



# Eliminating Discrimination as the Fulfillment of Human Rights for Prostituted Women in Indonesia

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## Abstract

This study aims to examine the role of the state in eliminating discrimination as part of fulfilling human rights for prostituted women in Indonesia. Discrimination against this group has continued to increase significantly, with restrictions on their fundamental rights due to their identity. Prostituted women often experience discrimination in femicide, restrictions on health services, and government policies. Despite the ratification of national and international regulations, the implementation of anti-discrimination measures has not been fully optimized. The study utilized a normative juridical method with a statute approach, focusing on an analysis of the 1945 Constitution, Law Number 39 of 1999 on Human Rights, and the international conventions CEDAW and ICCPR. The study evaluates the extent to which these legal frameworks address the protection and rights of prostituted women. The findings highlight a considerable gap between the legal norms and their practical implementation, indicating that existing regulations have not effectively eliminated discrimination. The findings are expected to contribute both theoretically and practically by strengthening legal reform efforts, particularly in relation to the implementation of Law No. 39 of 1999 on Human Rights and Indonesia's obligations under CEDAW, thereby supporting the development of more inclusive and non-discriminatory legal policies.

**Keywords:** Discrimination, Human Rights, Prostituted Women

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## 1. Introduction

Discrimination against prostituted women is a social phenomenon that continues to increase significantly in Indonesia. Based on the 2023 report by the *Lembaga Bantuan Hukum Masyarakat* [Community Legal Aid Institute] (LBHM), 20% of the public views prostituted women or sex workers as a group that disturbs society, a social disease, engaged in unlawful professions, lacking resilience in facing economic demands, lacking faith, and causing HIV. Such stigmatization not only creates social barriers but also contributes to the neglect of the human rights of this group of women. This phenomenon of discrimination makes prostituted women vulnerable to restrictions, exclusion, and harassment, which constitute violations of human rights.



**Table 1.** Types of Stigma Toward Key Populations

Stigma	Frequency
Sex workers are disturbing society	5
Sex workers are a social disease	4
Sex workers as an unlawful profession	1
Sex workers are not resilient in facing economic demands	1
Sex workers lack faith	1
Sex workers are the cause of HIV	1

Source: LBHM (2023)

The prejudice underlying discrimination is exacerbated by stigma that develops in society. Stigma, based on patterns of similarity, encourages people to generalize about a group. Myers (2012, as cited in Al, 2022) states that prejudice is a negative attitude and preconception toward a group and its members. A person who harbors prejudice toward a group tends to behave in a discriminatory manner. Prejudice is a strong and unfounded dislike or hatred toward a group based on negative stigma. In short, prejudice is a negative judgment or hatred toward a group, manifested through negative attitudes.

In Indonesia, prejudice against sex workers occurs in many forms of discrimination. The most frequent form of discrimination is raids or crackdowns, with a total of 31 cases, accounting for 32.9%. There were still 3 cases in which condoms were treated as evidence during raids, even though condoms are health tools that should not be stigmatized. One of the sanctions imposed, mandatory rehabilitation for sex workers, was found in 2 cases, along with the closure of localization areas in 3 cases.

The second most frequent form of discrimination is discriminatory policies against key HIV populations, including prostituted women, with a total of 13 cases or 13.8%. These policies are diverse and even codified in regional regulations. In 2012, *Peraturan Daerah Kota Palangka Raya Nomor 9 Tahun 2012 tentang Penanganan Gelandangan, Pengemis, Tuna Susila, dan Anak Jalanan* (The Palangka Raya City Regional Regulation Number 9 of 2012 concerning the Handling of Vagrants, Beggars, Prostitutes, and Street Children) was enacted. In addition, specifically, *Peraturan Daerah Kabupaten Balangan Nomor 1 Tahun 2021 tentang Pencegahan dan Penanggulangan Tuna Susila* (The Balangan Regency Regional Regulation Number 1 of 2021 concerning the Prevention and Mitigation of Prostitution) was issued.



**Table 2.** Discrimination against Key Populations

<b>Discrimination</b>	<b>Frequency</b>
Raids	31
Discriminatory policies	13
Criminalization based on sexual orientation and drug use	13
Dismissal based on sexual orientation, drug use, and HIV status	9
Restriction of the right to freedom of assembly	8
Discourse on discriminatory policies	4
Condoms as evidence	3
Mandatory testing	3
Closure of localization areas	3
Mandatory rehabilitation for sex workers	2
Dismissal from campus organizations	1
Expulsion from school	1
Bullying based on HIV status	1
Bullying of students due to gender identity	1
Deportation of foreign nationals	1
<b>Total</b>	<b>94</b>

Source: LBHM (2023)

Theoretically, discrimination can be explained from the perspective of human rights violations. According to the International Legal Resource Center (ILRC, 2009, as cited in Pavrez, 2024), discrimination eliminates the recognition of the fulfillment of the human rights of a person or group, ultimately erasing their essence of humanity. In the legal context, Indonesia has ratified various national and international instruments that guarantee the protection of human rights, such as the 1945 Constitution, Law Number 39 of 1999 on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR).

The state is expected to be at the forefront in guaranteeing the protection of human rights and enforcing relevant regulations. In reality, however, the data shows otherwise. The highest frequency of stigma cases was attributed to members of the MPR and DPR/DPRD, with 10 cases recorded by LBHM. Ironically, these very institutions are the ones responsible for drafting policies and should be ensuring the protection of those rights instead of contributing to their violation.



**Table 3.** Perpetrators of Stigma

<b>Perpetrators of Stigma</b>	<b>Frequency</b>
Members of the MPR, DPR/DPRD	10
Religious leaders	5
Health department officials	4
SATPOL PP	2
TNI	5
AIDS Commission (KPA)	4
Indonesian Pediatric Society (IDAI)	1
Vice President	1
Regional heads	7
Police	1
Former Ministry of Health officials	2
Village government	2
Mass organizations	2
Academics	1
Hospital directors	1
<b>Total</b>	<b>48</b>

Source: LBHM (2023)

The next largest perpetrators of discrimination are the police, followed by SATPOL PP. In connection with the previous table, the police conducted raids against sex workers. Most of those apprehended during these operations were sex workers caught in the act of working. In addition to sex workers, their clients were also subjected to these violations. These incidents reflect the persistent stigma and discrimination faced by this community.

**Table 4.** Perpetrators of Discrimination

<b>Perpetrators of Discrimination</b>	<b>Frequency</b>
Police	29
SATPOL PP	16
Regional heads	12
TNI	8
Community	5
Central government	4
Educators	3
Others	3
Village government	2
DPRD	2
National Narcotics Agency (BNN)	1
Mass organizations	1
Campus organizations	1
Chairperson of Special Committee	1
Regional Office of Law and Human Rights (Kanwil KUMHAM)	1



Immigration	1
Aceh Sharia Court	1
National Population and Family Planning Board (BKKBN)	1
Religious leaders	1
<b>Total</b>	<b>93</b>

Source: LBHM (2023)

Previous research relevant to this topic includes a study conducted by Wahyudi (2020), titled *Analisis Yuridis Terhadap Pelaku Diskriminasi pada Pekerja Seks Komersial dalam Perspektif Hak Asasi Manusia* (Juridical Analysis of Perpetrators of Discrimination Against Commercial Sex Workers from a Human Rights Perspective). This study focused on analyzing discrimination against sex workers from a human rights perspective but did not provide policy recommendations to address the issue. Another study by Kamilla (2022), titled *Diskriminasi Interseksional Terhadap Perempuan Pekerja Seks Sebagai Implikasi dari Kontradiksi Peraturan di Daerah Istimewa Yogyakarta* (Intersectional Discrimination Against Female Sex Workers as an Implication of Regulatory Contradictions in the Special Region of Yogyakarta), was limited to regulations in the Yogyakarta region. The shortcomings in previous studies are among the gaps this research seeks to fill. Although prostitution remains a criminalized and stigmatized issue in Indonesia, limited research has explored the legal and human rights dimensions of discrimination faced by prostituted women. This study seeks to bridge that gap by analyzing not only the patterns of stigma and discrimination but also the shortcomings in state response and regulatory frameworks.

## 2. Research Method

The research method in this study is normative juridical, namely an approach carried out through the study of theories, concepts, and legal regulations. The approach is a spectrum of the scope chosen to elaborate the substance of the study. The purpose of this approach is to obtain answers to the legal problems studied. The normative juridical legal research approach allows researchers to utilize the findings of empirical legal science and other sciences for the purpose of legal analysis and explanation, without changing the normative character of legal science itself (Karjoko, 2019, as cited in Rizkia & Fardiansyah, 2023). Normative juridical legal research examines legal aspects related to the internal problems of positive law, based on the view that law is a self-standing system (Benuf, 2022).

Normative juridical legal research is conducted through literature study based on secondary data. The normative juridical legal research approach consists of the statute approach, the analytical and conceptual approach, the case approach, the historical approach, the comparative approach, the fact approach, and the phrase approach. In this study, the approach used is the statute approach, with the basis of analysis being statutory regulations that are relevant to the legal issues as the focus of the study. This study adopts a prescriptive approach. Prescriptive research is research with the aim of obtaining recommendations on what should be done to address certain problems (Soekanto, 1986, as cited in Hindarta, 2022). This study produces arguments, theories, or new concepts in solving existing problems. The definition of prescriptive means that the object of legal science is the coherence between legal norms and legal principles, the coherence of legal



rules and legal norms, as well as the coherence between individual behavior and legal norms (Marzuki, 2021).

The validity of the data obtained was safeguarded because this study relied entirely on credible secondary sources, namely statutory regulations, international conventions, and legal literature. The use of primary legal materials, such as the 1945 Constitution, Law Number 39 of 1999 on Human Rights, CEDAW, and ICCPR, ensured that the legal framework analyzed was based on authentic sources. Secondary sources were then interpreted academically to minimize bias and strengthen the reliability of the analysis.

### 3. Results and Discussions

#### Discrimination Against Prostituted Women

Prostituted women, or *pedila* (perempuan yang dilacurkan), are victims of the crime of human trafficking. The term "prostituted" signifies that this group of women is passively employed or trafficked in prostitution (Prisilla, 2020). Referring to the Law on the Crime of Human Trafficking or *Undang-Undang Tindak Pidana Perdagangan Orang* (UU TPPO), victims are individuals who suffer, including in the sexual aspect, due to sexual exploitation rooted in prostitution. The UU TPPO defines prostitution and fornication as part of sexual exploitation and affirms the position of prostituted women as victims.

The use of the term "prostituted women" removes the negative stigmatization of this group and places them as victims of exploitation. Thus, responsibility should be addressed to individuals and patriarchal structures that perpetuate prostitution (Sukmariana, 2024). Prostitution, as part of the trafficking of women, entraps this group of women as prostituted women and confines them within the prostitution industry. Barriers emerge because they belong to marginalized groups, both due to gender and socio-economic conditions, which render them vulnerable to poverty.

Vijayarasa (2015, as cited in Anyiwe, 2025) emphasizes that there is no significant difference between human trafficking and prostitution. Prostitution not only harms prostituted women but also makes all women vulnerable to subordination. Prostituted women are not a group that rationally "chooses" prostitution over other jobs because of the benefits offered Barry (1995, as cited in Fouladiyan, 2025). Economic pressure renders the concept of freedom of choice irrelevant. Prostitution and human trafficking are often perceived as involving choices that are not entirely voluntary. This perspective ignores the fact that women involved in the sex industry have diverse experiences within the spectrum of migration, meaning that not all of them are forcibly trafficked. Rather, various economic and social factors influence their decisions to migrate and work. Social and economic inequality is the main factor that drives women into the sex industry.

According to Komnas Perempuan (2019, as cited in Setiawan, 2023), prostituted women are stigmatized by society through labels such as prostitutes and *tuna susila*. The term prostitute or "pelacur" derives from *lacur*, meaning misconduct. The derivative *melacur* means to act immorally and to sell oneself as a prostitute. Meanwhile, *tuna susila* refers to women who lack morals. These women are considered to have no decency and to behave improperly in sexual relations according to societal norms Koentjoro, (2012, as cited in Silomba, 2024). This stigmatization worsens the position of prostituted women, further marginalizing them from society.

In state policy, prostituted women are categorized as part of the group of *Penyandang Masalah Kesejahteraan Sosial* (People with Social Welfare Problems) or PMKS. Many local

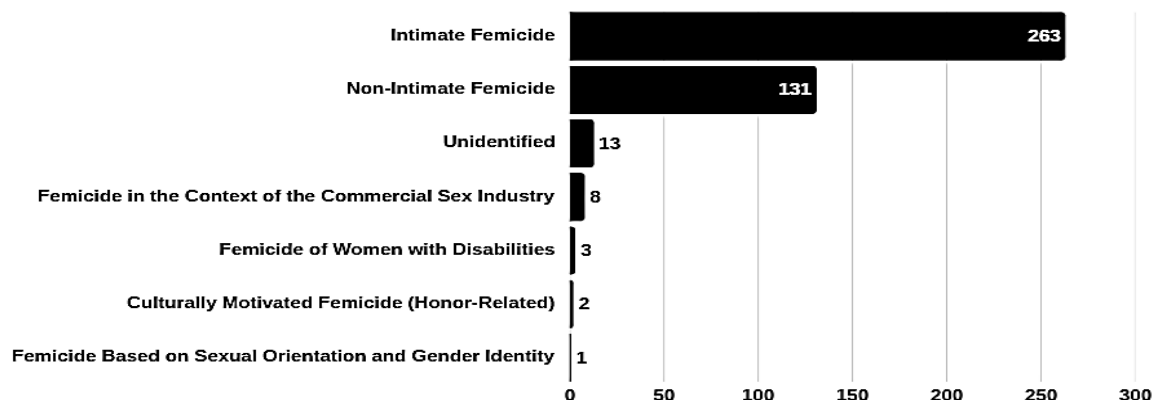


governments in Indonesia implement regulations in the form of regional bylaws focusing on the closure of prostitution areas as a measure to eliminate prostitution. However, these policies are not accompanied by comprehensive protection and recovery strategies, thereby exacerbating the spread of HIV/AIDS. As a result, after the closure of prostitution areas, prostituted women often fall back into prostitution because they lack access to sufficient resources to exit the industry. This marginalization also makes it increasingly difficult for them to access sexual and reproductive health services, both due to economic constraints and the stigma they face in healthcare facilities.

High levels of stigma and discrimination against prostitution cause government policies to remain limited to aspects of preventing sexually transmitted infections (STIs) and HIV/AIDS. Access to health services for prostituted women is relatively easier if they participate in government programs, such as HIV/AIDS prevention programs. However, if they come independently to seek medical treatment, they are often confronted with lengthy bureaucratic procedures as well as stigma from healthcare workers, who frequently pose inappropriate questions that worsen their situation. Prostituted women experience discrimination from multiple fronts through stigmatization in society as well as regulations that fail to protect and instead violate their human rights.

Prostituted women also experience numerous cases of femicide. Femicide is the most extreme form of the issue of violence against women and girls (WHO, 2012 in Komnas Perempuan, 2021). Femicide, as a criminal act that causes the death of women, is part of the crime of taking a life or murder, and constitutes one of the highest-ranking crimes in the classification of international crimes. Femicide, whether in the form of direct death or gradual death due to negligence and neglect, is a violation of women's human rights that must be comprehensively addressed by the state, regardless of the woman's background.

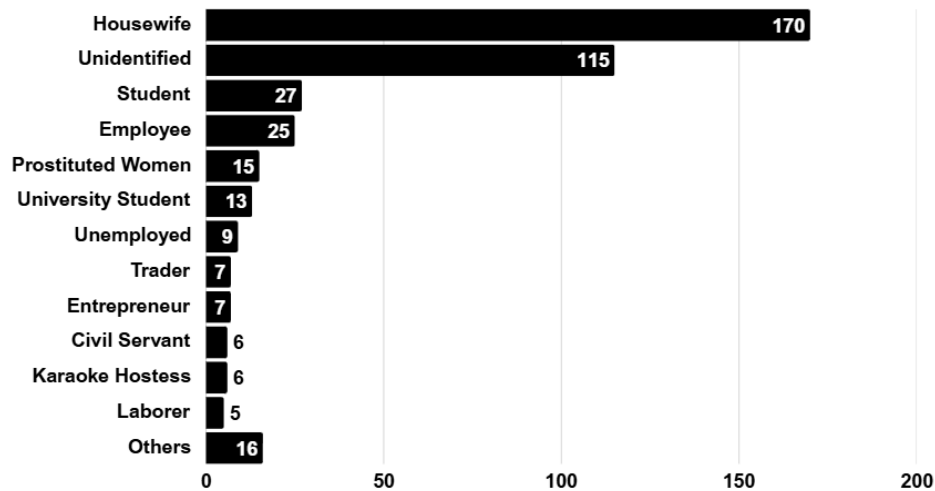
The categorization of femicide cases recorded in Indonesia during the period 2016–2020, based on data collected by Komnas Perempuan (2021) through online mass media, shows that femicide in the context of the sex industry accounted for 1.9% (8 cases). Femicide in the context of the sex industry is a specific category of femicide experienced by prostituted women and occurs within the sex industry. Murders of prostituted women in this category were committed by clients or sex service users, superiors responsible within the industry employing sex workers, and other groups. The most common reasons found in these cases were disputes over payment or hatred toward prostituted women.



**Figure 1.** Categorization of Femicide Cases in 2016–2020 (Komnas Perempuan, 2021)

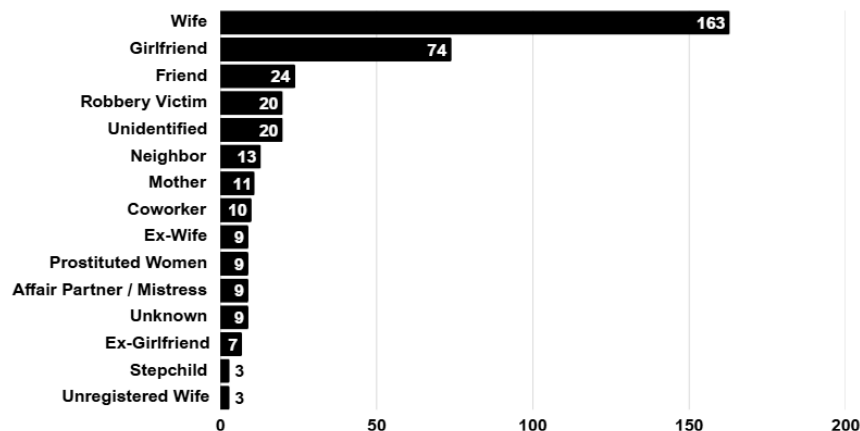


Data on femicide in the context of the commercial sex industry is reinforced by information on the victims' daily occupations. Prostituted women rank among the top five occupations most frequently affected by femicide for 3,56% (15 cases). This type of work is highly vulnerable, dangerous, and risky. In the absence of specific legal protection, prostituted women are especially exposed to violence triggered by various factors.

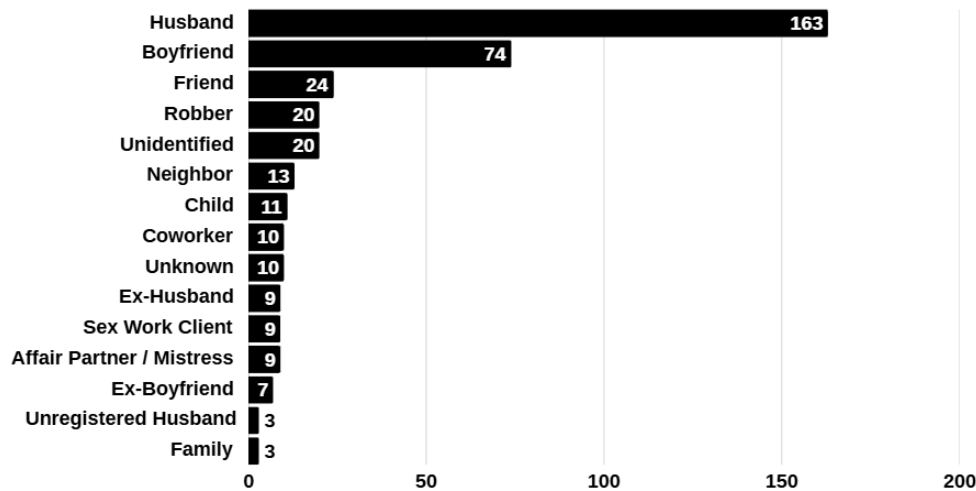


**Figure 2.** Occupation of Femicide Victims (Komnas Perempuan, 2021)

Data categorized by occupation and perpetrator–victim relationships, as identified through mass media monitoring, reveal considerable variation. However, the majority of cases remain concentrated in intimate femicide committed by close family members. Within this context, femicide involving prostituted women murdered by sex work clients accounted for 2.3% (9 cases). The predominant trigger identified in these cases was client dissatisfaction with the sexual services provided by the prostituted women.



**Figure 3.** Femicide Victims (Komnas Perempuan, 2021)



**Figure 4.** Femicide perpetrators (Komnas Perempuan, 2021)

The data findings based on the categorization of femicide cases in 2016–2020, occupation of femicide victims, femicide victims, and femicide perpetrators highlight how discrimination intensifies the risks faced by women in vulnerable positions. The absence of state protection further increases their exposure to violence. This vulnerability, left unaddressed, escalates to the most extreme outcome, namely femicide. The number of such cases has already reached an alarming level that requires urgent and serious attention for prostituted women in Indonesia.

### Legal Framework on the Elimination of Discrimination

Prostituted women have obtained legal protection through several regulations, such as the 1945 Constitution, Law No. 39 of 1999 on Human Rights, as well as international conventions, namely CEDAW and ICCPR in Indonesia. Article 28H(1) of the 1945 Constitution states, “*Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment and shall have the right to obtain medical care.*” Meanwhile, Article 28I(2) provides, “*Every person shall have the right to be free from discriminatory treatment on any grounds whatsoever and shall have the right to protection against such discriminatory treatment.*” The state, through its regulations, must respect, protect, and fulfill the rights of prostituted women to live in physical and spiritual prosperity and to be free from discriminatory treatment.

Law No. 39 of 1999 on Human Rights affirms in Article 3(3) that, “*Every person has the right to the protection of human rights and basic human freedoms, without discrimination.*” It continues in Article 4, which states, “*The right to life, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right not to be enslaved, the right to recognition as a person and equality before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced under any circumstances and by anyone.*” However, prostituted women still face various challenges, including torture in the form of femicide.

Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) emphasizes the role of the state in ensuring that there



are no discriminatory acts against women, as stipulated in Article 2(d), *“To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.”* In addition, Article 5(a) and (b), emphasize the importance of eliminating stigma and stereotypes against women caused by cultural practices. Article 5 states that, *States Parties shall take all appropriate measures* (a) *“To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”* and (b) *“To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases”*.

Law No. 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights (ICCPR) also affirms the necessity of preventing and eliminating discrimination against women and men, as stipulated in Article 2 of the Law, (1) *“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its Jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.* (2) *“Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”* (3) *Each State Party to the present Covenant undertakes,* (a) *“To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”,* (b) *“To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy”,* (c) *“To ensure that the competent authorities shall enforce such remedies when granted.”* However, referring to the existing factual situation, health services and access to health resources for prostituted women remain discriminatory and difficult for them to access due to stigma that is systematically entrenched in socio-cultural structures and religious teachings.

### **Addressing the Gap between the Legal Framework and Implementation**

Indonesia has a strong legal framework in guaranteeing the protection of human rights and the elimination of discrimination, including for women in prostitution. This is reflected in the 1945 Constitution, particularly Article 28H paragraph (1), which regulates the right to live in physical and spiritual well-being, to obtain housing, a good and healthy living environment, as well as health services, and Article 28I paragraph (2), which emphasizes the right to be free from all forms of discriminatory treatment and to be protected against such discriminatory actions. These guarantees are reinforced through Law No. 39 of 1999 on Human Rights, particularly Article 3 paragraph (3) and Article 4, which provide certainty that everyone, including women, has the right to be free from torture, discriminatory treatment, and is entitled to equality before the law. Furthermore, Indonesia’s commitment to the protection of women is affirmed in Law No. 7 of



1984, which ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), where Article 2(d) obliges the state to ensure that there is no discrimination against women, while Article 5(a) and (b) emphasize the importance of eliminating stigma and gender stereotypes. In addition, through Law No. 12 of 2005, which ratified the International Covenant on Civil and Political Rights (ICCPR), Indonesia reaffirms the obligation of the state to prevent and eliminate all forms of discrimination against both men and women as stipulated in Article 2. Thus, all the legal instruments that have been ratified affirm the obligation of the state to ensure the elimination of discrimination and to provide full protection for women in prostitution.

However, when this legal framework is compared with the practice of implementation in the field, there is a significant gap. The ideal legal norms are often not reflected in policies or bureaucratic practices at the national or regional level. Women in prostitution still face systematic discrimination, whether in the form of social stigma, exclusion, criminalization through local regulations, or denial of access to health services. This situation shows that although normatively the state already has comprehensive legal instruments, their implementation is still far from the principles of non-discrimination as mandated by the 1945 Constitution, the Human Rights Law, CEDAW, and the ICCPR.

The government must adopt a more comprehensive approach to address this gap. One crucial step is prioritizing the availability of information regarding the rights of women in prostitution, particularly related to reproductive and sexual health. The right to information is part of human rights guaranteed by national and international law. The absence of adequate information not only reduces the ability of women in prostitution to protect themselves but also increases the risk of rights violations, exploitation, and the spread of sexually transmitted diseases. The state must ensure the existence of an inclusive, stigma-free information system, both through health institutions and community education for women in prostitution.

As a state party to CEDAW, Indonesia is obliged to eliminate discrimination in the public service sector, particularly health services. The fact that discrimination still occurs in health facilities indicates weak monitoring mechanisms and sanctions against violations. State policy must firmly place discrimination as an act subject to administrative or legal sanctions. The Ministry of Health has the responsibility to provide reproductive and sexual health services accessible to women in prostitution, including services for the prevention and treatment of sexually transmitted diseases. This must be accompanied by capacity building of health workers through human rights- and gender-based education so that the services provided are unbiased, stigma-free, and respect the dignity of patients regardless of their background.

In addition to the health sector, the Ministry of Social Affairs also plays an important role in developing social and economic empowerment programs for women in prostitution. Empowerment is not only intended to eliminate the attached stigma but also to provide realistic pathways so that they do not remain trapped in prostitution or become victims of forced prostitution. Such empowerment programs must include prevention systems and recovery mechanisms for them to exit prostitution, as well as consolidation with civil society organizations that have long been active in assisting women in prostitution. A collaborative approach between the state and civil society is important so that policies are not only top-down but truly in line with needs in the field.

At the regional government level, policy reform must also be carried out. Many local regulations in fact criminalize women in prostitution, or even those merely suspected, which ultimately worsens their discriminatory conditions. Regional governments should instead direct



policies toward improving the quality of public services, particularly reproductive and sexual health services, as well as social empowerment programs. In this way, local policies can function as instruments of protection, not oppression.

The gap between the legal framework and implementation found in this study strengthens the conclusion that the state has not yet been optimal in carrying out its role as the guarantor of the fulfillment of human rights for women in prostitution. Clearer political and legal consistency, stricter monitoring mechanisms, and synergy between ministries and local governments are required to ensure that legal protection does not only remain at the normative level but is truly realized in practice. Through these comprehensive measures, Indonesia can achieve a more inclusive and just legal system for vulnerable groups.

#### 4. Conclusions

This study concludes that although Indonesia has established a strong legal framework to protect human rights and eliminate discrimination against prostituted women, there remains a significant gap between normative regulations and their practical implementation. Discrimination against this group persists through social stigma, exclusion, criminalization in regional regulations, and limited access to essential services such as reproductive and sexual healthcare. Existing laws, including the 1945 Constitution, Law No. 39 of 1999 on Human Rights, CEDAW, and ICCPR, provide comprehensive guarantees for protection and equality, yet the state's enforcement and monitoring mechanisms are still insufficient. To address this gap, the state must adopt a multi-faceted approach that includes stigma-free health and social services, empowerment programs to facilitate exit from prostitution, collaborative efforts with civil society, and reform of regional policies that criminalize prostituted women. Strengthening legal consistency, implementing strict monitoring, and ensuring coordination between national and local governments are essential steps toward fulfilling the human rights of prostituted women in Indonesia. Ultimately, the fulfillment of these rights requires not only legal recognition but also practical measures that protect, empower, and respect the dignity of this marginalized group.

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