



IN BRIEF



## QUALITATIVE RESEARCH: CONDITIONS OF ACCESS TO JUSTICE FOR WOMEN AND WOMEN FROM OTHER VULNERABLE GROUPS DURING COVID-19 IN INDONESIA

Photo: UN Women/Putra Djohan and Ali Lutfi

### 1. Introduction

The COVID-19 pandemic has increased cases of Gender Based Violence and has had a significant impact on various aspects of women's lives, especially women from vulnerable groups, be it girls, women with disabilities, women from underprivileged economic conditions, older women and women with HIV- AIDS and other vulnerable groups. Furthermore, the restrictions on large-scale mobilization due to COVID-19 are crucial, and the implementation of quarantine exacerbates the risk of violence, exploitation, harassment, and obscenity against women. According to Kompas Perempuan, in 2020, the number of complaints regarding violence against women increased by up to 60 percent more than the previous year, namely 2019.<sup>1</sup> UN Women's research in 58 countries found that COVID-19 makes it increasingly difficult for women to access safe spaces, both within and outside the scope of their households.<sup>2</sup>

Regarding the welfare of girls, there is an increasing trend of child marriage. The Directorate General of the Religious Courts noted an increase in the dispensation for child marriage in 2018 by 20 times compared to 2005.<sup>3</sup> Child marriage also continued to increase in 2019 and 2020,

which incidentally occurred during the COVID-19 pandemic, namely an increase of 23,126 cases of the dispensation of marriage in 2019 and an increase of around three times, namely 64,211 instances of the dispensation of marriage in 2020.<sup>4</sup> Komnas Perempuan noted several factors that influenced the increase in dispensation for child marriages in 2020, starting from the COVID-19 pandemic, which made it difficult for families' economic conditions so that many parents decided to marry off their children, especially daughters, so the burden of caring for their daughters will cease. In addition, with the shift in interaction from offline to online since the COVID-19 pandemic, forms of gender-based violence against women manifest in electronic-based sexual violence.<sup>5</sup>

The COVID-19 pandemic has also exacerbated the situation faced by marginalized groups such as indigenous women, women sex workers, women with HIV-AIDS, migrant women, and women with disabilities. Women with disabilities, who comprise around 9 percent of the Indonesian population, are said to be more vulnerable to experiencing poverty, incurring high health costs, and being more vulnerable to economic instability.<sup>6</sup> In addition,

1 Arsa Ilmi Budiarti, et.al., The Role of Technology in Increasing Access to Legal Aid for in the COVID-19 Pandemic Era, p. 1.

2 United Nations Women, Measuring The Shadow Pandemic: Violence Against Women During COVID-19, available at <https://data.unwomen.org/sites/default/files/documents/Publications/Measuring-shadow-pandemic.pdf>, accessed 16 October 2022, p. 10.

3 Marriage Dispensation is the granting of a marriage permit by a court to a prospective husband/wife who is not yet 19 years of age to enter into a marriage.

4 Komisi Nasional Anti Kekerasan terhadap Perempuan (Komnas Perempuan), Catatan 2021: Perempuan Dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak dan Keterbatasan Penanganan di Tengah COVID-19 – Catatan Kekerasan Terhadap Perempuan Tahun 2021, (Jakarta: Komnas Perempuan, 2021), p. 2.

5 KSBE is known by other terms, such as online gender-based violence (KBGO) and cyber gender-based violence (KGBS). The use of the term KBGE in this report refers to the term KSBE contained in Law no. 12 of 2022 concerning Crimes of Sexual Violence.

6 Australian Government, a Policy paper on "Dampak Ekonomi dan Akses Perlindungan Sosial Selama Krisis COVID-19: Pengalaman Penyandang Disabilitas di Indonesia", Agustus 2020, hlm.1, accessed in <https://www.dfat.gov.au/sites/default/files/COVID-19-crisis-experiences-people-disabilities-indonesia-id.pdf>.

during COVID-19, problems related to social and economic support for people with disabilities and the elderly also emerged.

Problem-solving and legal services are increasingly needed based on the various problems that arise for women and women from other vulnerabilities. Therefore, to ensure access to justice is evenly distributed during the COVID-19 pandemic, the government, including the judiciary, adapts and changes its systems and policies to use technology to mitigate the impact of COVID-19 on the justice system. One of the policies issued as a form of mitigating the effects of the COVID-19 crisis is the Supreme Court issuing Supreme Court Circular Letter (SEMA) No. 1 of 2020 concerning Guidelines for the Implementation of Tasks During the Prevention of the Spread of COVID-19 in the Indonesian Supreme Court and Judiciary Bodies Under it on March 23, 2020. An updated circular through SEMA No. 6 of 2020 states that Indonesian courts will implement online trials. However, in its implementation, PERMA related to electronic hearings still faces various challenges and obstacles, such as barriers to facilities and infrastructure, and devices to conduct electronic hearings, which still need to be expanded. The accessibility and quality of internet connections in Indonesia are still uneven and unstable.<sup>7</sup> Apart from that, there have been various adaptations and other initiatives carried out by service providers and legal aid agencies, other law enforcement institutions, the Ministry of Women's Empowerment and Child Protection, the Witness and Victim Protection Agency (LPSK), and Komnas Perempuan to ensure access to justice, for women during the pandemic.

Therefore, it is vital to see the extent of the impact of the COVID-19 pandemic on access to justice, especially for women from vulnerable groups. As well as initiatives and adaptations made by the government and service provider institutions, including digitalization, to deal with obstacles during the pandemic. In addition, it is essential to see the implementation of digitalization in the justice sector and how it has increasingly opened up women's access to justice. Therefore, this study aims to obtain in-depth information regarding **2 (two) issues**, namely, **1) the impact of the COVID-19 pandemic on access to justice for women and women from vulnerable groups and 2) the**

**implementation of initiatives related to digitalization in the justice sector in encourage access to justice for women and women from vulnerable groups.** This research is expected to be a reference for the government and other civil society to encourage evidence-based advocacy to improve legal policies regarding access to justice for women and other vulnerable groups.

The methodology used in this study takes a qualitative approach. Data collection was carried out using a qualitative approach, which is an approach that wants to see how social reality is constructed and focuses on the interactive processes that occur in a given condition.<sup>8</sup> The results of the data obtained are also subjective. They cannot be generalized to describe conditions because the number of samples is usually tiny but emphasizes the depth of the data obtained.<sup>9</sup> This study uses data collection techniques, namely in-depth interviews. We chose this technique to obtain in-depth information that can answer the research questions specified above. The results of these in-depth interviews are used as primary data supported by research or other literature as secondary data.

There were 12 informants in the in-depth interviews consisting of various backgrounds: **victim assistants, law enforcement officers, government and independent state institutions representatives, and survivors of violence.** All informants were interviewed in-depth online and offline at different times from 13 to 26 September 2022. The interview results are transcribed verbatim before being reprocessed by the research team into a series of findings and further analyzed.

## 2. Research Findings

### 2.1. Identification of Legislation Related to Protection and Access to Justice for Women and Vulnerable Groups during COVID-19

Based on Law no. 24 of 2007 concerning Disaster Management, implementing disaster management also includes protecting vulnerable groups<sup>10</sup>. Protecting vulnerable groups is done by prioritizing rescue, evacuation, security, health, and psychosocial services.<sup>11</sup> Vulnerable

7. KOMINFO, P. (n.d.). Belum tersentuh meski tak terpicil. Website Resmi Kementerian Komunikasi Dan Informatika RI. Accessed from [http://content/detail/13518/belum-tersentuh-meski-tak-terpicil/o/sorotan\\_media](http://content/detail/13518/belum-tersentuh-meski-tak-terpicil/o/sorotan_media), on 5 August 2022.

8. Newman, Lawrence W., *Social Research Methods: Qualitative and Quantitative Approaches* (New York: Pearson, 2007), p. 17.

9. *Ibid.*, P. 71.

10. Article 48 Law no. 24 of 2007 concerning Disaster Management.

11. Article 5, *Ibid.*

groups referred to in the law are infants, toddlers, children, pregnant and lactating mothers, persons with disabilities, and the elderly.<sup>12</sup> In response to the COVID-19 pandemic, the government issued various policies and protocols to protect its citizens, including women, in multiple sectors, including the justice sector. Various policies and protocols, especially those related to access to justice for vulnerable groups in Indonesia and established during the pandemic, include:

#### Internal Rules in Law Enforcement Agencies

1. The telegram of the Chief of Police No. ST/1007/III/HUK.5/2020 regarding the handling of general criminal cases and guidelines for carrying out tasks during the prevention of the coronavirus disease COVID-19;
2. Cooperation Agreement Between the Supreme Court of the Republic of Indonesia, the Attorney General's Office of the Republic of Indonesia, and the Ministry of Law and Human Rights of the Republic of Indonesia No. 402/DJU/HM.01.1/4/2020 NUMBER KEP-17/E/EJP/04/2020, No. PAS-08.HH.05.05 of 2020 concerning Conducting Trials via Teleconference;
3. Letter of the Attorney General of the Republic of Indonesia No. B-049/A/SUJA/03/2020 the Year 2020 concerning Optimizing the Implementation of Duties, Functions, and Authorities in Efforts to Prevent the Spread of COVID-19;
4. Letter of the Director General of the General Courts No. 379/DJU/PS.00/3/2020 of 2020 concerning Trial of Criminal Cases by Teleconference;

#### Protocol and Guidelines for Handling Vulnerable Groups in Conflict with the Law

The government has prepared various protocols and guidelines for handling women and vulnerable groups, especially the Ministry of Women's Empowerment and Child Protection and the Task Force for the Acceleration of Handling COVID-19, including:

1. Guidelines for Elderly Protection with a Gender Perspective During the COVID-19 Period (KemenPPPA);
2. Guidelines for Special and More Protection for Women with Disabilities in the COVID-19 Pandemic (KemenPPPA)
3. Protocol for Handling Cases of Violence Against Women during the COVID-19 Pandemic (KemenPPPA with UNFPA)
4. Protocol for Handling Child Victims of Violence in the COVID-19 Pandemic Situation (Task Force for the Acceleration of Handling COVID-19)

#### 2.2. Forms of Gender-Based Violence (GBV) During the COVID-19 Pandemic and Access to Justice for Women and Vulnerable Groups during COVID-19

The COVID-19 pandemic has had the most impact on women and contributed to an increase in violence, the emergence of other forms of violence, and an increase in the number of divorces and dispensations of marriage.

The cases of GBV that occurred during the COVID-19 pandemic were very diverse, and handled by accompanying sources, law enforcement officials, and government/independent state institutions. The forms of family violence included domestic violence, including physical, psychological, verbal, and sexual violence, and the expulsion of women with HIV/AIDS. In addition, there is also Dating Violence (Kekerasan dalam Pacaran/KDP), sexual violence, including sexual harassment, obscenity, rape, Online Gender-Based Violence (kekerasan berbasis Gender Online/KBGO), including the spread of non-consensual intimate content, online harassment, online stalking, forced sexual orientation, pornography, sexual exploitation, and TPPO (Tindak Pidana Perdagangan Orang/criminal act of people-trafficking). In Palu, Central Sulawesi, women victims of natural disasters who live in temporary shelters are vulnerable to violence. According to LIBU Perempuan, apart from children, there are people with disabilities and the elderly (elderly) who are also victims of rape in temporary shelters. Based on Komnas Perempuan data for 2021 and 2020, women with intellectual disabilities are the group

<sup>12</sup> Article 55 paragraph (2), *ibid.*



with the highest number experiencing violence, followed by women with multiple disabilities.<sup>13</sup>

Based on the experience of the Functional Prosecutor at the Gunung Kidul District Attorney's Office, cases of sexual violence involving girls usually occur in families who are relatively economically disadvantaged. In addition, multiple sources found that women with HIV/AIDS were also increasingly vulnerable to experiencing violence during the COVID-19 pandemic. Based on a survey by Ikatan Perempuan Positif Indonesia, the forms of violence experienced by HIV/AIDS women include Physical, psychological, economic, and sexual violence, discrimination because of their status, forced sterilization, and unsafe abortions.<sup>14</sup> Regarding the divorce rate, during the COVID-19 pandemic, the Religious Courts received 355,888 cases.<sup>15</sup> The Religious Court found domestic violence as a reason for divorce in 3,271 cases. Still, other causes of divorce, such as polygamy, adultery, gambling, addictions, and alcoholism, could also be part of domestic violence. Meanwhile, APIK Jakarta Legal Aid experienced increased complaints and case assistance during the COVID-19 pandemic. In 2020 LBH Apik Jakarta received 1,178 case complaints with the most categories, one of which was KBGO, where before the pandemic, KBGO was not on the list of the five highest cases of GBV.<sup>16</sup>

Bareskrim Polisi Republik Indonesia (Badan Reserse Kriminal Polisi Republik Indonesia/Criminal Investigation Agency of the Indonesia Police Forces) also said that in recent years there had been many reports of cases of online-based sexual violence. Especially child pornography through buying and selling of child pornography through websites, then sextortion, grooming, and online extortion of pornographic content.<sup>17</sup>

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**Technology has become a means of committing crimes, including gender-based violence. Easy access to smartphones with internet networks and cameras and broad participation in social internet**

**networks has become one of the platforms for perpetrators to commit sexual violence.<sup>18</sup>**

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The COVID-19 pandemic has also resulted in high requests for dispensation from marriage. In 2019 the Religious Courts received 23,126 requests for marriage dispensation, then the number jumped sharply in 2020 and 2021 to 64,211 and 59,709 cases.<sup>19</sup> Marriage dispensation is granting a marriage permit by a court to a prospective husband/wife who is not yet 19 years of age to enter into a marriage.<sup>20</sup> According to the Judge of the Malang Regency Religious Court, the high number of cases of marriage dispensation during the COVID-19 pandemic occurred because parents could not afford to pay for their children's education and wanted to relinquish responsibility for their children.<sup>21</sup>

### **2.3. The Impact of the COVID-19 Pandemic on Women and Vulnerable Groups**

The impact of the COVID-19 pandemic has also affected other groups of women with vulnerabilities, such as groups of poor women, people with disabilities, PLHIV, etc. The impact is not only from the emergence of violence but also other impacts such as difficulties in fulfilling the right to recovery, access to health services, meeting economic needs, access to assistance, etc.

The COVID-19 pandemic has significantly impacted women and girls from vulnerable groups. According to 12 sources, the groups of women who were vulnerable and most affected during the COVID-19 pandemic varied from women domestic workers, women at the middle and lower economic levels, women with disabilities, women with HIV/AIDS, housewives, girls, elderly women, and refugee women. According to LBH Apik Jakarta, during the COVID-19 pandemic, working women and housewives increasingly had a double burden in the domestic affairs of the household.<sup>22</sup>

According to Apik Jakarta Legal Aid, for victims of gender-based violence, the COVID-19 pandemic has made them

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13 Komnas Perempuan, <https://komnasperempuan.go.id/kabar-perempuan-detail/peluncuran-catahu-komnas-perempuan-2022>, accessed on 4 October 2022

14 Komnas Perempuan (3), Policy Brief on Women with HIV/AIDS "Circles of Sexual Violence and Vulnerability to the Right to Life", (Komnas Perempuan: Jakarta, 2019), p. 1.

15 Komnas Perempuan, Catatan Tahunan tentang Kekerasan terhadap Perempuan, 2020, p. 70.

16 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

17 Interviews with ER, Criminal Investigation Agency of the Indonesia Police Forces, on 22 September 2022.

18 Anastasia Powell and Nicola Henry, "Sexual Violence in Digital Age", Springer Nature, United Kingdom, (2017), p.2.

19 Komnas Perempuan (1), Op.Cit., P. 18.

20 Article 1 point 5 Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications.

21 Interview with NM, a Religious Court Judge from Malang District, on 16 September 2022.

22 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

even more afraid to report what happened. Victims have difficulty reporting the events they are experiencing to service-providing institutions and challenges in saving themselves from perpetrators because of the victim's limited space for movement.<sup>23</sup> The COVID-19 pandemic causes victims and perpetrators of violence to be at home together during the Large-Scale Social Restrictions (Pembatasan Sosial Berskala Besar/PSBB) period. Social restrictions contribute to victims being afraid of Report abuse that happened during these periods.<sup>24</sup> According to the Judge, who was the resource person, the impact is even more severe if a woman experiences domestic violence and divorces her husband but, on the one hand, is economically dependent on her husband.<sup>25</sup>

The existence of the COVID-19 pandemic has also resulted in women living with HIV/AIDS feeling more tremendous obstacles. Health services, as well as assistance and protection services for victims of violence that women with HIV/AIDS access, are becoming more limited, for example, regarding the availability of safe houses.<sup>26</sup>

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**For women with disabilities, there are restrictions on mobilization and various access barriers, making it increasingly difficult for them to obtain multiple services with proper accommodations because there is no mechanism to help persons with disabilities access available online services.<sup>27</sup>**

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Additionally, the increase in violence cases has not been matched by the availability of proper or adequate assistance and handling services for victims. The quota for case assistance in most legal aid institutions was packed in 2020, so some victims had to wait almost a year until the case was finally transferred to pro bono lawyers in 2021.<sup>28</sup> With these impacts and obstacles, the government needs to take strategic steps, such as strengthening a first-response system related to violence and ensuring an

integrated approach with health care, social safety nets, protection, temporary shelter, and social support.<sup>29</sup>

#### 2.4. Adaptations and Initiatives in the Justice Sector in Dealing with Women's Cases During the COVID-19 Pandemic

##### SOME OF THE ADAPTATIONS AND INITIATIVES CARRIED OUT BY THE SUPREME COURT INCLUDE:

1. Issuance of Supreme Court Circular Letter (SEMA) No. 1 of 2020 concerning Guidelines for the Implementation of Tasks During the Period to Prevent the Spread of Coronavirus Disease 2019 (COVID-19) within the Supreme Court of the Republic of Indonesia and the Judiciary Bodies under it.
2. There is a development of e-Litigation / e-Court in Supreme Court Regulation (PERMA) No. 1 of 2019 concerning the Electronic Administration of Cases and Trials in Courts, namely the issuance of the Director General of the General Judiciary Agency Letter Number 379/DJU/PS.00/3/2020 for the handling of criminal cases by teleconference—however the application is still different in each court.<sup>30</sup>
3. Before the COVID-19 pandemic, civil cases<sup>31</sup> were handled using e-Court, which implements court procedures without the plaintiff/applicant (parties) needing to come to court.
4. Implementation of criminal case trials conducted online or via teleconference to prevent the spread of COVID-19 following the Cooperation Agreement between the Supreme Court, the Attorney General's Office, and the Ministry of Law and Human Rights on 13 April 2020 Number 402/DJU/KM.01.1/4/2020; KEP-17/E/EJP/04/2020; PAS-08.HH.05.05. The year 2020 concerning Conducting Trials Via Teleconference.

23 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

24 National Commission on Violence against Women, Study of the Dynamics of Change in the Household During Covid-19 in 34 Provinces in Indonesia (Jakarta: Komnas Perempuan, 2020), p. 6.

25 Interview with NM, a Religious Court Judge from Malang District, on 16 September 2022.

26 Interview with NI, a Jaringan Indonesia Positif Companion on 22 September 2022.

27 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

28 Interview with client S, a survivor of domestic violence on September 21, 2022.

29 Peterman, et.al, 2020 as quoted in Amalsh Sharma and Sourav Bikash Borah, Op.Cit, p.762.

30 and The teleconference trial in question did not specifically explain what kind of platform was used. Still, several interview findings and activity reports on the websites of several courts (i.e., <http://www.pn-kualatungkal.go.id/news/index.php/328-sidang-via-media-teleconference>) is by using Zoom.

31 Civil cases refer to disputed cases between parties and focus on individual interests, such as divorce, inheritance, default, child custody, etc. All courts can handle civil cases, but Indonesia's Religious Courts and State Administration Courts only handle civil cases. Meanwhile, the District Court, the Military Court, and the Syar'iyah Court can handle criminal and civil cases.

5. Not long after the cooperation agreement, the Supreme Court issued Supreme Court Regulation (PERMA) No.4 of 2020 concerning the Administration and Trial of Criminal Cases in Electronic Courts, which regulates how to conduct electronic trials in more detail.

#### ADAPTATION AND INITIATIVES AT THE ATTORNEY GENERAL'S OFFICE:

1. In addition to the cooperation agreement between the Attorney General's Office and the Supreme Court, which is described above, the Attorney General's Office also issued Handbill of the Attorney General (Surat Edaran Jaksa Agung/SEJA) No. 2 of 2020 concerning Adjustment of Employee Work Systems in Efforts to Prevent the Spread of Coronavirus Disease (COVID-19) within the Attorney General's Office of the Republic of Indonesia.
2. The Attorney General's Office also issued Circular Letter of the Attorney General (Surat Edaran Jaksa Agung/SEJA) No. 15 of 2020 concerning Guidelines for the Continuation of Public Service Activities in the New Normal Conditions of the COVID-19 Pandemic in the Attorney General's Office.<sup>32</sup>
3. During the COVID-19 period, the Attorney General's Office was required to follow the proceedings as a form of response to the online trial being held by the Supreme Court. Some of the adaptations was done to ensure that a WhatsApp service integrates with services such as permission to visit detainees<sup>33</sup>, return of evidence<sup>34</sup>, and complaints against unprofessional prosecutors.<sup>35</sup>

#### ADAPTATION AND INITIATIVE IN THE POLICE:

1. Unlike the Attorney General's Office and the Supreme Court, in terms of policy, the Police have a lot of internal regulations to respond to COVID-19 since the authority of the Police is extensive, not only for those seeking justice but also for those

seeking justice but also for security and public order in general.

2. In general, the Police stated that no particular adaptations delayed handling cases or closed temporary reports during COVID-19. Before the COVID-19 pandemic, law enforcement conducted investigations face-to-face. During the COVID-19 pandemic, investigators conducted online investigations via Zoom, telephone, and video. At the same time, to sign the police investigation report (Berita Acara Pemeriksaan/BAP), they still needed to come to the relevant police station. In practice, this online BAP is done by investigators at the investigation stage by displaying questions as a result of the examination to obtain a consensus on the contents of the minutes. Thus, when witnesses or suspects agree on the contents of the report in the form of an Interview Report (Berita Acara Interview/BAI) and must be signed in person on the results of the examination (wet signature), the interested parties do not need to be present in person at close range and for a sufficient duration long.<sup>36</sup>

#### ADAPTATIONS AND INITIATIVES AT THE MINISTRY OF WOMEN'S EMPOWERMENT AND CHILD PROTECTION OF THE REPUBLIC OF INDONESIA (KEMENTERIAN PEMBERDAYAAN PEREMPUAN DAN PERLINDUNGAN ANAK REPUBLIK INDONESIA/KEMENPPPA):

1. KemenPPPA also initiated the #BERJARAK (Bersama Jaga Keluarga Kita/Together Take Care of Our Family)<sup>37</sup> movement, which emerged at the start of COVID-19, namely a campaign that encourages ten actions that residents can carry out at the lowest administrative level (RT/RW/Desa) by involving figures in society to promote the protection of women and children during the time of COVID-19.
2. Regarding receiving reports/complaints, in 2021, KemenPPPA will launch the "SAPA 129" service, a hotline service to facilitate access for victims or reporters in submitting complaints about violence against women and children as data on cases.<sup>38</sup>

<sup>32</sup> An example can be seen at <https://kejarilamongan.go.id/dokumen/rb/AREA%20ll%20%20PENATAAN%20TATA%20LAKSANA/SOP%20PROTOKOL%20KESEHATAN.pdf>.

<sup>33</sup> An example can be seen at <https://kejarijakbar.go.id/index.php/sarana/besuk-tahanan-online-kejaksaan>.

<sup>34</sup> An example can be seen at <https://kejarijakbar.go.id/index.php/sarana/layanan-pengembalian-barang-bukti-online>.

<sup>35</sup> An example can be seen at <https://kejarijakbar.go.id/index.php/sarana/pengaduan-whistleblowing>.

<sup>36</sup> Interviews with ER, Criminal Investigation Agency of the Indonesia Police Forces, on 22 September 2022.

<sup>37</sup> An example can be seen at <https://berjarak.kemenpppa.go.id/>.

<sup>38</sup> An example can be seen at <https://kemenpppa.go.id/index.php/page/read/29/3085/kemen-pppa-luncurkan-call-center-sapa-129>.

Unfortunately, SAPA 129 also needs a monitoring and evaluation mechanism, considering it will launch in 2021.

#### ADAPTATIONS AND INITIATIVES AT KOMNAS PEREMPUAN:

1. Komnas Perempuan has created 4 (four) complaint channels since before COVID-19, namely coming in person or by telephone, using the bit.ly link, social media (Facebook, Twitter, and Instagram), and e-mail, [complaint@komnasperempuan.go.id](mailto:complaint@komnasperempuan.go.id). However, during the COVID-19 pandemic, Komnas Perempuan optimized existing electronic facilities such as hotlines, e-mail, and social media to expand public access to complaints of violence against women.
2. Even though Komnas Perempuan did not make any particular adaptations, Komnas Perempuan conducted various studies during the COVID-19 period, starting from the matter of Komnas Perempuan's Study Results on the Study of the Implementation of the PSBB Policy and its Impact on Women's Constitutional Rights<sup>39</sup>; Pandemic, Violence & Multiple Burden Studies;<sup>40</sup>

#### ADAPTATION AND DIGITALIZATION IN THE WITNESS AND VICTIM PROTECTION AGENCY (LEMBAGA PERLINDUNGAN SAKSI DAN KORBAN/LPSK):

Regarding institutions and protection mechanisms, the LPSK issued a Decree of the Chairman of the LPSK Number Kep-339/1.3.4.PPO/LPSK/05/2020 concerning the Work Protocol of Witness and Victim Protection Institutions in Indonesia's Covid-19 Emergency Response Period. This protocol's creation ensures that witness and victim protection services can continue to run correctly. In addition, the LPSK carried out several strategies for protecting witnesses and victims during the COVID-19 pandemic.<sup>41</sup>

<sup>39</sup> An example can be seen at <https://komnasperempuan.go.id/pemetaan-kajian-prosiding-detail/menata-langkah-dalam-ketidakpastian-menguatkan-gerak-juang-perempuan-di-masa-pandemi-covid-19-kajian-implementasi-kebijakan-psbb-dan-dampaknya-pada-hak-konstitusional-perempuan>.

<sup>40</sup> An example can be seen at <https://komnasperempuan.go.id/download-file/495>.  
<sup>41</sup> LPSK, Laporan Tahunan 2020: Menolak Menyerah, Separuh Nafas Perlindungan Saksi dan Korban di Tengah Pandemi, (Jakarta: LPSK, 2021), P. 15.

#### ADAPTATIONS AND INITIATIVES IN LEGAL AID PROVIDERS AND SERVICE PROVIDERS:

1. During the COVID-19 pandemic, the service institutions that were resource persons in this study stated that they continued to provide treatment and assistance services to victims. Especially for services or legal consultations that are done online. Meanwhile, for victims who are being examined, either at the Police or court, assistance is still carried out in person or face to face.<sup>42</sup>
2. APIK Medan Legal Aid, as a service provider institution, adapted service changes during the COVID-19 pandemic from offline to online by creating a channel for complaints of violence using the Whatsapp application where victims must then fill out a Google Form or send messages via Whatsapp and SMS or telephone consultation.
3. For cases being processed at the Police or courts, LIBU Perempuan coordinates with APH online via video calls with the Police to process BAPs and calls or sends messages via Whatsapp with court clerks or court officials regarding trial schedule information or other information.
4. Before the COVID-19 pandemic, LBH APIK Jakarta had a complaint hotline where victims could complain directly by coming to LBH APIK Jakarta or through the complaint hotline. However, since the pandemic, all complaints must go through the hotline. LBH APIK Jakarta then opened legal consultations online via Whatsapp, Zoom, and social media such as Instagram and Facebook.
5. Masyarakat Legal Aid and Jakarta Legal Aid also carried out forms of adaptation to providing legal aid services. They made several documents related to protocols for providing legal assistance to cases during a pandemic and COVID-19 prevention protocols in their institutions—although not specifically for female victims.
6. Adaptation does not only emerge from legal aid agencies but also other parties to encourage online consultation and information search related to legal aid or assistance during the COVID-19 period, such

<sup>42</sup> Interview with SAG, assistant to APIK Medan Legal aid on 19 September 2022.

as BPHN's Legal Smart Channel<sup>43</sup>, HukumOnline<sup>44</sup>, Justika<sup>45</sup>, e- Probono<sup>46</sup>, DocumentHukum.id<sup>47</sup> and many more.

7. Legal assistants at legal aid institutions further explained that assistants usually join WhatsApp groups handling cases through online communication channels with the Police at various levels (starting from the ranks of Unit Heads). One of the good practices carried out by the DKI Jakarta Government is providing delivery and pick-up services, including for women with disabilities who wish to report cases to LBH APIK Jakarta since before the COVID-19 pandemic.

### 2.5. Barriers to Accessing Justice during the COVID-19 Period Women Face the Law

1. According to sources from APIK Jakarta Legal Aid and LIBU Perempuan, before COVID-19, information on complex services, infrastructure, and quality of APH services had become an obstacle for women victims. The COVID-19 situation adds to the difficulty of accessing information for women victims and the vulnerability of women victims.<sup>48</sup>
2. APIK Jakarta Legal Aid said that reporting cases for women victims was complicated because there were fears of exposure to the COVID-19 virus while on their way to service institutions. In Medan, women victims of sexual violence also experience the same anxiety when they want to report their cases to the Police. At that time, reporting services at the Police were not available online.

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**Victims also have to bear huge costs if they have to rent online transportation services, especially for victim women with middle to lower economic levels.<sup>49</sup>**

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Moreover, in DKI Jakarta, pick-up and delivery services provided by the government during the COVID-19 pandemic have been reduced. According to the source, LBH APIK Jakarta, this policy makes pick-up/delivery services inaccessible if there is an urgent need for women with disabilities.<sup>50</sup>

3. APIK Medan Legal Aid resource person, a legal assistant, stated that there were complaints from clients who needed help understanding how to access and fill out the complaint form via Google Form. She further noted that the people in Medan did not fully understand to switch to online services. He also said that only some people use smartphones, and some still use ordinary cell phones without internet service.<sup>51</sup>
4. Specifically in cases of KBGO—cases that tended to increase during the COVID-19 period, women victims often did not know what KBGO meant, and even victims were unaware that they were victims of KBGO. This situation makes women victims of KBGO not know what steps to take first. As a result, women victims often seek help by posting their cases on social media. Unfortunately, this step makes them vulnerable to criminalization by the perpetrator or other interested parties.<sup>52</sup>
5. The Gunung Kidul State Prosecutor's Office and their counterparts need more budget to carry out these antigen and PCR tests, so this has caused confusion and objections.
6. In providing free legal aid, women victims also have difficulty accessing the documents needed, which is a genuine obstacle for women victims from poor groups when accessing free legal resources.<sup>53</sup>
7. There are findings about limited legal aid providers' problems during the pandemic. A domestic abuse victim signed up for legal assistance in 2020. Yet, she did not get a legal companion then because the quota to handle clients that year was already full for many legal aid institutions. The legal aid

43 An example can be seen at <http://lsc.bphn.go.id>.

44 An example can be seen at <http://hukumonline.com/>.

45 An example can be seen at <http://justika.com/>.

46 An example can be seen at <https://eprobono.org/>.

47 An example can be seen at <https://dokumenhukum.id/>.

48 *Ibid.*

49 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

50 *Ibid.*

51 Interview with SAG, assistant to APIK Medan Legal aid on 19 September 2022.

52 Interview with T, a victim's assistant to Apik Jakarta Legal Aid on 16 September 2022.

53 *Ibid.*



institution contacted the victim again to give her legal assistance a year later, in 2021.<sup>54</sup>

8. Each victim's assistant experiences a different attitude from law enforcement officers. This difference can occur due to facing law enforcement personnel with different perspectives on cases and views, as well as differences in interpreting and implementing their internal policies. Law enforcement officials sometimes apply the same standards as before the COVID-19 pandemic, which impacts the situation of victims and witnesses. One of them is the witnesses who law enforcement must present face to face. The obligation to attend such events offline impacts the psychological condition of witnesses and victims and affects the continuation of the case.
9. During the COVID-19 pandemic, many recovery services, especially psychological recovery, shifted their practice to online, posing various obstacles. One of the survivors of domestic violence interviewed stated that it was difficult for her to operate the Zoom and Telegram applications, both when communicating with advocates handling his divorce cases and when conducting counseling with a psychological recovery service.<sup>55</sup> She feels that consulting via video calls can be uncomfortable; this is because of signal problems, internet quota fees, and using a cell phone for Zoom makes her tired because she has to hold her cell phone during the consultation session, which can last 2 (two) hours.<sup>56</sup>
10. The interview results explained that persons with disabilities have special needs, such as the availability of sign language interpreters and documents in Braille. When there is no sign language interpreter, according to survivors with disabilities, there will be barriers to trust because no one can explain and understand their situation.<sup>57</sup> Service providers, not law enforcement officials, are often still provided with sign language interpreters. The facilitators we interviewed said the number of sign language interpreters is still limited in some areas.<sup>58</sup>

11. In one of the cases unearthed from the results of the interview, namely divorce, in our research findings, when the plaintiff filed a divorce suit at the District Court, the plaintiff needed to pay a down payment fee of Rp—1,200,000, with the payment made through their legal counsel. One of the survivors of domestic violence said that these costs are burdensome for survivors to meet in reporting their cases because they have no income.<sup>59</sup>
12. When the trial is online, the companion facilitates the partner (client) to attend the online trial in his office. The consequence of this effort is a large amount of money needed to spend on the internet, purchase supportive devices for online sessions, provide a room or place that is conducive but still pay attention to health protocols, consumption needs, the need to purchase personal protective equipment (masks, hazmat suits, etc.), especially at the start of the COVID-19 pandemic.

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**Unfortunately, the above conditions are not included in the current Kemenkumham legal aid program budget scheme, making it difficult for service agencies to obtain reimbursement or reimbursement of costs.**

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Service institutions eventually cover these costs by cross-subsidizing from financing other programs, from the institution's treasury,<sup>60</sup> or conducting fundraising, all of which take more work.

13. Being a victim of violence, especially during the COVID-19 pandemic, is difficult. Victims in safe houses also have limited space for movement, so they need beneficial activities that victims can carry out. Victims need to get exercises that help them get through the period at the safe house and have a support group with fellow victims to strengthen one another.<sup>61</sup>

<sup>54</sup> Interview with client S, a survivor of domestic violence on September 21, 2022.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> Interview with client DR, a victim's assistant from Libu Perempuan on September 21, 2022.

<sup>61</sup> Interview with client S, a survivor of domestic violence on September 21, 2022.

### 3. Research Recommendations

#### THE INDONESIAN NATIONAL POLICE:

1. The Indonesian National Police provide a reporting service system that is accessible so that victims can obtain evidence of report without the need for face-to-face interaction as a support service for victims with special situations (for example, those with geographical distance constraints, consideration of health risks, fulfilling the right to adequate accommodation for persons with disabilities, etc.);
2. The Indonesian National Police should refer to a policy that refers to an online system for police investigation report to make it easier for victims, including proper accommodation standards for persons with disabilities;
3. The Indonesian National Police to update their internal regulations on handling cases relating to women, children, and other vulnerable groups;
4. The Indonesian National Police to increase the number of policewomen (Polwan) or police with a gender perspective to strengthen the Women and Children Protection Unit (PPA) and provide proper facilities up to the lowest administrative level of police;
5. The Indonesian National Police to carry out periodic and sustainable capacity building for the police in handling cases involving women, children, and other vulnerable groups;
6. The Indonesian National Police to develop policies and guidelines to implement the mandate in Law no. 12/2022 concerning Crimes of Sexual Violence.

#### THE OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC OF INDONESIA:

1. The Office of the Attorney General of the Republic of Indonesia to disseminate Prosecutor's Guidelines No. 1 of 2021 concerning Access to Justice for Women and Children in Criminal Cases and conducting regular and ongoing capacity building

for prosecutors handling cases involving women, children, and other vulnerable groups;

2. The Office of the Attorney General of the Republic of Indonesia to ensure proper accommodation for cases involving persons with disabilities following Law no. 8 of 2016 concerning Persons with Disabilities;
3. The Office of the Attorney General of the Republic of Indonesia Ensuring the mechanism for fulfilling restitution and compensation for victims of sexual violence is per the mandate in Article 31 paragraph 3 of Law no. 12 of 2022 concerning Crimes of Sexual Violence by preparing technical regulations for granting Restitution and Compensation.

#### THE SUPREME COURT OF INDONESIA:

1. The Supreme Court of Indonesia will evaluate the implementation of PERMA No. 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically, including in terms of:
  - a. Monitor and evaluate the performance of criminal case trials during the COVID-19 pandemic, especially online trials;
  - b. Ensuring the implementation of PERMA 4/2020 so that it considers the needs and conditions of victims and their vulnerabilities in giving testimony at trial;
2. The Supreme Court of Indonesia increases the capacity of human resources and court infrastructure capacity, including:
  - a. Availability of accessible facilities and infrastructure, including adequate online trial equipment and an internet connection;
  - b. Availability of personnel who understand the use of information technology
  - c. Availability of access to hearings that are open to the public
  - d. Setting mechanisms or protocols regarding criminal justice in emergencies such as disasters, pandemics, and others;
3. Regular and sustainable capacity building for judges handling cases involving women, children, and other vulnerable groups;

WITNESS AND VICTIM PROTECTION AGENCY (LEMBAGA PERLINDUNGAN SAKSI DAN KORBAN/LPSK):

1. LPSK to encourage the acceleration of the establishment of LPSK representative offices in the regions along with facilities and infrastructure while taking into account proper accommodation for persons with disabilities;
2. LPSK to encourage a more flexible system in providing services during emergencies, for example, related to the obligation to report to the police for victims who need protection;
3. LPSK to create a more responsive system during emergencies to ensure that services and fulfillment of victims' rights are still fulfilled, for example, the provision of safe houses, security, calculation of restitution, and case assistance;
4. LPSK to ensure that the budget must be more flexible to accommodate needs during a pandemic or other emergencies.

MINISTRY OF WOMEN'S EMPOWERMENT AND CHILD PROTECTION OF THE REPUBLIC OF INDONESIA:

1. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia to ensure the implementation of the SPPT-PKKTP in an integrated manner with other government agencies, law enforcement officials, and service delivery agencies, especially during emergencies.
2. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia to monitor and evaluate programs and policies that have been created and launched, for example, SAPA 129, SEJIWA, and distance programs as well as protocols that have been prepared, including ensuring that Law Enforcement Officials and related parties understand and implement associated protocols.
3. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia to encourage local governments at the district/city level to establish UPDT-PPA with competent facilities and human resources in handling cases of violence against women and children so that they can anticipate emergencies.

4. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia to provide a supportive and accessible system to support poor victims and companions in their communication needs during the handling process to the judicial process during an emergency
5. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia to ensure that recovery services are equitable and available to victims during an emergency.

MINISTRY OF NATIONAL DEVELOPMENT PLANNING (PPN/ BAPPENAS):

1. Bappenas, Kemenkumham, and the Ministry of Finance need to ensure the availability of a legal aid budget, especially during an emergency. In addition to the availability of an adequate budget, there is a need for budget adjustments in an emergency where the budget provided becomes more flexible or according to the community's needs.
2. Bappenas to strengthen an integrated referral system between community initiatives and law enforcement officials to improve services for case handling, recovery, and prevention of violence cases. Bappenas is to optimize the SPPT-PKKTP system developed in several regions for replication in other regions.
3. Bappenas to coordinate with KemenPPPA and the Ministry of Home Affairs in terms of ensuring budgeting and provision of safe houses so that they continue and are available during an emergency, including meeting the needs of victims in safe houses both logistically and with a system of support and empowerment for victims in safe houses.
4. Bappenas to coordinate with the Ministry of Finance and stakeholders related to budget adaptation or procurement of particular budgets during emergencies relating to access to justice for victims of violence, both in law enforcement institutions, government-owned service providers including LPSK, especially regarding budgets for services -services that must remain available during an emergency such as safe houses and recovery services.

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Link to online report and other references: <https://ijrs.or.id>

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