

# Democratic Transition and Women's Rights

## UNDERSTANDING GENDER-EGALITARIAN POLICY CHANGE IN INDONESIA

In 1998, after three decades of authoritarian rule, women's organizations re-emerged across Indonesia in the participatory spaces opened up by the democratic transition and the decentralization process. This Brief outlines how women's rights advocates have taken advantage of this renewed participation to influence policy change on the issues of violence against women and domestic work. Progress has been made thanks to the ability to forge broad-based alliances beyond women's organizations. However, alliance and consensus can also collapse along the fault lines of custom and religion.

### Making Claims for Policy Change

Policy change is often the outcome of claims-making processes, which entail continuous and complex negotiations among multiple actors over the definition of the problem and the articulation of demands. In the case of gender-egalitarian policy change, actors include diverse women's organizations, other civil society organizations and a range of state bodies. In Indonesia, after the fall of the Suharto New Order regime (1966-1998), the transition to democracy represented a golden opportunity for civil society, including women's organizations, to make use of new mechanisms for political participation. At the same time, the process

of decentralization toward greater autonomy for provinces and districts triggered vibrant local-level democracy. However, different social, cultural, religious and political contexts affect the degree of women's mobilization and their strategies to engage with state actors. Furthermore, the complex plural legal system, which allows the implementation of customary and Islamic laws together with the national legal framework rooted in Indonesia's colonial past, has often resulted in disparities in legislation across the country.

### Seizing Opportunities for Change: Mobilization on Violence against Women

Sexual violence against women of Chinese ethnicity during the riots in May 1998, which eventually led to the resignation of President Suharto, provoked massive mobilization among women's organizations across Indonesia. In the ensuing post-Suharto reform process, organizations working on violence against women were able to achieve two major policy changes. First, they successfully pushed the new government to establish an independent National Commission on Violence against Women. Second, in 2004 the Eradication of Domestic Violence Law was passed thanks largely to the efforts of the National Policy Advocacy Network for the Elimination of Violence Against Women (JANGKA PKTP).

The JANGKA PKTP Network was led by a feminist group, the Indonesian Women's Association for Justice (LBH Apik), which drafted the Bill based on its experience in providing legal aid to victims of violence. Strong leadership and convening power

### The Research Project: When and Why Do States Respond to Women's Claims?

The project seeks to understand how policy change to strengthen women's rights occurs. It explores the conditions under which (i) claims by and on behalf of women are made, (ii) states respond to such claims, and (iii) non-state actors effectively trigger and influence policy change.

The research focuses on two key issues for gender equality: violence against women and the labour rights of female domestic workers. The choice of issues reflects the hypothesis that the nature of the issue—for example whether gender-based or class-based—in part determines both whether claims are made, and how the state responds to them. Violence against women is largely seen as a gender-based issue; while paid domestic work is usually seen as a class-based issue. Research is being conducted in China, India and Indonesia.

For further details, see the concept note at [www.unrisd.org/gender-claims-conceptnote](http://www.unrisd.org/gender-claims-conceptnote).



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meant that the LBH Apik was able to broaden the Network beyond women's organizations, garnering the support of human rights groups, religious leaders and scholars through the use of strategic arguments about the Bill's relevance for these constituencies. It also used mass media to tell victims' stories, placing the issue of domestic violence in the public domain.

The National Commission on Violence against Women was the most important state ally channelling women's claims from the Network to policy makers and members of parliament, with activities such as the distribution of information sheets. The Network was also able to exert electoral pressure through its direct influence on voting thanks to its extensive recognition within Indonesian society. When in 2003 the then-president Megawati did not actively support the approval of the Bill on the eradication of domestic violence, the Network and its members withdrew their support for her candidature in the next presidential elections. This pressure successfully convinced the president to take action, with parliament passing the Bill into Law before the end of the legislature.

### Combining Issues

This advocacy at the national level triggered mobilization at subnational levels, where women activists demanded district and provincial by-laws on violence against women. However, claims vary across districts and provinces and usually also include issues related to human trafficking, sexual exploitation and violence against children. For example, the by-law on violence against

women approved in West Sumatra in 2013 covers domestic violence as well as sexual assault, sexual exploitation and trafficking. In East Lombok, women's organizations successfully collaborated with children's groups and customary leaders against the misuse of the customary practice called *merariq*—misuse which often led to early marriage and sexual violence against girls.

Despite such successes, the alliances forged by women's movements are susceptible to fractures because of religious issues and the related understanding of women's morality and sexuality. The case of the Pornography Law, 2008, based on a Bill presented in 2006 by the Islamic factions of the national parliament, is illustrative. The Bill immediately caused a rupture between religious women activists, who supported it as a tool to protect children and women from sexual exploitation, and non-religious feminist groups and human rights organizations, which condemned it as a way to legitimize a regressive understanding of women's sexuality and morality. Opposition to the Bill was framed as anti-Islamic, moving the terms of the debate from women's sexuality and rights to religious confrontation. This weakened the cohesion of and the consensus within the JANGKA PKTP Network, leading to a significant reduction of support, also in financial terms.

## Women's Claims on Domestic Work: Broadening the Appeal

If some claims related to violence against women successfully crossed into the policy arena, claims on domestic workers' labour rights remain marginalized and controversial, despite the crucial importance of the sector, especially in urban areas. In Indonesia, domestic workers are mostly women from low-income households, who often migrate from rural to urban areas. Many women also migrate abroad to work as domestic workers. Children, both boys and girls, are frequently employed in this sector. In 2010, it was estimated that there were nearly two million women employed as domestic workers in Indonesia. The number of Indonesian women migrating overseas for such work is unknown. Furthermore, mobilizing domestic workers is challenging since they often do not recognize themselves as workers, and their participation is constrained by heavy workloads including domestic work in their own households.

The first attempt to make claims on behalf of domestic workers' labour rights was through the creation of the National Advocacy Network for Domestic Workers (JALA PRT) in 2004. This Network, an initiative of the National Commission on Violence against Women, was meant to flag the increasing violence against domestic workers. Initially only women's organizations working on violence against women joined, but it was later

### Studying Women's Claims-Making Processes in Indonesia: Methodological Approach

The project methodology assesses women's mobilization at both the national and the subnational levels, with studies in Jakarta for the national level; and Jember, East Java, West Pasanam, West Sumatra, East Lombok and West Nusa Tenggara for the subnational (province and district) levels. This allows the research to grasp the varied processes of women's mobilization within the diverse social, cultural, religious and political contexts which characterize Indonesia.

The members of the research team are feminist activists engaged in policy advocacy in grassroots organizations. The implication of being an activist doing research is twofold: on the one hand, personal experiences as an activist may colour assumptions and pre-conceptions about the research subjects (for example negative opinions of state actors); on the other hand, their direct experience in formulating claims and mobilizing women provides unique knowledge about the processes involved.

The research employs qualitative data collection methods:

- i. in-depth interviews with key actors—women activists, religious leaders, customary leaders, state officials, and human rights advocates;
- ii. focus group discussions at subnational level with representatives of non-governmental organizations, local governments and religious organizations; and
- iii. observation of advocacy activities.

## Indonesia: Case Studies Map



National Level	Provinces	Districts
1. Jakarta	2. East Java	5. Jember
	3. West Sumatra	6. West Pasanam
	4. West Nusa Tenggara	7. East Lombok

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expanded to non-governmental organizations working with both internal and international migrants, religious organizations working with domestic workers, and groups working on child labour. Consequently, the claims changed to acknowledge that domestic workers suffer not only from violence but also from lack of recognition as workers, absence of specific labour regulation of minimum wage, hours of work and leave, and no access to social protection. This led the Network to demand national legislation on domestic workers' labour rights. As it broadened its initial scope from violence against domestic workers to labour rights, the Network began to collaborate with trade unions. For instance, in 2010 the JALA PRT Network formed the Network of Domestic Workers Action Committee (KAPRT) together with the three main Indonesian union confederations.

As a result of these alliances, the key claims of the JALA PRT Network are: regulation of minimum wage, hours of work and leave; access to social protection; and the right to education for child workers. These are addressed in the Protection of Domestic Workers Bill, which was submitted to the Indonesian parliament and has been under revision since 2005. Another claim is the ratification of ILO Convention no. 189/2011 concerning Decent Work for Domestic Workers.

### National Strategies

Since 2004, the JALA PRT Network has used different strategies, in coordination with the National Commission, to keep the attention of policy makers on domestic workers' claims, including:

- street demonstrations and hunger strikes, mainly in front of government buildings in Jakarta, as well as hearings and meetings with politicians;
- a lawsuit in 2011 accusing the state of failing to protect citizens if they are domestic workers. The lawsuit was rejected in 2012, but the court's

opinion strongly recommended that parliament pass the Protection of Domestic Workers Bill; and

- use of international norms and pressure through the ILO country office, especially since the International Labour Conference adopted ILO Convention no. 189, and through the review process in the framework of the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW).

As a result of these activities, the National Legislation Programmes of both the 2004-2009 and the 2009-2014 legislatures included the objectives of (i) passage of the Protection of Domestic Workers Bill; and (ii) ratification of ILO Convention no. 189. However, while the Bill was discussed within the relevant parliamentary commission, it never reached the national assembly, and the Convention has yet to be ratified. Furthermore, over time the coordination between the JALA PRT Network and the National Commission has become less intense, making the role of the Commission as a bridge between civil society and the state less effective.

### Subnational Advocacy

National mobilization influences to some extent the advocacy at provincial and district levels. For example, national organizations began to channel claims related to domestic workers' labour rights to their subnational branches. In contrast to the national level, in the provinces entry points for these claims are often via other claims concerning, for example, violence against women, informal labour and child labour.

- In East Java, after a notorious case of violence against a female domestic worker, a local women's organization—Samitra Abhaya Women's Pro-Democracy—started to mobilize domestic workers and advocate for a specific by-law on domestic work.

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- In East Lombok, domestic workers initially joined a local initiative demanding a by-law on the protection of informal workers.
- In Jember, the presence of a high proportion of children in the sector pushed the International Labour Organization, local research institutes and local organizations working with migrants, children and on family planning to advocate for a policy on the elimination of child labour in 2010.

Nevertheless, despite some positive results due to a decade of intense action, advocacy has not achieved passage of national or subnational legislation, or the ratification of ILO Convention no. 189 on domestic workers.

## Initial Findings and Comparisons

Mobilization related to violence against women, and domestic violence in particular, has been successful at both national and subnational levels. In contrast, advocacy on domestic workers' labour rights is a long way from achieving concrete policy outcomes. Preliminary research findings indicate that the following factors have influenced the outcomes, in terms of policy change, of these two claims-making processes.

- For both issues, **democratization and decentralization** were crucial conditions to foster mobilization and policy change. However, these processes also opened up space for movements which oppose women's rights.
- Mobilization on the issue of domestic violence benefited from the **support of religious leaders**, whose influence over state policy decisions is strong. The Indonesian state tends to accommodate religion-driven claims—which can also lead to women's rights being blocked as in the case of the Pornography Law, 2008.
- Success in getting the Eradication of Domestic Violence Law, 2004, passed was largely due to cohesion among women's groups and their **ability to build alliances** with other civil society organizations such as human rights, religious and customary groups. Such alliance-building requires **strong leadership** to negotiate priorities among the multiple actors. That

was not the case with the National Advocacy Network for Domestic Workers (JALA PRT) which, despite collaboration with other civil society organizations (trade unions and migrants' groups), was unable to build more broad-based alliances due to weak internal leadership.

- The nature of the issues influences the degree of support, or resistance, from civil society and from state actors. **Domestic violence can happen to all women**, beyond ideological, ethnic, religious and class identities. However, claims related to women's sexuality and bodily autonomy can provoke **opposition from religious leaders and religious women's organizations**, as in the case of the Pornography Law, 2008. Domestic workers' labour rights present a different scenario. Regulating **domestic work directly affects the livelihoods of those middle and upper class women** who are policy makers or influential within trade unions, as it would restrict their ability to hire cheap domestic labour and therefore enter the labour market themselves.
- Successful mobilization for policy change depends on **adequate and regular funding** for advocacy and political activities for every issue, regardless of its nature and content.
- The **role of the National Commission** has been crucial for channelling claims within the state. The Commission has been effective when its advocacy is strongly supported by women's organizations, as in the case of the Eradication of Domestic Violence Law, 2004. By contrast, decreasing coordination between the JALA PRT Network and the National Commission over the years negatively affected policy advocacy on the issue of domestic workers' rights.

## Project Information

### Research Team

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### Updates

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