

POTENSI DAN PROSPEK PENEGAKAN HUKUM HAK ASASI MANUSIA DI INDONESIA: TINJAUAN SUDUT PANDANG KOMNAS HAM

INTISARI

Oleh:

Alfina Sabila

Penegakan Hukum HAM di Indonesia terhadap kasus Pelanggaran HAM Berat (PHB) hingga saat ini belum terselesaikan. Upaya melalui mekanisme yudisial dan non-yudisial telah dilakukan oleh Pemerintah dan lembaga negara lainnya yang terkait. Akan tetapi, kedua mekanisme tersebut belum bisa dilakukan secara maksimal dan berakhir stagnan. Berdasarkan hal tersebut, penelitian ini ingin membahas potensi dari lembaga negara yang menjadi faktor penegakan hukum HAM di Indonesia, kemudian menganalisis prospek penegakan hukum HAM di Indonesia berdasarkan perspektif Komnas HAM.

Metode penelitian yang digunakan adalah normatif empiris dengan menggunakan data primer dan data sekunder. Data primer didapatkan melalui wawancara dengan Komisioner Komnas HAM, dan data sekunder melalui studi pustaka. Data primer yang didapatkan dilengkapi dengan data sekunder untuk menjawab dua rumusan masalah.

Hasil penelitian menunjukkan bahwa penegakan hukum HAM di Indonesia secara krusial ditentukan oleh *political will* (Presiden dan DPR), dan sistem hukum (Jaksa Agung). Presiden dan DPR berpotensi memprioritaskan penyelesaian kasus PHB ke dalam kebijakan nasional, serta menginisiasi pembentukan Pengadilan HAM *ad hoc*. Di sisi lain, Jaksa Agung berpotensi melakukan penuntutan dan memberikan rekomendasi pembentukan pengadilan tersebut kepada Presiden, meskipun saat ini prosesnya kerap terhambat oleh pengembalian berkas ke Komnas HAM dengan alasan “kurangnya bukti” yang didasari UU No. 26 Tahun 2000. Selain itu, Komisioner Komnas HAM menilai prospek penegakan hukum HAM oleh ketiga lembaga ini belum bisa dilihat secara optimis, mengingat mekanisme yudisial maupun non-yudisial belum mampu menyelesaikan kasus PHB secara komprehensif. Oleh karena itu, penelitian ini merekomendasikan agar Presiden dan DPR memprioritaskan penyelesaian PHB dalam kebijakan nasional serta merevisi regulasi terkait hukum HAM, untuk mengeliminasi praktik impunitas.

Kata Kunci: Penegakan Hukum HAM, Komnas HAM, Pelanggaran HAM Berat.

THE POTENTIAL AND PROSPECTS OF HUMAN RIGHTS LAW ENFORCEMENT IN INDONESIA: A PERSPECTIVE FROM KOMNAS HAM

ABSTRACT

by:

Alfina Sabila

Human rights law enforcement in Indonesia regarding cases of Gross Human Rights Violations (GHRV) remains unresolved to this day. Although both judicial and non-judicial mechanisms have been pursued by the Government and other relevant state institutions, these efforts have been suboptimal, ultimately leading to stagnation. Consequently, this research aims to explore the potential of state institutions as determining factors in human rights law enforcement and analyze its future prospects from the perspective of the National Commission on Human Rights (Komnas HAM).

Employing a normative-empirical methodology, this study utilizes primary data obtained through interviews with Komnas HAM Commissioners, complemented by secondary data gathered from a literature review. These data sources were integrated to address the two formulated research problems.

The findings indicate that human rights law enforcement in Indonesia is crucially determined by the political will of the President and the House of Representatives (DPR), as well as the legal system represented by the Attorney General. The President and the DPR possess the potential to prioritize the resolution of GHRV cases within national policies and initiate the establishment of an ad hoc Human Rights Court. Conversely, the Attorney General has the authority to conduct prosecutions and recommend the formation of the court to the President, although this process is currently hindered by the frequent return of investigation files to Komnas HAM on the grounds of "insufficient evidence," as stipulated by Law No. 26 of 2000. Furthermore, Komnas HAM Commissioners assess that the prospects of enforcement by these three institutions cannot be viewed optimistically, given that neither judicial nor non-judicial mechanisms have comprehensively resolved GHRV cases. Therefore, this research recommends that the President and the DPR prioritize GHRV resolution within national policy frameworks and revise human rights-related regulations to eliminate the practice of impunity.

Keywords: *Human Rights Law Enforcement, Gross Human Rights Violations, Komnas HAM.*