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**Topic:** *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

## **The Relevance of Justice Values in Compensation for Children as Victims of Wrongful Arrest**

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**Abstract.** *In its development, Government Regulation Number 92 of 2015 concerning the second amendment to Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts has issues related to the fines specified in Government Regulation Number 92 of 2015 concerning the second amendment to Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts. Therefore, it is necessary to discuss the relevance of the value of justice in the implementation of compensation for victims of wrongful arrest. The method used is non-doctrinal. The results of the study found that the implementation of compensation for victims of wrongful arrest is not yet fair, as indicated by the amount of compensation, which is only IDR. 500,000.00. The reasons for the implementation of compensation for victims of wrongful arrest are weaknesses in legal regulations, difficult access to legal aid for the poor, and minimal government involvement. Therefore, it is clear that the implementation of compensation for victims of wrongful arrest contradicts the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia. As a result, the implementation of compensation for victims of wrongful arrest has not been able to achieve justice.*

**Keywords:** *Children; Compensation; Victims; Wrongful.*

### **1. Introduction**

Criminal law, as it develops, can be a double-edged sword in law enforcement in this country. This means that on the one hand, criminal law is used to punish perpetrators of crimes, but in some cases, criminal law also serves as a means for society to impose sanctions on the government for abuse of authority. This is evident in the implementation of criminal fines. Fines, on the one hand, can be used to deter individuals who commit crimes, but on the other hand, they can be imposed on the state if the state misapplies the law to an individual.

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Fines were first discussed by WJ Leyds in his dissertation entitled *De Rechtsgrond der Schadevergoeding voor Preventieve Hechtenis*.<sup>1</sup> Meanwhile, in Indonesia, criminal fines began to be clearly regulated in Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts. However, this Government Regulation has several weaknesses. Some of these problems include:<sup>2</sup>

- 1) PP No. 27 of 1983 has fallen far behind, this can be seen from the way in which PP No. 27 of 1983 was drafted, which was not in accordance with the integrated criminal law system and the restorative justice system;
- 2) There are many updates to the authority of law enforcement agencies that are not regulated in Government Regulation No. 27 of 1983. This is in line with the opinion of Barda Nawawi Arief. Barda Nawawi's view basically explains that the old regulations have regulated the structure of the judicial organization and public prosecutors but have not regulated the structure of investigative institutions;
- 3) Then, regarding the amount of the fine, the provisions as referred to in PP No. 27 of 1983 are no longer relevant.

These various weaknesses became the basis for the birth of Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation on December 8, 2015. In its development, Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation has issues related to the amount of fines regulated in Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation. This is as explained in Article 9 of Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation which states that:

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<sup>1</sup>PJP Tak, *Schade Vergoeding voor Ondegane Voorlopige Hechtenis on Straf*, Tijdschrift voor Strafrecht Deel Lxxix afl 1, 1970, p. 2.

<sup>2</sup>Julius Ibrani, *Brief Review of PP No. 27 of 1983 Concerning the Implementation of the Criminal Procedure Code*, Accessed via ylbhi.or.id, on May 12, 2026.

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a) The amount of compensation based on the reasons as referred to in Article 77 letter b and Article 95 of the Criminal Procedure Code is at least IDR 500,000.00 (five hundred thousand rupiah) and at most IDR 100,000,000.00 (one hundred million rupiah).

b) The amount of compensation based on the reasons as referred to in Article 95 of the Criminal Procedure Code which results in serious injury or disability so that one cannot carry out work, the amount of compensation is at least IDR 25,000,000.00 (twenty five million rupiah) and at most IDR 300,000,000.00 (three hundred million rupiah).

c) The amount of compensation based on the reasons as referred to in Article 95 of the Criminal Procedure Code which results in death, the amount of compensation is at least IDR 50,000,000.00 (fifty-five million rupiah) and at most IDR 600,000,000.00 (six hundred million rupiah).

The government's replacement fine of five hundred thousand rupiah for victims of misapplication of the law by law enforcement is very small compared to the effort and costs incurred by the victims. This shows how the implementation of Government Regulation Number 92 of 2015 concerning the second amendment to Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts has set aside the values of justice and legal benefits.

Based on the various explanations above, it is clear that the effectiveness of implementing a legal regulation is based on factors such as 1) Legislation; 2) Law enforcement; and 3) Community culture. The aspect of legal regulations requires a clear moral order and the certainty of clear regulations to regulate community life. This also applies to the aspect of law enforcement, only that law enforcement demands a legal order that is able to blend the ideal life and the real life of society, while in the aspect of community culture, the order that is most considered is the order of customs and morality. Based on the various explanations, it is clear that the aspect of community culture demands the realization of legal justice, while in the aspect of law enforcement, the most fundamental values are the values of legal certainty and justice. Furthermore, the aspect of legal regulations places more emphasis on the values of legal certainty and usefulness. It is clear that the synchronization of the integrated criminal justice system consists of the order, norms, and basic values of law. Therefore, it is also clear that there is a *spannungsverhältnis* in the three basic values as explained above will result in *spannungsverhältnis* problems also in legal systems which will ultimately give rise to *spannungsverhältnis* problems in the synchronization of the integrated criminal justice sub-system as intended above. This also occurs in the implementation of compensation where Article 9 Government Regulation Number 92 of 2015 concerning the second amendment to

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Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts. If it is only based on Article 9 Government Regulation Number 92 of 2015 Concerning the second amendment of Government Regulation Number 27 of 1983 Concerning Compensation and Settlement of Compensation Amounts The normative amount of compensation will result in the exclusion of justice for victims, this is because the effort and costs incurred as well as losses due to errors in the application of the law are not comparable to compensation of only IDR 500,000.00. This will clearly also result in a discrepancy between the objectives of criminal law, which should be to realize justice for society as a whole.

## **2. Research methods**

The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized as a manifestation of the symbolic meanings of social actors as seen in the interactions between the researcher and the research object.<sup>3</sup>

## **3. Results and Discussion**

### **3.1. Compensation Regulations for Children as Victims of Wrongful Arrest**

The implementation of compensation policies for victims of wrongful arrest in Indonesia is based on provisions regarding legal protection for victims of wrongful arrest, as stipulated in various laws and regulations. These include the following:

- 1) Law Number 48 of 2009 concerning Judicial Power (Judicial Power Law)

The basis for implementing compensation for victims of wrongful arrest in the Judicial Power Law is regulated in Article 9 paragraphs (1), (2) and (3) which state:

- (1) Any person who is arrested, detained, prosecuted or tried without a reason based on law or due to a mistake regarding his person or the law applied, has the right to demand compensation and rehabilitation;
- (2) Officials who intentionally commit acts as referred to in paragraph (1) shall be punished in accordance with the provisions of statutory regulations;
- (3) Provisions regarding the procedures for claiming compensation, rehabilitation and imposing compensation are regulated by law.

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<sup>3</sup>Soetandyo Wignjosoebroto, Law, Paradigm, Method, and the Dynamics of the Problem, HUMA, Jakarta, 2002, p. 198.

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The provisions of Article 9 clearly reaffirm the principle of presumption of innocence, that even if a person is suspected of having committed a crime, he must be considered innocent until the court declares his guilt and the decision has permanent legal force, and thus the person accused of having committed a crime must have his basic rights guaranteed.

## 2) Human Rights Law

Speaking of wrongful arrest, it certainly touches on the human rights of the individual, as previously mentioned. In the history of human rights protection efforts in Indonesia, the Decree of the People's Consultative Assembly of the Republic of Indonesia No. XVII/MPR/1998 dated November 13, 1998, mandates that High State Institutions and all government officials respect, uphold, and disseminate an understanding of human rights to the entire community.<sup>4</sup>

The formulation of legal protection for victims of wrongful arrest in the Human Rights Law is based on the provisions regulated in Article 3 paragraph (2), Article 4, Article 5, Article 7, Article 17, Article 33, and Article 34 of the Human Rights Law which state:

### Article 3

2) Everyone has the right to recognition, guarantees, protection and fair legal treatment as well as legal certainty and equal treatment before the law.

### Article 4

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 be recognized as a person and equal before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances and by anyone.

### Article 5

(1) Every person is recognized as a human being who has the right to demand and receive equal treatment and protection in accordance with his human dignity before the law.

(2) Everyone has the right to receive fair assistance and protection from an objective and impartial court.

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<sup>4</sup>Syarif Abdul Rohmani and Umi Rozah, Criminal Policy Regarding Compensation for Victims of Wrongful Arrest, Indonesian Legal Development Journal, Master of Law Study Program, Volume 2, Number 1, 2020, p. 121.

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(3) Every person who belongs to a vulnerable social group has the right to receive better treatment and protection in relation to their special needs.

Article 7

(1) Everyone has the right to use all national legal remedies and international forums for all violations of human rights guaranteed by Indonesian law and international law on human rights that has been accepted by the Republic of Indonesia.

(2) The provisions of international law that have been accepted by the Republic of Indonesia concerning human rights are primarily the responsibility of the Government.

Article 17

Everyone, without discrimination, has the right to obtain justice by submitting applications, complaints and lawsuits, whether in criminal, civil or administrative cases and to be tried through a free and impartial judicial process, in accordance with procedural law that guarantees an objective examination by an honest and fair judge to obtain a fair and correct decision.

Article 33

(1) Everyone has the right to be free from torture, punishment or cruel, inhumane treatment or treatment that degrades human dignity.

(2) Everyone has the right to be free from enforced disappearance and deprivation of life.

Article 34

Everyone must not be arrested, detained, forced, excluded, exiled or exiled arbitrarily.

3) Criminal Procedure Code

Apart from being based on the principle of presumption of innocence, the compensation policy for victims of wrongful arrest is also based on the principle of equality before the law, which is reflected in the provision of equal opportunities between the public prosecutor and the suspect/defendant in the legal fight.<sup>5</sup>

The formulation of protection for victims of wrongful arrest in the Criminal Procedure Code is contained in Article 1 point 10 and Chapter X, part one in Articles 77 to 83, regarding requests

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<sup>5</sup>Ibid., p. 122

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for compensation and/or rehabilitation which include pre-trial authority submitted by the suspect, his/her family or legal advisor regarding a person whose criminal case was stopped at the investigation or prosecution stage, in other words who has not and has not been brought to court.

Another formulation is regulated in Article 95 to Article 97 of the Criminal Procedure Code, namely compensation and rehabilitation for victims resulting from errors against the person or victims resulting from administrative legal violations, who are tried without a reason based on law or there is an error regarding the person or the law, which has reached the level of examination in court, is the authority of the district court judge.<sup>6</sup>

The provisions regarding compensation in Article 95 paragraph (1) of the Criminal Procedure Code are formulated as follows:

- (1) A suspect, defendant or convict has the right to claim compensation for being arrested, detained, charged and tried or subjected to other action, without a reason based on law or due to an error regarding the person or the law applied.
- (2) Claims for compensation by the suspect or his heirs for arrest or detention and other actions without a statutory basis or due to an error regarding the person or law applied as referred to in paragraph (1) where the case was not submitted to the district court, shall be decided in a pre-trial hearing as referred to in Article 77.
- (3) The claim for compensation as referred to in paragraph (1) is submitted by the suspect, defendant, convict or their heirs to the court authorized to try the case in question.
- (4) To examine and decide on the claim for compensation referred to in paragraph (1), the chairman of the court shall, as far as possible, appoint the same judge who tried the criminal case in question.
- (5) Examination of compensation as referred to in paragraph (4) follows the pre-trial proceedings.

The formulation of Article 95 of the Criminal Procedure Code indicates that the grounds for a suspect/defendant or convict to demand compensation, apart from the arrest, detention, prosecution or trial of the person, also if they are subjected to other actions without reason based on law or due to an error regarding the person or the law applied. What is meant by other

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<sup>6</sup>Ibid.,

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actions in this case are other coercive measures, such as house entry, searches, seizures that are unlawful and cause material losses.<sup>7</sup>

The provision of compensation to someone who is wrongly arrested, detained, etc. is imperative, this can be seen from the use of the word "obligatory" in number 3 paragraph 3 letter d in the general explanation chapter of the Criminal Procedure Code which reads:<sup>8</sup>:

A person who is arrested, detained, prosecuted or tried without a reason based on law and/or due to an error regarding the person or the law applied must be compensated and so on.

Other provisions in the Criminal Procedure Code that need to be known regarding compensation for victims of wrongful arrest are as follows:

a) Article 77 (b) of the Criminal Procedure Code: "The District Court has the authority to examine and decide, in accordance with the provisions set out in this law, regarding compensation and/or rehabilitation for a person whose criminal case is terminated at the investigation or prosecution stage."

b) Article 81 of the Criminal Procedure Code: "A request for compensation or rehabilitation due to the legality of an arrest or detention or due to the illegality of the termination of an investigation or prosecution is submitted by the suspect or by an interested third party to the Head of the District Court stating the reasons."

c) Article 82 paragraph (3c) of the Criminal Procedure Code: "The contents of the decision, apart from containing the provisions contained in paragraph (2), also contain the following: in the event that the decision determines that an arrest or detention is unlawful, then the decision shall state the amount of compensation and rehabilitation to be awarded, whereas in the event that the termination of an investigation or prosecution is lawful and the suspect is not detained, then the decision shall state his rehabilitation."

d) Article 96 paragraph (1) of the Criminal Procedure Code: "The decision to award compensation is in the form of a stipulation."

e) Article 96 paragraph (2) of the Criminal Procedure Code: "The decision as referred to in paragraph (1) contains in full all matters considered as reasons for the decision."

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<sup>7</sup>Djoko Prakoso, 1988, *The Problem of Compensation in the Criminal Procedure Code*, Bina Aksara, Jakarta, p. 98

<sup>8</sup>Soedirjo, 1986, *Judicial Review in Criminal Cases: Meaning and Significance*, Akademika Pressindo, Jakarta, p. 61

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f) Article 98 paragraph (1) of the Criminal Procedure Code: "If an act which is the basis of an indictment in a criminal case examination by a district court causes harm to another person, then the presiding judge at the request of that person may decide to combine the claim for compensation with the criminal case."

g) Article 98 paragraph (2) of the Criminal Procedure Code: "The request as referred to in paragraph (1) may only be made no later than before the public prosecutor submits criminal charges in the event that the public prosecutor is not present; the request must be submitted no later than before the judge issues a verdict."

h) Article 99 paragraph (1) of the Criminal Procedure Code: "If the injured party requests the consolidation of his lawsuit into a criminal case as referred to in Article 98, the district court shall consider its general authority to adjudicate the lawsuit regarding the truth of the basis of the lawsuit and regarding the penalty for compensation for costs incurred by the injured party."

i) Article 99 paragraph (2) of the Criminal Procedure Code: "Except in cases where the district court declares that it is not authorized to adjudicate the lawsuit as referred to in paragraph (1) or the lawsuit is declared inadmissible, the judge's decision only contains a determination of the penalty for compensation for costs incurred by the injured party."

j) Article 99 paragraph (3) of the Criminal Procedure Code: "A decision regarding compensation automatically has permanent legal force, if the criminal decision also has permanent legal force."

k) Article 100 paragraph (1) of the Criminal Procedure Code: "If there is a merger between a civil case and a criminal case, then the merger will automatically take place at the appeal level."

l) Article 100 paragraph (2) of the Criminal Procedure Code: "If an appeal is not filed in a criminal case, then an appeal for compensation is not permitted."

m) Article 101 of the Criminal Procedure Code: "The provisions of civil procedure law apply to claims for compensation as long as the law does not regulate otherwise."

n) Article 274 of the Criminal Procedure Code: "If the court also issues a decision on compensation as referred to in Article 99, then its implementation shall be carried out according to the procedures for civil decisions."

o) Article 275 of the Criminal Procedure Code: "If more than one person is convicted in one case, then the court costs and/or compensation as referred to in Article 274 shall be awarded to them jointly and equally."

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4) Government Regulation Number 27 of 1983 in conjunction with Government Regulation Number 58 of 2010 in conjunction with Government Regulation Number 92 of 2015 concerning the Implementing Regulations of the Criminal Procedure Code (PP Implementing the Criminal Procedure Code)

The PP on the Implementation of the Criminal Procedure Code regulates the technical mechanisms for providing compensation to victims of wrongful arrest as contained in Articles 7, 8, 9, 10 and 11, namely as follows:

**Article 7**

(1) Claims for compensation as referred to in Article 95 of the Criminal Procedure Code may only be submitted within a maximum of 3 (three) months from the date the extract or copy of the court decision which has permanent legal force is received.

(2) In the event that the claim for compensation is submitted for a case that was stopped at the investigation or prosecution level as referred to in Article 77 letter b of the Criminal Procedure Code, the period of 3 (three) months is calculated from the date of notification of the pre-trial decision.

**Article 8**

(1) Compensation may be awarded based on the judge's considerations.

(2) If the judge grants or rejects a claim for compensation, the reasons for granting or rejecting the claim for compensation are stated in the decision.

**Article 9**

(1) The amount of compensation based on the reasons referred to in Article 77 letter b and Article 95 of the Criminal Procedure Code is at least IDR 500,000.00 (five hundred thousand rupiah) and at most IDR 100,000,000.00 (one hundred million rupiah).

(2) The amount of compensation based on the reasons referred to in Article 95 of the Criminal Procedure Code which results in serious injury or disability so that the person cannot carry out work, the amount of compensation is at least IDR 25,000,000.00 (twenty five million rupiah) and at most IDR 300,000,000.00 (three hundred million rupiah).

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(3) The amount of compensation based on the reasons referred to in Article 95 of the Criminal Procedure Code which results in death, the amount of compensation is at least IDR 50,000,000.00 (fifty million rupiah) and at most IDR 600,000,000.00 (six hundred million rupiah).

**Article 10**

(1) An excerpt of the decision or determination regarding compensation as referred to in Article 8 shall be given to the applicant within 3 (three) days after the decision is pronounced.

(2) An excerpt of the decision or determination of compensation as referred to in paragraph (1) is given to the public prosecutor, investigator and minister who carries out government affairs in the financial sector.

**Article 11**

(1) Payment of compensation is made by the minister who carries out government affairs in the financial sector based on an extract of the court decision or ruling as referred to in Article 10.

(2) Payment of compensation shall be made within a maximum period of 14 (fourteen) working days from the date the application for compensation is received by the minister who oversees government affairs in the financial sector.

(3) Provisions regarding the procedures for payment of compensation are regulated by the Ministerial Regulation which administers government affairs in the financial sector.

5) Decree of the Minister of Finance of the Republic of Indonesia Number 983/KMK.01/1983 concerning Procedures for Compensation Payment

This decision of the Minister of Finance is an implementing regulation which specifically regulates the procedures for paying compensation as mandated by Article 11 paragraph (1) and (2) of the PP Implementation of the Criminal Procedure Code which states:

(1) Payment of compensation is made by the minister who carries out government affairs in the financial sector based on an extract of the court decision or ruling as referred to in Article 10;

(2) Payment of compensation shall be made within a maximum period of 14 (fourteen) working days from the date the application for compensation is received by the minister who oversees government affairs in the financial sector.

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(3) Provisions regarding the procedures for payment of compensation are regulated by the ministerial regulation that oversees government affairs in the financial sector.

### **3.2. Weaknesses in Implementing Compensation for Children as Victims of Wrongful Arrest**

#### **a. Small Amount of Compensation**

In its development, Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation has issues related to the amount of fines regulated in Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation. This is as explained in Article 9 of Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of the Amount of Compensation which states that:

a) The amount of compensation based on the reasons as referred to in Article 77 letter b and Article 95 of the Criminal Procedure Code is at least IDR 500,000.00 (five hundred thousand rupiah) and at most IDR 100,000,000.00 (one hundred million rupiah).

b) The amount of compensation based on the reasons as referred to in Article 95 of the Criminal Procedure Code which results in serious injury or disability so that one cannot carry out work, the amount of compensation is at least IDR 25,000,000.00 (twenty five million rupiah) and at most IDR 300,000,000.00 (three hundred million rupiah).

c) The amount of compensation based on the reasons as referred to in Article 95 of the Criminal Procedure Code resulting in death, the amount of compensation is at least IDR 50,000,000.00 (fifty-five million rupiah) and at most IDR 600,000,000.00 (six hundred million rupiah). The amount of the fine that is replaced, namely five hundred thousand rupiah by the government to the victim of misapplication of the law by law enforcement is very small when compared to the energy and costs that must be incurred by the victim. This shows how the implementation of Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Compensation Amounts has set aside the value of justice and legal benefits. If it is only based on Article 9 Government Regulation Number 92 of 2015 Concerning the second amendment to Government Regulation Number 27 of 1983 Concerning Compensation and Settlement of Compensation Amounts normatively will result in the exclusion of justice for victims, this is because the effort and costs incurred as well as losses due to errors in the application of the law

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are not comparable to compensation of only IDR 500,000.00. This will clearly also result in a discrepancy between the objectives of criminal law, which should be to realize justice for society as a whole.

This dilemma is further compounded by the expensive and cumbersome mechanism for obtaining compensation for wrongful arrests, which requires a lawsuit. Furthermore, there is no threat to the public who are victims of wrongful arrests through government officials.

**b. Difficulty in Accessing Legal Aid for Victims of Wrongful Arrest, Most of Whom Are Poor**

In recent years, the majority of victims of wrongful arrests have been poor people. This is largely due to the prevailing stigma in society that views street children and vagrants as being prone to criminal activity. However, in reality, not all poor people can be considered criminals. Negative stigmas toward this social class often lead to wrongful arrests. This can be seen in the case of wrongful arrest in Cipulir. In case number 98/Pid.Prap/2016/PN.Jkt.Sel, the judge granted part of the lawsuit for compensation from Andro and Nurdin, who were victims of wrongful arrest. Andro and Nurdin were victims of wrongful arrest by unprofessional officers. Both Andro and Nurdin were accused of murdering Dicky, this made Andro and Nurdin have to go through a series of mistrials.<sup>9</sup> The disconnect between regulations, implementation, and public needs in this issue is stark. From a regulatory perspective, the compensation amounts are substantial, and the provision of compensation is complicated, requiring formal requests from the public, even after a legally binding judge's decision. Ultimately, these two factors are out of sync with the needs of the public, especially the victims.

This clearly presents a bureaucratic problem in law enforcement. This problem is further complicated by the difficulty of accessing legal aid for poor people who are victims of wrongful arrest. This situation is caused by the dilemma of the high operational costs of the Legal Aid Institute (LBH) and the inability to recover funds from cases involving the poor.<sup>10</sup>

**c. Minimal Government Role**

Over time, the government has an obligation to promote compensation for victims of wrongful arrest. However, this has not been effectively implemented. This is evident in the fact that most

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<sup>9</sup>LBH Jakarta, Judge Grants Compensation to Cipulir Buskers, Accessed via [www.bantuanhukum.or.id](http://www.bantuanhukum.or.id), On May 12, 2026.

<sup>10</sup>Loc, cit.

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people are unaware of the existence of compensation for victims of wrongful arrest. Even if they are aware of it, they are often unaware of the mechanism for obtaining it.<sup>11</sup>

#### 1. The Relevance of Justice Values in the Implementation of Compensation for Victims of Wrongful Arrest

Based on the various explanations above, it can be seen that the implementation of compensation for victims of wrongful arrest has not been effective, this results in a disposition of the value of legal justice.

Moch. Koesnoe believes that the Preamble to the 1945 Constitution of the Republic of Indonesia contains the basic values of our national legal system, which are legal *rechtsidee*, which includes the first basic value, namely that the law is protective and not merely governing, and the second basic value, that the law aims to realize social justice for all Indonesian people, and this social justice is not merely an objective but a concrete guideline in making legal regulations.<sup>12</sup>

Based on the existing explanation, it is clear that the implementation of compensation for victims of wrongful arrest is not in accordance with the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia, so that automatically the value of justice has not been realized in the implementation of compensation for victims of wrongful arrest.

This is evident in the inconsistency of the implementation of compensation for victims of wrongful arrest with the values of Pancasila. These values are embedded in the principles of Pancasila, reflected in:<sup>13</sup>

##### a. Religious moral values

This means that the legal ideals of Pancasila will give rise to national law based on and oriented toward religious values within the context of a religious nation-state, but not a religious state. Religious moral values mean that every Indonesian believes in God according to their religion and beliefs, all religions should receive equal treatment, and everyone can practice their religion and beliefs civilly and with mutual respect.

<sup>11</sup>Loc, cit.

<sup>12</sup>Tongat, Pancasila as the Philosophical Basis of the State and Its Philosophical Meaning in the Reform of National Criminal Law, Journal of Legal Issues Vol. 41, No. 3, p. 404.

<sup>13</sup>Achmad Irwan Hamzani, et al., 2019, The Ideals of Pancasila Law among the Plurality of National Law, Proceedings of the National Seminar on Transcendental Law, Doctoral Program in Law, Muhammadiyah University of Surakarta, pp. 224-225

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b. Humanistic values.

This means that the ideals of Pancasila law are laws that are oriented towards humanitarian values, namely the recognition that all Indonesian people have equal status so that every human being must acknowledge, accept, maintain and protect the personality of each human being as a member of society, having the same position before the law without differentiating between ethnicity, race and religion.

c. Nationalistic/unity values.

This value means that the legal ideals of Pancasila are nationalistic in nature, eliminating the possibility of national disintegration. Pancasila serves as both the driving force and the driving force behind the realization of Indonesian unity.

d. Democratic values.

This means that the ideals of Pancasila law are laws that are oriented towards people's democracy, namely values that are believed in, respected and adhered to by the Indonesian people or nation.

e. Social justice values.

This value means that the ideals of Pancasila law are laws that are oriented towards substantive social justice and are reflected in every national legal policy.

#### **4. Conclusion**

The implementation of compensation for victims of wrongful arrest is not yet fair, this is indicated by the amount of compensation which is only IDR 500,000.00; The reasons for the implementation of compensation for victims of wrongful arrest not being fair are weaknesses in terms of legal regulations, the difficulty of accessing legal aid for the poor, and the minimal role of the government; So it is clear that the implementation of compensation for victims of wrongful arrest is contrary to the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia, so that the implementation of compensation for victims of wrongful arrest has not been able to realize justice.

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## 5. References

- Achmad Irwan Hamzani, dkk., 2019, *Cita Hukum Pancasila di antara Pluralitas Hukum Nasional*, Prosiding Seminar Nasional Hukum Transendental Program Doktor Ilmu Hukum Universitas Muhammadiyah Surakarta
- Djoko Prakoso, 1988, *Masalah Ganti Rugi Di Dalam KUHAP*, Bina Aksara, Jakarta
- Julius Ibrani, *Review Singkat PP No. 27 Tahun 1983 Tentang Pelkasanaan KUHAP*, Diakses melalui ylbhi.or.id, pada 12 Mei 2026
- LBH Jakarta, *Hakim Kabulkan Ganti Kerugian Pengamen Cipulir*, Diakses melalui [www.bantuanhukum.or.id](http://www.bantuanhukum.or.id), on 12 May 2016
- P.J.P Tak, 1970, *Schade Vergoeding voor Ondegane Voorlopige Hechtenis on Straf*, Tijdschrift voor Strafrecht Deel Lxxix afl 1
- Soedirjo, 1986, *Peninjauan Kembali Dalam Perkara Pidana Arti dan Makna*, Akademika Pressindo, Jakarta
- Syarif Abdul Rohmani dan Umi Rozah, Kebijakan Kriminal Mengenai Pemberian Ganti Kerugian terhadap Korban Salah Tangkap, *Jurnal Pembangunan Hukum Indonesia Program Studi Magister Ilmu Hukum*, Volume 2 Nomor 1 Tahun 2020
- Tongat, "Pancasila Sebagai Dasar Falsafah Negara dan Makna Filosofisnya dalam Pembaharuan Hukum Pidana Nasional", *Jurnal Masalah-Masalah Hukum*, Vol. 41, No. 3