence against women, but do not specifically mention the structural problems that are the root of the conflict. Two laws, namely Law no. 26 of 2000 concerning the Court of Human Rights and Law no. 7 of 2012 concerning the Handling of Social Conflict (PKS), confirm the recognition of the vulnerability of women in society but do not explain further about the structural issues that cause these vulnerabilities. More explicitly, Article 45 of this Law states that "Women's rights in this law are human rights".

The Law on the Handling of Social Conflict (PKS) integrates several reintegration measures including the improvement of various structures and frameworks that cause inequality and injustice, including economic inequality. This means that this law recognizes the existence of structural injustice against women in economic sense. Recognition of women's specific experience as mothers and women's reproductive functions can be found in several policies such as the Law on the Handling of Social Conflict and Disaster Management, which have implications for more specific handling of and recovery for women. As for the context of Papua, the Special Autonomy Law provides special recognition regarding women's rights in Article 47: "To uphold women's rights, the provincial government is

obliged to foster greater understanding and protection of human rights, and empower women with dignity, and make all efforts to position them as equal partners to men".

The second space of transformative potential in policy is the adoption of the fulfillment of civil and political rights and economic, social, and cultural rights as part of the handling of conflicts and cases of violence against women. The fulfillment of these two rights is basically inseparable, generally in the form of retributive justice with judicial process and restorative justice such as restorations, truth-telling, and so on. In terms of retribution, the Law on the Court of Human Rights does not specifically regulate women's access to justice although it specifically includes rape, sexual slavery, forced prostitution, forced pregnancy and contraception and other sexual violence as part of crimes against humanity (Article 9 point g).

In addition to the retributive aspect, several laws also regulate the aspect of restorative justice in handling conflicts and cases of violence against women, which are more aimed at fulfilling the economic and social rights. The forms range from state recognition to comprehensive reparations. The Law on the Court of Human Rights mentions the need for state recognition and victim recovery as a form of victim satisfaction. This includes the protection of witness and victim as well as other forms of compensation, restitution, and rehabilitation for victims (Articles 34 and 35). Meanwhile, the Law on the Handling of Social Conflict integrates conflict issues in mental health and social welfare services. In Article 38, this Law mentions a number of interventions as part of rehabilitation that prioritizes a restorative approach by incorporating a number of elements to fulfill the economic and social rights, including: psychological recovery of victims of conflict and protection of vulnerable groups, restorations of social, economic, cultural, security, and orderly conditions, and economic recovery and civil rights, as well as improvement of government services. Specifically, rehabilitation also includes efforts to meet the specific basic needs of women, children, the elderly, and groups of people with special needs and to fulfill the reproductive health needs and services for women (Article 38 (2) points g and h). Law no. 24 of 2007 concerning Disaster Management also accommodates the needs of women as part of a vulnerable group, especially women who are pregnant and give birth, as a priority. Meanwhile, Law no. 31 of 2014 concerning Amendments to Law no. 13 of 2006 concerning the Protection of Witness and Victim also integrates the fulfillment of civil and social

rights and economic, social, and cultural rights in efforts to protect and recover witness and victim.

Although in terms of handling, this policy is more specific in regulating the provisions for the fulfillment of civil & political rights and economic, social, and cultural rights, there is no special attention to peace education as part of conflict prevention. Issues related to prevention are generally regulated and are mostly borne by local governments. Conflict handling and recovery are still general and urgent in the short term. For example, for emergency response, the Social Conflict Handling Law mentions evacuation and cessation of violence but does not explain in more detail. For the post-conflict handling, there is no special attention to psychosocial recovery, but this is included in the Disaster Management Law as a form of emergency response and protection.

The third space in transformative justice is the involvement and participation of women and the community, including partnerships with various non-state elements. In almost all conflict-related policies at the national level, the role of women is mentioned explicitly even to the point of requiring women's involvement and participation. The 30% affirmative action for women's involvement is mentioned not only in the package of Political Laws (Political Party Law and Election System) but also in the Law on Human Rights, Social Conflict Handling, and Disaster Management as well as in Regulation of Coordinating Minister for People Welfare Affairs of the Republic of Indonesia Number 07 of 2014 on National Action Plan on Women and Children Protection and Empowerment in Social Conflict (RAN P3AKS). In the Social Conflict Handling Law and RAN P3AKS, it is explicitly recognized that women are agents of peace, so women must be involved in various conflict resolution and post-conflict processes. According to the Social Conflict Handling Law, women must be represented at least 30% in the task force of resolving social conflicts (Article 47). In Law no. 31 of 2014 concerning the revision of the Witness and Victim Protection Law, women's representation is considered in the formation of the advisory board (Article 16D). The representation of women is also regulated in the Aceh Government Law (UUPA) and the Papuan Special Autonomy Law. The Aceh Government Law mandates at least 30% of women in the People's Representative Council of Aceh (DPRA) and local political parties, as well as the representation of women in the Ulama Consultative Council (MPU) and Wali Nanggroe. Meanwhile, in the Papua Special Autonomy Law, women must be represented in the Papuan People's Assembly (MRP).

The fourth space for transformative justice views how various existing policies mention strengthening the role and institutions of the State. In general, various conflict-related policies have explained the separation of duties and authorities between the government, police, and TNI (the Indonesian National Armed Forces) in handling conflicts and disasters. In terms of fulfilling human rights, the Human Rights Law regulates the roles and mandates of Komnas HAM (National Commission on Human Rights) in detail, it does not give authority to this institution as the authority granted to other independent institutions such as the Corruption Eradication Commission (KPK) in terms of the authority to conduct *pro Justitia* investigations. In addition to Komnas HAM, the role and mandate of Komnas Perempuan is also regulated in policies as presented in the previous chapter. LPSK (Witness and Victim Protection Agency) also has a major role in fulfilling the rights of security and recovery of witnesses and victims, including in cases of conflict and human rights violations. The Social Conflict Handling Law is more progressively adopting improved structure and framework that cause inequality and injustice in the recovery phase of conflict, which can be translated into improvements in the governance sector, judicial reform, and security system reform.

Although it is not detailed, this provision is the basis for strengthening the State institutions that better guarantee the fulfillment of women's human rights, particularly in terms of security sector reform. In this regard, it includes the need for reform of the peace and resilience approach which has been based on territorial-security within the framework of conflict recovery, which is often limited by prohibiting acts that "endanger the integrity of the Unitary State of the Republic of Indonesia (NKRI)", especially in the context of the special autonomy of Papua and Aceh.

Even though Islamic Sharia is a specialty in Aceh, in a formal legal manner, the authority for its application is not strictly limited to complying with the Constitution, on the contrary, it allows criminalization that is not recognized in national law (Article 129 (2) of the UUPA). Likewise, the expansion of the authority of judicial legal institutions (the Prosecutor's Office and the Sharia Court) in relation to the implementation of Islamic Sharia is not limited within the framework of national legal integrity. In practice, it often creates new injustices and violence, especially against women.

Closing

Violence against women is always inherent in every conflict or post-conflict. The two main approaches in studies and programs in conflict/post-conflict areas are peace and transitional justice. These two approaches pay particular attention to the narratives and women's experience of violence, and try to ensure that peace and justice in the post-conflict benefit women and ensure that women are present in the process and decision-making. This paper discusses these two approaches and how they can provide a transformative solution for justice for women.

The peace approach emphasizes its focus on the efforts that need to be made by various parties to ensure that bloody violence is not recurred especially by the parties involved in the conflict. Meanwhile, transitional justice aims to break impunity and bring the state to account for human rights violations that occurred during the conflict, including ensuring their non-recurrence in the future. Both approaches recognize multi-layered violence against women in conflict situations. However, peace and justice efforts generally look more at the practices and direct impacts of violence and the best remedies for women. Transitional justice looks further at how the prosecution process with a retributive framework can provide certainty in law enforcement and formal justice for women.

In such a situation, what is not prioritized in the two approaches is the structural aspect in society that causes injustice to women, before, during, and after the conflict. In general, conflict reinforces these structural inequalities as seen in the contexts of Aceh and Papua. A number of studies recommend that the peace and transitional justice approaches pay more attention to this structural injustice, so that peace create a fundamental transformation for the fulfillment of women's human rights.

The starting point of this effort can be started by looking at the potential in Indonesia's policies related to transformative efforts in society, especially in relation to violence and injustice experienced by women. It is important as a formal basis for studies and programs in conflict and post-conflict contexts such as in Aceh and Papua.

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The Silent Voice of "Cenderawasih": Papuan Women's Struggle for Justice

Diana Binkor Jenbise

STFT GKI I.S.Kijne
Jalan Sosiri, Kota Baru, Abepura, Kota Jayapura
Papua, 99351

jenbisediana@yahoo.com

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Abstract

This article emphasizes the importance of raising the issue of Papuan women's empowerment and struggle for justice. This research is to answer, what is justice according to Papuan women and how are Papuan women's efforts to achieve justice for their identity and the land of Papua? In answering questions and the realities faced by women in achieving justice, this research seeks freedom of talks about the rights of Papuan women in the life of the state and society. However, there are a patriarchal system and a state that make it difficult in listening to and responding to women's voices about justice. It takes time and effort to change this old paradigm. Through the first form of storytelling, we can place the story of the identity of a Papuan woman and her pride as a symbol of Cenderawasih with dark skin and curly hair. Papuan women must not remain silent and must fight for justice.

Keywords: Justice for Papuan Women; Papuan Women Storytelling; Papuan Women; Silence Cenderawasih; Telling Story

Introduction

There have been many studies on Papuan women's struggle for justice. However, until now, the voice of Papuan women is like a silent "Cenderawasih" as they are unable to express their opinions. We need to remember the political experience of Papua before and after its integration with the Unitary State of the Republic of Indonesia in 1963, especially when it was legitimised in the Act of Free Choice (*Penentuan Pendapat Rakyat, Pepera*) (1969) by the United Nations (UN) through the inclusion of 1,025 Papuans as a legitimate sign of Papua's integration process with Indonesia (Saltford 2003, p. 5). To Papuans, however, this political experience does not necessarily guarantee their freedom. Freedom is something rare, especially for Papuan women.

The freedom of Papuans to express their opinions is often limited by the Indonesian government because it is seen as a form of resistance to the legitimate government. One of the bitter experiences of Papuans is the absence of freedom to express their opinions as Indonesians. The right to express opinions in public as stated in the 1945 Constitution does not apply in Papua. Even peaceful protests demanding for the fulfilment of rights and justice for Papuans often led to forcible disbandment and arrest. There are assumptions or suspicions about the aspirations of Papuans. When Papuans talk about

justice, this action is considered as a separatist attempt. Criticisms and inputs are equated or considered as an attempt to separate themselves from the Unitary State of the Republic of Indonesia. One of the spirits of reformation is the respect and guarantee for the right to freedom of expression. However, it seems that the spirit is not shared in Papua. This is due to the separatist stigma that has become a label for Papuans, including women who fight for justice for the people and land of Papua.

In the book *Enough is Enough! Testimonies of Papuan Women Victims of Violence and Human Rights Violations 1963-2009* (Pokja MRP & Komnas Perempuan 2009), it was reported that state violence in the forms of physical, sexual, and psychological violence was perpetrated by the security forces of the Unitary State of the Republic of Indonesia (TNI and Polri) against Papuan women in the period 1963- 1998. There were 138 cases (Pokja MRP & Komnas Perempuan 2009, p. 20) and between 1998-2009, there were nearly 40 cases of state violence against Papuan women (Pokja MRP & Komnas Perempuan 2009, p. 31-41). Meanwhile, from 2009 to 2021, there has been no detailed report on state violence against Papuan women. In fact, many cases of state violence against women have not been revealed because many Papuan women victims of violence chose to remain silent and not to reveal their cases. This is because Papuans, especially

Papuan women, are used to being silenced and need assistance to be able to express what they feel and fight for justice for themselves and their communities.

Apart from the political aspect, the deepening of the customary system, which is dominated by Papuan men, is one of the reasons why Papuan women find it difficult to actualise themselves to express their ideas about the concept of justice from a woman's perspective. In September 2021, the Women's Empowerment, Child Protection, and Family Planning Agency in Papua Province reported that there were 47 cases of domestic violence (KDRT) against women and children, which were experienced by both Papuan and non-Papuan women (Papua.go.id). This does not include cases of domestic violence in West Papua Province. According to the report, the highest number of domestic violence were experienced by indigenous Papuan women. Further, it was found that the main trigger for domestic violence in Papua was alcohol, while other reasons were secondary. This report shows that Papuan women are still victims of violence from Papuan men – who still adhere to the patriarchal system, view women as objects, and do not see women as equal partners who also have the right to life and freedom. The number of domestic violence cases mentioned above shows that not all Papuan women have the courage to report their cases. This is because of the strong patriarchal system in Papua, which makes Papuan women accustomed to accepting it as fate if they experience unfair treatments from men. It is clear that in the context of Papuan customs, there is discrimination against women. This is clearly reflected in domestic duties and children's education at home, which are considered as the responsibility of women or mothers. Furthermore, regarding property rights (land, property, and so on) and decision making in the family, it is fully controlled by men. This can be found evenly in all customary areas of Papua. Some customary areas in Papua even allow polygamy for men if they do not get a son who will be entitled to inheritance according to customary law. As a result, in several ethnic groups in Papua, the protection of women victims of domestic violence becomes inconsequential, or in other words, violence against women is tolerated.

On the other hand, Papuan women, especially in urban areas, who have jobs, access to information and technology, as well as formal and informal education, are already aware of their rights as women. They are fighting for women's rights in Papuan customs. Unfortunately, the patriarchal system is deeply rooted in Papua, hence, it is difficult to change the understanding of Papuan men

who uphold the patriarchal system. Therefore, education with a gender equality approach becomes an essential need to encourage social transformation in Papuan society, in order to respect and support gender equality.

Research Methodology

The political situation and patriarchal system faced by Papuan women have become distinctive challenges for Papuan women, especially in the effort to obtain justice and not to live in silence. This is why this research is needed as it tells the stories of some Papuan women who had the courage to stand up against injustices they experienced. Elsa Tamez, a Mexican theologian, said that storytelling method reveals the importance of seeing women's bodies and lives as sacred texts (1998). This study also examines, understands, and describes the nature of women's struggles in obtaining justice and the social interactions that are attached to them (Silverman & Marvasti 2008, p. 14). Furthermore, document analysis (Flick 2014, p. 369) was used to study documents about the experiences of Papuan women as seen through post-colonial theory developed by Gayatri Chakravorty Spivak (2010).

Resource persons were identified and selected based on their experience in and familiarity with the issue of injustice experienced by Papuan women. The resource persons consist of Papuan scholars and women who are fighting for justice. Information gathering was done using in-depth interview techniques that were carried out until September 2021. The interviews and documentation of stories focused on subjective experiences, which had been hidden because of the lack of the opportunity to be heard. This research aims to assert the voices of Papuan women who fight for justice for women and their communities. It also aims to raise awareness of justice for women in particular and for Papuans in general.

The key issue being addressed in this research is how Papuan women retell their struggles to break the silence in achieving justice. This issue is related to the understanding that it is very difficult for Papuans, especially Papuan women, to express themselves and to come out of silence to fight for justice. Therefore, in relation to the efforts to elevate the stories of Papuan women, this study aims to respond to two key questions, namely: What is the potential method of Papuan women to express their identity? How to empower Papuan women in the struggle for justice?

Discussing and Obtaining Justice for Papuan Women

The discussion of the voice of Papuan women as the silent voice of "Cenderawasih" is important in order to understand Papuan women's struggles to obtain justice. To strengthen the discussion, there needs to be a conceptual basis or a literature review built in this article. There are three conceptual foundations used in this article, namely:

Literature Review on the Concepts of Freedom and Justice

Freedom or independence is one of the foundations of human rights and dignity. Freedom or independence is the right of every human being to act, speak, and think without any pressure or coercion from others. Freedom is also related to the concept of justice. Basically, human beings are creatures who are free to express themselves without any pressure from others. Therefore, women must have the freedom to make decisions to express their identity. The analysis of the issue of attaining freedom and justice for Papuan women will be supported by the theoretical basis of subaltern voice from the post-colonial theory of Gayatri Chakravorty Spivak, as well as how storytelling is used to understand the struggles of Papuan women to achieve justice.

Gayatri Chakravorty Spivak's Post-Colonial Theory in the Struggle for Justice

There is a big problem related to how the voices that are considered as part of the subaltern group are difficult to be heard in the struggle for justice. Subaltern group is deemed second class, marginalised, or a silent group like the voices of Papuan women. This problem is also experienced by many groups (which are considered hierarchical) in the third world societies such as in Asia, Africa, and Latin America. The third world societies have a shared experience as ex-colonies of the Western world, experiencing what is called a subaltern group or a subordinate group that does not have the ability to express what they have experienced. The subaltern situation experienced by the third world societies is also experienced by Papuans, especially women. The theoretical basis for this context is reflected in an important article by a post-colonial Indian, Gayatri Chakravorty Spivak, who wrote *Can the Subaltern Speak?*.

The notion of subaltern refers to social groups classified as subordinate or inferior groups that are not part of the elite groups (Spivak 2010). Spivak sees subaltern groups as oppressed subjects. The subaltern

groups are the lowest class that are the targets of insults, hatred, and violence (Spivak 2010). Fundamentally, every human being has the right or capacity to act independently in making decisions for themselves, however, social structures limit one's rights.

Within the framework of Spivak's post-colonial theory, Papuans, especially women, are subalterns. This subaltern condition is materialised from the experience of Papuans to access and to be fully involved in the public sphere. Subaltern groups cannot express their aspirations. Subaltern groups have no space to define their condition, although it is they themselves who have to declare their true existence/situation. Hence, they need intellectuals as mediators, who can encourage them to talk about their rights (Spivak 2010). Spivak tries to understand the question of "can the subordinate or inferior groups speak?". According to Spivak, they can. Subaltern groups can speak through intellectuals, who act as mediators who encourage voiceless groups to voice their rights (Spivak 2010).

If we relate the issue of mediation to speak, Papuan women need Papuan women intellectuals as mediators. Their role is to encourage and empower Papuan women to break their silence and fight for justice as Indonesian citizens – Papuans should no longer be categorised as second-class citizens in Indonesia. The colonial mindset considers Papuans, including women, as subaltern groups because they are outside the realm of power, especially the colonial power hierarchy (Rumaseb 2013, p. 5-7). Papuan women are affected by this categorisation that also labels them as a group of misfortune. From a psychological approach, the subaltern condition makes Papuans, and especially Papuan women, depressed because they do not have the freedom to think for themselves. There are some Papuan elites who prefer to be safe by remaining an accomplice to the authorities. This, as in the post-colonial context, was done by local elites to avoid being accused of resisting the rulers.

The post-colonial theory by Spivak is very useful for Papuan women intellectuals to assess the problem in order for them to be the mediators who help Papuan women who are remain silent and afraid to speak up and demand for their right to life as human beings who have been damaged by the patriarchal customary system that has been rooted in all aspects of Papuan life. The struggles to achieve justice for the people and land of Papua must be seen as a collective work between Papuan women and men.

Storytelling as a Means for Expressing the Silent Idea of Justice

Departing from the need to realise the mediation of voices in Spivak's post-colonial theory, there needs to be another approach to the first storytelling. One theory that can be applied to bring out the voices of Papuan women as the silent "Cenderawasih" is through the storytelling process. Storytelling can be used by Papuan women as a means to express the silent idea of justice. This is due to the large number of political spaces, which are based on a patriarchal system, do not provide a place for women to express themselves.

Storytelling is simply translated in Indonesian as *bercerita*. This is the right method to hear what the narrator is experiencing, thinking, and feeling—as the first subject. Storytelling is a form of the narrator expressing his/her ideas that may have been suppressed or silenced. Elsa Tamez, a feminist Christian theologian from Mexico, asserts that:

"Women's bodies, then, can manifest themselves as sacred text setting out their stories to be read and re-read and to generate liberating actions and attitudes. Women's lives enshrine a deep grammar, whose morphology and syntax need to be learned for the sake of better human inter-relationships." (Tamez 1998, p. 63).

What Tamez said is important because the understanding of a sacred text is always related to the holy books of world religions. However, Tamez points out that women's bodies are truly a sacred text, because women's lives are living texts that can be read and re-read (Tamez 1998). A woman's body language will express what she has been hiding and through storytelling, women are encouraged to express what they longing for. Through Tamez's concept of sacred text and storytelling, there are efforts that can be made to encourage Papuan women to express their ideas. Their voices can be used for the struggle for justice that has been long desired. Of course, the struggles of Papuan women to escape suffering, discrimination, and marginalisation in society is not easy. Papuan women intellectuals can act as mediators to become companions for those who have been silenced. In this understanding, Papuan women, who have been portrayed as the silent "Cenderawasih", can tell what has been their experience to achieve justice.

The Voice of the Silent "Cenderawasih"

The topic in this article is inspired by the Papuan mascot that always glorifies Cenderawasih. Cenderawasih is the name of a bird in Papua known as the bird of

paradise. These birds of paradise live in Papua, Papua New Guinea, and Eastern Australia. Cenderawasih has 43 species, which are characterised by thick feathers with beautiful colours such as black, brown, reddish, orange, yellow, white, blue, green, and purple, with long and colourful antennae (Bariarcianur & Yunus 2011, p. 81-83; Van Hasselt 2002, p. 9-11). Traditionally, Papuans believe that Cenderawasih is a bird from heaven (Permana 2019). Cenderawasih for Papuans is a symbol of greatness and the presence of the highest being in their lives.

Based on the meaning of the name or etymology, Cenderawasih is a combination of two syllables, namely *cendra*, which means god or goddess, and *wasih*, which means messenger. Therefore, Cenderawasih means a messenger of God (Permana 2019). Traditionally, Papuans believe that Cenderawasih is an incarnation of a god. In traditional ceremonies, Papuans use feathers of Cenderawasih as traditional hats and clothes. Papuan traditional leaders use Cenderawasih as a symbol of greatness given by the gods. Furthermore, the colour of Cenderawasih is the main form of painting that covers the bodies of Papuans when they perform traditional ceremonies. Papuans compare the colour of Cenderawasih with their skin colour. The feathers reflect the curly shape of Papuans' hair and their dark and tanned skin tones.

Papuans are very proud to be called Cenderawasih. Moreover, Papuan women like to call themselves "Cenderawasih" and women from outside Papua "pigeons". A uniqueness of Cenderawasih is its ability to dance and chirp beautifully. Papuans create traditional dances and songs using the dances and chirps of Cenderawasih. The colour of the feathers is so beautiful that it amazes people who see it. Cenderawasih is an ingenious bird in terms of protecting itself. For example, when a human approaches, it goes to a safer place, such as forest that is untouched by humans. It avoids danger when a threat comes. Unfortunately, Cenderawasih population is decreasing due to hunting and deforestation in Papua. To further protect themselves, these birds have migrated to remote areas of Papua that have not been touched by development.

Papuans, consisting of more than 250 tribes, are united under the symbol of Cenderawasih. Papuans believe that the map of Papua resembles the shape of Cenderawasih. Papuans use Cenderawasih to describe their characteristics and land, both of which are different from other peoples and places in the world. Cenderawasih has a special meaning for Papuans. Papuans view Cenderawasih as a Papuan bird and as a unique symbol

of their identity. Papuans use Cenderawasih to claim their identity. Cenderawasih appears in the song *Sup Mambesak* (Land of Cenderawasih). This song was written by Papuan musicians Simon Wambrau and Sam Kapisa (Ap 1978, p. 23):

*Sup mambesak Manseren byuk be aya,
ya newen da man be a wawaos
Bon bekaki mandif nary or ro bo
Randak ro so ron isof maroke
Kuker sawarwar swa ruser yena
Manser'n Ryo us aya kada
Sup beryan Manser'n byuk be aya
Kuker payam yum na
Yawaren warek na?*

The translation is:

*The Land of Cenderawasih, which God gave to me
The land that is always talked about
With its high mountains
Stretching from Sorong to Merauke
With all my love and thoughts
God takes care of us
The land given to us
With its natural beauty
Can I take care and protect it?*

Over the centuries, women's lives have faced many obstacles. Women have been discriminated by the state and society. Women around the world have shared the same experience, namely being considered as a second-class group in a patriarchal culture and society. This discriminatory condition is also experienced by Papuan women. Papuan women are struggling to get out of the traditional paradigm that divides people according to sex and gender (social construction). It is also the responsibility of Papuan women to reconstruct their image as women who have dignity as human – without gender bias.

Papuan women's struggle for justice is the topic of this study that seeks to retell the stories of Papuan women, based on their bodies and life experiences. Besides, we can see how they are connected to one another in order to break their silence. The stories of Papuan women became a sacred text. A sacred text is not only about a holy book of every religion, but also the experience of human life. Women's sacred text consists of women's bodies, lives, and experiences as they struggle to escape suffering, discrimination, and marginalisation in society as well as in religious institutions that are still patriarchal.

Telling the Story of Papuan Women Who Struggle for Justice

Telling the stories of Papuan women who are fighting for justice shows that the "Cenderawasih", the symbol of Papuan women, should no longer be silent and must be brave to come out of pressure. This effort will allow Papuan women to freely share stories about their experiences and identity.

The "Cenderawasih" Cannot Be Silent

Based on Spivak's subaltern theory, mediation must be built (Spivak 2010) for Papuan women to tell stories. This effort is made so that the "Cenderawasih" is no longer silent. The voices of Papuan women, which are based on their life stories, will be the voices for justice in Papua. Spivak's post-colonial theory reinforces the concepts needed in this article to assess what must be done to unmask the fears that have been experienced by Papuans, especially Papuan women, to seek justice.

The role of Papuan women intellectuals is very important. They will become motivators and mediators for their fellow women, especially to give them confidence in expressing themselves as human beings. Through this mediation, Papuan women must realise that they, too, have the right to express their ideas without fear of the hegemony of the rulers. One thing that can be done is to get out of the comfort zone, which is silence. The stories of these Papuan women will be a sign that the "Cenderawasih" is still there for their land and country.

The Story of the "Cenderawasih" in the Confinement of the Patriarchal Customary System

Around 1987, when I was still in junior high school, our family was visited by my father's family from the village. During the meeting, the wife of my father's eldest brother said to my younger sister and me: "Why do you have to go to school, isn't a woman destined to marry so that the husband's family dowry returns, and isn't the nature of a woman to give birth to children for her husband and to take care of the kitchen?" At that time my sister and I just looked at each other. However, there was something extraordinary from what my mother said: "Don't be like me, but you two go to school, don't listen to what your aunty says."

Understanding what the wife of my father's brother said describes the figure of a Papuan woman who has truly been indoctrinated with the patriarchal system and

glorifies it. I understand the difficulty for Papuan women to stand up and assert that they have rights. Everything that is said and arranged by men is considered to be true. Unfortunately, my desire to ask the wife of my father's brother if she had ever enjoyed her life as a woman who is subject to a patriarchal order was never materialised because she had died in her silence. However, I am grateful that my mother is a Papuan woman who is able to symbolically tell me that the "Cenderawasih" will not always be silent and silenced. My mother speaks for herself as revealed by Spivak (2010) and corroborated by Tamez's (1998) theory.

Over time, after finishing my studies at the I.S.Kijne Jayapura School of Theology, Papua, and became a Pastor at the Evangelical Christian Church in Papua, I met Papuan Christian women who were like the "Cenderawasih" who were silent and could not achieve justice for themselves. There are several cases that I observe: there are Papuan women who are pressured by their husbands because they do not have sons, there are also husbands who prevent their wives from working. In addition, there are husbands who do not allow their wives to talk about customary matters, especially regarding issues of land rights, inheritance, customary meetings, and many other problems. In fact, a man once told me that: *"A woman, when her dowry has been paid for, is like something that has been bought in a store, and since the price has been paid off, it is up to the buyer to do whatever he wants because it is already a private property."* The man enthusiastically stated that he had paid off his wife according to custom. It is his wife's duty to serve him and give birth to children for him. At that time, I was curious of his wife's reaction. I really expected a protest against injustice, but unfortunately his wife nodded in agreement. I did not know what was in her mind, but I see this as a challenge for Papuan women to voice justice for themselves and other women.

Papuan women must fight to achieve justice for themselves. This struggle needs to be supported by Papuan women's intellectual groups and Papuan men who understand the meaning of gender equality. They need to mediate a conversation between Papuan men who still adhere to the patriarchal system and Papuan women for them to arrive at a common understanding that Papuan struggle for justice must be done together.

The struggle of Papuans is against the state system that still sees Papuans as subalterns or subordinates. This is what I want to share through telling the stories of four Papuan women who are trying to break the silence and achieve justice in the midst of a state system that does

not provide a space for Papuans to express their opinions freely in public.

Telling the Story of the "Cenderawasih" That Speaks Out for Justice

Cenderawasih is indeed a beautiful bird, even Papuans adore it and identify it with the colour of their skin and hair. Yet, in my experience, it is not easy to be the "Cenderawasih" within the framework of the Unitary State of the Republic of Indonesia. In 1981, when I was still in elementary school in Ujung Pandang (now known as Makassar), there were several school friends and neighbouring children who called me, along with my relatives and Papuan children who followed their parents who were studying in Makassar, *"leleng pui"*. In the Makassar language it means "dark black." They also called us "barb wire" hair. It turned out that it was not only during my era that there was discrimination against Papuans. Similar incident was also experienced by Papuan students in Surabaya in 2018. This illustrates that racism and discriminatory practices towards fellow Indonesians persist. There is a saying *"To Indonesianise Papuans"*. The question is "What do you want to 'Indonesianise'?" given that Papua is Indonesia. Racism is a threat to democracy, to a common life that upholds justice. The idea of unity and integrity is actually undermined by the existence and spread of discriminatory practices based on race and other identities.

That is why in this section I want to tell you about four stories of Papuan women whose voices were never be heard. However, their voices are important to show how they struggle to achieve justice in the midst of an impossible situation.

The struggle of women as the "Cenderawasih" who are no longer silent in obtaining justice was first found in the story of my mother, EA. She described her experience of suffering as a wife of a Pastor of the Evangelical Christian Church in Papua or West Irian during the Act of Free Choice - PEPERA (1969). She witnessed how Papuans, who refused to integrate into Indonesia, were tortured. My father, PLJ, who was a pastor at that time, defended the rights of Papuans who were tortured by the Indonesian military. My father felt that torture is a violation of the right to life, which is not in accordance with the holy book of any religions. As a result of my father's protests, he was arrested and imprisoned for several months. At that time, my mother was pregnant with her first child. My mother struggled and gave birth alone because her husband was in prison. The only thing that my mother could do at that time was to fight for her husband's

release. However, in such a situation it was not easy for a young woman to fight for justice. Although in the end my father was released from prison, his release was because there was not enough evidence of his involvement in the rejection of PEPERA. My mother had kept this story for a long time and when she retold it, it took her courage to tell the story.

The second story was about a late Papuan mother with the initials YKB. In 1984, during the implementation of the Military Operations Area (DOM) in Papua (previously known as Irian Jaya), Papuan activists, artists, and humanists were arrested. Arnold Clemens Ap (1945-1984), a Papuan humanist, anthropologist, and musician, and Edward Mofu were two of the victims arrested that year. The arrest, which was carried out by the military as part of state's orders, was based on the accusation that the victims were part of the Free Papua group that wants to separate itself from the legitimate government. Prior to the arrest, Edward Mofu lived at YKB's house. Even the family did not know about Edward Mofu's arrest. However, YKB's persistence to fight for justice enabled her to find Arnold Clemens Ap and Edward Mofu who were detained incommunicado by the security forces. At that time in Papua, especially in Jayapura, there was not a single Papuan man seeking justice for the release of Ap and Mofu. Everyone was silent, said YKB. Of course, who wanted to defy death. All Papuans at that time were afraid of the cruelty of the Suharto regime. Even in relation to the death of Edward Mofu, who was declared drowned in Base-G Sea during his escape from prison, the security forces never gave an explanation as to how Mofu managed to get out of the heavily guarded prison at that time. YKB wanted justice and demanded the state be transparent about the death of her brother, Edward Mofu, but she never got it. A few days after the death of Edward Mofu, Arnold Clemens Ap was also found dead. According to YKB, their deaths were a very tragic event and hurt the families and people of Papua. Even though the state is still keeping the truth about Ap and Mofu's deaths, YKB believed that justice and truth will be revealed by themselves. Everything will be revealed in due time.

The third story comes from a young Papuan woman from Merauke with the initials HRG. HRG had a bitter experience as a young girl who grew up in a family with divorced parents. Her father remarried and left her with her mother. Papua's patriarchal customary system allows men to act arbitrarily against women. HRG's mother brought this suffering to the end of her life. After the death of her mother, HRG was forced to live and

be cared for by his maternal grandparents who were Christian evangelists. She sometimes faced violence from her uncle, and she even said that she was almost cut with an axe. HRG struggled to get out of her misery. She tried to stay in school because of her grandfather, who motivated and pushed her to continue to achieve her dreams. On the other hand, HRG also saw that the suffering she experienced in her family was no greater than the suffering of Papuans who demand for justice, rights, and dignity in the land of Papua. She determined to overcome her personal problems and join the struggle to achieve justice for all Papuans. She continued her education and went to college in 2015, and in March 2019, she graduated as a librarian. After she graduated, HRG returned to Merauke-Papua. She opened schools, libraries, was involved in evangelism to educate people in Merauke about gender equality. She is also actively involved in the justice campaign for Papuans through the West Papua National Committee (KNPB). She chose to be involved with KNPB because of her identity as a Papuan woman in fighting against the Papuan patriarchal customary system, as well as the hegemony of the state that pressures Papuans to be silenced – so that her voice can be voiced.

The fourth story comes from a theology student, with the initials FD from GKI I.S.Kijne Jayapura Theological Philosophy School. FD stated that her mother told her that around the 1980s, in Nimboran and Nimbokrang areas of Papua, military posts were established in each district because at that time Papua was a Military Operation Area (DOM). Her mother shared many sad stories about young women in those areas being raped by the military in charge of security. The military posts were established because there were members of the Free Papua Organisation (OPM) there. FD revealed that according to her mother, these young women had the courage to tell what had happened to them, but traditionally they were blamed by the traditional elders, who were dominated by men. The victims were considered as those who provoked the desire to be raped. On the other hand, families and women (victims) did not have the courage to sue the military (rapists) because they were afraid of being intimidated at gunpoint. Many young women withheld all their dark stories. Many Nimborang and Nimbokrang women were silent because they no longer knew who to complain to. Traditionally, they were considered women who have had disgrace and have no morals. Past trauma that happened to young women in the 1980s has become a prolonged scourge. FD said that during 2015-2017, there was a great concern when military posts were

re-established in Nimboran and Nimbokrang areas due to allegations that there were separatist movements there (now there are no security posts). Mothers in these areas did not allow their daughters to walk near military posts and go out at night because they were afraid that what happened to women in the past will happen again. Mothers became worried, and as a result, young women no longer have the freedom to move. From her mother's story, FD realised that women must come out of fear and have the courage to stand up to injustice. Her mother said that FD must go to a good school in order to change this injustice. FD realises that human beings, both women and men, must be equal and have the same dignity. Past trauma must be taken seriously. Papuan women cannot live in conditions of limitations, pressure, and fear. As for FD, continuing her education to a higher level aims at changing the Papuan patriarchal system that is unfair to Papuan women. Good education will give courage to Papuan women, especially those in her region, to come out of past trauma and to be healed. This is the hope of FD as a Papuan woman to see a just future for Papuan women.

Telling the stories of Papuan women in this article makes me realise that it is true what my mother said, "it is not easy to be a Papuan". The word "uneasy" leads to Spivak's concept of "Can the Subaltern speak?", can groups that are considered inferior or subordinates speak? (Spivak 2010). Especially for a Papuan woman to fight for justice in this country. This assumption is true because many Papuan women are reluctant to come out of their silence to tell stories because they are afraid. However, the four stories above show the importance of mentoring so that the hidden stories can be picked up and retold. The stories of women will come to life when being retold through a sacred text, which is their body language and experiences (Tamez 1998).

Every Papuan woman has her own way of expressing her identity. Of course, Spivak's post-colonial theory reinforces the way to tell a number of hidden stories (Spivak 2010) among Papuan women. Rev. Yemima Krey, a Papuan Christian feminist theological figure, encourages Papuan women to fight for their self-identity as a great masterpiece from God. Krey articulated her prayer in an article that said: *God, Papuan women with dark and curly skin are also made by Your hands.* (Krey 1988, p. 162). What Krey stated was a form of encouragement for Papuan women to speak out for justice for themselves and the land of Papua.

Closing

Indonesia as a democratic country in the concept of social justice for all its people remains a mere slogan. Papuan women discover how difficult it is to voice justice in the midst of the life of the nation and state. Papuan women, who are struggling to break their silence, find a way by retelling how they have fought for justice in the midst of a difficult situation. The stories of Papuan women about their experiences are part of a campaign that asserts that Papuan women also have justice initiatives in their own way. Despite being in subaltern conditions and stigma, Papuan women gain confidence through storytelling and have the ability to say that they will speak for themselves and other Papuan women.

The story of the "Cenderawasih", namely Papuan women, is a sign that their identity is being fought for. Those who were previously silent are looking for ways to fight for justice for their land that has been oppressed and marginalised for a long time. The struggle to make the "Cenderawasih" speaks requires the commitment of Papuan intellectual groups from both women and men. This cooperation is needed to reorganise and eliminate the patriarchal system that is rooted in the traditional Papuan order. This struggle also aims to provide freedom for Papuan women to express their ideas. This is an important aspect that needs to be done together, especially by Papuan women and men, to achieve justice for the people and land of Papua. The state's system that silences the values of truth and justice must be abolished so that there is a transformation towards respect for human rights. A short lyric from the song *Tanah Papua* by Edo Kondologit: "*black skin, curly hair, I'm Papuan. Even when the sky breaks apart, I'm Papua*" becomes an identity that the struggle for justice as a Papuan will continue. The lyric also shows how Papuan women continue to be encouraged to believe that even when the sky breaks apart, the struggle to uphold justice for every human being will continue; the struggle without being divided with a narrow view of gender, race, ethnicity, and religion. All human beings, both women and men, the government and ordinary people, have the same rights to live, work, and express themselves.

The voice of the "Cenderawasih" will echo for those who still close their ears and eyes of the heart. For those who have ears but pretend to be deaf and have eyes but pretend to be blind, the voice of "Cenderawasih" will no longer be silent because it is time to tell a story.

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

Iqraa Runi Aprilia

Alumna of Philosophy, Faculty of Humanities, University of Indonesia
Jl. Argonda Raya, Pondok Cina, Beji District, Depok City, West Java 16424
University of Indonesia

iqraruni@gmail.com

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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.¹

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:²

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 felt 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.³

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

- 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.).
- 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).
- 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).

Initiating Justice for Sexual Violence Victims via Hashtag Activism: Opportunity and Vulnerability In Contemporary Indonesia

Andi Misbahul Pratiwi

Pusat Riset Gender Universitas Indonesia

Jl. Salemba Raya No. 4, RW 5, Kenari, Kec. Senen, Kota Jakarta Pusat, Daerah Khusus Ibukota Jakarta, 10430

andi.misbahul@ui.ac.id

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Abstract

Digital technology brings new opportunities to accessing justice for women and marginalized groups after being excluded from conventional-masculine technology for decades. In the internet era, the use of social media has become very massive and intensive, therefore feminist activism in this digital space is unavoidable. Hashtag activism has become popular since the #MeToo movement and such an opportunity to seek justice for victims and survivors through voicing and documenting their voices. The use of hashtags (#) opens up opportunities for victims' stories to be documented, connect with other stories, and go viral. In Indonesia, the use of hashtags in activism also occurs in more local contexts such as #KitaAgni, #SavelbuNuril, #UUTidakAman, #KamiBersamaKorban, and #SahkanRUUPKS. Some hashtag activism has succeeded in initiating follow-up actions in the *offline* world, although not always viral stories get satisfactory case resolutions. This study uses a qualitative approach, and collecting the data through literature studies, especially on feminist theories around technology and digital such as: Science and Technology Studies (STS) feminism, cyberfeminism, technofeminism, and feminist digital activism. This paper finds that the digital space is a contested space where there are opportunities and vulnerabilities for victims, activists, and netizens to seek justice through hashtag activism.

Keywords: hashtag activism, justice initiation, digital feminism, new technology, digital vulnerability

Introduction

The sexual violence case allegedly to have happened in the KPI (Indonesian Broadcasting Commission) that went viral on August 2021 is just one of the examples how victims of sexual violence still face difficulties in accessing justice in Indonesia. The victim posted about his ordeal of being victim of sexual violence on Facebook, reflecting on his efforts in finding justice in this country. He has taken all of possible measures to access justice, unfortunately the outcome is far from his expectation (Tempo 2021). As the victim felt that there is no other options and he wanted to free himself from sexual violence, he decided to share chronological story of his ordeal in social media. His post then went viral and garnered wider public support including from law enforcement officers.

Sharing their ordeal of sexual violence on social media is one of the alternatives victim or survivors chose in order to get justice. In the KPI case for instance, sharing the victim's story in social media is the last resort after the victim fails to get justice in real world. In this context, "being viral" is the main reason for "sharing" the story. One of the strategies of being viral is by using hashtag. The hashtags #StopKekerasanSeksual and #SahkanRUUPKS

start to emerge in social media when the allegation of sexual case in KPI surfaces.

For some victims and survivors of sexual violence, social media becomes the new space to bring about justice in the real world. Bringing justice through social media and the use of hashtags (intentionally and unintentionally) are considered as hashtag activism. The cases of sexual violence that go viral show that there is public response and attention to victims and survivors. Even though the responses are not necessarily positive (in favor/supporting the causes), some are negative too (stigma and criminalization). Being viral through hashtag activism is seen as a starting point to resolve long and probably problematic cases (Pratiwi & Nikodemus 2021).

The stories of victims and survivors that go viral do not always find a happy ending. Some stories remain unresolved and even ended in social stigma and threats of criminalization. Hashtag activism is perceived as hope and vulnerability. This article is trying to highlight the discourse on hashtag activism—as part of digital feminism—that would try to bring about justice for victims of sexual violence in Indonesia. Using some of the hashtag activism phenomenons that went viral

in Indonesia, this article is descriptively presenting opportunities and vulnerabilities that victims, activists, and social media users experience in bring about justice.

Furthermore, this article is trying to explore how hashtag activism which becomes part of digital activism has both opportunity arm and challenges in women activism. This study uses qualitative approach by employing data collection method through literature study especially on feminism theories on digital space such as science and technology feminism, cyberfeminism, technofeminism and digital feminism activism. This article stems from the fact that victims or survivors of sexual violence prefer digital space as their way of obtaining justice, and open its door for feminist digital activism.

'Spill the tea' and hashtag activism as justice initiative in digital space.

Sharing victims' stories or being victims in digital space is often referred as "spill the tea" or in Indonesian phrase it is defined as "spilling out the facts". It could be interpreted as sharing story with news, rumors, or even personal information nuances. The term "spill the tea" became trendy among social media users—especially Twitter—when it comes to sexual violence that is linked (though not always) with public figures, people in power or certain organization. This is more than just spilling out the facts but also garnering public support and perceived as collective protests.

One of the most recent examples of "spill the tea" is when the KPI staff blew the whistle on allegation of sexual violence that he has been experiencing since 2011. In details he wrote down the case chronicles and list of alleged perpetrators on his Facebook page. Then his post became viral on Twitter and triggered the public's anger and disappointment on KPI. The netizens posted their expressions of anger and showed protests by using the hashtag #KPI #PelecehanSeksual #KekerasanSeksual.

One of the strategies to go viral is by using hashtag. Hashtag is a unique feature of Twitter, which enables other user to search, link, and interact with one another using (#) symbol. By using the hashtag, the netizens would be more aware about the most recent and hot topics argued in public sphere (Yang 2016). Bringing about justice through social media and the use of hashtag (intentionally and organically planned) is specifically referred as hashtag activism. Hashtag activism is the act to garner support or to show mass protest through social media.

Hashtag activism has grown into popular approach among internet users. Sarah Jackson et al. in her book titled *#HashtagActivism: Network of Race and Gender Justice* explains that hashtag activism is a unique phenomenon of the 21st century. It is when a person has specific objective of using social media, especially Twitter in pushing any social changes (Jackson et al. 2020). Hashtag activism also enables real changes to happen in real life. In some cases, celebrities, artists, influencers, politicians, officials, and even buzzers play major roles in expanding network or silencing the activism (CFDS 2021).

Unlike other activism practices, hashtag activism does not require any action from other users than "sharing", "like" or "use same hashtag" on a Twitter post (Goswami, 2018). Hashtag activism has given opportunity for common people, who initially has no access to traditional form of power, to create new or even contradicting political narratives in order to attract allies (Jackson et al. 2020). Though it opens up the door for anyone to bring about justice, hashtag activism is often criticized as slacktivism (lazy activism) since the activists do not go on the street meaningfully or just seen as "resharing", "clicking", "liking" as initial steps to social changes (Lim 2015).

In sexual violence, hashtag activism becomes very interesting as it gives space to debate over issues that are initially placed in private sphere. Aside from being a media for organizing and gathering support for victims, hashtag activism does not directly build public interest on the discourse and urgency of sexual violence.

The viral hashtags such as #MeToo, #BringBackOur Girls, #YesAllWomen, dan #BeenRapedNeverReported have highlighted the ongoing violence against girls and women. The increased visibility of activists' initiatives is mostly due to the creative and innovative use of digital technology to promote feminism objectives. For instance in 2005 a group of people in New York created Hollaback! website to fight against sexual harassment on the streets. Hollaback! is currently active in 31 countries, including Indonesia. Hollaback! activities are very important to name and shame perpetrators, increase awareness and encourage anyone from all gender, sexuality and orientation to challenge sexual harassment that occurred on the streets of diverse community (Mendes et al. 2019).

The hashtag activism used to carry gender equality issues has started to grow significantly since the development of #MeToo hashtag in 2017. In October 2017, Alyssa Milano used #MeToo hashtag on her Twitter to encourage her followers to share their stories of sexual violence. The tweet went viral and #MeToo hashtag has

been used over 12 million times for 24 hours (Garcia 2017; Mendes et al. 2019).

The phrase “Me Too” has been used by Tarana Burke since 2006. Burke is a black American feminist activist as well as a survivor of sexual violence who has been voicing sexual violence issue using the “Me Too” slogan. Burke has committed to stop sexual violence and other systemic problems that would affect marginalized people especially black women and girls (Kantor 2021). Burke has since advocated for victims of sexual violence through many offline and online programs (metoomvmt.org).

By using the hashtag, stories of sexual violence and individual testimonies are collected and documented. Technological network enables dissemination of digital activism through interpersonal ability and interconnectivity—as well as contributing to social

movement. Hashtag activism also allows individual expression, specifically victims’ and survivors’ on social media. Activism also enables a person who initially is only a feminist enthusiast to be a feminist. (Parahita 2019; Bennett 2012).

The #MeToo hashtag activism has turned into a large movement and reached many people, which shows that sexual violence is like an epidemic that many women and marginalized people experienced including in Indonesia. Simultaneously, the use of hashtag is adapted to local context such as the hashtags #kitaagni, #adilisitok, and #saveibunuril—that specifically made to advocate sexual violence cases and punish perpetrators. Furthermore, popular hashtag used in Indonesia is #sahkanruupks that aims to advocate the enactment of bill of Elimination of Sexual Violence (known as RUU PKS in Bahasa Indonesia). Some of the viral hashtags are shown in the table below.

Table 1. Examples of Hashtag Activism

Hashtags	Descriptions
#KitaAgni #KitaBersamaAgni #NamaBaikKampus	The hashtags are used to advocate sexual violence case experienced by Agni (a female student) in 2019. This hashtag has brought tremendous impact especially in campus debates on sexual violence cases—in which the perpetrators are lecturers or students. This particular hashtag activism has triggered several initiatives and brought up many undisclosed stories. Some argue that the campus’ acclaimed name is far more important than bringing justice for victims of sexual violence. Many of these cases of sexual violence are remain unresolved and even hidden in order to maintain the institutions’ untarnished name. the hashtag #KitaAgni is then followed by the hashtag #NamaBaikKampus.
#GilangBungkus #PredatorSeksual	The hashtag is used in sexual violence case perpetrated by a man named Gilang back in 2020. The case went viral when one of his victims created a thread in Twitter recollecting her experiences of being victim to sexual violence perpetrated by a man named Gilang. The sexual violence is done online, and it was believed to have been linked to perpetrator’s sexual fetish in wrapping and using batik cloth (<i>jarik</i>) (CFDS 2021). After the thread was uploaded, many netizens came forward sharing the same experience as the victims. This case is then taken by the law enforcement agency.
#UllBergerak #UllTidakAman	This hashtag is used as an effort to advocate a sexual violence case experienced by several female students in Universitas Islam Indonesia in 2020. The alleged perpetrator was an alumni with academic merits. The Yogyakarta Legal Aid Institute (LBH Yogyakarta) provides the advocacy work for around 30 plaintiffs (Muryanto 2020). The alleged perpetrator was still going through his master’s degree education in one of the universities in Australia. The Ull management received all of the reports, but only “revoked academic merits” that the perpetrator has. Though the hashtag has gone viral (hashtag activism and online petition), the resolution of this sexual violence case still has not satisfied everyone.

Hashtags	Descriptions
#KPI #PelecehanSeksual #Perundungan	The hashtag is used to put the allegation of sexual violence case in KPI into public discussion. Unlike the previous hashtags, the hashtag activism in this case is a combination of general hashtag (#PelecehanSeksual) and special hashtags (#KPI #Perundungan). The case went viral in August and has gained public, law enforcement officers, and government institutions' attention in September. The case has somehow gone in cyber space. The case is now being investigated by the police, and the victim received threats of being sued with ITE Law by alleged perpetrators whose names went published on the victim's social media.
#SavelbuNuril #SaveBaiqNuril	Many netizens use the hashtag to help Ibu Nuril (41 years old)—a woman victim of sexual violence—who is facing ITE law lawsuits after sharing her ordeal to her friends through phone conversation. The tape was circulated without her consent and went viral ever since. Unfortunately, Baiq Nuril was sentenced guilty of violating ITE Law. Though Baiq Nuril was pardoned by President Joko Widodo, the judges' verdict that sentence Baiq Nuril with imprisonment has disappointed many people. Baiq Nuril should have never been imposed with imprisonment.
#LawanKekerasanSeksual #KamiBersamaPenyintas #SahkanRUUPKS	This is the hashtag that social media users post to support certain action—especially related to sexual violence issue. These hashtags are often attached with other more specific hashtags.

Source: author obtain the information from various sources.

There are two main characteristics in bringing about justice and voicing voices of sexual violence victims on social media. First, the story sharing process on social media—that the victims could be done by themselves, their relatives, or legal counsels. Second, the use of hashtag aims to make victims' story viral and gathering public supports. These two are interlinked with one another.

Furthermore, there are two types of hashtags used here. First, specific hashtag on specific sexual violence cases, such as #KitaAgni, #UUDaruratKekerasanSeksual, #GilangBungkus, and #SavelbuNuril. Second, more generic hashtag or the one that used by anyone to fight for more wider issue, such as #StopKekerasanSeksual, #SahkanRUUPKS, #LawanKekerasanSeksual, #KamiBersamaPenyintas, and #NamaBaikKampus.

One thing to note here is that even though some hashtags are created organically, organizations, communities, or even women's movement group play major role in establishing the hashtag activism. For instance, community or organization of women that would take on advocacy and campaign work on social media. These groups would play important role in shaping hashtag activism (Parahita 2019).

Digital Feminism Discourse

In the digital space, feminism is inseparable from feminism and technology analysis. Science and technology feminist philosophy emerged in the 70s as part of the second wave feminism. The thinkers among others are Evelyn Fox Keller, Donna Haraway, and Sandra Harding. These feminists approached and challenged theories and science with positivistic, objectivistic and technocratic standards (Dusek 2006). Shulamith Firestone triggered discussion around technology as a media for women liberation in her work *Dialectic of Sex* (1970), which stated that what separate women from their biological womb is the way they obtain full equality. This is the time when reproductive technology is perceived as savior for women (Dusek 2006). Firestone's idea was criticized by many feminists as technology is not fully gender neutral.

Technological advancement is not perceived as something neutral, since technology is also used to sustain gender-based power relation. In the concept of traditional technology, technological advancement is still around industrial machinery, military weapons, weaponry, and other technologies that would have adverse impacts to human life. On the contrary, many women perceive

technology as domestic technologies such as washing machine, rice cooker, room sweepers (Wajcman 2001). Similar to that is technology in reproduction, which is still perceived as men's extended arm to intervene women's bodies. This becomes a challenge for feminists to show that identification of technology is attached to masculinity and sex should be reconstructed (Wajcman 2007; 2009).

Furthermore, the presence of internet in the late 60s and the world wide web network has given new fresh air for feminists to bring themselves closer to any kind of new technology (Candraningrum 2013). The analysis on feminism and technology is then growing past the traditional concept of technology. In this era more optimistic cyber feminism analysis emerged as it welcomed the internet and is interlinked with identity (Haraway 1984; 1985; 1997). Internet is perceived to have provided basis of technology in establishing new society and innovative diversity of subjectivity. This technology facilitates the diminishing boundaries between men and machine as well as the boundaries between men and women who would enable the users to select their own identity, disguise themselves and consider the alternative identity. (Haraway 1985; Wajcman 2006).

In many important aspects, Firestone's work is the initial step for contemporary cyber feminist composition especially the ones from Donna Haraway (Halbert 2007). The existence of digital space was seen as promising for women. for many cyber feminist activists, digital media is a new electronic space that offers new start for women in creating language, program, platform, image, more fluid identity, and new multiple language. Women and marginalized groups in the digital sphere plays an important role as subject that would re-code, re-design, and re-program information technology altering social condition to a more just, inclusive and feminist ones. (Jain 2020).

Internet gives public to space to do feminist activism (Fotopoulou 2016). One of the examples of this is the birth of online petition platforms (such as Change.org, Avaaz, Care2, 350.org, and etc) as the first initial step to initiate justice for marginalized group in the late 90s. Digital space has changed the face of feminist activism. Initially the feminists group took the street to protest and used it to display their protest banner and campaigning to fight injustice, arbitrary, and authoritarianism (Candraningrum 2013).

Traditional offline activism mobilized people through street rally or going from door to door, using their social network and membership to organization, political party,

or educational institution. Digital activism, on the other hand, could mobilize people within minutes, much faster than the offline activism. This type of activism also encourages more interactive approach, in which many diverse people could participate through their blogs, petition and articles while at the same time connecting with others. before the digital space was invented, global feminist movement was mostly mobilized by few activists through feminist academic discourse (Jain 2020). Furthermore, digital media enables new connections, which previously unavailable for women and girls, and it enables them to recapture the connection between them and other people (Keller et al. 2018).

Nevertheless, new technology such as social media, online petition and online donation application do not apply equally for everyone. For most people, new technology and media are strategic spaces for activism, space that would provide the opportunity and chances to get connected with people's lives directly. While for the rest, digital media is still perceived as a gendered space that only accommodates certain identities and marginalized other identities such as elderly women or even transgender (Fotopoulou 2016).

There are at least three most influential factors affecting one's participation, organization, and feminist movement involvement in digital activism which are age, lack of resources, and media literacy. These three factors would be a leverage for certain group in gaining publication and acknowledgment in their digital activism and simultaneously would be an exclusion space. Unlike public figure or even professional actors/actresses, the activists utilizing the digital space sometimes fail to earn the acknowledgment due to their limited resources, including skill required in digital medium. This would be different for activists and women's organizations that are already skilled in using digital media (digital native)—dominated by young urban activists who are growing up with the advancement of new media (Fotopoulou 2016; Lim 2015).

The feminists have never stopped to continuously questioning the oppression against women and marginalized groups as a way to move towards feminist objectivity (feminist standpoint). From this feminist standpoint, the perception on technology as an alternative space that expresses the voice of marginalized groups, free from intervention and enabling new and non-conventional forms of activism should be investigated further.

Digital space and technology are not entirely a safe and inclusive space. It is important to acknowledge

that the presence of new media is highly influenced by well-established social, economic, political, cultural structures—which is very sexist and racist. The presence of digital space and borderless exchange of information does not automatically diminish hierarchy and patriarchy. Digital space and internet are socially linked with body, sex, age, economy, social class, and race. Bringing about justice and feminist actions in virtual space are similar to disturbing masculine codes and patriarchal structure that co-exist with the presence of new technology (Wilding 2006).

Though the feminists use media network to stay connected with many forms of new participations and actions, does feminist activism in digital space constitute as civic engagement? In his article, *“Many Clicks but Little Sticks: Social Media Activism in Indonesia”*, Lim (2015) described that it is not easy to refer digital activism as part of civic engagement. Social media does not inherently promote civic engagement and could not be perceived as agent of social changes—though there are several digital activism that lead to change in the real world. Digital activism has its own limitations from the reach of users who are mostly in urban setting to its machine logic. By understanding the nature and limitation of social media activism and how to ensure its successful use, the activists may use and change this exclusive situation to more meaningful civic and political engagement.

Furthermore, on the challenges and opportunities in digital activism, Fotopoulou in her book (2016) *Feminist Activism and Digital Networks Between Empowerment and Vulnerability* explained about two main concepts as analytical edge to assess digital feminist activism. First, networked feminism that describes about collective identity and communicative practice of activists as it is established by imagination of new social space (known as network) and digital connectivity. The concept of networked feminism helps us in rethinking technology and their role in feminism by reflecting how activists negotiate five main aspects of digital media: access, connectivity, closeness, labor, and visibility. Through this negotiation, activists would critically rethink—rather than just accepting or arguing about the nature of this digital media as exploitative or empowering. Second, the bio digital vulnerability that would explore about the complexity of content creation and power that establish contradictory spaces of online network, between empowerment and vulnerability of feminist's politics. Fotopoulou (2016) explains that there is indeed vulnerability when the public see the potential of political

involvement in digital space to empower marginalized community and individuals or turning them as victims due to their sexuality and gender.

Similar to offline space, digital (online) space cannot be separated from the biases of masculinity and patriarchy. One example is how the Google search engine algorithm is racist and sexist. Safiya Noble in her book *Algorithm of Oppression* discusses how the Google search engine is biased towards minority groups. According to Noble, algorithms play an important role because these mathematical formulations drive human decisions. While we often think of terms like “Big Data” and “algorithm” as harmless, neutral, or objective, the people who automate these decisions hold all kinds of values, many of which openly promote racism and sexism. For example, when Noble did a Google search with the keyword “black women” in September 2011, it came up with sexualized and pornographic content. After Noble wrote his critique in 2012, there was a change in Google’s search algorithm so that the first search results for the keyword “black women” were no longer dominated by pornographic content. However, Noble found that the search results for “Latina women” and “Asian women” were still closely related to pornographic content. That is one example, how oppression works in automation, codes, and algorithms. This is what Safiya Noble calls the *Algorithm of Oppression*, that information and mathematical logic are not completely neutral and objective.

Haraway (1997) then mentions that vulnerabilities in this digital space are the result of ‘technobiopower’—continuing what Foucault (1978) wrote—that knowledge and technology cannot be separated from who the actor owns it and what tools or resources are used to demonstrate his power. This means that there are new types of vulnerabilities that result from activism in the digital world. When individuals are active in the digital space and using new technologies, they are not only traced through the words posted on social media pages, but in all the applications and data they follow. Digital footprint, identity, privacy become very transparent. For women, children, and minority groups, the digital space allows them to experience sexual violence, engage in sexting, and experience cyberbullying. Although it is possible to be anonymous, the impact of bullying and violence on individual bodies is experienced in real terms—for example, cases of suicide due to slander, social stigma, and bullying on social media (Fotopoulou 2016).

Digital space as a space of contestation

At first, hashtag activism as part of digital activism by common people and feminist groups was celebrated as a new way to achieve justice and collective agenda. Moreover, feminist activism in the digital space is considered capable of accommodating and connecting activism activities with the young women's community, as well as other social groups that are often excluded from mainstream public participation and political discourse. The presence of the internet is also naturally used by groups of young women and girls to easily voice their opinions and aspirations because social media is assumed to be unregulated or outside the reach of 'adults' (read: rulers) intervention (Keller 2012).

The "spill the tea" activity itself is an alternative way to fight sexual violence. Although digital media provides space for victims to speak, the reality is that the digital space is never value-free. Victims, legal assistants, or even internet users are facing the risk for their sharing of stories on the internet or "spill the tea". It is a privilege because not everyone (both victims and survivors) has access to technology, legal aid, public support, or even personal data protection.

In activism in the digital space, another threat arises and is often experienced by victims of sexual violence and feminist activists. For women human rights defenders and feminist activists, vulnerabilities in the digital space arise as a result of their activism. They are often sexualized in the digital world and get attacked by viruses, spyware, content blocking, receiving unwanted emails, and so on (Radloff 2013). Furthermore, some of the risks—which are experienced by both victims, feminist activists, and the public who take sides—in this paper are social stigma in the digital space and criminalization.

Social Stigma

As explained above that not all "leaked facts" get public support or receiving positive responses from the netizens. In some cases, instead of gaining public sympathy, victims and survivors are stigmatized, branded, intimidated, and even targeted by bullying. This of course has implications for bringing new trauma to victims and survivors (Amnesty International Indonesia 2021; Pratiwi & Niko 2021).

In cases of sexual violence—whether published on social media or not—victims and survivors have long been stigmatized. Victims of sexual violence often receive negative comments from others, including

law enforcement officials, family, friends, and netizens. Although the majority of victims and survivors of sexual violence can get stigmatized, there are different forms of stigma based on the sex of the victim.

Women victims and survivors often get biased questions and comments such as; "Why did you (a woman) go out at night?", "What were you wearing?", "why didn't you scream?", "did you give consent?" On the other hand, when men become victims of sexual violence, their masculinity is questioned. Male victims and survivors often face intimidation because of the myth that it is impossible for men to be raped or victimized. Men who are sexually assaulted are often labeled as weak or have their sexual orientation tracked—if they are assaulted by men. However, if they are sexually assaulted by a woman, the male victim will be deemed unable to defend himself and be bullied with questions; "why not fight?", "you're such a whimp!"

Social stigma is a cultural problem rooted in society that influences various decisions that will be made by victims and survivors. The results of an online survey on sexual violence conducted by Lentera Sintas Indonesia and Magdalene in 2016 found that 93% of survivors of sexual violence never reported their case to law enforcement officials (Asmarani 2016).

By "leaking the facts" of sexual violence cases on social media, victims and survivors must also bear various social stigmas from netizens. This social stigma then makes victims and survivors refuse to report, continue, or fight for their cases before the law. From the very beginning, victims and survivors of sexual violence have been conditioned to remain silent.

In a patriarchal culture, sexual violence is a real manifestation of a biased view of gender and sexuality—which has been believed by society. Sexual violence is not perpetrated by psychopaths, sexual violence is perpetrated by anyone from the perspective of domination and violence, which has been attacking women (femininity). Patriarchy creates masculine dominance over femininity. This means not only referring to a particular gender but the gender roles inherent in it. This means that both women and men have the potential to experience sexual violence if they show their femininity—the culture is constructed as the weak, the passive, the subordinate (Dworkin 1976).

This perspective generates various forms of gender inequality, one of which is social stigma—a condition when men and women who are deviated from masculine and feminine boxes will be blamed. There are a number

of beliefs about what is perceived as natural, acceptable, and even desirable in sexual interactions between men and women such as being invulnerable, strong, violent, and commanding, and that women want such behavior from men. Another view is that, 1) “real men” can get sexual access to women when, where and how they want it; 2) sexual intercourse is an act of male subjugation; 3) that women are sexual objects of men; 4) that men “need” and have the right to sex. Therefore, it is not surprising that both men and women victims of violence are stigmatized and often repeatedly blamed (revictimization) because they are considered not in accordance with the patriarchal view. This stigma is rooted in patriarchal culture, a condition where women and men are bound by gender roles constructed by society (Dworkin 1976; Walby 1990).

Criminalization

In the context of Indonesia, the digital space as a new civic space is under threat. The digital space which was originally an empowerment space for the Other group has actually been hijacked by patriarchal values. One of the most obvious forms is the use of the ITE Law in order to silence the voices of victims of sexual violence.

SafeNet documents cases of citizens, activists, journalists who have been entangled in the ITE Law since 2008 (SafeNet 2008). One of the cases that was quite busy sparking public anger was the case of Baiq Nuril (victim of sexual harassment) who was ensnared in Article 27 paragraph (1) of the ITE Law. Baiq was detained by the police from 27 March to 31 May 2017, and submitted an amnesty to the president.

Another case is the case of Anin (a female activist who experienced sexual harassment) who uploaded a chronology of intimidation, violence, and sexual harassment that happened to her on her Facebook account with the aim of seeking justice. Instead of receiving protection, Anin was reported to the police on suspicion of defamation in accordance with Article 27 paragraph (3) of the ITE Law in conjunction with Article (45) paragraph (3) of the ITE Law and spreading hatred according to Article 28 paragraph 2 in conjunction with Article 45A paragraph (2) UU ITE.

The presence of ‘rubber’ articles in the ITE Law poses a threat to victims, survivors, and feminist activists who want to seek justice through digital media. The ITE Law can be used as a threat tool from those who disagree to silence and to stop the case investigations. For example, after the viral KPI case, there is a potential for the victim

to be reported back by the alleged perpetrator for defamation and other offenses.

Social stigma and criminalization in the digital space, especially against victims of sexual violence, show how patriarchy operates in new media—which initially became an inclusive and equal space. Victims of sexual violence are silenced and their voices are increasingly muted. Gender injustice and discrimination against women that occur in the real world are then replicated in cyberspace—including also giving birth to new forms of violence in the digital world. The assumption that bullying, harassment, and social stigma in the online world are not “real” is wrong. This violence causes women and other marginalized groups to be silenced and denied the right to freely express themselves and seek justice in the digital world. The internet is no longer a safe space for women and victims of sexual violence (Lamensch 2021; Chemaly & Buny 2014; Dhrodia 2017).

Expectations and challenges in hashtag activism

As feminists argue that the digital space is a space of contestation, there is hope and vulnerability, we can learn how feminist activism in the digital space can succeed from the case of Baiq Nuril. The activism began with an online petition on the Change.org Indonesia page on November 18, 2018, which was initiated by the Civil Society Coalition of Save Ibu Nuril. The petition highlights the decision of the Supreme Court (MA) which declared Baiq guilty and hoped that Jokowi would grant amnesty to Baiq Nuril, because amnesty was Baiq’s last resort to escape the criminal snares that haunted her. At that time the feminist movement and civil society used social media networks and hashtags as a medium of resistance and attracting sympathy from the authorities. The activism hashtag #SavelbuNuril went viral on Twitter and was awarded an amnesty.

There are several things that make activism on social media produce positive results in real life, namely, simple narratives, congruent with dominant narratives, tending to be of low risk, and the use of certain symbols. The use of certain symbols can pump up the success of an activism. Not only with hashtags, actions and images can also be involved in activism on social media to attract more public sympathy (Lim 2013; Bonilla & Rosa 2015). Hashtags have intertextual potential to link tweets on a particular topic or on different topics as part of an intertextual chain, regardless of whether or not the issues are related to one another. Hashtags in Twitter can also be seen as an indexing system as well as a filter

that allows social media users to reduce Twitter noise. However, this filtering process also has a distortion effect. However, hashtags can also be distorted, meaning that not all the same hashtags contain the same content and perspective (Bonilla & Rosa 2015). There is an opportunity for others to manipulate and mess with the indexing system. For example, the hashtag #SavelbuNuril is now also filled with ads, bots, and other content irrelevant to feminist activism.

Closing and Critical Reflection

The “spill the tea” activity on social media has now become an alternative way for victims of sexual violence to seek justice—which is not found in the real world. This activity has become a trend among Twitter users and is complemented by various hashtags as an effort to fight, attract people, and voice the rights of victims. This activity cannot be categorized as a form of hashtag activism—when people use hashtags to make the issues raised go viral and get attention.

Hashtag activism cannot be separated from the history of women and marginalized groups in fighting sexual violence and rape culture. Hashtag activism itself as a part of feminist digital activism is important to be seen as a new way of pursuing justice through the digital space. The massive activism of hashtags is a sign that the feminist movement is transforming, adapting, moving and filling new public spaces (read: digital space). This activism also allows someone who was previously a feminist sympathizer to become a feminist.

Studies of digital feminism show that the advent of the internet opens up new opportunities and hope for feminist activism—when issues can be spread more broadly and more masses can be gathered in a short amount of time. Despite giving hope, feminists recognize that the digital space is not gender-neutral. Hashtag activism in the digital space often brings serious consequences as a result of the hijacking of the digital space by patriarchal values. The digital space is no longer safe and free of intervention, in fact victims, survivors, activists, and citizens are vulnerable.

Furthermore, the massive hashtag activism can also be seen as a failure of the legal system, especially in responding to cases of sexual violence. Why? Because instead of reporting to law enforcement officials, the victim chose to ‘spill the tea’ to testify, gather support, and use hashtags.

However, do victims of sexual violence have to wait for their stories to go viral first to get a response from law enforcement officials? If social media has moved forward and opened up opportunities for victims to speak up, what about the legal system? We can no longer let victims and survivors struggle alone, waiting for their stories to go viral, experience stigma, data security threats, and being entangled in the ITE Law along the way.

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

Theresia Iswarini

Member Supervisory Board of Perkumpulan Suara Kita
Jl. Kenikir No. 82, RT 02, RW 09, Kel. Beji, Depok, 16423

rini.kapal@gmail.com

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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 pandemicⁱ 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^{ix} 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 281 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.

Women Survivors' Agency in Promoting Transitional Justice Initiative at the Local Level

Mulki Makmun¹ & Atnike Nova Sigiro²

Asia Justice and Rights (AJAR)¹ & Universitas Paramadina²

Jl. Tebet Utara 2C No. 22A Tebet, Jakarta Selatan¹

Jl. Gatot Subroto No. Kav. 97, Jakarta Selatan²

mmakmun@asia-ajar.org¹; atnike.sigiro@paramadina.ac.id²

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Abstract

This article will describe the contribution of women survivors of human rights violations in promoting transitional justice initiatives at the local or community level in Indonesia. In their marginal position, both as women and victims of human rights violations, the women survivors have the agency to face social, political, cultural, and structural barriers. The initiatives and participation of women survivors in Central Sulawesi, Aceh, and Yogyakarta in this paper have contributed to the emergence of transitional justice models at the local level, such as apologies for victims, health assistance programmes, scholarships, and truth-telling. These transitional justice initiatives at the local level not only fill the accountability gap that should be the responsibility of the state, but also reinforce the implementation of transitional justice mechanisms organised by the state or government, both at the local and national levels.

Keywords: transitional justice, women survivors, transitional justice local initiatives, human rights violations

Introduction

The Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation states that women and girls often experience violence and face more severe impacts when conflicts and gross human rights violations occur. This Declaration also recognizes the contribution of women and girls to the recovery of families, communities, and societies that have been adversely affected by conflicts and human rights violations. In Indonesia, women similarly experience the impacts of violence because of conflict and gross human rights violations.

In the 1965-1966 case, which was triggered by the 30 September Movement (G30S), many women, especially those who were members of the Indonesian Women's Movement (Gerwani) and organizations associated with the Indonesian Communist Party, experienced various forms of violence and discrimination (Yuniar & Easton 2015). The female victims in the 1965-1966 case experienced various forms of violence such as murder, illegal detention, and sexual violence. Female victims of the 1965-1966 case, especially members of Gerwani, also faced stigma as the accused perpetrators of violence against the military officers who died in the G30S case; they were also accused of performing naked dances (Yuniar & Easton 2015). The stigma of being immoral

women continued to be experienced by female victims of the 1965-1966 case even decades after the incident happened.

Patterns of violence against women were also found in the conflicts and human rights violations that took place in Aceh, especially during the implementation of the Military Operations Area (DOM) from 1989 onwards (Yuniar & Easton 2015). In the conflict in Aceh, cases of rape, detention, torture, and violence against women were also found. In the context of the conflict in Aceh, women also became substitute victims or intermediaries when the military could not find men in their homes or villages. During the 1976-2004 conflict period, women in Aceh were subjected to violence as a strategy to destroy their self-esteem and cause them to be expelled from their community (KKPK 2014).

Komnas Perempuan's report found cases where tens of thousands of women who previously lived normal and honorable lives in their families and communities, were targeted by military violence and public hatred. Patterns of violence such as detention, torture, murder, and sexual crimes in the forms of sexual torture, nudity, forced dancing in the nude, sexual slavery, and torture of pregnant women that resulted in the loss of pregnancy were experienced by many women in cases of human

rights violations that occurred in Indonesia (Komnas Perempuan 2007). These patterns of violence against women also occurred in other conflict areas. As a result of power relations and a patriarchal society, women became more vulnerable to violence (KKPK 2014).

The concept of transitional justice refers to the full set of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to secure accountability, serve justice, and achieve reconciliation (UN OHCHR 2014). The transitional justice agenda in Indonesia was strengthened during the country's political transition in 1998—for example, the establishment of ad-hoc Human Rights Courts for cases in Timor-Leste and Tanjung Priok (Jakarta); various investigations into allegations of human rights violations that occurred during the New Order regime, such as the Commissions of Inquiry into Human Rights Violations for May 1998 case, the 1965-1966 case, and the 1997-1998 enforced disappearances case; and the plan to establish a Truth and Reconciliation Commission, which later failed (Sigiro 2018).

More than 20 years after the 1998 democratic transition in Indonesia, the question of whether a transitional justice agenda is still relevant arises. There is a view that concludes that the political transition in Indonesia led to both an acceptance that various incidents of mass violence are normal occurrences, and impunity for the perpetrators,¹ given the strong denial of human rights violations (Robet 2014).

Another view of the political transition in Indonesia argues that Indonesia is currently in the post-transitional justice period. According to Wahyuningroem (2019), this period is marked by the participation of civil society groups that push for agendas and initiatives to substitute for the failure of transitional justice mechanisms that rely on the State (Wahyuningroem 2019). These civil society groups work with victims and the community at the grassroots level to reclaim the dominant narrative about the injustices that befell the victims, and to seek a satisfactory remedy for individuals and groups (Wahyuningroem 2019).

The concept of transitional justice cannot be viewed only as a process that occurs within a certain, limited moment, when a political transition occurs (McEvoy & McGregor 2008). According to Lundy and McGovern (2008), this perspective on transitional justice tends to ignore the fact that human rights violations continue to occur even though the norms of accountability in the context of liberal democracy have been implemented.

In the context of Indonesia, efforts to promote and continue the transitional justice agenda remain relevant for several reasons. Firstly, most of the victims of human rights violations that occurred during the New Order regime are still being denied their rights to truth, justice, and remedies. Of the 15 cases of gross human rights violations that have been investigated by the National Human Rights Commission (Komnas HAM), only three have been tried by Human Rights Courts² (Komnas HAM 2015). Of these three cases, all of the alleged perpetrators were found not guilty. One consequence of the acquittal of the alleged perpetrator is that there is no court decision regarding the right to remedy for victims, such as compensation or restitution.

Secondly, most victims of human rights violations are still suffering from the ongoing impacts of human rights abuses, including poverty, health problems, stigma, and trauma (Sigiro 2018). When these abuse victims reach old age, the vulnerability they experience becomes even greater.

Thirdly, gender-based violence experienced by female victims of human rights violations is often not fully disclosed, which obstructs access to justice and reparation. In fact, the results of investigations by Komnas HAM into cases of gross human rights violations, such as the May 1998 and the 1965 cases, found numerous human rights violations with gender-based violence or violence against women dimensions (Sigiro 2018).

As recognized by the Nairobi Declaration, women have an important contribution to make in promoting justice initiatives at the local level. In the context of Indonesia, which is facing a situation of impunity and normalization of past experiences of human rights violations, civil society groups—including formal organizations and groups of survivors and victims—are important actors in promoting and continuing transitional justice agendas.

According to Yarwood (2013), in post-conflict and/or post-authoritarian societies, women are not only victims of gender-based crime and passive objects who suffer the impact of human rights violations, but they also have an important role to play in promoting transitional justice. In *Women and Transitional Justice: The Experience of Women as Participants* (2013), Lisa Yarwood describes the experiences and contributions of women in transitional justice mechanisms and initiatives in various countries across the world including Bosnia and Herzegovina, Colombia, and Peru.

Meanwhile, the subordination of women as a form of gender-based oppression never stands alone. Feminist

thought developed the concept of intersectionality to view the layers of oppression experienced by women and describe how factors such as identity and social position intersect and overlap. One of the interpretations of intersectional feminism can be seen through the lens of socialist feminism, black feminism, and post-colonialism, and argues for the existence of a layered oppression that works against black women and working-class women (Mota et al. 2011).

However, feminism does not see women as merely passive subjects that are dominated by oppressive structures outside of themselves. Feminism also introduces the concept of agency, which views women not only as constructed identities, but also as subjects who take action (Clegg 2006). Therefore, women's agency also exists in the context of intersectional oppression. This paper views women survivors as an intersection of women's identities as gender conceptions and their identities and/or experiences as victims and survivors of human rights violations.

This paper will describe the agency of women survivors of human rights violations in Central Sulawesi, Aceh, and Yogyakarta in transitional justice initiatives at the local level. This paper will also explain how the agency of women survivors encourages the work of transitional justice at the formal level, which is nearing a dead end. The experiences of several groups of women survivors of human rights violations in Central Sulawesi, Aceh, and Yogyakarta discussed in this paper will reveal that women survivors have the agency to continue to push for justice, not only for themselves, but also for other victims and the wider community.

Research methodology

This paper was written based on data collection conducted in three provinces, namely Aceh, Yogyakarta, and Central Sulawesi. The research was conducted using a qualitative approach, using interview data collection methods, focus group discussions with civil society groups in Aceh on 15 January 2021, as well as literature studies. This research was done through interviews with 10 women survivors in cooperation with the following partner organizations: the Forum for Human Rights Education and Advocacy (FOPPERHAM) in Yogyakarta, KontraS Aceh, the Solidarity for Victims of Human Rights Violations of Central Sulawesi (SKP-HAM Central Sulawesi), and Asia Justice and Rights (AJAR). Survivor, according to the terminology of human rights violations, is a legal concept applied to individuals who have suffered

as a result of human rights violation, and are entitled to protection and compensation for such a violation. From a psychological or sociological perspective, the term 'survivor' is preferred as this concept empowers the individual by emphasizing strength and resilience (UN OHCHR 2011).

Most of the interviews were conducted by telephone because of limited physical mobility during the Covid-19 pandemic. However, for some resource persons who did not have telephone access, interviews were conducted face-to-face in accordance with the Covid-19 pandemic health protocol. Interview data collection took place from September to January 2021.

This paper will describe the experiences of women survivors from three areas in transitional justice initiatives at the local level. The women survivors interviewed had different experiences of human rights violations, namely 1) women who survived the 1965 events in Central Sulawesi and Yogyakarta; and 2) women who survived the military conflict in Aceh.

Participation of Women Survivors in Transitional Justice Initiatives at the Local Level

In the midst of the impasse with official transitional justice mechanisms—such as courts, and truth and reconciliation commissions—survivors of human rights violations in Indonesia continue to make various efforts to push the justice agenda forward. Delays in the follow-up investigations into cases of human rights violations in Aceh and the 1965 cases in Central Sulawesi and Yogyakarta have caused many victims to see the justice process as ineffective. Victims of the 1965 case in Palu, for example, viewed the inquiry process of human rights violations as a tedious process. However, the inquiry process could be considered useful if the results of the investigation are used to obtain, for example, medical and psychosocial assistance services provided by the Witnesses and Victims Protection Agency (LPSK).

This impasse in the justice process—as felt by the victims—can be seen from the following narrative of a woman who survived the 1965 case in Central Sulawesi:

Actually, there was just no follow-up, so we did not get any experience because we were just interviewed and interviewed continuously. (Women Survivor of the 1965 events in Central Sulawesi 2020, interview, November)

The presence of obstacles in the State's formal transitional justice mechanisms is one of the factors that encouraged the women survivors interviewed for this

study to participate in transitional justice initiatives at the local level. Based on the data obtained, each region developed different models of local initiatives.

The women survivors who became resource persons for this research come from different backgrounds. The first group consists of survivors who are direct victims. They have experienced human rights violations against themselves. Some of the forms of violence experienced by these survivors include torture—both while in detention and during interrogation. Some of these women survivors also experienced sexual violence in detention. The second group consists of survivors who are indirect victims; that is, those who are victims because their husbands or a family member suffered human rights violations, such as enforced disappearances and arbitrary detention.

Women Survivors in Aceh: Truth-Telling as a Remedy for the Community

One of the provisions in the 2005 Helsinki peace agreement was for the establishment of a Truth and Reconciliation Commission for Aceh (2005 Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement). It was not until 24 October 2016 that the Aceh Truth and Reconciliation Commission (Aceh TRC) began its work. Its duties and functions are to implement Law No. 11 of 2006 on Aceh Government and its implementing regulation, Qanun Aceh No. 17 of 2013 on Aceh TRC. As of August 2021, about 5000 victims and witnesses have had their statements taken (kk.acehprov.go.id 2020). Meanwhile, based on the Decree of the Governor of Aceh No. 330/1269/2020, as many as 245 victims and heirs have been recommended by the Aceh TRC to receive immediate reparations.

The Aceh TRC cannot be separated from the community's continued efforts to push for this transitional justice mechanism to be established and be widely supported. In Aceh, women survivors played an important role in establishing the TRC. Women were involved in demonstrations—not only in Aceh, but also in Jakarta—calling for a Aceh TRC to be immediately established (Women Survivors in Aceh 2020, interview, November 2021).

During the Aceh TRC process, women survivors collaborated with civil society organizations to support truth-telling and remedy work. Activities carried out by the CSOs and survivors included victims' assistance activities, including for female victims of conflict, and

participatory documentation of female victims. The results of the assistance and documentation programs were then submitted to the Aceh TRC (Acehkita.com 2019).

Women survivors in Aceh also collected data on human rights violations that occurred during the conflict. In collecting the data, women survivors organized themselves into victims' rights groups. Data collection was carried out through visits to remote areas of Aceh. In an interview, one women survivor described the conditions of victims:

Since 2007, I have been a member of the Solidarity for Families of Victims of Human Rights Violations (SPKP), and was elected Chair of the Ureung Gadoh (Kagundah) Family—an organization of families of missing persons in Nagan Raya, Aceh. I took part in collecting data from the coast to Beutong Banggalang, without any financial support from the Government. In Nagan Raya, there were many victims who were physically handicapped, widows, orphans, and families of victims of missing persons and those who died during the conflict. The Government should provide remedy or reparation, that is compensation by the State for the occurrence of human rights violations that have caused suffering for the victims and the victims' families. (Women survivor in Aceh 2020, interview, November)

The participation of women survivors in the Aceh TRC process is important in ensuring the TRC runs effectively and inclusively. The issue of inclusiveness was raised by the community after the establishment of the Aceh TRC because it was felt the expectations of victims were not being met. According to the women survivors interviewed, they had little involvement in the establishment of the TRC in Aceh.

Several resource persons also mentioned the lack of sensitivity by Aceh TRC staff to the victims while taking statements. Four women survivors from Aceh who were interviewed for this paper spoke at a public hearing held by the Aceh TRC and explained the risks involved (kk.acehprov.go.id 2019). The following is a testimony from a women survivor in Aceh.

What happens is that today victims are afraid, afraid of telling the story because they are afraid it will happen again, afraid that today's condition is not good. (Women survivors in Aceh 2020, interview, November)

During focus group discussions in Aceh (15 January 2021), one of the female activists stressed the importance of involving women in every stage of the process, not only as participants, but also as leaders of victims' organizations. The involvement of women survivors

is important to ensure that women's experiences of violence are included in both the narrative and ongoing recovery efforts.

Women Survivors in Central Sulawesi: Apology as a Remedy for the Community

In the Open Dialogue event—to commemorate the Rights of Victims of Human Rights Violations to Truth and Justice, which was initiated by the Solidarity for Victims of Human Rights Violations (SKP-HAM)—in 2012, the mayor of Palu, Rusdi Mastura, apologized to the victims of human rights violations, especially the victims of the 1965 case (Lamasituju 2016). In subsequent developments, the Palu local government implemented a number of programs, such as health services and educational scholarships for victims and their families. Although Mastura resigned as mayor of Palu in 2015, SKP-HAM and the 1965 survivors continue to work closely with the new mayor on the reparations policy.

Before the apology from the mayor of Palu, a number of survivors of the 1965 case—together with SKP-HAM—had worked to document the data and experiences of the victims of the 1965 case in Palu. Of the 485 victims whose cases had been verified, 166 were women (SKP-HAM 2015). These findings have been used as an advocacy tool by survivors' groups to encourage State recognition at the local level.

The stalling of inquiries carried out by official State institutions, such as Komnas HAM, into human rights violations made the victims of the 1965 case in Central Sulawesi feel frustrated with formal mechanisms. The impasse in this mechanism of formal justice also prevented some victims and their families from pursuing a formal justice process.

In fact, some of the women survivors interviewed felt that informal transitional justice initiatives, which were initiated by civil society groups, opened up more opportunities, and could encourage the Government to continue with formal justice mechanisms. According to a research resource person, organizing initiatives at the community level was an important strategy for continuing justice efforts, as explained by one women survivor:

There are no other words but to gather, so come together and gather to consolidate ourselves and hold the State accountable and ensure that this group is protected. (Women survivor of 1965 case in Central Sulawesi 2020, interview, November)

One of the initiatives undertaken by women survivors of the 1965 case in South Sulawesi was to push for the excavation of their husbands' bodies, which were allegedly buried at one of the military posts. In addition, women survivors in Central Sulawesi, working with SKP-HAM Palu, documented nearly 500 victims of the 1965 incident. This truth-telling initiative aims to get recognition from the State and society for the fate of the 1965 victims.

To find the graves of their husbands who disappeared in the 1965 incident, women survivors tried to meet with the Military Resort Commander in Palu. Advocacy and dialogue with the local government and military agencies were conducted by the survivors to obtain permission to excavate the alleged graves of their husbands. Although the excavation has not yet been carried out, the Central Sulawesi provincial government has provided support so military agencies can start to excavate the graves.

For 1965 women survivors from Central Sulawesi, the apology from the mayor of Palu was a small victory amid their feelings of pessimism because of the absence of truth and a lack of acknowledgment of the victims' experiences of violence. This situation was explained by a women survivor as follows:

Like I said earlier... I am a bit relieved because it is clearer now, my testimony will be heard again... yesterday, many people were present, but there is no follow-up from the Government. There is contentment but no legal certainty... that is all we are waiting for, in what form. For example, you are found not guilty and acquitted, so there is some kind of legal certainty. We are still waiting for the court. (Women survivor of 1965 case in Central Sulawesi 2020, interview, November)

A formal apology from State officials, such as the mayor of Palu, is an important acknowledgment for victims of human rights violations in the 1965 case, who still often suffer the stigma of this experience. The apology from the mayor of Palu was one of the results of the efforts of the community, including women survivors, in promoting justice initiatives at the local level.

Women Survivors in Yogyakarta: Documenting Victims' Access to Health Services

Kiprah Perempuan (KIPPER) is an organization that was established in Yogyakarta in 2006 to support women survivors of the 1965 incident. At KIPPER, women survivors carry out various activities, such as documenting data of victims, performing theatre and

music, and advocating for the fulfillment of the rights of victims of human rights violations. Some of KIPPER's advocacy achievements include the issuance of a Certificate of Victim of Human Rights Violations (SKKP HAM) from Komnas HAM for victims of the 1965 case in Yogyakarta, and the development of a program provided by the Witnesses and Victims Protection Agency (LPSK) to assist victims with health and psychosocial services.

The 1965 women survivors in Yogyakarta formed KIPPER in 2006. Since its founding, KIPPER's members have held regular meetings to discuss various issues, ranging from sharing news, seeking information about the conditions of their friends, and planning economic development programs for members, to performing health check-ups. Women survivors also work with young artists in their towns to create theatrical performances, as well as songs and dances. Community-based dialogue and art are used as a form of community remedy and reconciliation.

When survivors of 1965–1966 were released from prisons across Indonesia, many of them were given national identity cards marked with the ET (ex-political prisoner) code. For some 1965 survivors in Yogyakarta, reparation means the right to live free from stigma and enjoy a better standard of living with access to basic rights. Acceptance by the community is one of the hopes expressed by one of the survivors in Yogyakarta:

Now, I still have hope. If later the Government has made it official that the victims are being humanized, their families should be informed. (Women survivor of 1965 case in Yogyakarta 2020, interview, November)

For victims of the 1965 case, the stigma of 'communism' is a persistent problem. Based on the experiences of women survivors at KIPPER, this kind of stigma is a factor that prevents victims from accessing remedy services. Some of the victims documented by KIPPER were worried that the data collected would be used to arrest them, as explained by the following women survivor:

Other victims that I have interviewed, they were pessimistic and afraid. "Why was it recorded like this? I will be arrested again." They were afraid of it. (Women survivor of 1965 case in Yogyakarta, interview, November)

Therefore, reconciliation within the community is an important initiative carried out by KIPPER. Within the KIPPER community, efforts are made to encourage community-based dialogue and reconciliation. This activity is carried out by involving religious leaders, civil society actors, and various stakeholders, who work

closely on human rights advocacy, as well as academics who conduct studies on reconciliation.

Women survivors of the 1965 case, who are members of KIPPER, initiated a data collection of the victims of the 1965 incident who lived in Yogyakarta and its surrounding areas. Through collaboration with various groups, such as students, academics, and human rights activists, the women survivors tried to document and identify the health conditions of KIPPER members and the community of victims of the 1965 incident in Yogyakarta and its surrounding areas.

Using the data collected, KIPPER advocates for victims' access to the Certificate of Victim of Human Rights Violations (SKKP HAM) issued by Komnas HAM. Although minimal, SKKP HAM is a form of recognition from the State, which can be used to access remedies, such as medical assistance from LPSK. These women survivors are actively involved in providing guidance and accompanying volunteers to collect data on victims of the 1965 case. In her advanced age, one women survivor shared her struggles to invite young people to become volunteers to help them in the data collection process:

I used to struggle. I was with [volunteer's name], looking for 10 people. He was in college. I would adjust and follow his time as he has either afternoon or evening class. We would coordinate our time to get to the locations. We looked for survivor(s) in Sleman then [name of another women survivor] in Bantul... [name of another women survivor] in Kulon Progo... Each area already has its own coordinator. (Women survivor of 1965 case in Yogyakarta 2020, interview, November)

SKKP HAM is then used to apply for health and psychosocial services from the local government and the Witnesses and Victims Protection Agency (LPSK). At the local government level, special services for victims cannot be provided, but the local government can provide health assistance services for the elderly. Incidentally, most of the women survivors who are KIPPER members are elderly.

According to the Law on the Protection of Witnesses and Victims (Law No. 13 of 2006, and Law No. 31 of 2014), LPSK cannot provide reparations for victims of human rights violations without a court decision. Since the 1965 human rights violations have never been tried in a court, there is no court decision on reparations for the victims. However, thanks to the documentation of data and health conditions carried out by KIPPER, the victims of the 1965 incident in Yogyakarta and its surrounding areas were able to access medical and psychosocial assistance from LPSK.

The Intersectionality of Women Survivors' Agency as the Basis for Transitional Justice

Women's rights and gender justice have become part of the discourse on transitional justice mechanisms in post-conflict and post-authoritarian societies. According to Moyo and Lahai (2018), this development arose from criticisms by civil society actors and feminist movements of the neglect of women in the peace process, as well as criticisms of transitional justice paradigms and practices that ignored the diversity of gender dimensions and the impact of conflict or authoritarianism on women's rights.

The stories of women survivors in several countries, including Indonesia, show how women's participation in the justice process has succeeded in exposing the problem that women's situations and experiences during conflict and violence have been ignored. Not only that, but women's participation in transitional justice has contributed to identifying appropriate mechanisms that directly respond to the needs of the community.

After the Guatemalan Civil War, for example, women there participated in the signing of peace agreements, and the establishment of a national reparations program, both individually and collectively (Bailey 2008).

During this time, many of the women who fought for transitional justice measures were considered insane when they argued that rape was a violation of human rights. However, according to Bailey (2008), the women who participated in the Historical Clarification Commission (*Comission para el Esclarecimiento Historico, CEH*) made an important contribution to ensuring reparations were made and effective measures were implemented to reveal the truth and bring justice to the victims, which were crucial for the reconciliation process in Guatemala at that time.

Similar to the experiences of women in other countries, the experiences of women survivors in transitional justice initiatives in Yogyakarta, Aceh, and Central Sulawesi, show the importance of the concept of agency in women's participation in and contribution to various transitional justice processes and mechanisms.

There are several factors that appear to influence the agency of the women survivors featured in this research. Firstly, the background of the women survivors interviewed clarifies why they have agency. Although these women survivors have been marginalized as a result of human rights violations, they have a background as female fighters and/or activists. For example, one of the women survivors from Aceh was formerly a member of Inong Balee—a women's organization within the

Free Aceh Movement (GAM). Meanwhile, one of the women who survived the 1965 incident was a member of Gerwani—a women's organization that worked on women's rights and community issues before 1965. Secondly, the existence of civil society organizations—such as women's organizations, victims' organizations, and human rights organizations at the local level—also became a supporting factor for the agency of these women survivors.

This agency is exemplified by the initiatives launched by women survivors to develop transitional justice efforts at the local level. Local initiatives carried out by women survivors, such as self-care, documentation, research, and advocacy, have contributed to strengthening the voices and capacities of victims in their communities.

Women survivors experience layered marginalization, both as women and as victims of abuse. Despite being in a marginalized position, the women survivors featured in this research displayed an agency to demand recognition for the experiences of women and victims of human rights violations from the community and the State.

Closing

When impunity persists and civic space shrinks, Indonesia's women survivors of human rights violations generally experience boredom and pessimism about the development of a justice agenda for victims. Victims also face various obstacles to accessing the official transitional justice mechanisms administered by the State. This paper discussed a range of transitional justice initiatives carried out by women survivors at the local level that aimed to resist impunity and overcome challenges to obtaining justice.

Transitional justice initiatives carried out by women survivors at the local level not only promote the existence of transitional justice processes at the local level, but also encourage the existence of official transitional justice mechanisms administered by State administrative institutions. Transitional justice initiatives have inspired truth-telling and reconciliation at the community level. These informal local justice initiatives subsequently led to the restoration of formal transitional justice mechanisms, such as the issuance of SKKP HAM by Komnas HAM, the provision of medical and psychosocial assistance by LPSK, the expansion of the effectiveness of the Aceh TRC, and an apology from the Mayor of Palu. We can see that the initiatives of women survivors at the local level has helped to fill the accountability gap left by the State.

Decades after the occurrence of human rights violations, the victims of both the events of 1965–1966 and the conflict in Aceh still live with the traumas and stigmas. Even now, when this research was conducted, they are concerned about the possibility of repeated violence and discrimination. Not only that, the victims' advanced age exacerbates their vulnerability and adds another obstacle in their fight for justice. For example, all of the women survivors of the 1965–1966 incident who were interviewed for this research were over the age of 60. The women survivors in this research were also vulnerable to being retraumatized when participating in the formal transitional justice mechanisms.

In addition to the violence and human rights violations experienced by themselves and/or their families, women survivors also face gender bias when participating in justice initiatives in their communities. Women survivors in Aceh, for example, still face opposition from their families when they want to actively participate in provincial and national level advocacy. This situation cannot be separated from the gendered role of women survivors as the main caregiver in the family.

The results of this research show that women survivors are not passive objects, whose actions are solely determined by the structures that have marginalized them. This research shows that women survivors have agency to face social and structural barriers, both as women and as victims of human rights violations.

Through their participation in transitional justice, both in informal initiatives at the local level and in formal mechanisms, women survivors can develop more realistic expectations of the transitional justice process. In addition, the initiatives carried out by women survivors have also contributed to producing a remedy for the community and building solidarity between survivors/victims, civil society organizations, and younger generations.

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Final Notes

- ¹ Impunity means the impossibility, de jure or de facto, of bringing the perpetrators of violations to account—whether in criminal, civil, administrative, or disciplinary proceedings—since they are not subject to any inquiry that might lead to them being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims (UN 2005).
- ² Ad Hoc Human Rights Court for East Timur, Ad Hoc Human Rights Court for Tanjung Priok, and Human Rights Court for Abepura.

AUTHOR GUIDELINES

Jurnal Perempuan (JP) is a quarterly interdisciplinary publication in the English language that aims to circulate **original ideas in gender studies**. JP invites critical reflection on the theory and practice of feminism in the social, political, and economic context of Indonesian society. We are committed to exploring gender in its multiple forms and interrelationships.

The journal encourages practical, theoretically sound, and (when relevant) empirically rigorous manuscripts that address real-world implications of the gender gap in Indonesian contexts. Topics related to feminism can include (but are not limited to): sexuality, queer, trafficking, ecology, public policy, sustainability and environment, human and labor rights/ issues, governance, accountability and transparency, globalization, as well as ethics, and specific issues related to gender study, such as diversity, poverty, and education.

JP welcomes contributions from researchers, academia, activists, and practitioners involved in gender advocacy in any of the areas mentioned above. Manuscripts should be written so that they are comprehensible to an intelligent reader, avoiding jargon, formulas and extensive methodological treatises wherever possible. They should use examples and illustrations to highlight the ideas, concepts and practical implications of the ideas being presented. Feminist theory is important and necessary; but theory — with the empirical research and conceptual work that supports theory — needs to be balanced by integration into practices to stand the tests of time and usefulness. We want the journal to be read as much by stakeholders as by academics seeking sound research and scholarship in women's study.

JP appears annually and the contents of each issue include: editorials, peer-reviewed papers by leading writers; reviews, short stories, and poetry. A key feature of the journal is appreciation of the value of literature, fiction, and the visual narrative (works of art, such as paintings and drawings) in the study of women's issues

Submissions

To discuss ideas for contributions, please contact the Chief Editor: Anita Dhewy via anitadhewy@jurnalperempuan.com. Research papers should be between 5000-10000 words. Please make sure to include in your submission pack an **abstract outlining the title, purpose, methodology and main findings**. It is worth considering that, as your paper will be located and read online, the quality of your abstract will determine whether readers go on to access your full paper. We recommend you place particular focus on the impact of your research on further research, practice or society. What does your paper contribute? In addition, please provide up to **six descriptive keywords**.

Formatting your paper

Headings should be short and in bold text, with a clear and consistent hierarchy. Please identify **Notes or Endnotes** with consecutive numbers, enclosed in square brackets and listed at the end of the article. **Figures** and other images should be submitted as .jpeg (.jpg) or .tif files of a high quality. Please number them consecutively with Arabic numerals and mark their intended location within the body of the text clearly. If images are not the original work of the author, it is the author's responsibility to obtain written consent from the copyright holder before using them. Authors will be asked to confirm the status of images, tables and figures in the journal submission pack. Images which are neither the authors' own work, nor are accompanied by the necessary permission, will not be published.

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