



Asia Justice and Rights (AJAR)

Submission on Indonesia's Second Periodic Report under  
the International Covenant on Civil and Political Rights  
(ICCPR)

Specific Theme on Impunity and Gross Human Rights  
Violations in Indonesia

February 2024

## I. Introduction

1. Asia Justice and Rights (AJAR) submits this report to the UN Human Rights Committee for the International Convention on Civil and Political Rights (ICCPR) second periodic report for Indonesia during its 140th session.
2. AJAR is a regional human rights organization whose aim is to strengthen human rights and contribute to the alleviation of entrenched impunity in the Asia-Pacific region. Our work focuses on countries in transition from a context of mass human rights violations to democracy. Working together with partner organizations 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) submitted to the Government of Indonesia (GoI) by the Committee in 2020.<sup>1</sup> In this submission, we highlight the specific issue of the **fight against impunity, and past human rights violations (arts. 2, 6, 7 and 14)**, as stated in paragraph 6 of the LoI below:

*Please indicate all measures taken to combat impunity and effectively prosecute cases involving past human rights violations. In particular, please include information on:*

*(a) the progress in establishing a court to investigate cases of enforced disappearances committed between 1997 and 1998; (b) the status of the case of the murder of a prominent human rights defender, Munir Said Thalib, including the Government's intention to release the report of the fact-finding team as requested by the Public Information Commission; (c) the implementation of the recommendations issued by the Truth, Reception and Reconciliation Commission, in 2005, and by the Truth and Friendship Commission, in 2008, including those on the search for, and reparation for, children who were displaced between 1975 and 1999; and (d) the progress of the Aceh Truth and Reconciliation Commission.*

4. We are concerned by the deliberate intent to prolong impunity and erode the path to truth, justice, and reparation for victims of gross human rights violations and their families in Indonesia.

## II. General Situation of Impunity and Gross Human Rights Violations 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 that 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

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<sup>1</sup> List of Issue CPR/C/IDN/QPR/2 September 2020

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.<sup>2</sup>

6. However, such achievements do not necessarily provide protection to the people. Despite acknowledging that all repression, injuries, and suffering must be repaired, many victims across the country still suffer the consequences of past human rights abuse, while ongoing violations still occur in parts of Indonesia, including Papua. Many victims of past or current human rights violations have tried to utilize human rights-related laws and institutions. Unfortunately, the victims' efforts have failed to drive the institutions to initiate the legal processes for the protection of human rights.
7. Furthermore, the lack of vetting mechanisms for members of the bureaucracy and political parties allows for alleged human rights violators to regain/remain in power, promoting impunity. For instance, in 2022, the central government appointed interim governors to replace former governors who resigned in order to seek reelection in the upcoming 2024 elections. These appointments were made without public consultation, paving the way for former security officials to gain typically-elected positions in conflict-prone areas. Some of the most concerning appointments are Major General Achmad Marzuki as Acting Governor of Aceh and General Paulus Waterpauw as Governor of West Papua.<sup>3</sup> Moreover, Prabowo Subianto, who is alleged to be the perpetrator of enforced disappearances in 1997/98 and the East-Timor atrocities, is running for the third time as a presidential candidate in the 2024 elections. Furthermore, police and military officials are also now allowed to hold public office after the recent revision and enactment of the law on civil servants.<sup>4</sup>
8. In addition, three former military officers from the infamous *Mawar* team<sup>5</sup> who were involved in the disappearances of activists in 1997-1998 have been given strategic positions within the government.<sup>6</sup> Lastly, the President gave the *Bintang Jasa Utama* award – the country's third-highest civilian honor – to Eurico Guterres, a former militia commander during the 1999 Timor Leste referendum who had been tried in a human rights court in Indonesia.<sup>7</sup>

### III. Legal framework

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<sup>2</sup> 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>

<sup>3</sup> See more at: <https://www.thejakartapost.com/paper/2022/05/18/observers-decry-lack-of-transparency-in-interim-leader-selection.html>

<sup>4</sup> See more: <https://jakartaglobe.id/news/new-law-allows-militarys-return-to-civilian-positions>

<sup>5</sup> *Mawar* Team is a Group IV Army Special Forces Command led by Prabowo Subianto. The team was already sentenced 16-20 months imprisonment for the activist kidnapping operation ahead of the 1997 General Election and the People's Representatives Assembly (MPR) General Session in 1998.

<sup>6</sup> Former *Mawar* Team members, namely Brigadier General Yulius Selvanus and Brigadier General Dadang Hendrayudha, were respectively appointed to serve as Head of the Defense Strategic Installation Agency and Director General of Defense Potential of the Ministry of Defense through the President issued Presidential Decree of the Republic of Indonesia Number 166/PA of 2020 concerning Dismissal and Appointments from and in Senior High Rank Leaders in the Ministry of Defense (Keppres No. 166 / TPA 2020). Another *Mawar* Team member, Untung Budiharto, has also been appointed to become the Commander of the Jakarta Raya Military Regional Command on January 7, 2022, despite being sentenced to 20 months imprisonment and dismissal from the army in the Military Court for enforced disappearances in 1997-1998.

<sup>7</sup> Eurico Guterres was accused of being involved in a number of massacres in East Timor. He was deputy commander of the Integration Fighters Force (PPI) and commander of the Timor Leste Aitarak militia in 2002, he was tried at the East Timor Human Rights Court and sentenced to 10 years in prison, but was later released in Supreme Court.

9. 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 Paniai case (2022). Nevertheless, these four cases resulted in the acquittal of all defendants, either by the first ruling or on appeal.
10. A law establishing a National Truth and Reconciliation Commission (TRC) was passed in 2004. However, the Constitutional Court subsequently annulled the entire law, after members of civil society initiated a judicial review of certain articles requiring victims to forgive perpetrators to receive reparations. In early 2020, the GoI initiated a revisit to the National Truth Commission law through a Presidential Decree. However, there has been no update on the discussion since then.
11. 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 human rights court law also includes the regulation regarding restitution, compensation, and rehabilitation.
12. The current human rights legislation provides for the provision of reparations only after a decision by a court of law. Thus, the recent inactivity 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 National Human Rights Commission (Komnas HAM).
13. National efforts to provide reparations to victims of gross human rights violations mainly focus on non-judicial processes, using the establishment of the Team for Non-Judicial Remedy of Past Gross Human Rights Violations (PPHAM) through Presidential Decree No.17/2022.<sup>8</sup> PPHAM only deals with the 12 cases of gross human rights violations that have been investigated by Komnas HAM up to 2020.
14. AJAR observes some problems with PPHAM. Firstly, its “non-judicial” focus runs the risk of promoting impunity by erasing any form of accountability in perpetrators. Despite its central objective of providing non-judicial remedies as restitution for victims, some of the decree’s features limit victims’ enjoyment of the right to truth and access to justice. Particularly, Article 10 of the decree states that ‘the disclosure of the cases will focus on the background, causes, and effects of past serious human rights violations *without aiming at identifying and prosecuting the perpetrators.*’ Additionally, the decree does not require public disclosure of PPHAM’s findings prior to the start of the reparations scheme in 2023, and does not specify any proper judicial processes/legal settlements for the violations.<sup>9</sup>
15. Furthermore, some elected PPHAM members are allegedly involved in gross human rights violations themselves. For instance, one person is believed to be involved in the murder of human rights activist Munir Said Thalib during his role as the Deputy Head of the State

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<sup>8</sup> 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>>

<sup>9</sup> See: <https://nasional.tempo.co/read/1781695/pemulihan-pelanggaran-ham-berat-berdasarkan-keppres-nomor-17-tahun-2022-siapa-berhak-terima-bantuan>

Intelligence Agency (BIN).<sup>10</sup> Another person was involved in East Timor crimes against humanity, and was indicted by the Serious Crimes Unit (SCU) of East Timor.<sup>11</sup>

16. There are also doubts about the effectiveness of PPHAM, given Indonesia's poor legal basis and track record for non-judicial restitution. In Indonesia's two principal regulations for the handling of serious human rights violations, Law 39/1999 on Human Rights and Law 26/2000 on the Human Rights Court, there is no dichotomy or distinction between the judicial and non-judicial terminology. Previously, the mechanism for non-judicial settlement was contained in the Law on the Truth and Reconciliation Commission. This law, however, was annulled by the Constitutional Court. As such, there is currently no reference that the state or the PPHAM team can refer to about non-judicial restitutions for resolving past gross human rights violations.
17. PPHAM submitted its report to the President in January 2023. Based on the report, the President made a statement acknowledging and regretting the occurrence of gross human rights violations in Indonesia, particularly the 12 incidents under inquiry by Komnas HAM.<sup>12</sup>
18. As a result, another Presidential Decree No.4/2023 and Presidential Instruction No.2/2023 were issued to push for the non-judicial settlement mechanism for victims, following recommendations from the PPHAM finding report, which established an oversight team.<sup>13</sup> The team was tasked with providing compensation throughout 2023. Additionally, 19 Gol institutions led by the Coordinating Ministry for Political, Legal, and Security Affairs were also mandated to establish mechanisms for supporting victims using existing Gol programs.
19. The abovementioned policy promised more advanced healthcare support for victims of the 12 cases of gross human rights violations investigated by the Komnas HAM. However, the duration of this healthcare support scheme by PPHAM is still not clearly specified and it remains ambiguous whether this scheme will substitute the current LPSK mechanism for victims of gross human rights violations.
20. After this scheme's launch in June 2023 in Aceh, for the remainder of the year, the scheme provided socio-economic support for victims and families who still required extensive welfare support, 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 could not provide a comprehensive remedy for victims.
21. The scheme also engendered a new form of tension in the victim's community as some have renounced the scheme. Those who rejected the scheme are dissatisfied because the amount of compensation is similar to other recipients of welfare aid, such as the poor and

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<sup>10</sup> Asian Human Rights Commission, 'INDONESIA: The non-judicial settlement team for past human rights abuses and its membership's composition contrary to the international human rights standard,' 06 October 2022. Available through: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-016-2022/>

<sup>11</sup> The Serious Crimes Unit (SCU) and Special Panels for Serious Crimes (Special Panels) were established in 2000 by the United Nations Transitional Administration in East Timor (UNTAET) to conduct investigations, prosecutions and judicial proceedings relevant to crimes against humanity and other serious crimes committed in East Timor. The Defence Lawyers Unit (DLU) was established in 2002 by UNMISSET. See Case No. 05/2003 Indictment. Available through: <https://www.legal-tools.org/doc/2aa063/pdf/>

<sup>12</sup> See President Joko Widodo's statement in english at: <https://setkab.go.id/en/statement-of-president-of-the-republic-of-indonesia-on-the-report-of-team-for-non-judicial-resolution-of-past-gross-human-rights-violations-ppham-at-merdeka-palace-jakarta-january-11-2023/>

<sup>13</sup> 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/>

the elderly. The lack of special acknowledgement for victims was seen as an erasure of their status as victims of human rights violations.

22. 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.

*Suggested recommendation:*

23. *Review the non-judicial mechanism for the fulfillment of victims' rights, such as Presidential Decree No. 17/2022, Presidential Instruction No. 2/2023, and Presidential Decree No. 4/2023.*
24. *Provide a more comprehensive law to include the co-creation of victims' groups in handling mechanisms of redress for victims of gross human rights violations that ensure their rights to truth, justice, and reparations, as well as acknowledge and recognise the dignity of victims of human rights violations and provide comprehensive reparation for them.*
25. *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 on fight against impunity and gross human rights violations (arts. 2, 6, 7 and 14)**

26. In accordance with the Committee's LoI, AJAR would like to underscore specific situations. These include the truth behind the enforced disappearances of 1997/98, updates on the premeditated murder of human rights defender Munir, updates on the implementation of two truth commissions in Timor-Leste regarding the issue of stolen children, as well as the progress of transitional justice mechanisms in Aceh which has just recently published its report.
27. In this submission, we have also provided additional information regarding other situations that merit the Committee's attention. These include the human rights violations and militarization in Papua, the mass atrocities of 1965-1966, the issue of Rohingya refugees stranded in Indonesia, and the case of second generation East Timorese who are resettled in Indonesia.

#### **Truth of 1997/1998 Enforced Disappearance cases ignored**

28. Based on the LoI of ICCPR in 2023, the Committee requested for the following information: *"the progress in establishing a court to investigate cases of enforced disappearances committed between 1997 and 1998."*
29. The government has yet to implement the recommendation of the previous Concluding Observation on the Initial Report of Indonesia from the Human Rights Commission in 2013 to investigate the case of enforced disappearances committed between 1997-1998 as stated below: *"the State party should, as a matter of urgency, address the impasse between Komnas HAM and the Attorney General. It should expedite the establishment of a court to*

*investigate cases of enforced disappearance committed between 1997 and 1998 as recommended by Komnas HAM and the Indonesian Parliament.”*

30. The government has yet to ratify the Convention for the Protection of All Persons from Enforced Disappearances that has been agreed from Indonesia on follow up concluding observations in 2015 and 4th Cycle of Universal Periodic Review in 2023. The government agreed to ratify the convention, however, the parliament has not given approval for the ratification.
31. The enforced disappearances, particularly of student activists, have become a popular discourse since the fall of the New Order Era by Suharto in May, 1998. It was strongly alleged that 23 people were forcefully made to disappear due to their political activities. From the 23 victims, 9 were returned, one was found dead and the fates of 13 of them remain unknown.
32. In 2005-2006, Komnas HAM conducted a *pro justitia* investigation and concluded that there is evidence of gross human rights violations in the cases of enforced disappearances during 1997-1998. The investigation’s findings had already been delivered to the Attorney General Office (AGO) in 2006. Nonetheless, there has been no further follow up towards the inquiry process.
33. In 2023, the case was also included under PPHAM’s social assistance mechanism. However, families of victims remain strongly opposed to the mechanism due to a lack of truth telling processes and the government’s continued refusal to search and locate victims.
34. Due to the lack of vetting mechanisms for public officials, one of the alleged perpetrators of the 1997-1998 enforced disappearances, Prabowo Subianto, is running for president in the upcoming 2024 elections.

*Suggested recommendations:*

35. *Establish ad hoc human rights courts for enforced disappearances in 1997-1998 as determined by Komnas HAM.*
36. *Acknowledge and reveal the truth on the whereabouts of the persons who disappeared in 1997/1998.*
37. *Immediately ratify the Convention for the Protection of All Persons from Enforced Disappearances that has been accepted within the 4th Cycle of Universal Periodic Review.*

*The premeditated murder of human rights defender Munir: Deadlock in the legal process*

38. Based on the LoI of ICCPR in 2023, the Committee requested the following information: *“the status of the case of the murder of a prominent human rights defender, Munir Said Thalib, including the Government’s intention to release the report of the fact-finding team as requested by the Public Information Commission.”*
39. The government has not yet solved the case according to the previous Concluding Observation on the Initial Report of Indonesia from the Human Rights Commission in 2013 as stated below: *“.the State party should effectively prosecute cases involving past human rights violations, such as the murder of prominent human rights defender Munir Said Thalib on 7 September 2004, and provide adequate redress to victims or members of their families.”*
40. Munir Said Thalib, a prominent human rights defender, was murdered in 2004. Prior to his death, he had campaigned for enforced disappearance, and helped to uncover evidence of

human rights violations by the Indonesian security forces, particularly in conflict areas. The State Intelligence Agency (BIN) was allegedly involved in this murder.

41. Munir's murderer, Pollycarpus Priyanto, was initially convicted, but later acquitted by the Supreme Court in 2009. His acquittal was reversed after a case review, and he was given a 20-year sentence. However, he was granted a number of remissions, and was released early in 2014. Pollycarpus made more than 40 phone calls to senior intelligence official Muchdi Purwopranjono around the time of Munir's murder and the release of the autopsy report. He faced trial in 2008, but was acquitted, prompting many activists to claim that the process was flawed. The prosecutor alleged that Muchdi had ordered Pollycarpus to carry out the murder. Some witnesses failed to appear in court, and others who had provided incriminating statements to the police withdrew them at trial.
42. Further, the findings of a 2005 independent fact-finding team (FFT), which was established by the President, was disregarded by the government and has never been published. In 2010, Komnas HAM also identified flaws in the police investigation, prosecution and trial of Muchdi and recommended a new police investigation.
43. Members of civil society have asked the State Secretariat to publish the FFT report, but there has been no response so far. The dispute between civil society and the Government over the release of government findings regarding Munir's death continued in the Public Information Commission in 2016. The commission ordered the disclosure of the Munir FFT findings to the public and requested the State Secretariat to disclose the document. However, the State Secretariat refused to disclose the document because they claimed that it is missing and it is unclear which state institution held the document. As of this submission, the government has still resisted to recognize the existence of the official Munir FFT investigation report.
44. As the case of Munir is a premeditated murder, another advocacy campaign was conducted to acknowledge the case as a gross violation of human rights. In 2023, Komnas HAM officially formed an *ad hoc* team to investigate the allegation that Munir's death was a gross human rights violation.

*Suggested recommendations:*

45. *Immediately disclose the Munir FFT investigation report to the public as a form of truth-telling process.*
46. *Immediately prosecute the main perpetrators of Munir's murder.*
47. *Have the Komnas HAM declare the case of Munir Said Thalib as a gross human rights violation and continue the judicial process to the Attorney General Office (AGO).*

*Stolen Children of Timor-Leste*

48. Based on the LoI of ICCPR in 2023, the Committee requested the following information: *the implementation of the recommendations issued by the Truth, Reception and Reconciliation Commission, in 2005, and by the Truth and Friendship Commission, in 2008, including those on the search for, and reparation for, children who were displaced between 1975 and 1999.*
49. The "stolen children" are children from Timor-Leste who were forcibly taken by Indonesian officials during Indonesia's occupation of East Timor (1975-1999). The repercussions of these abductions continue to affect the 'stolen girls,' who are now adult women, causing



enduring psychological trauma due to their experience of violence within their adoptive families, including instances of sexual harassment. In Indonesia, they encounter difficulties obtaining citizenship documents necessary for accessing basic services. Moreover, they suffer abuse that affects their physical and mental well-being, and they face challenges in land ownership and employment due to their limited education.

50. However, beginning in 2013, AJAR along with civil society organizations in Indonesia and Timor-Leste and the national human rights institutions of Indonesia and Timor-Leste, started looking for these stolen children, taken from 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.<sup>14</sup>
51. To date, they are living in various parts of Indonesia, unable to return to Timor-Leste due to economic hardships, and fear of rejection and isolation. It is estimated there are thousands still separated from their families, unable to contact their families in Timor-Leste for many decades. Many families in Timor-Leste continue to look for their children, while some consider them missing persons or dead in conflict.<sup>15</sup>
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. As of this submission, the two countries have not implemented this recommendation.
53. There has been some progress in revitalizing positive initiatives from Komnas HAM. Recently, Komnas HAM reaffirmed its commitment by signing a Memorandum of Understanding (MoU) with Provedoria dos Direitos Humanos e Justiça (PDHJ) Timor-Leste in November 2023. This collaboration is in line with Strategic Goal 3 of the 2020-2024 Komnas HAM Strategic Plan. The MoU builds upon the cooperation established with PDHJ Timor-Leste back in 2010. One notable aspect of this progress is the joint effort by Komnas HAM and PDHJ to support the Reunification of Stolen Children initiated by AJAR and the Working Group of Stolen Children (WGSC), a coalition of Civil Society Organizations (CSOs) from Indonesia and Timor-Leste since 2013.<sup>16</sup>
54. However, the Timor-Leste government continues to bear the majority of the costs for reunion visits (approximately 35,000 USD per visit annually), while the Indonesian government covers only domestic flights from the individuals' current locations to Bali (approximately 3,500 USD), where they are prepared for re-entry into Timor-Leste.<sup>17</sup>
55. Unfortunately, travel restrictions imposed during the COVID-19 pandemic (2020-2021) halted the reunification efforts. Although the WGSC resumed the program in 2022 and 2023, the Government of Indonesia (GoI) has not resumed financial support for the reunification

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<sup>14</sup> See more: <https://asia-ajar.org/press-release/indonesia-timor-leste-survivors-to-reunite-and-reconcile-at-the-ninth-reunion-for-timor-lestes-stolen-children/>

<sup>15</sup> See: AJAR, Long Journey Home: Stolen Children Timor Leste, available at <https://asia-ajar.org/2016/08/long-journey-home-stolen-children-timor-leste/>

<sup>16</sup> See more: <https://www.komnasham.go.id/index.php/news/2023/11/20/2453/tandatangan-mou-komnas-ham-pdhj-timor-leste-perkuat-kerja-sama.html>

<sup>17</sup> Sarkin, J., & Martinez, E. C. (2022). The Global Practice of Systematic Enforced Disappearances of Children in International Law: Strategies for Preventing Future Occurrences and Solving Past Cases. *Cath. UL Rev.*, 71, 33. Available at: <https://scholarship.law.edu/cgi/viewcontent.cgi?article=3618&context=lawreview>

process, citing the shifting priorities of the government budget in addressing the COVID-19 emergency.

56. It is crucial for the Gol to recognize the significant contributions of CSOs and joint NHRIs in both countries. This collaboration has not only facilitated the reunification of at least 102 individuals but also advocated for the ratification of the Convention on Enforced Disappearances (CED) with comprehensive reparations for the victims even after their reunification.

*Suggested recommendation:*

57. *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 victims, particularly stolen children.*
58. *Acknowledge the existence of stolen children as victims and provide comprehensive reparations that encompass support for their right to own a land, socio economic wellbeing, health and livelihood.*
59. *Ratify the convention against enforced disappearances to implement recommendations from the CTF and establish the commission mandate to search for the disappeared.*

#### *Progress of transitional justice mechanism in Aceh*

60. Based on the Lol of ICCPR in 2023, the Committee requested the following information: *the progress of the Aceh Truth and Reconciliation Commission.*
61. On 12 December 2023, the Aceh TRC launched their finding report titled *Peulara Damèe: Merawat Perdamaian (Nurturing for Peace)*<sup>18</sup> at the Plenary Session of the Aceh People's Representative Council from their work from 2016-2020. In *Peulara Damèe*, the Commission concluded that the Indonesian National Army committed crimes against humanity and war crimes during the conflict in Aceh between 1976 and 2005. In the report, the Commission also found that the Free Aceh Movement (GAM) committed violations of the Geneva Conventions and the law on protecting civil society and that international companies were involved and culpable in this conflict. The report provides recommendations for Gol and other relevant stakeholders.
62. The report is the culmination of the TRC's ongoing work since 2016. The report formally acknowledges the occurrence of crimes against humanity and recognizes that there are victims of serious human rights violations in Aceh who are still waiting for justice. This acknowledgement serves as an important foundation for efforts to achieve justice in Indonesia and other conflict areas in Asia and worldwide.<sup>19</sup>
63. As part of the preliminary work for the report, the TRC collected statements from 5,195 people in Aceh and conducted three hearings in 2018-2020.<sup>20</sup> In total, the Aceh TRC heard

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<sup>18</sup> See more in Bahasa Indonesia at: [https://kkp.acehprov.go.id/media/2023.12/buku\\_laporan\\_peulara\\_damee1.pdf](https://kkp.acehprov.go.id/media/2023.12/buku_laporan_peulara_damee1.pdf)

<sup>19</sup> See the press release: <https://asia-ajar.org/press-release/indonesia-aceh-trc-findings-report-peulara-damee-reveals-the-truth-and-acknowledges-crimes-against-humanity/>

<sup>20</sup> Asia Justice and Rights, 'Nurturing Memory through the Rumoh Geudong Monument in Aceh, Indonesia,' 12 July 2018. Available through: <https://asia-ajar.org/press-release/nurturing-memory-through-the-rumoh-geudong-monument-in-aceh-indonesia/>

testimonies from 50 survivors and witnesses of torture, enforced disappearances and human rights violations in Lhokseumawe<sup>21</sup> and Banda Aceh.<sup>22</sup>

64. In response to these testimonies, the Aceh Government issued a Decree on The Determination of the Recipient of Urgent Reparations and the Fulfillment of Victims of Human Rights Violations, which provided urgent reparations to 245 victims of human rights violations.<sup>23</sup> These urgent reparations consist of medical and psychological assistance, entrepreneurship, social insurance, and an administration registry with priority given to the elderly.
65. As of 2022, only 235 victims were able to receive these urgent reparations, as the other 10 victims had passed away without indicating any direct heirs. Moreover, the process was conducted using existing mechanisms in Aceh as part of “social assistance” for general citizens. This places the administrative burden on the victims since they must undergo a complicated process of submitting proposals to access the benefits.
66. Furthermore, Komnas HAM has finalized *pro justitia* investigations into four cases of alleged crimes against humanity in Rumoh Geudong, Jambo Keupok, Simpang KKA and Timang Gajah. These cases have been submitted to the AGO, but have not been followed up since 2021. One case of human rights violations in Bumi Flora is still being investigated.

*Suggested recommendation:*

67. *Immediately implement the recommendations from the findings report of Peulara Damèe.*
68. *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 who require special treatment*
69. *Conduct an inventory of sites of human rights violations and conduct official memorialisation on commemorative days as well as memorials and monuments with narratives of truth to commemorate historical events in Aceh;*
70. *Integrate the findings of the Aceh TRC through a human rights curriculum and peace and knowledge about the Aceh conflict in formal and religious education to support intergenerational learning and peace education for youth. Furthermore, these findings should become an archive for further development in establishing a site of conscience in Aceh and a human rights and peace museum as a form of learning at the Acehnese, National and Asia-Pacific regional level;*
71. *Take legal action against parties who have committed serious violations of international human rights law by establishing an ad hoc human rights court, including immediate follow-up on pro justitia investigations into four cases that have been investigated by Komnas HAM (the Rumoh Geudong, Jambo Keupok, Simpang KKA and Timang Gajah cases).*

*Ongoing human rights violations in Papua: current condition*

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<sup>21</sup> Asia Justice and Rights, ‘The Aceh Truth and Reconciliation Public Hearing: Providing Space for Victims of Torture to Voice Their Truth and Hope, 29 November 2018. Available through: <<https://asia-ajar.org/2018/11/29/aceh-truth-and-reconciliation-commission-public-hearing-2018/>>

<sup>22</sup> Asmunda, Alfath, ‘KKR Dengar Kesaksian 20 Penyintas Konflik Aceh,’ [KKR Listens to the Testimony of 20 Aceh Conflict Survivors], KBR, 20 November 2019. Available through: <[https://kbr.id/nusantara/11-2019/kkr\\_dengar\\_kesaksian\\_\\_20\\_penyintas\\_konflik\\_aceh/101388.html/](https://kbr.id/nusantara/11-2019/kkr_dengar_kesaksian__20_penyintas_konflik_aceh/101388.html/)>

<sup>23</sup> *Comparative Research on Gender & Reparations in South-East Asia: Aceh, Indonesia*, AJAR, 2022, <https://asia-ajar.org/resources/policy-papers/case-study-gender-reparations-in-aceh-indonesia/>

72. The ongoing issue of flagrant human rights violations, particularly on civil and political rights in Papua, is a significant concern. It was mentioned at least 12 times as a recommendation by other States in the 4th cycle of the Universal Periodic Review of Indonesia in 2023.
73. Armed conflict and unrest are further worsened by transmigration, natural resource extraction (which disproportionately affects indigenous women), and violence perpetrated by the state. Papua's special autonomy status through the implementation of Regulation No. 2 of 2021 (*UU No. 2 Tahun 2021*) was extended without re-evaluation or revision of the law on 15 July 2021. This regulation was written without the consultation or involvement of local communities and groups.
74. In December 2014, security forces fired indiscriminately at a crowd of people who had gathered for a peaceful protest. This incident killed four civilians and left 21 with serious injuries. AGO investigators submitted the Paniai case dossier in April 2022. As a result, prosecutors indicted suspect Isak Sattu at the Makassar Human Rights Court in Sulawesi.<sup>24</sup> However, victims and families expressed dissatisfaction over the fact that there was only one suspect. This is because witnesses had testified that gunshots were heard from 4 points, pointing to the existence of more suspects.<sup>25</sup> Nevertheless, after a seven-week trial, on 8 December 2022, Isak Sattu was acquitted. His charge of "crimes against humanity" was cleared and the presiding judge declared him not guilty due to a lack of evidence. He was deemed to have no command responsibility over the acts committed by the military personnels involved in the case.<sup>26</sup> This amounted to a denial of justice for victims and their families.<sup>27</sup>
75. During his tenure, former Papua Governor Lukas Enembe initiated the establishment of a Truth Commission in Papua. He tasked academics at Cendrawasih University in Jayapura to develop a draft bill for a Truth Commission. The Papuan Regional Parliament has since endorsed this initiative on Special Autonomy and has called for the central government to endow their support.
76. The Papuan Provincial Government and the TRC Team at Cendrawasih University aim to submit an academic paper that would be used as the basis for the regulations of the TRC. However, the establishment of the TRC is still subject to the approval of the Governor of Papua, who has to make a formal proposal to the central government.<sup>28</sup> According to Article 46 of the Regulation No. 21/2001 (*Undang-Undang Republik Indonesia Nomor 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua*), the establishment of the TRC shall be

<sup>24</sup> Aqil, A. Muh Ibnu, 'AGO Investigators hand over Paniai case dossier to prosecutors,' *The Jakarta Post*, 17 April 2022. Available through: <<https://www.thejakartapost.com/indonesia/2022/04/17/ago-investigators-hand-over-paniai-case-dossier-to-prosecutors.html/>>

<sup>25</sup> Jubi, 'State shows fake human rights concern in Bloody Paniai case, victim's family says,' 27 June 2022. Available through: <<https://en.jubi.id/state-shows-fake-human-rights-concern-in-bloody-paniai-case-victims-family-says/>>

<sup>26</sup> Teresia, Ananda and Lamb, Kate, 'Indonesian court clears ex-soldier of all charges in Papua rights abuse trial,' *Reuters*, 08 December 2022. Available through: <<https://www.reuters.com/world/asia-pacific/indonesian-court-clears-ex-soldier-all-charges-papua-rights-abuse-trial-2022-12-08/>>; KOMNAS HAM, 'Pengadilan HAM Untuk Paniai Terasa Kurang Greget,' [Human Rights Court for Paniai Does Not Feel Intense], 13 October 2022. Available through: <<https://www.komnasham.go.id/index.php/news/2022/10/13/2249/pengadilan-ham-untuk-paniai-terasa-kurang-greget.html/>>

<sup>27</sup> Jubi, 'AGO unfair in investigating Bloody Paniai case: ELSHAM Papua,' *Asia Pacific Solidarity Network*, 19 April 2022. Available through: <[www.asia-pacific-solidarity.net/news/2022-04-19/ago-unfair-investigating-bloody-paniai-case-elsham-papua.html/](http://www.asia-pacific-solidarity.net/news/2022-04-19/ago-unfair-investigating-bloody-paniai-case-elsham-papua.html/)>

<sup>28</sup> West Papua Daily, 'The Expansion of Papua Will Not Hinder the Formation of the TRC,' 14 July 2022. Available through: <<https://westpapedaily.com/the-expansion-of-papua-will-not-hinder-the-formation-of-the-trc.html?amp=1/>>

regulated in a Presidential Decree only after obtaining a proposal from the Governor of Papua.

77. Moreover, Local Special Law (Perdasus) No. 1/2011 was enacted in Papua to enhance the protection of women who are victims of violence and human rights violations. However, the law was passed without prior public consultation and adequate dissemination. Furthermore, it lacks several crucial sub-regulations. Various discussions and meetings have been conducted to incorporate sub-regulations into the Perdasus. In 2018, Komnas Perempuan advocated for the formulation of a Governor Regulation to include these sub-regulations. However, as of the time of this submission, no action has been taken to implement or adopt these sub-regulations into the law.
78. Furthermore, indigenous Papuans continue to experience large-scale loss of land due to ongoing conflicts and displacement, state land use policies, detrimental social norms experienced by women after incidents of violence, or a combination of these factors.<sup>29</sup> With the absence of governmental support, women victims continue to suffer long-term physical, social and economic impacts of the violations. While domestic violence is widely experienced, only a few cases are reported to the police, and even fewer cases are prosecuted in the judicial system.<sup>30</sup> At the same time, women in conflict are also vulnerable to new forms of domestic and community violence.
79. The government has also restricted freedom of the press in West Papua, evident in the harassment of local activists and media and the denial of foreign media, NGOs, and humanitarian agencies to access the region.<sup>31</sup>

*Suggested recommendation:*

80. *Revoke the militaristic approach of sending troops and stop violence in conflict areas.*
81. *Acknowledge the existence of victims of human rights violations, particularly women victims of conflict, and provide comprehensive reparations that encompass support for socio-economic, well-being, health and livelihood.*
82. *Promote freedom of the press in West Papua. Condemn harassment against local activists and media, and call for an end to the restriction of foreign media, NGOs, and humanitarian agencies from accessing the region. Emphasize the importance of transparent and open reporting.*
83. *Ensure Women's Rights Protections: Call for the comprehensive implementation of Local Special Law (Perdasus) No. 1/2011 on the Redress of Papua Women's Rights for Victims of Violence and Human Rights Violations. Advocate for the inclusion of key sub-regulations through collaboration with civil society, ensuring protection, and support mechanisms for women victims.*

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<sup>29</sup> For further information on land loss in Papua, see AJAR, *All the Birds are Gone Report*. Available at: <https://asia-ajar.org/2021/03/30/all-the-birds-are-gone-indigenous-women-speak-out-against-forest-loss-in-papua/>

<sup>30</sup> 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)

<sup>31</sup> Global Voices, 'Does Indonesia have a healthy free press? Not according to West Papua,' 09 May 2022. Available through: <<https://globalvoices.org/2022/05/09/does-indonesia-have-a-healthy-free-press-not-according-to-west-papua//>>

84. *Establish an official truth seeking and truth telling mechanism in Papua, in line with international standards, to address historical injustices, led by and with full participation of indigenous Papuans.*
85. *Immediate investigation and accountability for human rights violations in Papua to ensure accountability for perpetrators and provide justice for victims.*

Victims of 1965-1966 mass atrocities

86. General Suharto seized control of the Indonesian State in 1965. During his regime, the military carried out a wave of violence which saw between five hundred thousand to one million people murdered, and tens of thousands of others imprisoned for decades without trial.
87. As a result of General Suharto's anti-communist policies, members of the communist party and alleged communist sympathizers were institutionally discriminated against by the state. This discrimination was so extensive that their children and family members also faced discrimination.<sup>32</sup> These victims received official marks on their identity cards labeling them "former political prisoners", which served as a basis for continued stigmatization, neglect and discrimination.<sup>33</sup> 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 education and employment opportunities.<sup>34</sup>
88. Official GoI policies restricted the access of victims and their families to jobs, education, and social services. In 1981, the GoI issued an instruction (No. 31/1981) calling upon provincial governors and local administrative officials, in coordination with security forces, to conduct surveillance on all aspects of victims' lives, including their attitudes, behavior and all social-cultural, political, and economic activities.<sup>35</sup>
89. In 2012, the Supreme Court annulled Presidential Decree No. 28/1975 on the Discriminatory Treatment towards Those Allegedly Involved in the Failed Coup attempt on 30 September 1965.<sup>36</sup> The Supreme Court considered that this Presidential Decree discriminated against individuals allegedly 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. As of the time of this submission, the annulment Decree has not been issued.
90. 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

<sup>32</sup> 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.

<sup>33</sup> 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.

<sup>34</sup> 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.

<sup>35</sup> 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>

<sup>36</sup> Supreme Court Decision No. 33 P/HUM/2011

detention.<sup>37</sup> 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.

91. Nevertheless, hundreds of victims have been able to access psycho-social support and medical services through the LPSK. This is mainly because Komnas HAM has completed a pro-justicia investigation of their cases and has formally recognized these individuals as victims of human rights violations.
92. Through civil society advocacy, local governments have made many positive steps to provide partial reparations for victims. In Palu, Central Sulawesi, the Mayor of Palu issued an official apology to victims and provided them with redress and services, in the form of home repairs, scholarships, and access to government health services, sanitation facilities, clean water, and economic empowerment training for victims.<sup>38</sup> In Maluku, victims received new official marriage certificates, to replace those that had been officially marked as "former political prisoners". 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.<sup>39</sup>
93. After the issuance of Presidential Instruction No. 4/2023, several victims began to receive reparations in the form of premium health insurance and social assistance from the Ministry of Health. Recipients of this scheme are those who have been documented by PPHAM and agreed to be included in the scheme, which mainly includes victims in Palu, Yogyakarta, and Jakarta.

*Suggested recommendation:*

94. *Ensure victim's access to information to improve their rights standing to reach justice and reparation.*
95. *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.*
96. *Review and reform discriminatory regulations as well as implementation practices. Reissue any discriminatory legal documents and enforce any regulations that are not being followed as intended, including former political prisoners and their families.*
97. *Stop surveillance practices mentioned in Instruction No. 31/1981, ensuring the end of discriminatory monitoring of victims' lives. Promote policies that respect privacy and individual freedoms.*
98. *Initiate the revealing truth mechanism for the 1965 mass atrocities.*

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<sup>37</sup> AJAR 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>

<sup>38</sup> 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>

<sup>39</sup> Koalisi Keadilan dan Pengungkapan Kebenaran (KKPK), Justiabilitas 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

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

99. Repatriation of East Timorese refugees to Timor Leste has taken place since 1999. However, some still remain in Indonesia as they had been identified as human rights violators or no longer have relatives in Timor Leste who can help with repatriation. In 2022, the UN High Commissioner for Refugees declared the cessation of their refugee status, estimating that 28,000 ex-refugees remained in Indonesia. However, Timor Leste sources claimed nearly 200,000 individuals are still in West Timor, while the East Nusa Tenggara provincial government reported over 100,000 individuals remained in Indonesia.
100. Despite more than 20 years of being Indonesian citizens, these ex-refugees still face hardships in accessing basic housing, land ownership, and job opportunities. These problems extend to the second generation of refugees, who were initially initially displaced from East Timor to West Timor and were subsequently stuck in Indonesia after Timor Leste's formation.<sup>40</sup>

*Suggested recommendation:*

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

Rohingya People Stranded in Indonesia, Particularly in Aceh

103. Since 2009, waves of Rohingya individuals have sought refuge in Indonesia, primarily in Aceh. Initially referred to as 'boat people,' they were later identified as ethnic Rohingya refugees fleeing persecution and genocide in Myanmar. Typically, Rohingya arrivals in Aceh occur once or twice a year, or once every two years. However, since 2021, particularly following the military coup in Myanmar, the frequency of arrivals has escalated, with reports indicating arrivals occurring 3-9 times per year.
104. In November and December 2023, more than 1,600 Rohingya refugees (most of them women and children) landed in Aceh,<sup>41</sup> 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,<sup>42</sup> where they sought refuge from persecution in Myanmar, has led to refugees fleeing to neighboring countries. With Malaysia and Thailand closing their borders to refugees, Indonesia has become the primary destination for Rohingya refugees escaping from Bangladesh.

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<sup>40</sup>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/>

<sup>41</sup>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).

<sup>42</sup>ACAPS, *Bangladesh: Rising violence, insecurity, and protection concerns in Cox's Bazar refugee camps*, briefing notes, 12 May 2023. [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](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).



105. The public scrutiny brought about by the arrivals precipitated into a suspected organized 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.<sup>43</sup>
106. At the same time, the arrivals brought into view specific immigration policies which deprive refugees of their rights 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 meager 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 rights, 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:*

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

**Respectfully submitted,**  
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<sup>43</sup>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/>