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Comparative Study between Indonesian Human Rights Court Act and Rome Statute Concerning Victim Reparation and The Urgency of Indonesia to Ratify Rome Statute
SATYA YOLANDA L, Devita Kartika Putri, S.H., LL.M.
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Comparative Study between Indonesian Human Rights Court Act and Rome Statute Concerning Victim Reparation and The Urgency of Indonesia to Ratify Rome Statute

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ABSTRACT

In the practice of Human Rights Court there is the right of reparation in which every victim of a violation is entitled to receive compensation, restitution and rehabilitation. However, major debates occurred in regards to whether Indonesian Human Rights Court has given an effective victim reparation mechanism, which is regulated under Law No. 26 Year 2000 and other related legal instruments. Subsequently the ratification of the Rome Statute became one of the notions to improve the victim reparation mechanism in Indonesia. This legal research seeks to compare victim reparation mechanism between Indonesian Human Rights Court Act and Rome Statute also whether it append the urgency for Indonesia to ratify the Rome Statute.

This legal research employs a normative and comparative approach to explain the existing legal problems. Normative research focuses on legal data, which includes laws and regulations and legal literature relevant to the problem. Whereas comparative research is carried out by comparing Indonesian Human Rights Court Act and the Rome Statute of International Criminal Court.

This legal research comes to a conclusion that firstly the International Criminal Court possesses an adequate, systematic and victim-centered compare to Indonesian Human Rights Act in regard to victim reparation mechanism; secondly Indonesia need to ratify the Rome Statute in order to give an appropriate reparation mechanism for victim of human rights violations.

Keywords : Indonesian Human Rights Court, International Criminal Court, Rome Statute, Human Rights, Victim Reparation.

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***Studi Komparatif antara Undang-undang Pengadilan Hak Asasi Manusia
Indonesia dan Pengadilan Pidana Internasional sehubungan dengan Reparasi
Korban dan Urgensi Indonesia untuk Meratifikasi Statuta Roma***

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INTISARI

Dalam praktek peradilan hak asasi manusia terdapat hak reparasi dimana setiap korban pelanggaran berhak untuk mendapat kompensasi, restitusi dan rehabilitasi. Namun perdebatan besar terjadi mengenai apakah Pengadilan HAM Indonesia telah memberikan mekanisme reparasi korban yang efektif, yang diatur dalam UU No.26 Tahun 2000 dan instrumen hukum lainnya. Selanjutnya ratifikasi Statuta Roma menjadi salah satu gagasan untuk memperbaiki mekanisme reparasi korban di Indonesia. Penelitian hukum ini berupaya untuk membandingkan mekanisme reparasi korban antara Undang-undang Pengadilan Hak Asasi Manusia Indonesia dan Statuta Roma serta apakah hal tersebut menambah urgensi bagi Indonesia untuk meratifikasi Statuta Roma.

Penelitian hukum ini menggunakan pendekatan normatif dan comparative guna menjelaskan masalah hukum yang ada. Penelitian normatif berfokus pada data hukum, yang meliputi pada undang-undang dan peraturan serta literatur hukum yang relevan dengan masalah yang ada. Sedangkan penelitian comparative dilakukan dengan cara membandingkan peraturan hukum disuatu negara dengan peraturan hukum di negara lain.

Penelitian hukum ini sampai pada kesimpulan bahwa pertama Pengadilan Pidana Internasional memiliki mekanisme reparasi korban yang memadai, sistematis dan berpusat pada pemenuhan hak korban; kedua Indonesia perlu meratifikasi Statuta Roma guna memberikan mekanisme reparasi korban yang memadai bagi korban pelanggaran Hak Asasi Manusia.

Kata kunci : Pengadilan Hak Asasi Manusia, Mahkamah Pidana Internasional, Statuta Roma, Hak Asasi Manusia, Reparasi Korban.

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