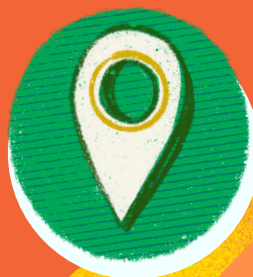
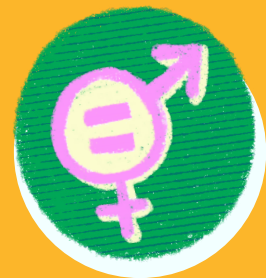




ENDING BARRIERS FOR WOMEN MIGRANT WORKER VICTIMS OF VIOLENCE IN ACCESSING JUSTICE AND RECOVERY

Implementation of the Integrated
Criminal Justice System to Handle
Cases of Violence Against Women
in the Provinces of Central Java
and West Nusa Tenggara (NTB)





Executive Summary

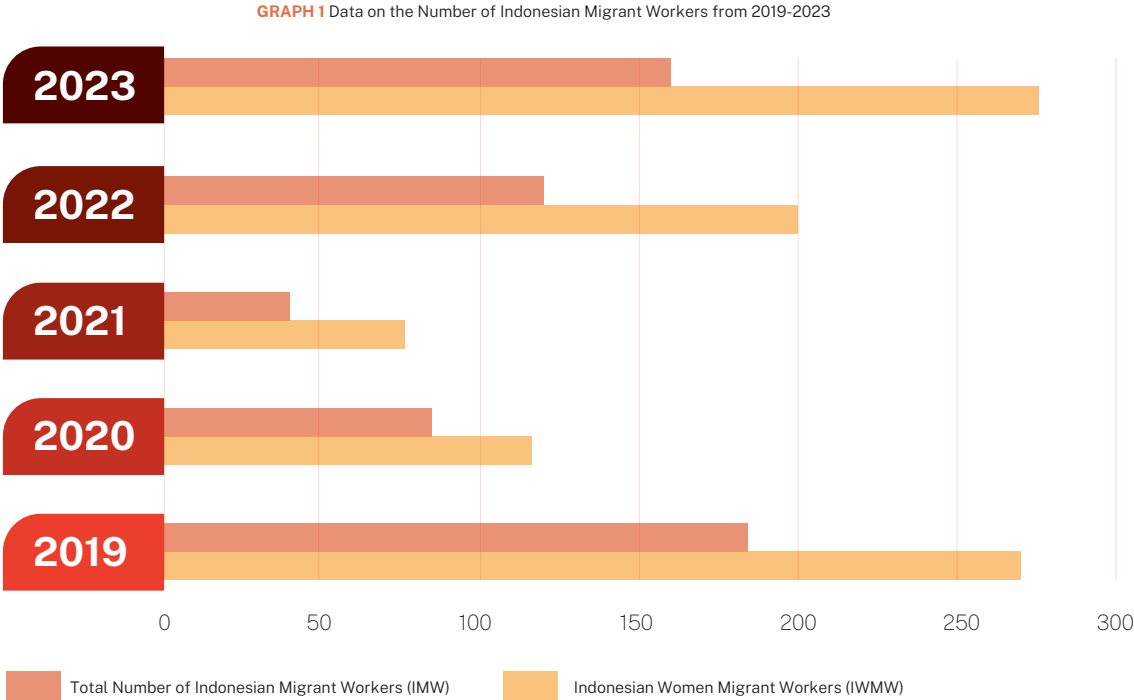
This policy brief is prepared to show the vulnerability and high rate of gender-based violence cases experienced by Indonesian Women Migrant Workers (IWMWs), the issues of access to justice and remedy in criminal court, the inadequate laws and regulations regarding Indonesian Migrant Workers protection, and the urgency for implementing an Integrated Criminal Justice System for Handling Cases of Violence Against Women (SPPT-PKKTP) to end various barriers to access to justice and remedy in the handling of gender-based violence cases experienced by Indonesian Women Migrant Workers (IWMWs), particularly in the Provinces of Central Java and West Nusa Tenggara (NTB).

The data presented in this policy brief were obtained from the study results conducted through data collection method, namely interviews with Indonesian Women Migrant Workers who survived gender-based violence, FGDs with relevant subnational government representatives, law enforcement, and service providers in Central Java and West Nusa Tenggara (NTB) Provinces, as well as document studies covering laws and regulations, research reports, case handling reports, data on Indonesian migrant workers (IMW), and data related to violence experienced by Indonesian Women Migrant Workers (IWMWs). The interviews and FGDs were carried out from December 2023 until February 2024.

Introduction

According to the data from the Indonesian Migrant Workers Placement and Protection Agency (BP2MI), in the past 5 (five) years, Indonesian migrant workers have been predominantly women.

Throughout 2019 to 2023, the number of Indonesian Migrant Workers reached almost 1 million people (939,274 people), 62% of whom are women (621,972 people).¹



1

1 Pusat Data dan Informasi BP2MI <https://bp2mi.go.id/statistik-penempatan>

Policy Summary

The Provinces of Central Java and West Nusa Tenggara (NTB) are some of the biggest senders of migrant workers in Indonesia. From 2019 to 2023, the number of Indonesian Migrant Workers from Central Java was 210,760 people, while the ones from West Nusa Tenggara (NTB) was 98,034 people. Unfortunately, the data on the Indonesian Migrant Workers placement by province is not yet gender segregated.

TABLE 1

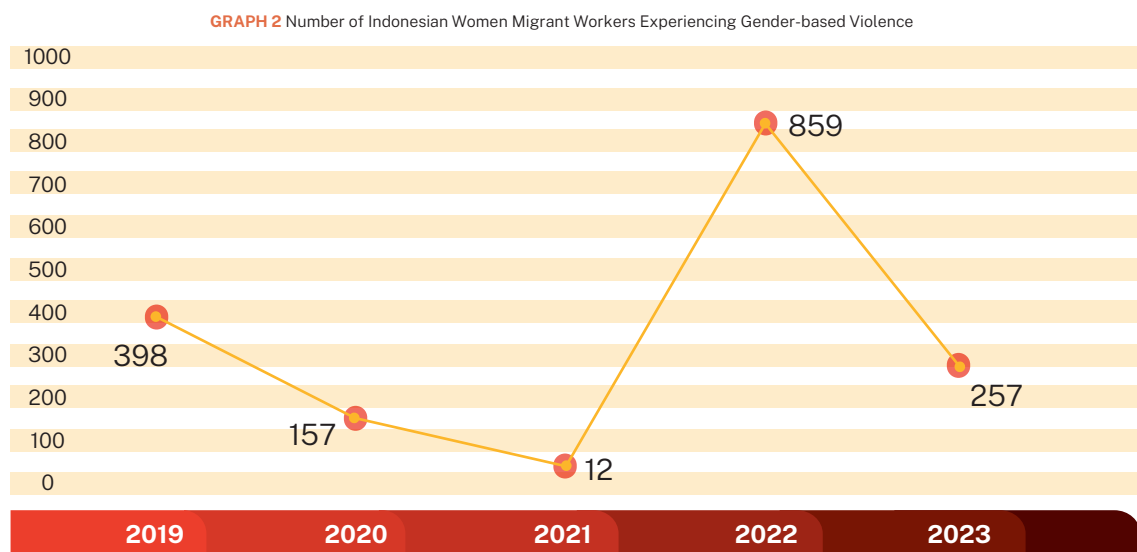
Table on Indonesian Migrant Workers Placement from 2019-2023 By Province

No.	District /City	Number
1.	East Java	179,074
2.	Central Java	210,760
3.	West Java	111,063
4.	Lampung	35,501
5.	West Nusa Tenggara	98,034
6.	Bali	16,635
7.	North Sumatera	15,535
8.	DI Yogyakarta	1,610
9.	DKI Jakarta	1,446
10.	East Nusa Tenggara	1,140

Source : Pusat Data dan Informasi BP2MI

Gender-based Violence Indonesian Women Migrant Workers

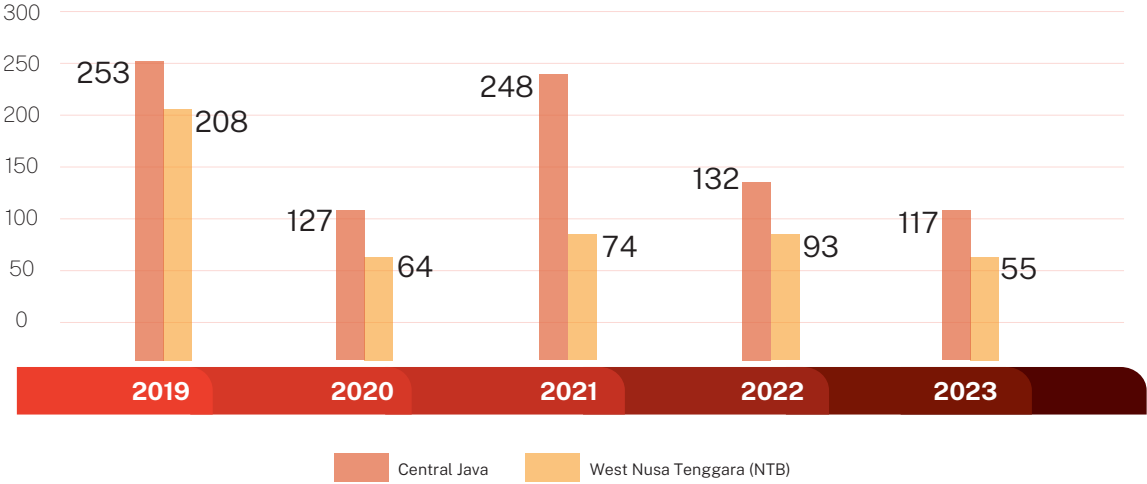
There are wide varieties of gender-based violence experienced by women migrant workers, including sexual, physical, psychological violences, economic exploitation, and human trafficking. They might experience these forms of violences at almost every stage of migration, namely before work, during work, and post-work. From 2019 until 2023, Komnas Perempuan (the National Commission for Ending Violence Against Women) recorded no less than 1,683 Indonesian Women Migrant Workers suffered from gender-based violence.



Source : Komnas Perempuan Annual Report on VAW

Meanwhile, there were 887 cases reported by Indonesian Migrant Workers from Central Java from 2019 to 2023, or averagely 177 reported cases per year. From West Nusa Tenggara (NTB) Province alone, there were 370 reported cases or averagely 74 cases per year.

GRAPH 3 Data on Indonesian Migrant Workers' cases in the Provinces of Central Java and West Nusa Tenggara (NTB)



However, it should be noted that not all victims reported their case to the police and go through criminal judiciary processes. There are at least five (5) fundamental barriers that limit, reduce and hinder Indonesian women migrant workers to obtain their rights to justice and remedy, namely:

1. Cross-border location of the crime, making it difficult to gather evidences;
2. The presence of criminalization, torture, intimidation, and threat of violence against the victims;
3. Law enforcement's perspectives and behaviors that are gender biased and discriminatory against the victims;
4. The lack of access to remedy when the victims go through the criminal proceeding; and
5. The victims' reluctance to report their cases to criminal courts.

Those barriers are aligned with the women's barriers and limitations of access to justice that were identified, the scope of which is governed in the General Recommendation of CEDAW Committee No. 33 regarding women's access to justice, particularly paragraph 3 regarding the barriers and limitations of access to justice for women; paragraph 10 regarding the interconnection between discrimination and barriers in the access to justice for women from vulnerable groups; and specific recommendations regarding access to justice for women in paragraph 15, 18, 25, 47, 49, and 51.

TABLE 2 Forms and Types of Gender-based Violence Experienced by Indonesian Women Migrant Workers from Central Java and West Nusa Tenggara Provinces

Forms and Types of Gender-based Violence Experienced by Indonesian Women Migrant Workers from Central Java and West Nusa Tenggara Provinces

Stage	Form	Jumlah
Before Placement	Physical	<ul style="list-style-type: none"> • Not given decent accommodations and food • Confinement
	Psychological	Insulted, degraded
	Sexual	Rape
Before Placement	Physical	<ul style="list-style-type: none"> • Physical abuse • Abuse using fire arms • Not given decent food
	Psychological	<ul style="list-style-type: none"> • Tricked into agreeing to carry unknown items (drugs) • Death threat
	Economic	<ul style="list-style-type: none"> • Salary not paid • Unilateral salary deduction • Salary is not as stated in the contract
During Placement	Physical	<ul style="list-style-type: none"> • Physical violence, including by officers and during interrogation
	Psychological	<ul style="list-style-type: none"> • Cursed by the intimate partner • Romance scam, tricked into carrying bags containing drugs • Scolded by the apparatus
	Sexual	Sexual harassment that ends in physical violence



Integrated Criminal Justice System for Indonesian Women Migrant Worker Victims of Gender-based Violence

Law on Indonesian Migrant Workers Protection (UU PPMI) which currently still doesn't have gender perspective. The law has not acknowledged and included the experiences of and IWMWs' special needs that are different from men migrant workers. IWMWs are more vulnerable to various kinds of gender-based violence at every stage of migration. The Migrant Worker Law covers pre-placement, during placement, and post-placement protection, yet only concerns administrative and technical labor protection aspects, and not the rights and services needed by women migrant workers who experienced gender-based violence.

The implementation of SPPT-PKKTP at subnational levels is important and relevant to ensure comprehensive protection is given to Indonesian women migrant workers by ending their barriers to access justice and remedy, ending the impunity of the gender-based violence perpetrators, and increasing the realization of the government's obligation to protect and fulfill the rights of IWMWs who are victims of gender-based violence.

SPPT-PKKTP is "an integrated system between the parties authorized in handling criminal cases with the parties authorized to provide remedial services for women victims during court proceedings that handle cases of violence against women."² SPPT-PKKTP also requires the inclusion of gender, victim, and human rights perspectives, as well as cooperation, coordination, and referral services when the victims go through the criminal proceedings from the case filing/reporting stage until the implementation of court's rulings.

The SPPT-PKKTP implementation in Central Java Province is a lesson-learnt that shows that since 2014, access to justice and recovery for women victims of violence has become relatively easier and faster when the victim is going through the integrated criminal proceeding at the court. This is because cases are handled through intensive coordination between law enforcement with subnational government units and service providers, such as Provincial/District Hospitals (RSUD), Provincial/District Mental Hospitals (RSJD), District Government Technical Implementing Unit for Women and Child Protection (UPTD PPA), *Rumah Aman* (Shelter), Social Office, Legal Resources Center for Gender Justice and Human Rights (LRC-KJHAM), and victim assistants. The said integration is strengthened by the Central Java Provincial Government through the Central Java Governor Regulation No. 78 of 2017 regarding the Implementation of Access to Justice for Women and Children Victims of Violence in the Integrated Criminal Justice System in Central Java Province, and Subnational Regulation No. 2 of 2021 regarding the Implementation of Women Protection.

The Provinces of Central Java and West Nusa Tenggara have a strong modality to continue and implement the SPPT-PKKTP. These include subnational policies, coordination between law enforcement officers with subnational apparatus and service providers, as well as availability of medical, psychological, legal, and social officers and services. Meanwhile, the Government of Central Java Province already has policies that explicitly include SPPT-PKKTP, as well as hospital-based integrated services that provide examination, treatment, and medicolegal services.

² Komnas Perempuan, *Membangun Akses Keadilan Bagi Perempuan Korban Kekerasan*, 2018



Dialog Nasional

Memperkuat Sistem Peradilan Pidana Terpadu Penanganan Kasus Kekerasan terhadap Perempuan (SPPT-PKKTP) untuk Memastikan Akses Keadilan bagi Perempuan Pekerja Migran Korban Kekerasan Berbasis Gender

Jakarta, 6 Juni 2024



Recommendations

A. Ministry/Agency, National Police, Attorney General, and Supreme Court

1. The Ministry of Women Empowerment and Child Protection (MOWECP), Ministry of Manpower and Transmigration (MOMT), Ministry of Foreign Affairs (MOFA), Ministry of Social Affairs (MOSA), Ministry of Health (MOH), National Police, Attorney General, Supreme Court, Witness and Victim Protection Agency (LPSK), and Migrant Workers Placement and Protection Agency (BP2MI) should implement the SPPT-PKKTP, including to protect women migrant workers victims of gender-based violence and human trafficking.
2. Incorporating the concepts, principles, and work mechanism of SPPT-PKKTP into the ministerial policies and programs regarding the handling, norms, standards, procedures, and criteria for women victims of violence, including Indonesian Women Migrant Workers, particularly for the Ministry of MOWECP, MOMT, MOFA, and MOSA, including in the laws and regulations or derivative policies of Law No. 12 of 2022 regarding Sexual Violence Crime.
3. The MOWECP, MOMT, MOFA, and MOSA include a specific category for gender-based violence experienced by migrant workers or for Indonesian Women Migrant Workers who experienced gender-based violence.
4. The National Police Chief should make/issue a Police Chief Regulation that specifically protects women victims who go through the filing, reporting, and interrogation processes at the police office.
5. The Attorney General should apply the Attorney General Regulation No. 1 of 2021 so that the handling of violence cases against women includes gender and human rights perspectives.
6. The Supreme Court should apply the Supreme Court Regulation (Perma) No.3 of 2017 to prevent revictimization of women in conflict with the law during the proceeding.

B. Witness and Victim Protection Agency (LPSK)

1. Increasing the capacity of law enforcement officers (investigators, prosecutors, and judges) on the submission for restitution, calculation of restitution, confiscation of restitution collateral, implementation of restitution decision, and confiscation of restitution, particularly in cases related to Indonesian women migrant worker victims of violence.
2. Increasing the compensations in form of medical services, psychological services, and other services for the Indonesian women migrant workers.
3. Refining the mechanism for the provision of/application for security protection for crime victims by making Indonesian women migrant worker victims of violence as entitled to security protection from LPSK.

C. Ombudsman of the Republic of Indonesia (ORI)

1. Conducting oversight on the implementation of public services regarding the handling of Indonesian women migrant workers who experienced gender-based violence, exploitation, human trafficking, criminalization, torture, cruel treatments that condescend dignity, and various forms of modern slavery, particularly to BP2MI, Indonesian Migrant Workers Service Agency (BP3MI), Subnational Unit for Women and Child Protection (UPTD PPA), LPSK, Provincial/District Hospitals (RSUD), and other relevant Subnational Government Units.
2. Disseminating information on channels and mechanisms for complaint and public services to all migrant workers, particularly women migrant workers.

D. The Provincial Government of West Nusa Tenggara (NTB)

1. Implementing the SPPT-PKKTP and integrating it into subnational policies/regulations, subnational planning and development policies, and standard operational procedures (SOP) for services for women victims of violence, including women migrant worker victims of gender-based violence and human trafficking.
2. Making a Cooperation Agreement involving the Governor and Subnational Police Chief, Head of High Prosecution Office, Head of High Court, Head of Subnational Office of the Ministry of Law and Human Rights, Head of BP3MI, and Head of Subnational Branch of Indonesian Advocate Association (DPD Peradi) to implement the SPPT-PKKTP.
3. Developing mechanisms for cooperation, coordination, and referral of services between the Provincial Government of NTB with the Provincial Police Office, Provincial Prosecution Office and District Prosecution Office, High Court and District Court, Head of Subnational Office of the Ministry of Law and Human Rights (MLHR), or Correctional Institutions (Prison), BP3MI, and DPD Peradi to implement the SPPT-PKKTP.
4. Including the data of gender-based violence experienced by Indonesian women migrant workers in the provincial data on violence against women and children.
5. Providing training on handling women migrant worker victims of gender-based violence and human trafficking with SPPT-PKKTP mechanism for UPTD PPA, One Stop Service Institution (LTSA), BP3MI, Women Empowerment and Child Protection Office, Social Office, Manpower Office, Health Office, Transportation Office, Population and Civil Registry Office, Provincial Hospital, Provincial Police, Provincial and District Prosecution Office, High Court and District Court, Subnational Office of MLHR, DPD Peradi, women organizations, Indonesian migrant workers assisting organizations, and other relevant stakeholders.
6. Making a directory or list of service providers for women victims of violence which is then disseminated to law enforcement agencies in NTB Province.

E. Provincial Government of Central Java

1. Renewing the MoU between the Governor of Central Java with the Chief of Provincial Police, Head of High Prosecution Office, Head of High Court, Head of Subnational Office of MLHR, Head of BP3MI, and Head of DPD Peradi to implement SPPT-PKKTP by including and adding the contexts, perspectives, and rights of women migrant workers and Law No. 12 of 2022 regarding Sexual Violence Crime.

2. Renewing the Central Java Governor Regulation No. 78 of 2017 regarding the Implementation of Access to Justice for Women and Children Victims of Violence in the Integrated Criminal Justice System in Central Java Province to incorporate the contexts, perspectives, and rights of women migrant workers victims of violence, and Law No. 12 of 2022 regarding Sexual Violence Crime.
3. Developing mechanisms for cooperation, coordination, and referral of services between the Provincial Government of NTB with the Provincial Office, Provincial Prosecution Office and District Prosecution Office, High Court and District Court, Head of Subnational Office of the Ministry of Law and Human Rights, or Correctional Institutions (Prison), BP3MI, and Subnational Advocate Association (DPD Peradi) to implement the SPPT-PKKTP that incorporates the contexts, perspectives, and rights of women migrant worker victims of violence, and Law No. 12 of 2022 regarding Sexual Violence Crime.
4. Incorporating the data on gender-based violence experienced by women migrant workers into the provincial data on violence against women and children.
5. Providing training on handling women migrant worker victims of gender-based violence and human trafficking with SPPT-PKKTP mechanism for UPTD PPA, One Stop Service Institution (LTSA), BP3MI, Women Empowerment and Child Protection Office, Social Office, Manpower Office, Health Office, Provincial Hospital, Provincial Police, Provincial and District Prosecution Office, High Court and District Court, Subnational Office of MLHR, Subnational Advocate Association (DPD Peradi), women organizations, Indonesian migrant workers assisting organizations, and other relevant stakeholders.
6. Making a directory or list of service providers for women victims of violence which is then disseminated to law enforcement agencies in Central Java Province.
7. Socializing the implementation of SPPT-PKKTP to District and City Governments.

F. Subnational Police, High Prosecution Office, and High Court in West Nusa Tenggara (NTB) and Central Java Provinces

1. Expanding socialization, dissemination and oversight of the implementation of Law No. 12 of 2022 regarding Sexual Violence Crime, Supreme Court Regulation (Perma) No. 3 of 2017 regarding Guidance to Adjudicate Women In Conflict with the Law, and Prosecution Office's Guidance No. 1 of 2021 regarding Access to Justice for Women and Children in Criminal Case Handling to all the apparatus and their subordinates.
2. Providing trainings on Law No. 12 of 2022 regarding Sexual Violence Crime, Supreme Court Regulation (Perma) No. 3 of 2017 regarding Guidance to Adjudicate Women In Conflict with the Law, and Prosecution Office's Guidance No. 1 of 2021 regarding Access to Justice for Women and Children in Criminal Case Handling to all the leaderships and subordinates in their institutions.
3. Enhancing cooperation, coordination, and referral to rehabilitation services for women victims of crimes related to violence against women and women migrant workers to UPTD PPA, BP3MI, LTSA, RSU, Social Office, Manpower and Transmigration Office, women organizations, migrant worker assisting organizations, and other relevant agencies.

G. BP2MI dan BP3MI

1. Preparing or renewing the SOPs on migrant workers case handling which integrate the principles and work mechanism of SPPT-PKKTP.
2. Making or enhancing cooperation in handling the Indonesian women migrant workers problems particularly those who experienced gender-based violence and human trafficking with relevant ministries or institutions at national level as well as with the relevant subnational government units and women organizations at provincial, district and city levels.
3. Increasing the capacity of national and subnational BP2MI protection officers in identifying gender-based violence cases and improving services to be more gender responsive and victim-centered.
4. Encouraging criminal judicial settlement for handling cases of women migrant workers experiencing gender-based violence and human trafficking at national and subnational levels.

5. Incorporating data on gender-based violence experienced by women migrant workers who ever experienced gender-based violence in the database containing Indonesian migrant workers's complaints and case handling.

H. Komnas Perempuan (National Commission for Ending Violence Against Women)

1. Conducting monitoring on access to justice and rehabilitation for women migrant workers who experienced gender-based violence.
2. Renewing the guidelines for framework and law to implement the SPPT-PKKTP that in the ways aligned with the development of international human rights legal instruments, national laws, regulations, and policies, particularly the General Recommendation of CEDAW Committee No. 33, General Recommendation of CEDAW Committee No. 35, Law No. 12 of 2022 regarding Sexual Violence Crime, Supreme Court Regulation (Perma) No. 3 of 2017 regarding Guidances to Adjudicate Women In Conflict with the Law, and Prosecution Office's Guidance No. 1 of 2021 regarding Access to Justice for Women and Children in Criminal Case Handling.
3. Supporting and strengthening regions that have implemented the SPPT-PKKTP and expanding the implementation of, and encouraging other regions to implement the SPPT-PKKTP as the government's way to implement the General Recommendation of CEDAW Committee No. 33, General Recommendation of CEDAW Committee No. 35, Law No. 12 of 2022 regarding Sexual Violence Crime, Supreme Court Regulation (Perma) No. 3 of 2017 regarding Guidance to Adjudicate Women In Conflict with the Law, and Prosecution Office's Guidance No. 1 of 2021 regarding Access to Justice for Women and Children in Criminal Case Handling.
4. Expanding the dissemination on the relevance and urgency of SPPT-PKKTP in creating a criminal justice system that respects, protects, and fulfills the human rights of women victims of violence, including women migrant worker victims of violence to the relevant ministries, agencies, and subnational governments.



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