

Legal Accountability for Human Rights Violations in Indonesia

I Gede Kesuma Narendra
Faculty of Law, Udayana University
Email: rakaswinta@gmail.com

Abstract

Serious human rights violations occurred in Indonesia despite the approval of several international human rights documents. Victims including their families and descendants have known suffering and loss. To this day, there are still many victims who have not received their rights. International law holds states accountable for the dignity of victims as individuals. This journal will look at approximately respecting victims' rights to effective and fair remedies and analyze the application of international human rights law in Indonesia in the field of respecting the rights of victims of gross human rights violations. The study was conducted using normative methods that collect and analyze information from various reading sources. The results showed that the right to know the truth (right to true), the right to justice (right before justice), the right to reparation and non-recidivism guarantees (guarantees not repeated) are one type of rights in the context of Transitional justice/Transitional justice must be returned to the victims. These rights are interrelated, so this should really be done. Concrete efforts have been made by Indonesia by establishing human rights courts to handle the cases of East Timor, Tanjung Priok and Abepura. Other attempts have been made in creating legal regulations. In fact, Indonesia only records and adjusts part of the rights. No current law encourages effective implementation, it is difficult to implement. So we must evaluate and review the existing legal provisions so that victims' rights are fully recognized and easy to apply.

Keywords: Human rights, victims, gross violations, reparations.

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I. Introduction

1.1 Background

The 1948 Universal Declaration of Human Rights became an international driving force for respect for human dignity. This dynamic is inseparable from the long history of all forms of global oppression and cruelty against humanity. World War I (1914-1918) killed at least 30 million people, and World War II (1939-1945) killed at least 100 million people for the first time before becoming a milestone role in the implementation of the Universal Declaration of Humanity as a document important internationally (Arthasalina, 2018). The Indonesian state also upholds human dignity and dignity, one of which is manifested through laws and regulations. From the beginning, elements of respect for human dignity and dignity were included in the formulation of the Constitution of the Republic of Indonesia (UUD NRI) Year 1945 (Majda El Muhtaj, 2005). This factor became more specific after the Constitution of the Republic of Indonesia was amended in 1945. Not only that, there are a number of other legal products that regulate and contain human rights, including the establishment of the National Commission on Human Rights.

Indonesia's seriousness in adopting various human rights legal instruments does not prevent human rights violations. Indonesia has not escaped from a number of conflicts that have led to gross human rights violations. Cases of gross human rights violations that occurred were the human tragedy of the 1965 massacre; Mysterious shootings (1982-1985); Talangsari incident in Lampung (1989); Enforced disappearances (1997-1998); Kerusuhan May 1998; shooting Trisakti, Semanggi I and Semanggi II (1998-1999); Wasior and Wamena in Papua (2000); common cases of aggression and counseling in Timor Leste; conflict cases in Aceh; the case in Abepura, There are also other cases involving human rights activists such as Munir (Kristian Erdianto, 2018).

There are indications that cases of gross human rights violations are now increasing and most of them are caused by community conflicts. One of them concerns violence against the Ahmadiyya Community in various areas which is still threatened today. Ahmadis in various regions have been displaced and resort to violence, even resulting in death. The presence of the State for protection is, of course, an obligation. Sometimes the opposite tends to happen and

choose to obey the wishes of protesters or the will of the majority by disbanding activities (Usman Hamid, 2019). Not to mention cases of community violence that lead to the destruction of culture and wealth of the people, as happened in Ambon, where the destruction of culture and customary objects is a symbol of identity, and community culture is not Note. no impact on humanity globally (Y.T.N. Dewi et.al, 2020).

Although cases of serious human rights violations in Indonesia are long gone, the deaths of hundreds of thousands, even millions of lives due to a series of crimes against survivors are a problem that cannot be forgotten. Victims often leave (die), but resolution and justice are not a matter of whether someone is alive or not (Manunggal Kusuma Wardaya, 2010). Of course, no matter how severe human rights violations are committed against the victims, they still cause suffering and losses to this day. Examples of losses experienced by victims include loss of property and wealth, employment, potential income, educational opportunities, medical expenses. The victims also suffered physical and mental disabilities as a result of the various abuses they endured. This suffering not only affects those who directly experience these gross human rights violations, but also their families and grandchildren. For example, the stigma against victims of the 1965 tragedy also afflicts their families and descendants, including Ibu Sumarsih who until now lost her son Wawan to become a victim, it has been more than 20 years since Mother. Sumarsih and other victims' families demanded justice from the government by holding a "Kamisian Action" in front of the State Palace on Wednesday week (Devina Halim, 2019).

The existence of several legal products should be used by the state in its accountability efforts, especially those related to the restoration and implementation of the rights of victims as aggrieved parties due to the events that happened to them. According to Van Boven, blatant violations of human rights will give rise to an obligation for the violating's State to provide compensation, even the aggrieved person has the full right to request compensation from national and international courts (Andrey Sujatmoko, 2016). Rehabilitation is important to bring justice to the victims. Efforts to recover real through the fulfillment of victims' rights in Indonesia are still seen as rhetoric. The efforts made are considered limited to coordination and deliberation between organizations that do not last long (Anwar Ilmar, 2017).

It is interesting to see that South Africa has violated human rights, apartheid, apartheid policies. During Nelson Mandela's reign, he was successful in his efforts to abolish apartheid and established the Truth and Reconciliation Commission (TRC) to carry out national reconciliation and rehabilitation, as well as to act as an opinion giver in national policy making. Similarly, East Timor has undertaken reconciliation and rehabilitation, including the customary ritual *nahe biti boot* (meaning: unfurling a large tapestry) for victims of crimes committed by Indonesian militias who overshadow the association who held during the Indonesian invasion and popular consultations (Commission for Reception, Truth, and Reconciliation (CAVR) in East Timor, 2010).

As many countries have done, efforts to restore and implement the rights of victims of severe human rights violations show respect for victims who are also human beings. The state exists to fulfill its responsibilities. Based on the principle of State responsibility, gross human rights violations are classified as international mistakes so as to give rise to international responsibility on the part of the State (Andrey Sujatmoko, 2016). Based on this description, the author will examine further related to the implementation of the rights of victims of gross human rights violations in Indonesia. This article does not take specific cash into consideration, as it will analyze and critique the country's common legal framework.

1.2 Problem Statement

What is the form of legal accountability for human rights violations in an effort to fulfill the rights of victims in Indonesia?

1.3 Purpose of Writing

The main objective of legal accountability for human rights violations is to ensure justice for victims of such violations. By imposing sanctions and carrying out legal proceedings against perpetrators of human rights budget mops, justice can be sought for victims and groups negatively affected by these violations. Legal accountability for human rights violations also aims to prevent similar violations from occurring in the future. By enforcing the law against perpetrators of human rights violations, it can serve as an example and warning to other individuals or groups who may be inclined to commit similar acts. It is

play a role in promoting respect for human rights and preventing lasting violations. In addition, it also aims to create a deterrent effect for violators and society at large. Through firm and proportionate law enforcement, it is expected that others will think twice before committing similar offenses. Deterrence or preventive effect is an important factor in preventing the recurrence of human rights violations in the future. Legal accountability for human rights violations also contributes to strengthening existing legal and institutional systems. Fair, transparent, and accountable legal processes in addressing human rights violations can strengthen public trust in the justice system and law enforcement agencies. In addition, effective law enforcement also plays a role in strengthening national and international legal frameworks that protect and respect human rights. Legal accountability for human rights violations also aims to provide remedies and remedies for victims of violations. Through due process of law, victims can seek justice and obtain appropriate compensation or restitution. In addition, law enforcement against human rights violations also helps improve society as a whole by upholding human rights principles and demonstrating commitment to underlying values.

2.1 Research Methods

A research method is a systematic and structured approach used to collect, analyze and interpret data to answer a research question or achieve a goal in a particular study. Research methods are used to construct the necessary steps and collect data and develop valid and reliable analytics. Based on the concept mentioned, the method used to prepare this log is the Standard method called Literature Research by Soejono Soekanto and Sri Mamudji (Soejono Soekanto and Sri Mamudji 2004). This form of monodisciplinary research is supported by a statutory approach (LAW), an evidence-based approach (practical method) and analytical and synthetic methods (analytical and conceptual methods).

2.2 Results and Analysis

When talking about human rights , it is certainly inseparable from the state as the subject of the obligation to respect human rights based on international human rights law . Politically and legally, the state has the authority and power to deploy its state apparatus to ensure that the people can enjoy human rights and basic freedoms. George Jellinek emphasized reinforcing the main obligations of the country with the theory and concept of positive and negative obligations. Negative obligations are characterized by the presence of the state only to respect and respect the rights of everyone, so that there is no direct interference from the state. At the same time, positive obligations are characterized by State intervention in positive actions or other actions, especially those in favor of economic, social and cultural rights (Mulki Makmun, 2019).

In its development, this concept is considered less relevant because there are still many people who experience human rights violations. This concept is seen as unable to keep up with the development of international, regional, and national political dynamics . Therefore, international jurists have redefined the obligations of states into no obligations, that is, obligations to protect , respect, and fulfil human rights in general (Andrey Sujatmoko. 2015).

The obligation to respect demands that the State avoid direct interference with the rights of each person. For example, a state that does not commit murder is respecting the people's right to life. The obligation to protect requires States to take special measures to prevent the occurrence of serious human rights violations. Meanwhile, the performance obligation of the State is obliged to take legislative, administrative, judicial and other necessary measures so that the State administrator is able to respect and protect the human rights of the State administrator (Mulki Makmun, 2019).

These core obligations have been mandated by the international community. This obligation must be carried out by the State, even if a person's rights are violated. The state's duty to protect appears considerable in dealing with victims of gross human rights violations, although that does not mean it fails to fulfill the other two obligations. This obligation is not only aimed at preventing gross human rights violations, but also

after the occurrence of gross human rights violations, including conducting investigations to prosecuting the perpetrators.

Furthermore, this obligation also supports recovery efforts by guaranteeing the rights of victims. In general, serious human rights violations occur during the reign of otoriter countries, although it may also occur in more democratic governments. In this context, there is a so-called transition period which is usually characterized by:

1. The fall of the head of the dictatorial government, but the part of the apparatus that depended on it remained .
2. The legislative, judicial, and executive remain the same.
3. There are cases of gross human rights violations that are not taken into account, so there is an urge to address all of them, both for perpetrators and especially for victims.
4. Various legal and political changes have taken place to lay the foundation for the life of the rule of law and democracy.

Addressing gross violations of human rights is one of the prerequisites for exiting the transition period. The problem of seeking justice for victims of gross human rights violations should have been achieved during the transitional period known collectively as transitional justice.

Ruti G. Teitel proposed 5 types of justice in the transition period which are understood as efforts to protect justice. These are criminal justice, historical justice, restorative justice, administrative justice and constitutional justice (Suparman Marzuki, 2012). The United Nations (UN) defines itself as transitional justice as a comprehensive process and mechanism mechanism for seeking peace among communities that have inherited large-scale lawlessness to Ensure accountability, serve justice, and achieve reconciliation. Finally, experts agreed to define the forms of rights of victims of gross human rights violations based on modern international law (humanitarian law, international criminal law, international refugee law and international human rights law) (Mulki Makmun, 2019). To achieve effective recovery known as the Four Pillars of Transitional Justice , which include:

A. Right atas Truth

The state often refuses to reveal and reveal the truth that actually happens when it is violated. This is one of the causes of repeated human rights violations. Revealing the truth is very important in revealing the root of the problem and the state and society will understand the real truth (Mulki Makmun, 2019). It is not uncommon for events or history to be reported to justify any action taken by the State through your device. Therefore, victims are discriminated against so that the next generation of the nation does not understand what is really happening. According to Ruti G. Teitel, the right to know the truth corresponds to one form of justice in the transitional period, namely historical justice. According to him, the disclosure of the truth about humanitarian events under the old regime is justice that needs to be found and studied so that it does not happen again. Ignoring facts about human rights in the past will affect the process of thinking about the socio-political life of a country in the future (Suparman Marzuki, 2012). The process of finding the truth about historical events or events can be carried out through official government channels. or informal by civil society. Formal truth-seeking efforts may include the establishment of a Truth and Reconciliation Commission (CRC), Komnas HAM investigative and investigative committees, fact-finding missions, criminal investigations and government-initiated investigations . In addition to determining the accountability of perpetrators, the judicial process is also an attempt to determine the truth of controversial events, because the transition period is a time of conflict between politics and history (Ruti G. Teitel, 2004). At the same time, informal efforts are often made by judicial authorities. society in response to government lethargy. Documenting violations, public reporting, investigating them, making documentaries, academic research and the like are frequent efforts by civil society.

B. Right to impunity

Impunity is often observed in different countries. It is not uncommon for actors to be effectively protected or even hold strategic positions in government

to avoid entanglement with the law. On the other hand, the victims are trying their best to keep asking the State not to forget what happened. Victims and the international community have the right to justice, where those who are perpetrators are held accountable for their actions through the judicial process, so there is no excuse (Mulki Makmun, 2019). Ruti G. Teitel also expressed a similar form, namely criminal justice) where rights are more directed, victims are recognized, guaranteed, protected, legal certainty and recognized equal treatment before the law (equality before the law). (ICC) domiciled in The Hague, Netherlands, with jurisdiction over crimes against humanity, genocide, war crimes and crimes of aggression; A mixed/joint court consists of prosecutors, investigators and several IM rights from the country concerned and internationally; or the National Court of a country.

C. Right to Reparations

States have an obligation to rebuild relationships with victims by providing care and ensuring accountability, one of which is with different compensation schemes. According to Jimenez de Arechaga, a former judge of the International Court of Justice, redress itself is a term describing the various ways in which a country is exempt from international legal action for infringing damages international obligations (Titon Slamet Kurnia, 2005). material and immaterial losses for victims (Theo Van Boven. 2001). According to some experts and international law, some compensation programs within the framework of trans content justice are as follows:

1. Restitution is an attempt to return or return the victim to the condition before his human rights were violated. These refunds are made by the author or a responsible third party .
2. Compensation is compensation for economic losses suffered by victims as a result of gross human rights violations. Such damages include physical or mental damage; loss of opportunities such as education and other benefits; physical loss and loss of income , including potential income; damage to character and reputation;as well as assistance fees

law, medical care, and treatment. The state will compensate whether the offender compensates or not.

3. Rehabilitation is an effort to recover by providing medical, psychological, legal and social services by the state.
4. Satisfaction (Satisfaction) This satisfaction consists of various kinds of steps taken by the state for the honor and morale of victims, starting from
 - (1) Effective measures aimed at stopping gross violations of human rights
 - (2) Complete substantiation of facts and open disclosure of the truth
 - (3) Search for missing persons, identities of abducted children, murdered persons, and assistance in recovery, identification and reburial of victims in accordance with family requests or family cultural practices
 - (4) An official statement or court statement restoring the dignity, reputation, and legal rights of the victim or others related to the victim
 - (5) An apology includes an acknowledgment of the facts and an acceptance of responsibility
 - (6) Judicial or administrative sanctions against persons deemed responsible for such violations
 - (7) Commemoration and respect for victims
 - (8) Include in human rights training, school textbooks or history, gross human rights violations committed accurately .
5. Effective Reforms Effective reforms provide victims with guarantees that violence and crime will not repeat themselves to them (Mulki Makmun, 2019).

D. Non-recurring guarantee

This fourth form of rights is aimed not only at the victims but also the general public of a country with an orientation towards future reforms.

Changes to ensure the non-recurrence of gross human rights violations depend largely on the context of institutions or systems that need to be reformed including laws, educational institutions, the justice system, the media, the security forces , and the political system. According to Ruti G. Teitel, this guarantee is in line with the administrative and constitutional courts. The administrative judiciary encouraged the systematic withdrawal of certain groups from their new government that participated. That the constitutional judiciary encourages reform or innovation in the field of justice whose general purpose is to uphold the principles of a democratic state and that human rights are recognized and respected (Suparman Marzuki, 2012).

Victims of gross human rights violations will receive justice and effective remedy. Even so, it is undeniable that it is difficult to develop it because it is hindered by a number of factors. Each case has different characteristics that affect the resolution process, so it is not uncommon for victims to end up fighting to restore one or more forms of rights in transitional justice.

Human rights violations are prevalent even during authoritarian rule. Think of other countries, such as Germany, South Africa, Australia, etc., most of them have even started to accept their dark history with the victims. Indonesia can also do the same, moreover, international human rights law clearly spells out the main obligations of states related to gross human rights violations. Article 2(3) of the International Covenant on Civil and Political Rights makes it clear that every State has an obligation to ensure the availability of effective remedies for victims through government agencies and existing judicial authority. As one of the countries that have ratified the Convention, Indonesia has an obligation to ensure that all victim recovery efforts can be achieved with simple mechanisms and implementation. Efforts to rehabilitate victims by exercising their rights can be divided into two different but related efforts, namely efforts within the legal framework and special efforts in implementation. Regulatory efforts are carried out by establishing legal regulations that will be the basis for law enforcement efforts. While implementation efforts / special actions are efforts that have been or are being carried out by a country to implement the provisions

Both efforts are actually carried out by Indonesia, carried out with due regard to the rights of victims. The government has made special efforts in acting with human rights justice mechanisms. This mechanism is one of the efforts that can provide certainty, guarantee, recovery, equality before the law for victims because they can exercise the right to justice, the right to know the truth and the right to justice.

Only three formal cases were brought before human rights courts, namely the case of gross human rights violations in East Timor (ad hoc human rights court), Tanjung Priok (established ad hoc human rights court) and the Abepura case (established permanent human rights court). For example, briefly discuss the case of East Timor and the case of Abepura. In the case of East Timor, it evolved from a series of events that occurred before and after the 1999 polls. Based on the results of investigations by Komnas HAM and the Attorney General's investigation team, it is clear that there are several perpetrators responsible for gross human rights violations in East Timor. Pangdam IX/Udayana, Maj. Gen. Adam R. Damiri is one of these officials because it is considered to have direct command in the regions of Bali, East Nusa Tenggara, West Nusa Tenggara, and East Timor (David Cohen, Fadillah Agus, and Widati Wulandari, 2008)

Komnas HAM succeeded in establishing the existence of common and systematic factors to determine the existence of flagrant human rights violations. Popular characters are characterized by major crimes committed in various fields and a large number of victims. While systemic elements can be seen from the pattern, way, or way of crime (David Cohen, Fadillah Agus, and Widati Wulandari, 2008). Adam R. Damiri must be held accountable because as Commander IX/Udayana he should be able to control or prevent his soldiers from carrying out a series of persecutions. As a Pangdam, he also cannot know the series of actions that lead to blatant human rights violations, let alone the actions that are planned or occur are not small and continuous.

The panel of judges sentenced Adam R. Damiri to 3 (three) years imprisonment. The tribunal's decision caused controversy because it contradicted articles 37 and 40 of the Law on Human Rights Courts No. 26 of 2000, which carries a prison sentence of 25 years with a minimum of 10 years. Despite the continuing controversy

At least, the panel of judges said the act was proven and did not let the perpetrators of flagrant human rights violations escape prosecution. However, Adam R. Damiri appealed and was acquitted. He was released after an appeals court overturned his previous sentence, arguing that the court had misapplied the law, had no legal basis, etc.

Unlike the case of East Timor, in the case of Abepura, the only permanent human rights court to date has been established in Indonesia. The case began with the attack on the Abepura Police Chief on December 7, 2000 by a mob which resulted in the death of a police officer. Not long ago, there was another attack at the Abepura roundabout by a group of mobs who damaged and killed a security guard of the Irian Jaya Kotaraja Autonomous Office named Markus Pradana who was immediately escorted by Police Commissioner Johny Wainal Usman as unit commander (Dansat) (Diajeng Wulan Christianty, Ifdhal Kasim, and Trihoni Nalesti Dewi, 2007).

Police conducted pursuits and seizures at various locations in and around Abepura, followed by arrests at the Jayapura Police Station and Abepura Police Headquarters. Through pursuits and detentions, this resulted in torture, mass executions, ill-treatment, arbitrary deprivation of liberty or liberty, arbitrary arrest and detention, property rights violations and relocation force. is a gross human rights violation committed systematically and widely. The KPP HAM report also accused Police Commissioner Johny Wainal Usman of responsibility. The KPP HAM's comprehensive findings do not bode well in the Abepura Human Rights Court ruling. In the end, the panel of judges acquitted the defendant and denied that gross human rights violations had occurred . One of the reasons is that the jury considers that the elements that are general and systematic have not been fulfilled, even though it can be clearly proven by the evidence found by KPP HAM. The judge's ruling is seen as a bad precedent for future human rights court rulings .

Special efforts to introduce new judicial mechanisms for all three cases are seen as important: Half-hearted efforts with outcomes that do not reflect justice for victims. The right to justice has not been exercised because

especially reflected in the punishment for the perpetrator, the responsibility of the offender and redress for the victim. In other cases of gross human rights violations, the process has stalled and not brought to justice. Therefore, it is not uncommon for victims and NGOs to make special informal efforts to perpetuate the memory of victims, through films, bulletins, works or research, academics, etc., based on the age of the deceased. young. As part of efforts to uphold the rule of law, Indonesia seeks to protect the rights of victims with various legal provisions that provide referral mechanisms and protection for victims. Article 8 of Human Rights Law Number 39 of 1999 confirms that the state in this case is represented by the government and is the guarantor of the protection, promotion, enforcement and realization of human rights. The victims did not escape the responsibility of the government. The following legal provisions in Indonesia examine efforts to protect the rights of victims of heavy human rights budgets:

1. Efforts to realize the right to justice in laws and regulations. This law can bring blatant perpetrators of human rights violations before the law to hold them accountable. For cases of gross human rights violations before the law is promulgated, special human rights courts can be established to try the perpetrators. Enforcement by human rights courts is difficult and there are only three cases. In three cases it was found that they did not provide a sense of justice to the victim. Several other cases appear to have been put on hold due to problems, including the dissolution of the Attorney General's Office on the grounds of insufficient evidence, although Komnas HAM repeatedly denied the issue of achieving justice. Not necessarily the establishment of a human rights court must also be carried out. requires the recommendation of the House of Representatives, because political factors obstruct and often contradict existing laws. Here are some cases that have not been followed up by the Attorney General's Office, namely a) the Trisakti, Semanggi 1 and Semanggi 2 cases; (b) Wasior and Wamena cases, Papua; (c) the murder of Talangsari; (d) May 1998 harvest; d) In the event that the activist is forced to disappear. Difficulties in court establishment procedures and lack of political will from the government and North Korea make the chances of restoring justice to the corps less than

hope. Based on the experience of three cases brought into the judicial realm, the results were not positive. In fact, from a legal point of view, it provides an opportunity to realize the right to justice with the existence of the Human Rights Court Law.

2. Efforts to realize the right to know the truth in laws and regulations This effort is carried out by Indonesia with KKR Law No. 27 of 2004 as a continuation of MPR Decree No. V/MPR /2000 2000. Commission A was formed to uncover the truth of several cases of gross human rights violations that occurred. However, there are irregularities in the law that are considered unconstitutional and submitted for judicial review, including (Wahyu Wagiman, 2019):
 - 1) The TRC reserves the right to request amnesti for perpetrators
 - 2) Cases that have been brought to the TRC cannot be legally resolved by the courts,
 - 3) The victim can be compensated if the perpetrator of the crime has been forgiven.

The Constitutional Court considered that the terms of compensation and amnesty for perpetrators clearly violated the provisions of human rights protection in the 1945 Constitution of the Republic of Indonesia. However, the Constitutional Court annulled the entire law, leading to the cancellation of the CRC. Although the Constitutional Court has recommended the passage of a new TRC law, so far it has not materialized.⁴⁸ Efforts to protect the right to know the truth continue both officially and informally. . Formally, this can also be done through human rights courts. The Human Rights Court will correct the facts that occurred, so that in its decision it can be concluded that there have been gross human rights violations . However, as explained in the previous discussion , the establishment of permanent or temporary human rights courts is still difficult to achieve, efforts through informal channels have also been carried out by many institutions non-governmental organizations (NGOs). While providing support to victims , many NGOs collect data on victims ' memory stories which are then recorded in the form of films, reports, books, etc. This effort is made to uncover the truth and is part of

From government supervision to continuing to fight to uphold the right to know the truth for victims through formal processes.

3. Efforts to concretize the legal rights of witnesses and victims (LPSK) to obtain compensation. Through the Human Rights Court Law, the compensation scheme covers only partial, namely compensation, restitution, and rehabilitation. Article 1 numbers 4, 5 and 6 of Government Regulation (PP) No. 3 Year 2002 concerning Compensation, Rehabilitation and Rehabilitation of Victims of Gross Human Rights Violations regulates:

- 1) Compensation is compensation provided by the state because the perpetrator is unable to provide proper compensation for which he is responsible.
- 2) Restitution is compensation to the victim or his family by the perpetrator or a third party, which can be in the form of the return of property, payment of damages or distress, or reimbursement of costs, costs for certain actions.
- 3) Rehabilitation is the restoration of a person's reposition, such as honor, prestige, position or other rights.

The wording of the definition of compensation makes it difficult for victims to receive compensation. Restitution requires the offender to be guilty and stipulates that the offender must make restitution first. This provision ensures that compensation is not required if the perpetrator is not found guilty by the court despite the admission of gross human rights violations (Supriyadi Widodo, Eddyono & Zainal Abidin, 2016). The award of compensation will always coincide with the punishment of serious human rights violators.

4. Non-Recurrence Guarantee

Efforts to respect guarantees are not repeated in Indonesian legal regulations. Several major changes or reforms were adopted by Indonesia after the collapse of the New Order regime. The reform was achieved through amendments to the 1945 Constitution of the Republic of Indonesia. The most notable change is the time limit for the power of state government where Article 7 stipulates that the office of President and Vice President is 5 years and can be renewed. Selected

for the same office for the same term . This regulation is intended to prevent government power outages , not limited in time to minimize abuse of power. In addition , the Constitution of the Republic of Indonesia of 1945 provides for more special respect for respect for human rights . The provisions of these provisions are inseparable from the experience of various gross human rights violations that occur. Various legal reforms have been carried out through the establishment of national legal instruments in the field of human rights . His efforts were carried out by ratifying a number of existing international human rights law instruments and then gave birth to Human Rights Law No. 39 of 1999 and Law on Human Rights Courts No. 26 of 2000. human. The existence of these two laws and the passage of several international human rights instruments means that other laws and regulations also pay attention to and respect human rights. MPR Decree No. V / MPR / 2000 Year 2000 concerning Strengthening Solidarity and Unity also paves the way for efforts to avoid repetition, especially for institutions. MPR decrees acknowledge gross human rights violations . The MPR decree calls for reforms in all fields so that this does not happen again and creates democratic space for all Indonesian people , including the obligation to form CRC. The KKR has not yet been formed after the Constitutional Court annulled the CRC Law. The MPR also officially separated the role of the Indonesian National Army (TNI) from the Indonesian National Police (POLRI) through MPR Decree VI of 2000. The TNI plays a role as state defense , while the POLRI plays a role in maintaining security. In addition, both the TNI and the POLRI must be neutral in political life and prohibited in actual government policy . The reform of the TNI and POLRI was also followed by other human rights organizations . As a result , the TNI, POLRI and others began to enforce human rights by conducting ongoing human rights training and establishing standard operating procedures (SOPs) to reduce violations.

Equally important is ensuring that effective implementation of regulatory changes is incentivized. The effects of this implementation have not been well implemented in Indonesia. There are still signs of gross human rights violations and the resolution of previous gross human rights violations is still stalled. Of course, if the revision of regulations is not accompanied by good implementation, there is no guarantee that gross human rights violations will not be repeated.⁶³ What is contained in the rule of law cannot be guaranteed to be different. human rights violations. Even if what is stipulated in the law is given to the victim, of course there will be no effective rehabilitation for the victim. Only the right to justice and part of the right to redress are recognized and regulated. To ensure no recurrence, some have been achieved by providing regulatory protections, and have not been fully met by ensuring effective implementation.

II. Cover

3.1 Conclusion

Every nation has an absolute obligation to protect, respect, and implement human rights to its people, including when serious human rights violations have occurred. Respect the rights of victims described in the framework of transitional justice, in which there is a process or attempt at peace with the legacy of past violations. Victim rights training should be referred to as the four pillars of transitional justice, namely:

- a) The right to know the truth (right of truth)
- b) Right to Justice
- c) The right to improvement includes compensation, compensation, rehabilitation, satisfaction and effective reform (efficiency reform); and
- (d) Be sure not to repeat.

These four rights must be exercised by the state in order to implement effective remedies for victims. Application of international human rights law

for State responsibility in The achievement of victims' rights in Indonesia requires certain laws and regulations and implementation efforts.

3.2 Suggestion

Based on the results of the study and discussion above, the author intends to propose and recommend to evaluate and reconceptualize existing legal regulations with in-depth research and discussion so that the rights of victims of gross violations of human rights regulated or recognized in Indonesia are in accordance with what should be given to victims in transitional justice framework and can encourage effective implementation.

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