

## **CWGI REVIEW ON THE EIGHT PERIODIC REPORT SUBMITTED BY INDONESIA (22 OCTOBER 2019)**

The Indonesian government has been sent the Eight Periodic Report in October 2019 to the CEDAW Committee. CEDAW WORKING GROUP INDONESIA (CWGI) since its inception always reviewed and shared all the information written in the government report to their constituencies which consisted of 25 CSOs, which were represented in all different areas from the national level to the regions and grass-roots community. Below we shown the CRITICAL ISSUES which were not raised in the 8<sup>th</sup> periodic report submitted by the government.

In the executive summary of the government reported it was stated that between 2015-2018 many policies and programs were focused to empowering women. Despite government commitment towards women empowerment which is translated in the National Mid-term Development Plan (RPJMN) 2015-2018, which focus on three (3) strategic objectives : (1) the role of women in development (2) Increasing the protection of women against violence, including trafficking in person (TIPs) and (3) strengthening institutional capacity on gender mainstreaming as well as protecting women against all forms of discriminations CWGI observed that in the implementation many gaps and challenges still observed by CWGI were seen.

### **Issues on Rural Women**

Maternal mortality is disproportionately high in rural areas. The maternal mortality rate is around 305 per 100,000 according to Interdental Population Surveys (SUPAS) 2015. From these data it is shown in one year the rural area 83,447 maternal deaths was reported. This is due to the limited access of rural women to quality reproductive health service facilities, especially in poor and remote area and lack of access to clean water. The shortage of skilled birth attendants and medical personnel in rural areas leads to poor prenatal, perinatal and postnatal care. Beside of poverty, lack access to adequate food and nutrition results in increased health risks of pregnant and lactating women. Child marriage exposes rural girls to early pregnancy and significantly contributes to maternal mortality.

Policy making process at rural area involves more men than women due to lack of access of rural women to information on women's political participation rights. Electoral violence and discrimination based on social norms continue keeping women away from decision making. Institutional procedures on decision making processes such to raise their aspiration in the Multi Stakeholder Consultation Forum for Development Planning at the village level (Musrenbang). Moreover, language and literacy constraints; discriminatory gender norms and stereotypes; lack of time due to double burden of doing domestic responsibilities such as: childcare, fetching water and others made most rural women need not being heard. Their needs never fulfilled. Actually to empower rural women an inclusive development strategy should be implemented.

The government wrote in this Eight Periodic Report that 33% of the workforce are in agriculture (117 million) with women encompassing 13.4 million of the number. According to CWGU this number is too small and it is under reported. Actually in the daily activities women put in more work into FARMING than men. Inclusive development seems not be implemented at the rural areas. Women's contribution to the agriculture economy still not recognized and this has impacted in low participation of them in the access to the village fund which every year each village received not a small fund.

## **Issues on Employment**

### *Discrimination and Violence Against Domestic Workers*

There are 4,2 millions local Domestic Workers (DWs) in Indonesia based on ILO Survey in 2015. The domestic workers are majority women which are unorganized and unrecognized as workers which are still excluded and discriminated as workers without law protection and have not got fundamental worker rights yet. DWs live and work in not decent conditions. They work with very low wages (20-30% of the official minimum wages), no one day off, unlimited working hour, without normative working hour, no time to rest, no leaves, no social security, no freedom of association as well as the freedom of association and expression (union busting), no written contract letter, no access for fair dispute settlement and no interest representatives in social dialog. They have been victims of physical, psychological, economic and social abuses. These workers are not acknowledged or recognized workers and therefore, are discriminated as human being, as women and as citizen.

The major impacts of these conditions are: 1) Quality of life of DWs and their families are not in the decent life because they do not get decent work, 2) DWs are marginalized from other workers as they are not recognized as workers and be protected by law. They also are not represented and are not engaged in social dialogue or formulation of policies and decision making process of tripartite and public interest, 3) DWs do not have access to information and resources which would strengthen them to have a better situation, decent work, decent life.

Based of cases collected by JALA PRT (an NGO to working for the welfare of DW) data of DWs case handling were 4107 DWs cases in 2012-2020 which are majority physical and economical abuses in working situation, such as unpaid wages cases (2 months until 11 months unpaid wages), fired without reason or deducted wages by employers when they get sick and can not go to work, the domestic workers can not claim the health security when they get sick, no increasing wages although they have worked many years (more than 4 years), no severance. When they get cases the Domestic Workers can not claim and access to the worker dispute settlement because they are not recognized and not be regulated – protection in the national labour law.

### *Women migrant workers*

The case of Indonesian migrant workers who have died in a placement country is not a new problem. Data released by the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) noted in the range between 2012 and January 2018, migrant workers who died (corpse were returned home) reached number 1,288 cases, based on complaints received. In the Middle East region, the highest number of death cases of migrant workers occurred in Saudi Arabia with 203 cases. While in the Asia Pacific region, the highest number of cases of Indonesian migrant workers who died occurred in Malaysia with a total of 455 case. From the available data, Malaysia is also superior to the number of deaths of migrant workers from Indonesia every year.

The enacted New Law on Migrant Worker Protection in 2017 does not improve the situation of women migrant workers. Based on BP2MI data, the number of cases reported by migrant workers is increasing from 4.349 (2017), 4.779 (2018), into 9.377 (2019). This Law needs implementation regulations, which until today the Indonesian government did not fulfilled. From 28 mandated regulations only 13

regulations were discussed and not yet finalized only seven regulations already pass. Indeed, it potentially will decrease the protection mechanism for migrant workers (e.g., Monitoring, etc.). Besides, government's policies that ban the placement of women migrant domestic workers to 19 middle east countries is not only discriminate against women and violate Migrant Convention 1990 and CEDAW Recommendation number 26 but also resulting complexity and layered problems for women who forcibly work through the irregular process and become trafficking victims.

### *Women in Media*

The Indonesian Broadcasting Commission (KPI) is supposed to defend the public, but in fact, they do not support minority groups; this is proved by the issuance of a KPI regulation in 2016 that bans LGBT from entering the broadcasting media. Moreover, in general KPI members represent political parties in Indonesia, a fact that further hurts independence of the media in Indonesia. Media owners who enter into politics increasingly dictated almost all the contents which are allowed to be broadcasted, some television programs degrade women, sensationalize bodies of women, female workers as it is stereotyping. It is still hard for female applicants to enter the media industry. Moreover, the growing fundamentalism groups carry out anti feminist campaigns on social media. Their media try to influence the public to dismiss the campaigns to end Violence Against Women (VAW). Beside their campaigning on social media that feminism is the product of the western world, representing liberal ideology and encourage the public to 'hijrah' (lead a more religious way of life) and wearing clothes that cover their aurat (body parts that should not be exposed to sight). In certain regions female journalist still faced intimidation and violence when investigating certain issues.

Internet, which is supposed to be a new medium for women to open doors towards democracy, now has turned into a political tool to instil hate and launch religious fundamentalism campaigns that threaten women. Data from ICT Watch and Komnas Perempuan shows the presence of cyber crime and violence against women on the internet. Women are hit by cases of illegal content, which is a crime of posting data or information to the internet about things that are not true, not ethical. This includes, for example, morphing, online defamation, cyber grooming, cyber harassment, cyber stalking, cyber pornography, online prostitution, cyber prostitution. In 2014, Komnas Perempuan reported that they received cases on cyber grooming, cyber stalking, cyber harassment, illegal content, cyber bullying and a combination of various kinds of cyber crime. Other cases under the category of cyber violence against women include cyber grooming, cyber harassment and illegal content also online defamation. The year 2017 saw the highest number of cyber crimes, with almost 80% of news on the media covered different criminal cases. In 2014, almost 5% of news on the media was related to unauthorized dissemination of sexual contents.

### **Issues on form of gender-based violence from various of violence, stigmas, stereotypes and harmful social norms/practices**

The National Commission on Violence Against Women (Komnas Perempuan) annual report 2018 said that the number of cases of violence against women had been rising in the last three years from 259,150 cases in 2016 to 348,446 cases in 2017 and it went up further to 406,178 cases in 2018. The scope of violence that occurs still include private, community and state domains. The UNICEF Indonesia stated that at least 13.4 million of Indonesia women aged 11 or below might have practice female genital mutilation (FGM). These practices can be carried out by performing one of the following procedure : by holding a symbolic ceremony, by grazing, cutting, or removing part a woman's clitoris. Women suffered violence on the basis of gender, stereotype and hate that was committed follow by mass persecution during the Jakarta

Governor Election. There were 421 discriminatory of conservatism, discrimination and intolerance against minority groups around Indonesia (Komnas Perempuan).

CSO movement has been very active in submitting policy papers and in drafting the Bill on Elimination of Sexual Violence especially in relation to addressing sexual violence, elimination of FC and prevention of early and forced child marriage to the government as well as to the parliament members. To address violence against women (Gubernatorial Regulation on free forensics medical examination for women and children (who are victims of violence) were also the result of the CSO's lobbying . Agreement among 13 Ministries and State Institutions to take integrated actions to address violence against women. Advocacy work of women CSOs and legal aid for women in handling cases of violence that women faced as victims of persecution or criminalisation has received positive responses in the form of new government policies. The judges have begun conducting training for trainer of judges (ToT) to build their capacity in applying a number of laws related to domestic violence, trafficking in women and to give women fair access to the court.

### *Female Circumcision*

The rate of FC is exceptionally high in Indonesia. According to the 2013 UNICEF data, Gorontalo was listed on the top position with the rate of 83.7%, followed by Bangka Belitung (83.2%) then Banten (79.2%), South Kalimantan (78.7%) next came Riau (74.7%) then West Papua (17.8%) followed by the Special Region of DI Yogyakarta (10.3%), Bali (6%) Papua (3.6%) and NTT (2.7%). Indonesia is in the top 3 countries with the highest rate of FC, after Gambia and Mauritania. UNICEF Indonesia stated that at least 13.4 million of Indonesian women aged 11 or below might have undergone FC. Most Indonesian have their daughters circumcised because it is recommended by their religion (96%), or recommended by tradition or culture (94.3%) and because a majority of people living in the city do that (93.1%).

The Minister of Health issued Ministerial Regulation Nr. 1636/2010 on FC. This was opposed by women activists since it was considered legitimating female genital mutilation (FGM)/circumcision practices and authorizing medical workers to do so. The goal of this circular was to control the country's citizens, so they could not suffer any arbitrary practices performed outside the medical field, since the circumcision was related to acts that intentionally caused injury to women's genitals. The problem was, health services providers then interpreted the circular as the state's endorsement of these practices. This regulation was later repealed by Health Minister Regulation Nr 6/2014 but the practice of medicalizing FC goes on, while it has been clearly stated that FC is not allowed and no medical benefits have been discovered from female circumcision.

The latest research on FC was conducted in 10 provinces (17 districts) by Komnas Perempuan during 2017-2018 found out that in all 17 districts FC were still perform. The midwives still performed FC as one package included in the delivery cost. FC were performed during the age of 2-3 years old. This means there were no informed consent from the girls. Female circumcision against the right of child, sexual pleasure and traumatic experience which controlling girls behaviour to be submissive. Female circumcision (FC) using tradition and religion to legitimate the practice of FC from generation to generation.

### **Issue on Violence Against Women**

The result of 2016 National Survey on Women's Life Experience in Indonesia (SPHPN) show that one of the three women in Indonesia has experienced physical and/or sexual violence by her partner and non-partner. Moreover, the Komnas Perempuan annual report of 2017 and 2018 stated that the number of VAW had been rising in the last three years, from 259.150 cases in 2016 to 348.446 cases in 2017 and it went up further to 406.178 cases in 2018. The scope of violence continues to private or personal domain, community and even state actors such as law enforcement officers. In 2018, Jakarta Legal Aid Foundation of Indonesia Women's Association for Justice (LBH APIK) received a lot of internet-based violence (it is known as cyber crime), which include online and offline sexual violence committed through Facebook, Instagram, Tinder etc.

Sexual violence also happened in the education sector, not only at the University campus moreover it was also reported by LBH-APIK in 2017-2018 where teachers committed sexual violence against their pupils at the primary school. For the sake of 'the school reputation' or the good name of the campus the victim's family is under pressure and so not to file any complaint to the police.

### **Issue on Marriage and Family Relation**

In the latest concluding observation by the CEDAW Committee issued 27th July 2012, many times it was stated that the State Party should revised the marriage law no 1/1974. It is known that this law took various measures to regulate its functioning. The role of husband is to be responsible for the livelihood chores. In a changing society where many wives went out to earn money some husbands did not accepted that in this situation their wives not served him as expected. This became a reason to be violent (physical or verbally to his wife). As in this marriage law a paragraph also stipulated that in case the wife has certain disability and if this can be confirmed, the husband is allowed to seek a divorce. Reason on the disability condition of wife will be accepted by the court. If the wife seeking for divorce since it is not bearable anymore living with her violent husband very often she should restraint it just to keep "a good family image".

There has been a lot of obstacles in the legal process for dissolution of marriage since it should be settled in a religious court. Despite the wife's visum showed evidence of gender-based violence many law enforcement officers have not yet consider the victim's perspective when they are handling the related cases. The prolonged and exhausting legal process toward legal justice has made many wives reluctant to proceed with their cases. A lack of protection for them as victim of violence and very often during the legal process they got pressure from third party, usually from the relatives of her husband's side, finally some wives decided to withdraw their complaints. Some wives just accepted that their husband took a second wife otherwise she will lost to take care of her children. In many dissolution of marriage cases the religious court very often just settled the divorce, but it is not automatically settle the case of child support. The wife should proceed it in a separate legal process. It is very exhausted and when the court decided that the husband should give the child support the facto in many cases there are no execution. The child never received the daily or monthly needs allowance from their father.

### **Issues on the persistent high rate of maternal mortality**

In the Eight Periodic Report submitted by the Indonesia government it was stated that the high MMR was being address consistently by improving access to healthcare services which 5 key activities, such as : (1)

each delivery is carried out in a health facility, but from many studies the place of death of pregnancy women were 65% at the health facilitation and at home; (2) every obstetric and neonatal receive adequate help, unfortunately many women died not only during delivery but also 14 days after delivery and still birth is also still high; (3) every women of childbearing age has access to the prevention of unwanted pregnancies and the handling of post-miscarriage complications; In reality we as CSOs observe that only married couples are allow to get modern contraceptives and the situation will become worst if the revised Penal Code will be enacted since it forbid everybody to promote modern contraceptives except for authorized officers, while services to terminate a pregnancies is still a long to go. Until today even a rape victim who get pregnant could not find a place to terminate the pregnancy.(4 ) Availability of birth waiting house facilities that bring pregnant women closer to health care facilities were not effective enough to lowering the high mortality rate in the country. Many studies show that even in big cities the MMR is still relatively high. We as CSOs which monitor the High MMR did not see any correlation between the coverage of ANC (at least 4 times) and lowering the MMR. The government should look to the many children one woman has and the age of mother who bearing the forth or the sixth child. Coverage services for pregnant women at least 4 times (K4) by increasing health personnel, and (5) Availability of birth waiting house facilities that bring pregnant women closer to health care facilities were not effective enough to lowering the high mortality rate in the country. Many studies show that even in big cities the MMR is still relatively high.

Maternal mortality ratio (AKI) in 2018 (Riset Kesehatan Dasar: Riskesdas 2018) was indeed lower compared to 2013. However, for last two decades it has remained above 300 per 100,000 and this is far higher than the SDGs target of 70 per 100,000 live births by 2030. It compares to other ASEAN countries, Indonesia is very much behind them; now AKI those countries is between 40 and 60 per 100,000 live births.

Data from research conducted in 2016 showed when maternal mortality would take place. It turned out that 56.9% of maternal mortality occurred within 0-42 days after childbirth (period of postpartum bleeding), 22,4% took place during pregnancy and 14,6% happened during childbirth, even 3,6% of maternal mortality occur during postpartum bleeding period. The latest data on maternal mortality of pregnant women, women who are giving birth or those who are going through the postpartum bleeding period showed that 77% of those deaths occurred at health facilities and hospitals. It has put both places in the first rank, followed by home in the second rank as 15,6% (Ministry of Health, 2016).

### *Family Planning*

Based on the 2010 - 2035 Indonesian Population Projection Report (2017) the number of Indonesia Population went up to 265 million in 2018 from 238,5 million in 2010. The population increase was evident from the number of births, nl. 4-4,5 million each year. The concern showed by the National Long and Midterm Planning (RPJN) survey (conducted 2016-2017) that the rate of the use of modern birth control devices methods which fell to as of 59,7%, while in 2012 (the Demographic and Health Survey/DHS) was 61.9%. From the same survey the TFR was stagnant between 2012-2018, nl 2.4. Factors that impede family planning programs and movement include the reluctant of many include the reluctant of many people to use modern contraceptive devices because they think it is forbidden by their religion, in addition there is a belief that the use of contraceptive devices is considered as a measure that legalize adultery and casual sex.

### *Adolescent Reproductive Health*

The 2017 data from the National Statistic Bureau (BPS) showed only a slight decrease in Age Specific Fertility Rate of young people aged 15-19: from 41 births per 1,000 women in 2010 to 36 births per 1,000 women in 2017. This means that the number of Indonesian women who are pregnant and gave birth at the age of 15-19 remained high. This data often serves as a reference for unmet needs for abortion services and indeed, since Health Law No 23 /1992 was passed, abortion services that used to be accessible to women who need them became even harder to obtain following the adoption of the Health Law no 36/2009. Subsequent to the issuance of Government Regulation No 61/2014 on reproductive health, which was later reinforced by Health Minister Regulation no 3/2016 on safe abortion actually the abortion services should have been accessible to rape victims and women who give indications of medical emergencies. But in practice, different studies which looked on the implementation of such services in big cities (such as Jakarta and Semarang) found out that it is still difficult for a rape victim to have access to safe abortion services when they need them.

### **Issues on Women Participation in Politics**

Thirty percent (30%) quota for women's representation in strategic positions as parliamentary in national and local level has not yet been reached. The 2014 ELECTION results for the legislative elections showed the percentage of representation of women was 17.32% and men were 82.68% at the national level. This figure is decreased from the percentage of women representation in the 2009 General Election of 18.1%, in the executive domain there were only 1 female governors who won votes in the 2018 Regional Election.

Factors that hinder the achievement of women in political participation due to the Political System that is still unfair to women as money politics still part of the political transactions which makes women unable to follow the electoral process. Political parties still not have strong commitment about the gender mainstreaming principle in the political system. Indonesian Commission of election has a strong regulation on PKPU No. 20, 2018 to force political parties to fulfil requirement of 30% of women's representation. But this was not accompanied by a strong commitment, so that the fulfilment of the 30% quota for women was only used by political parties to qualify as participants in the General Election. In addition, oligarchy or power dynasty patterns open up opportunities for women who have direct relations, without seeing the capacity and commitment to stop discrimination against women.

Law No. 6 of 2014 concerning Village actually guaranteed women to nominate and be nominated as village heads and being a member of the village legislative bodies, but its implementation has not yet opened space for women to participated. The Statistic Bureau data launched in 2018 shows there are only 7% of female village heads out of 78.000 villages throughout Indonesia.

### **Recommendations**

- To address gender inequality CWGI believes that there are 3 (three) domain : (1) Women and girls should raise their own aspirations, self efficacy and capabilities, (2) power balance relations between women/girls and men/boys, (3) gender perspective structures (the legal, cultural social norms and socio-economic environment in society as well as in the family and community). Therefore CWGI urge the government to enacted the Bill on Gender Justice and Equality in order to secure gender justice legislation, policies and programs as well as transformation of structures and equal gender relation without social norms that discriminate women and girls in all domains.

- To end all the negative impact of an unbalance marriage relations, CWGI urge to revise the marriage law no 1/1974 in order to secure women's right will be uphold and transform it in women and girls life everywhere in the country.
- To end gender-based violence (GBV) the two bills said above (Bill on Gender Justice and Equality and Bill on the Protection and Punishment of Sexual Violence) should be enacted and the existing marriage law no 1/1974 should be revised. The unbalance power relationship between husband and wife as well as parents and their daughter made GBV a daily practice that involves the participation not only the family but the surrounded communities which uphold certain social norms.
- It is time to enacted the Bill on the Protection for Domestic Workers not only to close the increasing gender wage gaps but also to give DW legal protection against sexual harassment in the workplace as well as to get decent work.
- To make a gender justice and gender equality society, the state system should stop producing various discriminatory policies which still consider women as objects, so that it has impacts on more discrimination and more disrespect women, shrink women's space and moreover using religious fundamentalism with narrow-minded interpretations. More than 400 discriminatory by-laws still exist at the province and local level.
- To take the necessary measures to eradicate child early and forced marriage (CEFM) therefore girls should be empowered by getting access to education, reproductive health education and services as well as social and legal protection. Every girl child should be given the opportunity to engage in several public outreach campaign.