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Abstract

Index terms—

1 I. INTRODUCTION

Issues and news related to human rights have always been a polemic because human rights are inherent rights of a person that cannot be contested by anyone. Problems that continue to surface regarding injustice that interferes with a person's human rights are increasing day by day.

In fact, the laws governing human rights are very detailed. Provisions for constitutional guarantees of human rights are very important and even considered as one of the main characteristics of the rule of law principle in a country. However, in addition to human rights, it must also be understood that everyone has obligations and responsibilities that are also fundamental. Human rights are universal, interdependent and interdependent. The international community must act fairly in matters of human rights, on a basis of equality and concern. Even though the government has ratified many human rights instruments, they have not been properly implemented by law enforcement officials who are authorized by the government. Meanwhile, the political rights and legal status of men and women in the eyes of a country cannot be separated from the perspective of human rights (HAM) of that country. In the eyes of the Indonesian nation as a member of the international community, human rights are essentially the same as human rights in the eyes of the nations of the world, as stated in the Universal Declaration of Human Rights, in particular the Universal Declaration of Human Rights. Statement. Human Rights proclaimed by the United Nations on December 10, 1948. Every person throughout life since before birth has essential rights and obligations as a human being. The formation of a state or government, for whatever reason, must not eliminate the principle of rights and obligations that must be borne by every human being. Thus the guarantee of rights and obligations is not determined by a person's citizenship status. Everyone, wherever they are, must be guaranteed their basic rights. At the same time, everyone, everywhere, must respect the human rights of others as appropriate. A balanced perception of the existence of fundamental rights © 2023 London Journals Press Polemic on Human Rights Case is Still Rolling in Eastern Indonesia and obligations is an important feature of the basic conception of Indonesian people and humanity that is just and civilized. The Declaration of Human Rights in Indonesia has existed since time immemorial, but it is only committed to the basic directives of the state, namely those contained therein.

Even though the law has a broader purpose, namely to maintain legal authority, government power over legal norms that are violated regardless of the perpetrator's economic and social status, protect the interests of the state, society and individuals and prevent the spread of crime. The government's efforts to resolve gross human rights violations through mediation efforts primarily target gross human rights violations that occurred before the enactment of the United States Human Rights Court Act. This has been said in the discussion of the legal basis, particularly with regard to law. During the discussion, it was stated that the government is currently working to establish a Joint Truth and Reconciliation Commission to handle six of the seven cases of gross human rights violations investigated by Komnas HAM, namely:

Starting from the mysterious shootings from 1982 to 1985, the 1989 Talangsari Lampung incident, the enforced disappearances from 1997 to 1998, the May 1998 riots, the Trisakti incident, the Semanggi I and II incidents, and other tragedies. 7 of 1998 and 8 August 2014. Four residents were shot dead and 21 others were injured. injured when residents protested against TNI security forces who had beaten a group of youths the day before. These cases will be resolved through non-judicial means, namely mediation. This was done because it was difficult to find evidence, witnesses and suspects, because gross human rights violations had been going on for a long time as a result of the application of human rights and law in Papua was not expected by the people. Papua, where

there are obstacles in the implementation process. legislation for civil society. Many pro-democracy activists have been killed before being tried, while the Indonesian security forces responsible went unpunished or went unpunished. As a result, human rights are seen as a threat to national policies and regulations. For Papuans in an international context, access to Papuans is restricted because the government limits Papuans' contact with the outside world, such as forbidding members from visiting senators, congressmen, diplomats, foreign journalists, and outside aid workers nation. The author will examine the causes that led to the internationalization of human rights violations in Papua, because the author realizes that human rights violations experienced by people in Papua are increasing. Compared to previous years, the author will write about human rights violations, both big and small.

II. FORMULATION OF THE PROBLEM

Based on the background above, the author asks a question Study:

? Why did the issue of human rights violations occur in Paniai District? ? What is the responsibility of the state to resolve human rights cases?

III. RESEARCH PURPOSES

4 The aim of this research is:

To find out and analyze the factors causing the internationalization of the issue of Papuan human rights violations.

5 Benefits of research

This research is expected to provide benefits, including:

? Contribute to the development of the study of Law in the future.

? Provide information and become material for study for legal researchers, as well as observers of international human rights issues.

? Provide information to academics and practitioners who make policies in relations between countries in terms of overcoming conflicts in an area.

IV. RESEARCH METHODOLOGY

The method used in this study uses the Normative Research method, where the research steps include:

VI. DATA COLLECTION TECHNIQUE

The data collection method used by the authors in this research is to use a literature study, which collects data from documents related to the issues to be discussed and then analyzed. This material is in the form of books, documents, journals, magazines, newspapers and websites or reports related to the issues the author will discuss. In addition, the authors conducted field work at the location that became the object of this research, namely Paniai Regency.

VII. DATA TYPE

In this article the author uses primary data, namely data sources that provide data directly to the author (interviews, report data, photographic documents and other operational data). And secondary data are those that do not provide data directly to the author, such as through documents (books, articles, the internet and other electronic media) ??Hadir 1998, 137). The data analysis technique used by the author in analyzing research data is a qualitative analysis technique.

Problem analysis is a description that starts with existing data, then connects these facts with other facts to make appropriate arguments.

9 Sources of Legal Materials

Main legal documents Main legal documents are binding legal documents, including:

10 Secondary Legal Materials

Secondary legal documents are legal documents that explain primary legal documents such as research results and works of legal science such as

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Polemic on Human Rights Case is Still Rolling in Eastern Indonesia legal journals in electronic or printed media, publications, scientific books including theses, theses, theses.

12 Tertiary Legal Materials

Tertiary legal documents are legal documents that support first and second level legal documents by providing guidance, understanding and interpretation of other legal documents.

13 Techniques for collecting legal documents

Legitimate document collection techniques are one way to obtain and collect the necessary data. In this study, the technique used by Library Research Library Research examined written information about the legal protection of civilians in internal armed conflicts and human rights from various sources and direct publications such as legal works and scientific journals. Document review Document review includes examining written information about titles sought and those not publicly published. Such as theses, dissertations, theses and international journals. Analysis of legal documents. Data in the form of primary data and secondary data will be studied using qualitative methods in the form of logical and systematic descriptions, then analyzed to get an idea of how to solve the problem, from which conclusions are drawn deductively, knowing from general matters to specific matters.

14 VIII. DISCUSSION

15 Definition and History of Human Rights

Human Rights (HAM) deals with the basic concepts of people and rights. Generally, when we hear the word human, we automatically think of beings with feelings, thoughts, instincts, emotions, etc. Human Rights are rooted in the human belief that all humans as creatures created by God are equal and equal. Humans are born free, have the same dignity and rights. Therefore, people need to be treated equally and in a civilized manner. According to Briand Orend, someone who is allowed to have human rights must be a living human being. Dead or non-existent persons cannot be classified as human rights holders. 17 Orend further explained that the criteria for someone who is classified as a human rights person is someone who has an emotional reaction. Evaluations such as affection, emotion, sympathy, empathy, are factors that respond to immediate reality. It is this element that makes a person a person. Human rights are not only related to the concept of human beings but also related to the concept of rights. Rights, as Jack Donnelly believes, can be viewed from two perspectives. First, right means honestly emphasizing the normative aspect, namely the right or wrong of something. Second, rights can also mean rights, meaning that someone has the right to something. If the first aspect concerns standards of behavior that emphasize the obligation of right-holders to respect certain predetermined norms, the second aspect focuses on a person's right to enjoy something that is his right. Human rights are basic rights that enable people to shape their lives with respect for freedom, equality and respect for human dignity.

The rights which emphasize that people are free to choose their actions are fundamental expressions of human dignity and worth, and are at the heart of the formulation of a number of other rights, such as liberty, freedom of speech, conscience, religion). , assembly and association). , equal rights (equality before the law and protected by law, protection against discrimination on grounds of sex, race, colour, religion, national or other social origin), political rights (right to vote, equal access to public service or public rights, freedom to form political parties, right to petition, etc.), economic rights (rights) to private property, freedom of movement, etc.), collective rights (right to self-determination, protection of minorities and groups), rights to development, etc., the right to due process (especially with regard to the application of criminal law) All of these provide all human beings with the legal right to live in accordance with the principles of freedom, equality and human dignity.

Article 1 of Law Number 39 of 1999 concerning Human Rights states that: "Human rights (HAM) are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government, and everyone for the honor and protection of human dignity. Based on the law, it is emphasized that there is an obligation for every individual to respect the human rights of others.

16 IX. HUMAN RIGHTS INSTRUMENTS

At the United Nations, commitment to the realization and protection of human rights and respect for basic human freedoms is emphasized globally on several occasions, including in Article 1 paragraph 1.3:

"Increasing international cooperation in solving international problems in the economic, social, cultural and humanitarian fields, as well as promoting and promoting respect for human rights and fundamental freedoms" available to everyone regardless of race, gender, language or religion. Human rights and freedoms are also stated in the 1948 Universal Declaration of Human Rights through article 2: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without discrimination of any kind, such as race, skin colour, sex, language, religion, opinion, political or other opinion, national or social origin, wealth, birth or other circumstances.

This commitment was then followed up by the United Nations through the establishment of legal instruments that regulate human rights as follows:

? deportation, refoulement or extradition of a person to another country if there is sufficient reason to suspect that the person will be in danger (as a result of torture). ensuring that anyone who claims to have been tortured in any jurisdiction has the right to complain, ensuring that their case is heard quickly and fairly by the competent

authorities. ? ensure that complainants and their witnesses are protected from harassment or intimidation as a result of their complaint or testimony. ensure that victims receive compensation and (the right to receive) compensation that is fair and proper. The implementation of this Convention is supervised by the Committee against Torture (CAT) which was formed based on the rules contained therein. So, for Papuans, protest is an attempt to put the problem in the right place. After that, every protest movement was always suppressed with weapons, "however" this suppression spread everywhere to civil or social life in Papua. Thus, the struggle for human rights in Papua began to be seriously discussed. Even emphasized by international organizations that view every event that occurs in written or oral form. Communities in Papua have also begun to form movement organizations that can advocate for the grievances of the Papuan people.

X. STATE RESPONSIBILITY FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS

XI. HUMAN RIGHTS VIOLATIONS THAT OCCURRED IN PANIAI DISTRICT

The Origin of the Case of Human Rights Violations in Paniai, Papua Cases of human rights violations in Papua are not new cases, this case began on 7/12/2014. members of the Indonesian National Armed Forces (TNI) for driving a car and not turning on the headlights. However, this warning eventually led to an argument that led to the arrest of three teenagers by the military. Then, on 8 December 2014, in Enarotali district, Paniai province, a group of Ipakiye people came to the Enarotali Police and the Koramil to protest and ask for an explanation for the incident that took place on 7 December 2014.

In this action, the community held a demonstration by performing regional dances at the Polres and Koramil beaches. This dance is performed to express attitudes towards past abuse and harassment of mandarins. The plane also dispersed the community action with shots. This shooting occurred after a peaceful community protest. The shooting of an indigenous Papuan by the police and TNI left four people dead from stab wounds and hot bullets. Twenty-one people were also injured as a result of the persecution. One of the youngest victims was an 8 year old boy who was shot in the arm.

Following the incident in Paniai on 7 January 2015, Komnas HAM formed a Fact Finding Team (TPF). TPF's mission is to provide recommendations to the government. Then, in the same year, 18-20 February, Director Nasution, head of the TPF, met with witnesses and victims. The results of the meeting were then reported to the media that there were signs of violations of the four elements of human rights. These factors are the right to be free from violence, women's rights, the right to life, and the rights of children. Komnas HAM also conducted investigations and gathered evidence for approximately 5 years, from 2015 to 2020. Based on the results of an investigation conducted by a special team to investigate gross human rights violations, a universal decision was made. Everyone unanimously decided that a human rights violation was a flagrant human rights violation. M Choirul Anam as the head of the special team said that the Paniai incident met the elements of a crime against humanity in the form of murder and persecution.

Komnas HAM also stated that the perpetrators allegedly responsible for this case of gross human rights violations were the XVII/Cenderawasih Regional Military Command and the Enarotali Regional Military Command, Paniai. In addition, there was evidence of violations committed by the police, but these violations were not considered as gross human rights violations. This decision was taken based on the results of the examination of 26 witnesses, examination of the crime scene (TKP), examination of several documents, discussions with experts and various other sources of information. witnesses, conducted interviews at the TKP, examined supporting documents for the settlement of this case, and held discussions with a number of experts. Key witnesses during interrogation included the Coordinating Minister for Politics, Law and Security, several POLRI officers and Papuan and Paniai security forces. However, the TNI, as the source of information on the incident, ignored calls from Komnas HAM to provide information.

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Not only that, Komnas HAM has also collected evidence for forensic weapons testing, both in terms of weapons handling procedures and forensic testing procedures. Because it has been determined that this is a case of gross human rights violations, the authority to resolve this case lies with the Attorney General's Office. This is in accordance with the results obtained by Komnas HAM at the investigation stage. Currently, Komnas HAM has formed a team to collect preliminary evidence to be used as Komnas HAM documents which will be submitted to the Attorney General's Investigative Team to conduct an investigation.

After several times Komnas HAM submitted the results of the investigation, on December 3, 2021, the Attorney General's Office issued an investigative mandate. Based on the letter, an investigation team has been formed to investigate cases of alleged gross human rights violations in Paniai, Papua. The team of 22 senior prosecutors is tasked with finding and gathering more evidence from the Paniai case. This was done because the evidence previously collected by Komnas HAM was not sufficient to support the allegations of gross human rights violations

raised so that the perpetrators could be found immediately. Given the unresolved cases of gross human rights violations in Indonesia, the principle stated in Article 1(3) that Indonesia as a rule of law cannot be predicted as a country. The protection of human rights has been consistently enshrined in law, and the regulations still seem too far-fetched to say they are working well. The justice promised by the state is only rules on paper that do not run optimally in practice.

Factors inhibiting the resolution of serious human rights cases in Paniai Based on the explanation above, several factors hindering the resolution of serious human rights cases in Paniai, include: The miscommunication between Komnas HAM and the Attorney General's Office is troubling. , because it led to inconsistency in the handling of cases of gross human rights violations that occurred in Paniai. Therefore, there must be a relationship between the two agencies as stated in Internal Armed Conflict Provisions that apply to the protection of the civilian population (Papua) in armed conflict is the promulgation of the 1945 Constitution, Law no. 39 of 1999 concerning Human Rights and the provisions of international human rights treaties that apply in terms of the protection of civilians or civilians whose human rights are not protected and respected by the parties to the dispute in the homeland of Papua, especially rights that cannot be reduced. The Office for the Protection of Civilians (Papua) in the conflict that occurred in Papua uses national legal instruments, human rights and law as a legal framework for conflict-affected communities. The armed conflict in Papua is included in the category of civil unrest and tension.

? The Paniai human rights violation case was identified by Komnas HAM as one of the most serious human rights violations in about five years. Komnas HAM led the investigation and after submitting lots of evidence to the Attorney General's Office, on December 3, 2021, the Attorney General's Office finally issued an investigation warrant. Until now, the process of handling flagrant human rights violations in Paniai, Papua is still ongoing. Several factors contributed to the resolution of human rights violations in Paniai Province, Papua, including the lack of communication between Komnas HAM and the Attorney General's Office, an institution that failed to carry out its mandate and function optimally. Not only that, Komnas HAM still lacks preliminary evidence to submit cases to the Attorney General's Office, has a definite interest in protecting the good name of the organization, and the government's promises have yet to be fulfilled. ? In the decision of the Ad Hoc Human Rights Court, the Makassar District Court acquitted the sole accused of gross human rights violations in Paniai, Major Inf Purn. Isak Sattu, is considered to have failed to provide justice for the victims, survivors, and their families. Civil society organizations that are members of the 2014 Paniai Monitoring Coalition consider that the acquittal shows the poor performance of law enforcement in resolving gross human rights violations and acquittals in cases of human rights violations in Paniai Regency add to the black list of human rights cases which are always ambiguous in the resolution process.

20 Suggestion

As the holder of the highest state office, the president is obliged to provide for the welfare of all his people according to the mandate enshrined in the 1945 Constitution so that people's trust in the government will recover. In addition, the importance of clarity over the settlement of gross human rights violations in Paniai, Papua by law enforcement officials is the goal of creating a peaceful and peaceful country for all. right. human rights as human rights held by other existing people. in Java, Sumatra, Kalimantan, or Sulawesi as compatriots of the Republic of Indonesia. Thus, indigenous Papuans also have the right to life, independence, and personal security, which must be protected, respected, and fully implemented by the state by applicable laws and regulations.



Figure 1:

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Figure 2: BIBLIOGRAPHY Book 1 .

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Figure 3:

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