

Specific Cases and Approaches in Advancing Women's Access to Justice

Countries in SEA are beginning to develop a growing collection of innovative approaches to advance women's human rights. Through landmark litigation, including a case submitted before the CEDAW Committee through the Optional Protocol, new standards and practice are evolving in the region as several countries aim to enforce CEDAW through the courts and ensure women's access to justice. Detailed below are current cases and approaches that illustrate the various ways of harnessing the judiciary to address different manifestations of gender discrimination and violations of women's human rights in both public and private spheres.

Legal Breakthroughs for Victims of Violence against Women⁴¹

Based on the records of Komnas Perempuan (National Commission on Violence against Women) in Indonesia, there were 216,156 cases of violence against women in 2012. About 66% of the cases occurred in the private sphere, an increase of about 5% compared to the number of cases in 2011. Sexual violence constitutes the highest number of incidents. Komnas Perempuan also recorded an increasing number of discriminatory practices in the name of morality that target women, from 282 cases in 2011 to 432 cases in 2012. Among the cases of violence against women reported, 102 of the complaints involved public officials as perpetrators.

In Komnas Perempuan's assessment, law enforcement officers treat domestic violence like any crime. They focus on procedural examination, which eventually lead to lenient sanctions and a lack of reparation and recovery for women victims. Generally the testimonies of husbands are given more weight and the circumstances of women victims are not taken into consideration, which can result in the re-victimization of women victims if they are charged as defendants rather than complainants. For example, if the wife reports her husband for abuse, the husband's testimony that he was the victim can be admitted and a countersuit can be filed against the wife.

In such cases of reciprocal complaints, Komnas Perempuan observed that the court tends to weigh the cases against each other rather than decide on the merits of each case. In one case, the High Court acquitted the woman victim who was counter-charged by her husband as the perpetrator of violence. The court dismissed the case against the wife based on a stereotypical notion that a wife is submissive and obedient to her husband so she could not have committed the crime. While she was acquitted, the verdict reinforced gender stereotypes about women and disregarded the evidence of domestic violence committed by the husband.

41. Presentation of Sri Nurherwati, Commissioner, Komnas Perempuan, Indonesia, 4 September 2013