



Asia Justice and Rights (AJAR)

Submission on Indonesia's Second Periodic Report under
the International Covenant on Economic Social and
Cultural Rights (ICESCR)

Specific Theme on the Discrimination for the Victims of
Gross Human Rights Violations and Armed Conflict
relating to Economic, Social, and Cultural Rights

January 2024

I. Introduction

1. Asia Justice and Rights (AJAR) submitted this report for the UN Committee of Economic, Social, and Cultural Rights (ESCR) for its second periodic report for Indonesia during its 75th session.
2. AJAR is a regional human rights organisation whose aim is to strengthen human rights and contribute to the alleviation of entrenched impunity in the Asia-Pacific region. Its work focuses on countries in

transition from a context of mass human rights violations to democracy. Working together with partner organisations in these countries, AJAR strives to build cultures based on accountability, justice, and a willingness to learn from the root causes of mass human rights violations to help prevent the recurrence of state-sanctioned human rights violations.

3. AJAR has evaluated the List of Issues (LoI) made to the Government of Indonesia (GoI) for the Committee of ESCR in 2022.¹
4. Although there has been progress in the realisation of fulfilment in ESCR of gross human rights violations in recent years, we are concerned by the continued stagnancy of non-progressive realisation in Indonesia to ensure truth, justice, and reparations for the victims and their families. Lack of acknowledgment and recognition for victims has resulted in insufficient mechanisms for fulfilling their rights. In particular, insufficient reparation mechanisms for them as human rights victims as well as inadequate basic human rights services for civilians.

II. General Situation on Victims of Gross Human Rights Violation in Indonesia

5. Human rights have only been formally recognized in Indonesia, both by law and in the Constitution, after the fall of Suharto's authoritarian regime in 1998. A transitional justice framework which encompasses truth, justice, reparations, and the guarantee of non-recurrence emerged in response to the widespread and systematic human rights violations carried out during this period of dictatorship. This recognition of human rights is in line with the international conception of human rights standards where the State has the duty to protect the rights of every citizen. Civil liberties, which had never been respected during the Suharto regime, became 'constitutional rights' in the post-1998 era.²
6. However, these achievements do not necessarily provide the people with protection. While they do ensure that all repression, injuries, and suffering need to be repaired and that any violation or harm of individual rights should be punished according to the law. Across the country, many victims still suffer the consequences of past human rights violations, while ongoing violations still occur in parts of Indonesia such as those in Papua.
7. Conflict not only violates victims' civil and political rights but includes violations of social and economic rights. These violations include the loss of access to land, natural resources and livelihoods, poverty, destruction of homes and possessions, forced displacement, and exclusion from education and health care services.
8. After the recommendations to the Indonesian state by the Committee of ESCR in their initial report, there has been slight progress in addressing the situation of the victims of gross mass human rights violations. The effort was enacted through a non-judicial process, using the establishment of the Team for Non-judicial Remedy of Past Gross Human Rights Violations (PPHAM) through Presidential Decree No.17/2022.³ The PPHAM only dealt with 12 cases of gross human rights violations that have been inquired by the National Commission for Human Rights (Komnas HAM) until 2020.
9. As a result, another Presidential Decree No.4/2023 and President Instruction No.2/2023 were issued to push for the non-judicial settling mechanism for victims, as part of follow-up the recommendation of the PPHAM finding report which established the oversee team⁴. It was mandated to provide compensation for the duration of one year during 2023. It also mandated 19 GoI's institutions led by the Coordinating Ministry for Political, Legal, and Security Affairs to provide mechanisms for the victims using existing GoI programs.
10. After the launching of the mechanism in June 2023 in Aceh, for the remainder of the year, the scheme provided socio-economic support for the victims and families that are still struggling with their daily life, such as the poor and elderly. However, it did not take into account the victims' dignity when addressing their past suffering of gross human rights violations due to the limited formal truth telling process. As a result, the mechanism was unable to provide comprehensive remedy for victims.

¹ List of Issue E/C.12/IDN/Q/2 on April 2022

² AJAR has written a brief summary on Indonesia's path in transitional justice. See more at: <https://asia-ajar.org/wp-content/uploads/2018/12/English-Indonesia-Case-Study.pdf>

³ See: Executive Office of the President of the Republic of Indonesia, "KSP Pastikan Rekomendasi Tim PPHAM Beri Kebermanfaatan Bagi Korban," (30 December 2022). Available at: <<https://www.ksp.go.id/ksp-pastikan-rekomendasi-tim-ppham-beri-kebermanfaatan-bagi-korban.html>>

⁴ See: Cabinet Secretariat of the Republic of Indonesia, "Presiden Akan Terbitkan Inpres Selesaikan Rekomendasi Terkait Pelanggaran HAM Berat," (16 January 2023). Available at: <<https://setkab.go.id/presiden-akan-terbitkan-inpres-selesaikan-rekomendasi-terkait-pelanggaran-ham-berat/>>

11. The mechanism creates another vulnerability in the victim's community due to the varying responses with some accepting and rejecting the scheme. Those community members who rejected the scheme regretted their compensation which was similar to the general population in need, such as the poor and elderly, as it erased their status of victims of human rights violation.
12. Although this non-judicial mechanism did not halt the legal process, by the end of 2023, there had been no initiative to commence judicial proceedings for past cases of human rights violations.

III. Legal Framework

13. The human rights court in Indonesia has heard four cases: the Tanjung Priok massacre (1984), Timor-Leste (1999), the Abepura case in Papua (2001), and the recent case for Paniai (2022). Nevertheless, these four cases resulted in the acquittal of all defendants, either by the first ruling or on appeal. No comprehensive judiciary procedure related to the violations of ESCR has ever been held. Only individual cases demanding compensation were brought to trial, which eventually were annulled by the court. Due to a lack of processes for accountability, attempts to revise the human rights law and human rights court law have been initiated.
14. Law No. 13/2014 regarding the Protection of Witnesses and Victims regulates a victim's right to restitution, rehabilitation, compensation, satisfaction, and non-repetition (of human rights violations). The regulation regarding restitution, compensation, and rehabilitation is also included in the human rights court law.
15. The current human rights legislation allows reparations provided only by a decision made by a court of law. Thus the demise of the human rights court has effectively blocked victims from receiving reparations. However, the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban*, LPSK), is empowered to provide referrals for urgent health and psychosocial services for victims through the National Policy Health System (BPJS), including those whose cases were investigated by the Komnas HAM.
16. The passing of Presidential Decree No.17/2022 followed by another Presidential Decree No.4/2023 that includes a more advanced health care support through the state budget for victims of the 12 cases of gross human rights violation investigated by the Komnas HAM. However, the health care support by PPHAM is still not clearly stated in terms of duration and applicability or whether it will substitute the aforementioned LPSK mechanism for the victims of gross human rights violation.
17. A law to establish a National Truth and Reconciliation Commission (TRC) was passed in 2004. However, the Constitutional Court then annulled the entire law, after civil society initiated a judicial review of certain articles that required victims to forgive perpetrators in order to receive reparations. In early 2020 the Gol initiated a revisit to the National Truth Commission law through a Presidential Decree. However, there has been no update on the discussion since then.
18. In 2020, the Aceh Government then issued a Decree on The Determination of the Recipient of Urgent Reparations and the Fulfilment of Victims of Human Rights Violations from the recommendation of Aceh TRC for urgent reparations of 245 victims of mass violations. It consists of medical and psychological assistance, entrepreneurship, social insurance, and administration registry with priority given to the elderly.
19. In 2022, the realisation for this urgent reparation was only able to be fulfilled for 235 victims due to 10 other victims having passed away without any direct heirs. Moreover, the process was conducted using existing mechanisms in Aceh as part of "social assistance" for general citizens. This process puts complications on the victims side such as having to provide a proposal to access the benefit.
20. In 2023, Aceh TRC launched their finding report titled *Peulara Damèe: Merawat Perdamaian (Caring for Peace)*⁵ at the Plenary Session of the Aceh People's Representative Council, 12 December 2023. In *Peulara Damèe*, the Commission concluded that there were violations of elements of international human rights law, including Crimes against Humanity and War Crimes during the conflict in Aceh between 1976-2005, which the Indonesian National Army carried out. Findings included violations of the law on the protection of civil society from the Geneva Conventions carried out by The Free Aceh Movement (GAM), as well as the involvement and accountability of international companies in this conflict. It includes sets of recommendations for Gol and other relevant stakeholders.

Suggested recommendation:

⁵ See more at: https://kkra.acehprov.go.id/media/2023.12/buku_laporan_peulara_damee1.pdf

21. Review the non-judicial mechanism on the fulfilment of victims' rights such as Presidential Decree No. 17/2022, Presidential Instruction No. 2/2023, and Presidential Decree No 4/2023.
22. Provide a more comprehensive law to include co-creation of victims group in handling mechanism of redress for victims of gross human rights violation that ensure their rights to truth, justice and reparations, as well as acknowledge and recognise victims of human rights violations and provide comprehensive reparation for them, including fulfilment of ESCR.
23. Develop an official policy regarding reparations so that urgent and comprehensive fulfilment of reparations and restoration of victims' rights can be implemented immediately, including developing an urgent reparations mechanism for victims of sexual violence; develop a human rights curriculum and peace about the Aceh conflict and create official memorialisation on commemorative days as well as memorials.

IV. Key Issues from Lol on Non-discrimination (Para. 11) and Armed Conflict (Para. 23)

24. Regarding the issue of groups who suffer discriminations which are further influenced by armed conflict, we would like to highlight victims of militarisation in Papua, mass atrocities in 1965-1966, the stolen children of Timor-Leste⁶, Rohingya stranded in Indonesia, and second generation East Timorese resettled in Indonesia. Civil society groups continue to work to ensure that victims receive basic services and assistance from Gol and international support. Some victims' groups are challenging regulations that deny their rights, particularly violations related to identity, pension claims, and the appropriation of land, buildings and businesses.

Impact of Militarisation and Armed Conflict for Indigenous Papuans including Women

25. Indigenous Papuans have experienced large-scale loss of land because of conflicts and displacement, state land use policies, detrimental social norms experienced by women after incidents of violence, or a combination of these factors.⁷ Additionally, many Indigenous Papuan women are not permitted to own traditional land outside of their home communities. If a woman's husband dies in conflict, her husband's family may override the widow and her children's land rights.⁸ There is a long history of militarisation and natural resource exploitation in Papua, especially concerning the extractive industries.⁹ The military acted as the company's private security force and foreign companies developed a mutually dependent relationship with the Gol and armed forces. In addition, the mine site and its devastating environmental and social impacts have become a flashpoint for political resistance in Papua. The Gol has responded by further militarising the region and exacerbating the cycle of violence.
26. In August 2021, a report released by Indonesia's NGO coalition explored the military's involvement in the extractive industries in Papua.¹⁰ In areas such as Jayapura and Boven Digoel, the use of the military as company security is prevalent, while in Fakfak and Unurum Guay, the police provide security for corporations and the Gol to suppress Indigenous opposition to land grabbing. Reports of the Indigenous community's experience with the Merauke Integrated Food and Energy Estate has revealed the military's involvement in intimidating communities and co-opting local leadership in the land acquisition process, violating principles of free and informed consent.¹¹
27. Papua's rich natural resources has increased the transmigration of people from other Indonesian regions. Many participants reported that their traditional land was seized without compensation for official transmigration programs.¹² The military's unequal treatment of Indigenous Papuans compared with transmigrants has exacerbated Indigenous Papuan's experience of racism and discrimination.
28. Large-scale loss of land has intensified socio-economic marginalisation of Indigenous Papuans. Indigenous Papuans struggle to compete in marketplaces with the transmigrants who have better access to resources.¹³ The loss of land, irreparable damage to forests and waterways, and the resulting impact on traditional foods such as sago and cassava have devastated Indigenous culture and

⁶See: Report of the Working Group on Enforced or Involuntary Disappearances, Mission to Timor Leste, A/HRC/19/58/Add.1, available at <https://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.58.Add.1.English.pdf>

⁷ For further information on land loss in Papua, see AJAR, *All the Birds are Gone Report*.

⁸ See AJAR, *All the Birds are Gone Report* p 169.

⁹ Ibid p 30-36.

¹⁰ *Ekonomi-Politik Penempatan Militer di Papua Report* p 4.

¹¹ AJAR, *All the Birds are Gone Report* pp 36, 172.

¹² For example, in Fakfak: see *ibid* p 172.

¹³ Papuan Women's Working Group, *I am Here Report* p 9-10.

knowledge, which centres around the environment and traditional foods.¹⁴ When forests are converted to plantations or other “productive” functions, Indigenous women lose access to their traditional resources.

29. The ESCR of internally displaced persons (‘IDPs’) are especially affected. In the Puncak Regency, most IDPs are women and children who live in appalling conditions with no access to clean water and health services.¹⁵ Security forces hinder IDPs from accessing their traditional sources of food and livelihoods near the villages they were forced to flee from. Many IDPs - particularly children – have been traumatised by security operations and fear the presence of police and military members in their villages. The Gol's failure to coordinate IDP camps in conflict areas has exacerbated the impact of militarisation as IDP camps are essential for coordinating services such as shelter, healthcare, and education.
30. Militarisation in Papua has had a significant impact on health services. For example, data shows that the population covered by Papua’s integrated health centres is highest in Jayapura City and lowest in conflict areas such as Nduga Regency and Intan Jaya.¹⁶ In conflict areas like Nduga, schools, health centres and churches have been overtaken by security forces, disrupting their ability to deliver vital health and educational services. Although there are national and local health schemes through health cards such as BPJS, women victims face difficulties in accessing these services. This is particularly relevant for sexual and reproductive health, as well as basic health services. Indigenous women in Papua already face difficulty accessing services, especially for HIV/AIDS services— this problem is compounded by the additional barriers that militarisation has caused.¹⁷ In many places, women are unable to access health services because they do not have an identity card (Kartu Tanda Penduduk). Additionally, militarisation has diminished Indigenous Papuan’s trust in some health services. For instance, the involvement of the TNI and police in the Covid-19 vaccination program in Papua has had a negative impact on Indigenous uptake.¹⁸ Even if health services are available and trusted, militarisation has indirectly caused more barriers to access. One example is that widows of men who were killed as members of OPM experience discrimination by local government officials. This discrimination often prevents them from obtaining formal documentation, such as marriage certificates or ID cards, which are required to access services such as healthcare, rice for the poor, and housing assistance.¹⁹ Children also face difficulties accessing education and employment because of the stigma attached to their families.²⁰
31. With the absence of support from the Gol, women victims continue to suffer long-term physical, social and economic impacts of the violations. While domestic violence is widely experienced, there are only a few cases reported to the police, and less cases prosecuted in the judicial system.²¹ At the same time, women in conflict are also vulnerable to new forms of domestic and community violence.
32. Several mechanisms have been created or discussed by the Gol which have the potential to provide some redress to Indigenous Papuans. However, their implementation in practice has been insufficient, limiting their effectiveness. The Special Autonomy status claims to serve as an acknowledgment of the Indigenous Papuans political rights and aims to improve Papua's human rights situation. However, many Papuans believe the promises for reform under the Special Autonomy have been broken or diminished over time. For instance, the fulfilment of the right to the truth for mass human rights

¹⁴ See, for example, anecdotal evidence from Indigenous Papuans in Kebar Valley in AJAR, *All the Birds are Gone* Report p 114-137.

¹⁵ See Joint submission by AJAR al. to the Universal Periodic Review 4th Cycle, 41st Session (7 - 18 Nov 2022) regarding the Human Rights Situation in Indonesia, Violence against Women in Papua para 19.

¹⁶ Health Office of Papua Provincial Government, Government Agencies Performance Report, 2020 p 59. Available at <<https://dinkes.papua.go.id/wp-content/uploads/2021/03/LKJ-Dinkes-Papua-2020.pdf>>.

¹⁷ AJAR, ‘Between Rock and a Hard Place: Vulnerabilities and Patterns Impacting HIV/AIDS and Violence against Women in Papua Province’ (Policy Paper, 5 January 2021).

¹⁸see ABC, ‘Vaksinasi di Papua Terkendala Ketidakpercayaan Warga pada Aparat Keamanan yang Terlibat di Pusat Kesehatan’ (30 July 2021). Available at:

<<https://www.abc.net.au/indonesian/2021-07-30/vaksinasi-di-papua-terancam-lambat-karena-keterlibatan-tni-polri/100330442>>.

¹⁹ Papuan Women’s Working Group, *I am Here Report* p 31.

²⁰ Ibid 32.

²¹ National Commission on Violence against Women release a report in Indonesia on the situation of Women in Aceh, including the domestic violence. Read more at:

[https://www.komnasperempuan.go.id/file/pdf_file/2018/Publikasi/Catatan%20Dua%20Tahun%20Terkahir%20\(2011-2012\)%20Kekerasan%20Terhadap%20Perempuan%20di%20Aceh.pdf](https://www.komnasperempuan.go.id/file/pdf_file/2018/Publikasi/Catatan%20Dua%20Tahun%20Terkahir%20(2011-2012)%20Kekerasan%20Terhadap%20Perempuan%20di%20Aceh.pdf)

violations in Papua is meant to be carried out by the Truth and Reconciliation Commission (TRC). However, two decades have passed, and at the time of writing, a TRC has not been established.

33. The Special Autonomy Law also specifies the establishment of a Papua People's Assembly (MRP) as the cultural representation body of Indigenous Papuans. However, 2021 amendments to the Special Autonomy Law have diminished this mechanism. In 2011, the MRP and Papuan parliament passed a law establishing a provincial-level commission to provide financial assistance to Indigenous women victims. This *Special Local Regulation on the Recovery of the Rights of Indigenous Papuan Women Victims of Violence and Human Rights Violations (Perdasus no.1/2011)* would provide a local mechanism to acknowledge Papuan women's experiences of violence and provide urgent assistance. Although the regulation was passed into law in 2011, it has not been implemented a decade later.²² If implemented this would be a positive step towards providing redress to Indigenous Papuan women.

Suggested recommendation:

34. *Ensure basic needs and livelihoods assistance, particularly for women and children in the temporary camps of IDPs;*
35. *Revoke the militaristic approach of sending troops and stop violence in conflict areas.*
36. *Acknowledge the existence of victims of human rights violations, particularly women victims of conflict, and provide comprehensive reparations that encompass support for socio economic wellbeing, health and livelihood.*
37. *Ensure that women in conflict are meaningfully involved in deliberations on development issues at all levels, including within decision making processes related to socio economic and developmental policy.*
38. *Ensure effective programmes for women victims of state violence, which includes assistance for physical, psychological, economic and social effects of armed conflict on women.*
39. *Ensure the implementation of the Local Law on the Rehabilitation of the Rights of Women Victims of Human Rights Violations (Perdasus no.1/2011)*

Victims of 1965-1966 mass atrocities

40. General Suharto seized control of the Indonesian State in 1965. During this seizure of power, the military carried out a wave of violence which saw between five hundred thousand to a million people murdered, with tens of thousands imprisoned for decades without trial.
41. Victims were subject to institutionalised discrimination for so long that it crossed generational lines. The children and other family members of communists or alleged communists also suffered discrimination.²³ They continue to suffer stigmatisation, poverty, neglect and subsequent institutionalised discrimination. This continued discrimination is linked to their officially assigned classification.²⁴ Many of the victims had their homes, land, businesses and/or government pensions confiscated and never returned. Additionally, their children often faced great difficulties in obtaining study and work opportunities.²⁵
42. Official Gol policies restricted the access of victims and their families to jobs, education, and social services. In 1981, the Gol issued an instruction (No. 31/1981) that called upon provincial governors and local administrative officials, in coordination with security forces, to conduct surveillance and reconstruction of all aspects of victims' lives, including their attitude, behaviour and all social-cultural, political, and economic activities.²⁶
43. In 2012, the Supreme Court annulled the Presidential Decree No. 28/1975 on the Discriminatory Treatment towards Those Allegedly Involved in the Failed Coup attempt on 30 September 1965.²⁷ The Supreme Court considered that this Presidential Decree discriminates against individuals allegedly

²² AJAR, *All the Birds are Gone Report* p 20.

²³ Policy briefing: Indonesia's Obligations to Provide Reparations for Victims of Gross Human Rights Violations, <https://www.ictj.org/publication/indonesias-obligations-provide-reparations-victims-gross-human-rights-violations>, ICTJ IKOHI and KPK, 2011.

²⁴ The New Order Regime officially assigned the victims of 1965 atrocities according to their alleged involvement in the event of 30 September. They also received a "ET" (former political prisoner) stamp on their identity cards.

²⁵ Policy briefing: Indonesia's Obligations to Provide Reparations for Victims of Gross Human Rights Violations, <https://www.ictj.org/publication/indonesias-obligations-provide-reparations-victims-gross-human-rights-violations>, ICTJ IKOHI and KPK, 2011.

²⁶ Teresa Birks, *Neglected Duty: Providing Comprehensive Reparations to the Indonesian "1965 Victims" of State Persecution*, International Center for Transitional Justice (ICTJ), July 2006, <https://www.ictj.org/sites/default/files/ICTJ-Indonesia-Reparations-Victims-2006-English.pdf>

²⁷ Supreme Court Decision No. 33 P/HUM/2011

identified as directly or indirectly involved in the failed coup attempt on 30 September 1965. However, this decision cannot be implemented as it requires the President to issue another Decree for the annulment. Up until now, the annulment Decree has not been issued.

44. Victims suffer physical trauma resulting from ill-health and socio-economic deprivation as a consequence of the violations. Some have urgent needs; for example, they received limited medical assistance and trauma counselling for injuries resulting from violence, torture, and detention.²⁸ Victims' property ownership documents and certificates for houses, land, and farms were also confiscated by military officers. In some cases, they were forced to sign a letter stating they had given their land to the state.
45. Hundreds of victims recognized as crimes against humanity have been able to access psycho-social support and medical services through the LPSK. This is mainly because the Komnas HAM completed a pro-justicia investigation of these cases and has formally recognized them as victims of human rights violations.
46. Through long advocacy from civil society, there are many positive developments from the local government in enacting the policies to provide partial reparation for victims. In Palu, Central Sulawesi, the Mayor of Palu declared an apology to victims and provided redress and services to victims, which include assistance such as home repairs, scholarships, and access to government health services, sanitation facilities, clean water, and economic empowerment training for victims.²⁹ In Maluku, victims received new official marriage certificates, to replace those that had identified them as "ET"—former political prisoners. Local officials have apologised and have produced new certificates. In 2003, the court decided that the GoI had committed an unlawful act through arbitrary and discriminatory classifications towards one of the victims, Nani Nurani. As the plaintiff, Nani Nurani was then able to access public facilities and services.³⁰
47. After the issuance of the Presidential Instruction No. 4/2023, several victims began to receive a form of social assistance and health insurance. The Ministry of Health is providing them with premium health insurance and social assistance. Those who received are the victims who have been documented by the PPHAM and agreed to be included inside the mechanism, mainly victims in Palu, Yogyakarta, and Jakarta.

Suggested recommendation:

48. *Ensure victim's access to information to improve their social and economic standing to reach justice and reparation.*
49. *Immediately remove barriers or discriminatory practices in issuing basic citizenship documents such as ID cards, marriage and birth certificates to restore victims' trust in state institutions.*
50. *Review and reform discriminatory regulations as well as implementation practises. Reissue any discriminatory legal documents and socialise any regulations that are not being followed as intended, including former political prisoners and their families.*

Stolen Children of Timor-Leste

51. One of the remaining cases related to conflict is the issue of "stolen children" from Timor-Leste, children who were forcibly taken by Indonesia officials in the period of occupation of East Timor (1975-1999). The impact on girls, now adult women, taken from their families as part of the "stolen children" has created long lasting psychological trauma due to the experience of violence inside the adoptive families, with some facing sexual harassment. In Indonesia, they faced difficulties obtaining citizenship documents that were essential to access basic services, experienced abuse that impacted their physical and mental health up until today, while also experiencing challenges in owning land and obtaining jobs due to their lack of education.³¹ To date, they are living in parts of Indonesia, unable to go back due to

²⁸AJAR in 2016 has written a research report on the story of 140 women victims of torture and other forms of violence from Indonesia, Timor-Leste and Myanmar. See more at: <http://www.asia-ajar.org/files/ENDURING%20IMPUNITY%20final-23%20Nov-press.pdf>

²⁹ See more: Rudy Mastura: The Mayor who said "sorry" for 1965: <https://www.thejakartapost.com/news/2013/10/25/rusdy-mastura-the-mayor-who-said-sorry-1965.html>

³⁰ Koalisi Keadilan dan Pengungkapan Kebenaran (KKPK), Justibilitas Ekosob (Pemulihan Hak Korban Pelanggaran HAM Masa Lalu Melalui Jalur Litigasi: Pengalaman dan Panduan), p.25. ; Jakarta State Administrative Court Decision No. 60/G.TUN/2003/PTUN.JKT; Cassation Decision No. 400 K/TUN/2004

³¹ However, beginning in 2013, AJAR with the group of civil society organizations in Indonesia and Timor-Leste in collaboration with the national human rights institutions of Indonesia and Timor-Leste, began looking for these stolen children, taken from

economic hardship, fear of rejection, and isolation. It is estimated there are thousands still separated from their families, without contact for many decades. Many families in Timor-Leste still look for them, some consider them missing persons or dead in conflict, after being lost decades apart.³²

52. The Governments of Indonesia and Timor-Leste established the Commission for Truth and Friendship (CTF) in 2005 and in 2008 released a report with a number of recommendations to be implemented by the two countries. One recommendation was the formation of a Commission for Missing Persons to identify children who had been taken to Indonesia and reunite them with their parents in Timor-Leste. Until recently, the two countries had not implemented this recommendation.

Suggested recommendation:

53. *Establish a bilateral commission with the Government of Timor-Leste to study and implement the recommendations of previous truth commissions (CAVR and CTF) that relate to the separated children. Particularly to acknowledge the existence of victims and provide comprehensive reparations that encompass support for their right to own a land, socio economic wellbeing, health and livelihood.*
54. *Indonesia must ratify the convention against enforced disappearances to implement recommendations from the CTF and establish the commission mandate to search for the disappeared.*

Second Generation East Timorese Ex-Refugees Affected by Unfinished Resettlement Scheme in Refugee Camps

55. Since 1999 repatriation has been taking place; those who remain are often persons identified as human rights violators or those who no longer have any relatives in East Timor to help them start a better life if they go back to Timor-Leste. When the UN High Commissioner for Refugees (UNHCR) released the Declaration of Cessation in 2002, it estimated that 28,000 ex-refugees stayed in Indonesia. The East Timorese, however, claimed almost 200,000 persons were in West Timor, and the local government of East Nusa Tenggara stated that more than 100,000 people stayed.
56. After more than 20 years of becoming Indonesian citizens, they are now facing hardship in receiving financial assistance with limited access to basic services such as housing, land tenure, and job opportunities. The conditions affected the second generation of the Timorese, who were internally displaced from East Timor and resettled in West Timor under an unfinished resettlement scheme after East Timor had been separated from Indonesia and formed into Timor-Leste.³³

Suggested recommendation:

57. *Acknowledge that the East Timorese are citizens of Indonesia and have the right to own land and adequate housing with a dignified resettlement scheme.*
58. *Provide the ESCR with affirmative action to the victims, including education for the second generation of ex-refugees.*

Rohingya People Stranded in Indonesia, Particularly in Aceh

59. Since 2009, waves of Rohingya people have taken refuge in Indonesia, in particular in Aceh. The Rohingya were previously known as “boat people”. It was only later that it was discovered that they were ethnic Rohingya refugees and victims of the genocide in Myanmar. The arrival of Rohingya refugees to Aceh is usually once a year, twice a year or once every two years. Since 2021, especially after the military coup occurred in Myanmar, the frequency of arrivals has increased, namely 3-9 times a year.
60. In November and December 2023, more than 1,600 Rohingya refugees (most of them women and children) landed in Aceh, Indonesia,³⁴ marking the largest wave of refugee arrival in Indonesia in recent history. Worsening living conditions and armed group activity in the refugee camps in Bangladesh,³⁵

East Timor between 1975-1999. By the end of 2023, we have documented more than 196 stolen children, 101 of whom have since participated in reunion visits with their families in Timor-Leste.

³² See: AJAR, Long Journey Home: Stolen Children Timor Leste, available at <https://asia-ajar.org/2016/08/long-journey-home-stolen-children-timor-leste/>

³³ See AJAR news and release on this issue in Bahasa Indonesia at: <https://asia-ajar.org/2023/10/25/indonesia-anak-muda-di-kamp-eks-timor-timur-merajut-nasib-pada-negeri-yang-dijanjikan/>

³⁴ UNHCR & IOM, *Rohingya Boat Arrival Response in Indonesia: Emergency Appeal December 2023 – June 2024*. n.d. <https://reporting.unhcr.org/unhcr-iom-rohingya-refugee-arrivals-joint-appeal>. (Accessed 6 January 2024).

³⁵ ACAPS, *Bangladesh: Rising violence, insecurity, and protection concerns in Cox's Bazar refugee camps*, briefing notes, 12 May 2023.

where they are seeking refuge from persecution in Myanmar, has led to refugees fleeing to neighbouring countries. With Malaysia and Thailand closing their borders to refugees, Indonesia has become the primary destination for Rohingya refugees escaping from Bangladesh.

61. The public scrutiny brought about by the arrivals precipitated into a suspected organised hate campaign online, which resulted in discrimination towards the Rohingya refugees by some members of the local community. In December 2023, for instance, Rohingya refugees were intimidated and forcefully removed from their shelter by local university students in the middle of their daily prayers.³⁶
62. At the same time, the arrivals brought into view specific immigration policies which deprive refugees of their ESCR during their stay in Indonesia. Long-term refugees expressed concern about the lack of formal education opportunities for refugee children and the inability to make a decent livelihood due to meagre welfare support and the prohibition of work for refugees. In particular, the monthly stipend for long-term refugees in Indonesia has not increased in at least a decade at only IDR 1,250,000 (USD 80), which makes it difficult for refugees to enjoy other ESCR, such as accessing adequate medical care or starting a family. Furthermore, the Gol has not formally recognized marriages between refugees and locals, which complicates the legal status for children of such marriages.

Suggested recommendations:

63. *Ratify the Convention and Protocol Relating to the Status of Refugees 1951 and 1967.*
64. *Ensure basic needs and livelihood assistance for newly arrived refugees, particularly for women and children.*
65. *Ensure the implementation of national regulations on handling refugees from abroad.*
66. *Provide adequate protection for refugees from discrimination based on race, nationality, or ethnicity.*
67. *Collaborate further with international organisations to provide adequate welfare support for refugees and forced migrants in Indonesia*

V. Summary

AJAR is concerned by the continued stagnancy of non-progressive realisation in Indonesia to ensure truth, justice, and reparations for the victims of past human rights violations and their families. Lack of acknowledgement and recognition for victims of gross human rights violations has resulted in insufficient mechanisms for fulfilling their ESCR. In particular, sufficient reparation mechanisms for them as human rights victims. AJAR has evaluated the implementation of recommendations made to Indonesia during its previous Concluding Observation on the Initial Report of Indonesia from the Committee of ESCR in 2014 and on the List of Issue in 2022. We suggest the Committee to recommend:

1. *Revise the law to include redress for victims of gross human rights violation that ensure their rights to truth, justice and reparations, as well as acknowledge and recognise victims of human rights violations and provide comprehensive reparation for them, including fulfilment of ESCR.*
2. *Ensure the Aceh TRC recommendation for reparation for victims, particularly victims of sexual violence in Aceh conflict can be realized and tangibly implemented by the local and national governments.*
3. *Ensure the implementation of the Local Law on the Rehabilitation of the Rights of Women Victims of Human Rights Violations in Papua (Perdapus no.1/2011).*
4. *Immediately remove barriers or discriminatory practices in issuing basic citizenship documents such as ID cards, marriage and birth certificates to restore victims' trust in state institutions.*
5. *Review and reform discriminatory regulations as well as implementation practises. Reissue any discriminatory legal documents and socialise any regulations that are not being followed as intended, including former political prisoners and their families.*
6. *Establish a bilateral commission with the Government of Timor-Leste to study and implement the recommendations of previous truth commissions (CAVR and CTF) that relate to the separated children and the search for the disappeared. Particularly to acknowledge the existence of victims and provide comprehensive reparations that encompass support for their right to own a land, socio economic wellbeing, health and livelihood.*

https://www.acaps.org/fileadmin/Data_Product/Main_media/20230512_acaps_briefing_note_bangladesh_rising_violence_insecurity_and_protection_concerns_in_coxs_bazar_refugee_camps_0.pdf. (Accessed 6 January 2024).

³⁶ See AJAR Joint Press released in Indonesia Language titled "*Indonesia: Memerangi Narasi Negatif Isu Pengungsi Rohingya, Saat Atensi Lebih Penting Dibandingkan Informasi*", 28 December 2023. Accessed at: <https://asia-ajar.org/press-release/indonesia-memerangi-narasi-negatif-isu-pengungsi-rohingya-saat-atensi-lebih-penting-dibandingkan-informasi/>

7. *Ensure basic socio-economic needs and livelihoods assistance, particularly for women and children in the temporary camps of IDPs;*

Respectfully submitted,
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