



IN BRIEF



*Policy Brief for Supreme Court of The Republic of Indonesia*  
**A QUALITATIVE RESEARCH: CONDITION OF ACCESS JUSTICE FOR WOMEN AND WOMEN FROM VULNERABLE GROUPS DURING COVID-19 IN INDONESIA**

Photo: UN Women/Putra Djohan and Ali Luthfi

In this policy brief, the Indonesian Judicial Research Society (IJRS) and the Association of LBH APIK Indonesia detailed some key findings key from our research entitled “*Condition of Access Justice for Women and Women from Vulnerable Groups during COVID-19 in Indonesia*”.

The key findings and recommendations in this policy brief do not comprehensively cover all of the findings but could represent some findings and issues that are urgently related to access to justice for women and women from vulnerable including adaptations as well as obstacles faced by the law enforcer, government institutions and service providers in the time of COVID-19.

## 1. BACKGROUND

The COVID-19 pandemic has caused quite a big impact on several aspects of life such as public services, public health, the social, and economy globally. However, based on the social construction that differentiates the characters, roles, and constr-

ints from resources based on gender, females tend to be more susceptible to the impact of COVID-19.<sup>1</sup> Mobilization restriction on a big scale during COVID-19 worsens the risk of Gender Based Violence (GBV) against women in various groups.

Basically, GBV cases have been rampant since before the COVID-19 pandemic. However, the health emergency situation further exacerbates the risk factors. This can be seen from the findings of GBV forms during COVID-19 which are not much different from before the pandemic. Among them, domestic violence, dating violence, sexual violence including sexual harassment, molestation, rape, online gender-based violence including the dissemination of non-consensual intimate content, online stalking, and harassment, forced sexual orientation, pornography, sexual exploitation, and TIP (Trafficking in Persons). According to UN Women, almost 50 percent of women have experienced violence since the COVID-19 pandemic occurred, both experienced by themselves and women they know.<sup>2</sup> WHO also added that although the data showed a significant increase

<sup>1</sup> UN Women, “Assessing Impact of COVID-19 on Gender and Achievement Sustainable Development Goals in Indonesia”, (Jakarta: UN Women, 2020).

<sup>2</sup> Reuters Associated Press, “UN Women: The COVID-19 Pandemic Grows Worsen Violence Against Women,” <https://www.voaindonesia.com/a/un-women-pandemi-COVID-19->

in cases of violence during the COVID-19 pandemic, the data also showed a reduction in the number of victims seeking services due to restrictions on movement and fear of contracting the COVID-19 virus.<sup>3</sup>

Based on the Annual Records of the National Commission on Violence against Women (Komnas Perempuan) data on GBV cases in 2019 totaled 302,686 cases, where cases decreased in 2020 because many service institutions did not report due to the pandemic conditions. However, there was a significant increase (50 percent) from 226,062 cases in 2020 to 338,506 in 2021. The data also shows that the violence experienced by victims includes physical violence (29.8 percent), psychological violence (29.4 percent), sexual violence (28.8 percent), and economic violence (11.7 percent).<sup>4</sup>

On the other hand, based on the "2020 Supreme Court Annual Report (In a COVID-19 Condition)" the GBV figures also show an increase, especially in cases that go to court. In general, in criminal cases at the first level, there were 6,742 cases related to child protection, 1,389 cases of domestic violence, 880 cases related to crimes against decency, and 206 cases related to the eradication of the crime of trafficking in persons. Meanwhile, in civil cases, divorce still dominates with 17,008 cases. This trend is also shown in the Religious Courts at the first level: divorce from lawsuits (*cerai gugat*) (346,086) and *talaq* divorce (119,442) are the most common cases. Followed by requests for dispensation for marriage (64,196) and permits for polygamy (935). Furthermore, in the Jinayat cases at the Syar'iyah Court which is included in the GBV domain, such as

rape there are 54 cases (second highest) and 40 cases of sexual harassment in the fourth rank.

Previously, the Supreme Court initiated Supreme Court Regulation (PERMA) No. 3 of 2017 concerning Women in Conflict with the Law, to ensure that there is no gender-based discrimination in judicial practice in Indonesia and to provide access to justice for women. One of PERMA's breakthroughs is that it is possible for women who are dealing with the law to have their statements heard through a remote audio-visual communication examination at the local court or other courts because women's psychological condition is weak due to fear/trauma based on the assessment of a doctor or psychologist. This charge is then indirectly amplified by PERMA No. 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically (PERMA e-Litigation for Criminal Cases). The examination of women as a defendant, witnesses, and victims is still being carried out even though these conditions are not identified.<sup>5</sup> Although PERMA 4/2020 is a collective response to problems in resolving cases in certain circumstances (including the COVID-19 pandemic), this policy could support access to justice for women victims.

Therefore, the Indonesia Judicial Research Society (IJS) and Association of LBH APIK Indonesia conducted research on access to justice for women and women who belong to vulnerable groups and adaptations and obstacles faced by law enforcement officials, service delivery agencies, and victims during the COVID-19 pandemic. 19. One of the goals is to find out to what extent adaptation and digitalization have been able to overcome the impacts and obstacles experienced by women and women from vulnerable

---

[makin-memperparah-kekerasan-terhadap-perempuan/6328690.html](https://www.komnasperempuan.org/berita/makin-memperparah-kekerasan-terhadap-perempuan/6328690.html) accessed on 3 October 2022.

<sup>3</sup> WHO, "Coronavirus Disease (COVID-19): Violence Against Women," <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/qa-detail/coronavirus-disease-COVID-19-violence-against-women>, accessed 3 October 2022.

<sup>4</sup> Komnas Perempuan (1), *Shadows Stagnation : Power Prevention and Treatment Compare Enhancement Number , Variety and Violence Gender - Based Against Women*, ( Komnas Perempuan: Jakarta, 2022 ), p.7

<sup>5</sup> Look section " Considering " letter (c) PERMA No. 4 of 2020.

groups in accessing justice during the COVID-19 period.

## 2. ACTUAL CONDITION OF THE COURT DURING COVID-19

### 2.1 ADAPTATION AND INITIATIVES IN THE JUSTICE SECTOR DURING THE COVID-19 PANDEMIC

#### 2.1.1. Electronic Trials in the Court

Electronic Trials in Criminal Cases began with the Circular Letter (SEMA) 1/2020 concerning Guidelines for the Implementation of Duties During the Prevention of the Spread of Coronavirus Disease 2019 (COVID-19) within the Supreme Court of the Republic of Indonesia and the Judicial Bodies Under it. This SEMA explains that the provisions of whether the court operates or not when COVID-19 first enters Indonesia can be determined by each judge and court by looking at various considerations of the case. However, in practice, some courts have imposed restrictions and even lockdowns during the COVID-19 pandemic, and services were switched to online services. Thus, courts that impose restrictions are increasingly encouraging online services such as *e-Court* and *e-Litigation* (part of the e-court service).

The e-Court services have been implemented before COVID-19 through PERMA 1/2019 regarding the Administration of Cases and Trials in Courts Electronically, which has now been updated through PERMA 7/2022. Unfortunately, the implementation of e-Court is only held for civil and state administrative cases. Meanwhile, with the COVID-19 situation, the application of electronic-based trials is increasingly needed, including in criminal cases. To address this, several courts have postponed the trial of criminal cases, or the trial will continue to be carried out under certain conditions and pay attention to the health protocol as stipulated in SEMA 1/2020 above, or conduct a trial via teleconference based on the Letter of the Director General of the General Judiciary Agency Number 379/DJU/PS.00/3/2020—with different applications in each court. Finally, through

PERMA 4/2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically, it is regulated in more detail on how the technicalities of electronic trials should be carried out.

Electronic examinations include hearings with teleconference applications such as Zoom, Google Meet, etc. The digital feature is also applied to the indictment, and objection/exception documents, which must be sent in a portable document format (PDF) to the judge/judge panel and forwarded to the public prosecutor. Meanwhile, during an electronic examination, the evidence must still be shown/photographed/video to be shown to the judge. Later, the decision will be read directly in the courtroom, but in certain circumstances, it can also be done electronically. If the defendant is not present at the reading of the verdict, a copy of the verdict will be sent via email, WhatsApp, or SMS.

#### 2.1.2. Another Digital Transformation in Court

Other than electronic-based trials, the Supreme Court also carries out various digital transformations of the existing justice system. This can be seen from the various developments in Information Technology that support access to justice for women. Among them is the ASTIRA (Virtual Assistant Case Information) application that makes it easier to deliver trial information, file cases, and take divorce certificates.

In addition, the Supreme Court also launched *e-Berpadu* (Electronic Integrated Criminal Files) as an effort to improve existing electronic courts and to support the implementation of the Integrated Criminal Justice System with Information Technology-Based (*SPPT-7*) and the Integrated Criminal Justice System for Handling Cases of Violence Against Women (*SPPT-PKKTP*). *E-Berpadu* enables the Integration of Criminal Files between Law Enforcers in various stages. There is also *e-Prima* or Electronic Procurement Implementation Management & Accountability to manage the

procurement of goods and services, *e-Bima* or Electronic Budgeting Implementation Monitoring and Accountability to oversee budget execution, and *e-Sadewa* which is an Electronic Work Application Development and Empowerment of State Property in an effort to support the realization of a modern judiciary.

### 3. OBSTACLES FACED DURING EXAMINATION IN COURTS

Various adaptations have been made by various parties in ensuring access to justice for women during the COVID-19 pandemic. On the one hand, this adaptation can help carry out various processes in the justice sector during the COVID-19 pandemic, however, on the other hand, existing adaptations still experience various obstacles and challenges. Before the COVID-19 pandemic, all examinations in criminal and civil cases were carried out directly in the courtroom—although in civil cases there was already an online registration and case handling mechanism using the e-Court mechanism, which was launched in 2019. Some of these obstacles are:

1. The change in the trial mechanism from offline to online tends not to significantly change the trial mechanism for women as victims/witnesses. The electronic trial mechanism still requires women as victims and witnesses to be present at the trial in person—unless there are conditions that make it impossible for women to access the court directly. It is still mandatory for women to come to court, which is both financially burdensome and psychologically unprepared for women to face judges in court.
2. The same method or perspective of examination before and after COVID-19 is still being applied, even though the medium used in conducting the trial has changed from offline to online. When the trial is conducted offline, the judge can encourage an in-depth examination, including requesting expert testimony or recommendations from external parties to find out the condition of

women both as victims and witnesses during the trial. Meanwhile, this practice tends to be rarely applied when conducting an electronic trial.

3. There are still problems with facilities and infrastructure in the implementation of electronic hearings, both in terms of infrastructure and the capacity of court officials
4. Electronic trial causes limited public access to be able to monitor the trials in cases that can be open to the public. The electronic trial process also cannot guarantee the presence of legal assistance for the victim because access to the electronic trial is still limited to advocates and other law enforcement officers, including defendants and witnesses.
5. Electronic trials and the use of e-Courts or other court service applications require adequate internet access but this becomes a special difficulty for women victims/witnesses who come from the economically-disadvantaged group where it is difficult for them to buy internet quotas and proper communication tools. This includes women who live in remote areas where access to an adequate internet signal is not possible.
6. Security guarantee for the examination of the electronic trial, which still tends to be uncertain because it cannot be controlled by the environment or exchange of information during the electronic trial.
7. The implementation of this electronic trial has also not been able to comprehensively ensure and guarantee the fulfillment of the conditions and needs of women from other vulnerable groups such as persons with disabilities who need accessible facilities, children who need the presence of assistance, to female victims who need psychological strengthening to deal with the law, etc.

### 4. ANALYSIS OF THE RESEARCH FINDINGS

Based on the explanation above, the research team sees that basically, the adaptations carried out by the Supreme Court above are quite good in ensuring access to justice not only for women but also for justice-seeking people in general. One of the most important adaptations to note is the existence of online/electronic trials of criminal cases. This is an innovation that is in line with changes in the work system, communication, and information dissemination during the COVID-19 period from offline to online.

This electronic examination of criminal cases is guaranteed in PERMA No. 4 of 2020 concerning the Administration and Trial of Criminal Cases in Courts Electronically.

---

**However, the research team saw that both the substance of the regulations and their implementation tended to have the perspective of the defendant and did not side with the victims, let alone women and women from other vulnerable groups.**

---

For example, victims/witnesses still have to come to the courtroom to be examined, even though special rooms and infrastructure are provided to support the giving of victim/witness statements. However, it should be understood that the victim/witness present at the trial is a party who has experienced a crime that affected them psychologically (or even physically) which makes it impossible to attend and/or face the judge at trial.

Not to mention, on the one hand, the existence of this electronic trial cannot reduce the costs incurred by the victim to be able to attend the trial, but on the other hand, if it is carried out at their respective homes, it can also increase the internet cost to be able to attend the trial electronically. This includes guaranteeing the existence of legal assistance, providing psychological reinforcement, and providing recommendations on the condition of

women dealing with laws that are difficult to ensure implementation. Existing electronic trials tend to harm and potentially be unable to fulfill the rights of women and vulnerable groups when dealing with the law.

In this regard, based on PERMA No. 3 of 2017 concerning Guidelines for Prosecuting Women in Conflict with the Law, this electronic examination is also known as Audio-Visual Examination which is the provision of information by using electronic means, such as teleconference, accompanied by authorized officials. Based on Article 10 of PERMA 3/2017, examination with audio-visual communication can be carried out if, 1) the woman dealing with the law has experienced trauma based on the assessment of a doctor/psychologist/psychiatrist; 2) Based on the judge's assessment, the safety of women in conflict with the law is not guaranteed if they are in a public and/or open space; and 3) Based on the decision of the Victims Protection Agency (LPSK), women in conflict with the law were declared unable to attend the trial for security reasons as well as for reasons of physical and psychological barriers.

Unfortunately, there is no information on how to implement it and who is in charge of the audio-visual inspection itself. The existence of PERMA 4/2020 can be said to slightly answer this problem, but in practice, the electronic trial is carried out not for the 3 (three) reasons above, but rather because it avoids the spread of COVID-19 and becomes an alternative if the location of the court is too far to be reached by the victim/witness.

---

**In other words, the existence of PERMA 3/2017 and PERMA 4/2020 needs to be synergized in their implementation, both in terms of remote examination (audio-visual/electronic) itself as well as the principles in PERMA 3/2017 which must be a guide for judges to handle cases of women against the law.**

---



## 5. RECOMENDATION

Based on the findings above, the recommendations that can be proposed are:

1. The Supreme Court needs to monitor and 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. Trials on criminal cases during and after the COVID-19 pandemic, both electronically and offline;
  - b. Implementation of PERMA 4/2020 from the perspective of judges, legal advisors, prosecutors as well as victims/witnesses and defendants;
  - c. Implementation of the application of PERMA 3/2017 concerning Guidelines for Adjudicating Women in Confrontation with the Law in the conduct of electronic hearings as regulated in PERMA 4/2020
  - d. Revise PERMA 4/2020 by ensuring, (a) strengthening of the rights of defendants, especially female defendants, to be accompanied by an advocate; (b) making it easier for witnesses/experts to be able to testify at their residence (with a strict mechanism); (c) ensure that the principles of examination of women are in line with PERMA 3/2017; (d) ensure better e-court implementation, ensure accessible and complete electronic documents; and (f) online supervision of court proceedings to ensure judges carry out their duties according to existing procedures
2. Improving the capacity of human resources and court infrastructure, including:
  - a. Availability of accessible facilities and infrastructure, including adequate online court equipment and internet connection;
  - b. Availability of personnel who understand the use of information technology to (1) ensure the dissemination of information for example regarding the certainty of the trial schedule, case status and estimation of deed production and costs (2) ensure accessible online complaint channels, and (3) ensure the implementation of electronic hearings;
- a. Availability of access to courts that are open to the public, for example providing a monitor screen that broadcasts real-time trials in court, to limit the number of visitors in the courtroom;
- b. Arrangement of mechanisms or protocols regarding the criminal justice process in emergencies such as disasters, pandemics, and others;
3. Optimizing service complaint channels as well as monitoring and evaluating the implementation of various applications and technological innovations carried out
4. Ensure that the development of *e-Berpadu* must pay attention to and be in line with the principles in the SPPT-PKKTP;
5. Periodic and continuous capacity building for judges in handling cases involving women, children, and other vulnerable groups.

## Acknowledgement

---

This knowledge development product was originally written in Indonesian. The development of this knowledge product was supported by the "Enhancing Access to Justice for Women in Asia and the Pacific" regional program under the full support from the Swedish Government. This program was implemented with UN Women, the International Commission of Jurists (ICJ), and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

UN Women would like to thank the Government of Sweden for their generous contributions and acknowledge Indonesia Judicial Research Society (IJS) and Asosiasi LBH Apik Indonesia for conducting this research.

**Authors:** Bestha Inatsan Ashila (Indonesia Judicial Research Society), Arsa Ilmi Budiarti (Indonesia Judicial Research Society), Naomi Rehulina Barus (Indonesia Judicial Research Society), Marsha Maharani (Indonesia Judicial Research Society), Khotimun Sutanti (Asosiasi LBH APIK Indonesia), Asni Damanik (Asosiasi LBH APIK Indonesia), Febda Risha (Asosiasi LBH APIK Indonesia).

**Reviewers:**

Pomi Moges (UN Women), Betty Itha Omas (UN Women), Georgia Westaway (UN Women)

**Bahasa Indonesia Editor:**

Nur Syarifah

**English Copy Editor:**

Minerva Soedjatmiko

Condition of Access to Justice for Women and Vulnerable Groups During COVID-19 in Indonesia was a qualitative study conducted by Indonesia Judicial Research Society (IJS) and Asosiasi LBH APIK Indonesia with the support from the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) in Indonesia. This study aims to obtain information on access to justice for women and vulnerable groups, and the study the measures taken to adopt the justice sector during the COVID-19 pandemic in Indonesia.

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

This study was commissioned by UN Women and conducted by IJS and Asosiasi LBH APIK Indonesia in 2022. The views expressed in this publication are those of the authors and do not necessarily represent the views of UN Women, the United Nations or any of its affiliated organizations. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. For a list of any errors or omissions found subsequent to the report please visit and contact us through website.

All photos collected from UN Women's Album on Flickr.com

© 2023 Indonesia Judicial Research Society