

The Relevance Of Justice Value In Compensation Of Victims Of Law Implementation Errors

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Abstract

In its development, Government Regulation Number 92 of 2015 about the second amendment of Government Regulation Number 27 of 1983 about Compensation and Settlement of Amounts of Compensation has problems related to the amount of fines regulated in Government Regulation Number 92 of 2015 about the second amendment of Government Regulation Number 27 1983 about Compensation and Settlement of Amount of Compensation. So it is necessary to discuss the relevance of the value of justice in the implementation of compensation for victims of law enforcement errors. The method used is non-doctrinal. From the results of the research, it was found that the implementation of compensation for victims of law enforcement error was not fair. This was shown by the amount of compensation which was only 500,000.00 IDR (five hundred thousand rupiah); As for the causes of the implementation of compensation for victims of law enforcement error are not yet fair due to weaknesses in terms of legal regulations, difficulty in accessing legal aid for the poor, and the lack of the government's role; So it is clear that the implementation of compensation for victims of law enforcement error is contrary to the mandate of the Pancasila and the 1945 Constitution of the Republic of Indonesia. So that the implementation of compensation for victims of errors in implementing the law has not been able to bring justice.

Keywords: *Compensation, Justice, Victims, Value Relevance, Law Application Errors*

A. Introduction

Criminal law in its development can show two blades in implementing law in this country. This means that on one hand criminal law is used to punish perpetrators of criminal acts, but in some cases criminal law is also a tool for society to impose sanctions on governments who abuse their authority. This can be seen in the implementation of fines. On one hand, fines can be used to create a deterrent effect for every criminal. But on the other hand, it can be imposed on the state in the event that the state wrongly applies the law to a person.

The crime of fines was first discussed by W. J. Leyds in his dissertation entitled *De Rechtsgrond der Schadevergoeding voor Preventieve Hechtenis*.¹ Meanwhile in Indonesia in its development, fines have begun to be clearly regulated in Government Regulation Number 27 of 1983 concerning Compensation and

1. P.J.P Tak, *Schade Vergoeding voor Ondegane Voorlopige Hechtenis on Straf*, Tijdschrift voor Strafrecht Deel Lxxix afl 1, 1970, p. 2.

Settlement of Amount of Compensation. However, this Government Regulation has various weaknesses, such as:²

- 1) Government Regulation No. 27 of 1983 has been far behind. This can be seen in the making of PP. 27 of 1983 which is not yet in accordance with the integrated criminal law system and restorative justice system;
- 2) The number of renewal of authority of law enforcement agencies that is not regulated in PP. 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 judiciary and public prosecutors organization but have not regulated the structure of the investigating institution;
- 3) Then regarding the amount of the fine, the provisions as meant in PP. 27 of 1983 is no longer relevant.

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

- a) The amount of compensation based on what is meant in Article 77 letter b and Article 95 Criminal Procedure Code is at least 500,000.00 IDR (five hundred thousand rupiah) and a maximum of 100,000,000.00 IDR (one hundred million rupiah).
- b) The amount of compensation based on what is meant in Article 95 of the Criminal Procedure Code which results in serious injury or disability resulting in the inability to perform work, the amount of compensation is at least 25,000,000.00 IDR (twenty five million rupiah) and a maximum of 300,000,000.00 IDR (three hundred million rupiah).
- c) The amount of compensation based on what is meant in Article 95 of the Criminal Procedure Code which results in death, the amount of compensation is at least 50,000,000.00 IDR (fifty five million rupiah) and a maximum of 600,000,000.00 IDR (six hundred million rupiah).

The amount of fines replaced by the government in the amount of five hundred thousand rupiahs for victims of law enforcement by law enforcers is very small when compared to the labor and costs incurred by the victim. This shows how the implementation of Government Regulation Number 92 of 2015 about the second amendment of Government Regulation Number 27 of 1983 about Compensation and Settlement of Amount of Compensation has overlooked the value of justice and legal benefits.

Based on the various explanations above, it is clear that the effectiveness of the implementation of a legal regulation is based on factors such as 1) statutory regulations; 2) Law enforcement; and 3) community culture. In the aspect of legal regulations, there is a clear moral order and clear regulatory certainty to regulate people's lives, this also applies to the aspect of law enforcement, and it's just that law enforcement

2. Julius Hebrew, *Brief Review of Government Regulation No. 27 of 1983 concerning the Implementation of Criminal Procedure Code*, Accessed through ylbhi.or.id, on 12 May 2019.

demands a legal order capable of concocting the ideal life and real life of society. Meanwhile, in the cultural aspects of society, the most visible order is the order of habits and morals. Based on the various explanations that exist, it can be seen that in the cultural aspect of society it is demanded the realization of legal justice while in the aspect of law enforcement the most basic values are the value of legal certainty and justice, then in the aspect of legal regulation it focuses more on the value of legal certainty and benefit. It is clear that the synchronization of the integrated criminal justice system consists of legal systems, norms and basic values. So it is also clear that the existence of *spannungsverhältnis* on the three basic values as described above will result in *spannungsverhältnis* problems as well as legal arrangements which will eventually lead to *spannungsverhältnis* problems in the synchronization of the integrated criminal justice sub-system as mentioned above. This also occurs in the implementation of compensation where Article 9 of Government Regulation Number 92 of 2015 about the second amendment of Government Regulation Number 27 of 1983 concerning Compensation and Settlement of Amount of Compensation. If only based on Article 9 of Government Regulation Number 92 of 2015 concerning the second amendment of Government Regulation Number 27 of 1983 about Compensation and Settlement of Compensation Amounts, it will normatively result in the neglect of justice for the victim, this is due to the energy and costs incurred as well as losses on misapplication of the law is not comparable to compensation of only 500,000.00 IDR (five hundred thousand rupiah). It is clear that this will also result in a mismatch of the objectives of the criminal law which should bring justice to society as a whole.

Based on the explanation provided, it is necessary to carry out further discussion related to “RELEVANCE OF JUSTICE VALUE IN COMPENSATION TO VICTIMS OF ERRORS IN LAW IMPLEMENTATION”.

B. Problem Formulation

The problem in this research is related to the analysis of the relevance of the justice value in the implementation of compensation for victims of in the law implementation errors.

C. Research Methodology

The type of legal research used is non-doctrinal. In non-doctrinal legal research, law is conceptualized as a manifestation of the symbolic meanings of social actors as seen in the interaction between researchers and research objects.

D. Discussion

1. Arrangements for Compensation for Victims of Law Implementation Errors

The implementation of compensation policies for victims of law enforcement error in Indonesia is carried out based on the provisions concerning legal protection for victims of misapplication of the law which are regulated in various laws and regulations. They are:

1) Law Number 48 of 2009 about Judicial Power (Law on Judicial Power)

The basis for the implementation of compensation for victims of law enforcement error in the Law on Judicial Power is regulated in Article 9 paragraphs (1), (2) and (3) which states:

- (1) Every person who is arrested, detained, prosecuted, or tried without reason based on law or because of an error regarding the person or the law it applies, has the right to demand compensation and rehabilitation;

- (2) An official who deliberately commits an act as referred to in paragraph (1) shall be punished in accordance with the provisions of laws and regulations;
- (3) Provisions regarding the procedures for claiming compensation, rehabilitation and imposition of compensation are regulated in law.

The provisions of Article 9 clearly reaffirm the principle of *presumption of innocence*, that even if a person is suspected of having committed a criminal act, he must be considered not guilty until the court declares his guilt and the decision has permanent legal force, and thus the person accused has committing a criminal act must be guaranteed human rights.

2) Human Rights Law

Talking about mistakes in the application of the law, of course, will intersect with the human rights that the person has as stated earlier. In the history of efforts to protect human rights in Indonesia, the Decree of the People's Consultative Assembly of the Republic of Indonesia No. XVII / MPR / 1998 dated 13 November 1998 mandated that State High Institutions and all government officials respect, enforce and disseminate understanding of human rights to all communities.³

The formulation of legal protection for victims of errors in the application of the law itself in the Human Rights Law is based on the provisions stipulated in Article 3 paragraph (2), Article 4, Article 5, Article 7, Article 17, Article 33, and Article 34 of the Human Rights Law which states:

Article 3

- 2) Everyone has the right to recognition, guarantees, protection and just legal treatment and to receive 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 equality before the law, and the right not to be prosecuted on the basis of law that applies retroactively are human rights which cannot be reduced under any circumstances and by anyone.

Article 5

- (1) Every person is recognized as an individual human being entitled to demand and receive equal treatment and protection in accordance with his human

3. Syarif Abdul Rohmani and Umi Rozah, Criminal Policy Regarding Compensation for Victims of Misappropriation of law, Journal of Indonesian Law Development, Master of Law Study Program Volume 2 Number 1 Year 2020, p. 121.

dignity before the law.

- (2) Everyone has the right to just assistance and protection from an objective and impartial court.
- (3) Every person belonging to a vulnerable group of people has the right to receive more treatment and protection with respect to their specifics.

Article 7

- (1) Everyone has the right to use all national legal efforts and international forums for all human rights violations guaranteed by Indonesian law and international law regarding human rights that have 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

Every person, without discrimination, has the right to obtain justice by submitting applications, complaints and lawsuits, both in criminal, civil and administrative cases and to be tried through a trial process that is free and impartial, in accordance with the procedural law which guarantees an objective examination by a judge. honest and fair to get a fair and correct decision.

Article 33

- (1) Everyone has the right to be free from torture, punishment or cruel, inhuman, degrading treatment and dignity.
- (2) Everyone has the right to be free from enforced disappearance and disappearance of life.

Article 34

No one should be arrested, detained, coerced, excluded, exiled, or arbitrarily exiled.

3) Criminal Procedure Code

Apart from being based on the principle of *presumption of innocence*, the compensation policy for victims of wrongful application of the law is also based on the

principle of *equality before the law*, which is reflected in the giving of equal opportunities between the public prosecutor and the suspect / defendant in a *legal fight*.⁴

The formulation of protection for victims from errors in the application of the law in the Criminal Procedure Code is contained in Article 1 point 10 and Chapter X, the first part in Article 77 to Article 83, regarding requests for compensation and / or rehabilitation which includes pretrial authority submitted by the suspect, his family or legal adviser in respect of a person whose criminal case is terminated at the level of investigation or prosecution, in other words who has not and has not been submitted to court.

Other formulations are regulated in Article 95 to Article 97 of the Criminal Procedure Code, namely compensation and rehabilitation for victims as a result of mistakes against the person or victims due to legal violations of an administrative nature, who are tried without reasons based on law or there is an error regarding the person or the law, who have reached the level of examination at court proceedings, become the authority of the district court judge.⁵

The formulation of compensation in Article 95 paragraph (1) Criminal Procedure Code is as follows:

- (1) A suspect, defendant or convict has the right to demand compensation for being arrested, detained, prosecuted and tried or subject to other actions, without any reason based on law or because of mistakes regarding the person or the law applied.
- (2) Claims for damages by the suspect or his heirs for arrest or detention as well as other actions without reasons based on law or because of mistakes regarding the person or law applied as referred to in paragraph (1) whose case has not been filed at a district court, shall be decided. at the pretrial hearing as referred to in Article 77.
- (3) Claims for compensation as referred to in paragraph (1) shall be submitted by the suspect, accused, convicted person or their heir to the court which is authorized to hear the case in question.
- (4) In order to examine and decide the case for compensation claim as referred to in paragraph (1), the chairman of the court shall appoint the same judge who has tried the criminal case concerned as far as possible.
- (5) An examination of the compensation as referred to in paragraph (4) shall follow the pretrial procedures.

The formulation of article 95 of the Criminal Procedure Code shows that the reasons

4. Ibid., p. 122

5. Ibid.,

for a suspect / defendant or convicted person to demand compensation, apart from the arrest, detention, prosecution or trial of the person, also if he is subjected to other actions which are for no reason based on law or because of errors regarding the person or the law applied. What is meant by other actions in this case are other acts of force, such as house entry, searches, confiscations which are against the law and cause material loss.⁶

Providing compensation to a person who is wrongly arrested, detained and so on 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 reads⁷:

Anyone who is arrested, detained, prosecuted or tried without reasons based on law and / or because of mistakes 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 in relation to compensation for victims of misapplication of the law are as follows:

- a) Article 77 (b) of the Criminal Procedure Code: “The District Court is authorized to examine and decide, in accordance with the provisions stipulated in this law, regarding compensation and or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution.”
- b) Article 81 of the Criminal Procedure Code: “Requests for compensation or rehabilitation as a result of the validity of an arrest or detention or the result of illegitimate termination of an investigation or prosecution shall be submitted by the suspect or by a third party concerned to the Chairman of the District Court by stating the reasons.”
- c) Article 82 paragraph (3c) of the Criminal Procedure Code: “The contents of the decision in addition to containing the provisions contained in paragraph (2) also contain the following: in the case of a decision stipulating that an arrest or detention is illegal, then in the case of the decision the amount of compensation is stated. and rehabilitation provided, whereas in the event that a termination of an investigation or prosecution is legal and the suspect is not detained, the judgment shall state his rehabilitation. “
- d) Article 96 paragraph (1) of the Criminal Procedure Code: “The decision to grant compensation is in the form of a ruling.”
- e) Article 96 paragraph (2) of the Criminal Procedure Code: “The determination referred to in paragraph (1) contains in full all the things considered as reasons for the decision.”

6. Djoko Prakoso, 1988, *The Problem of Compensation in Criminal Procedure Code*, Bina Aksara, Jakarta, p. 98

7. Soedirjo, 1986, *Reconsideration in the Meaning of Criminal Cases*, Akademika Pressindo, Jakarta, p. 61

- f) Article 98 paragraph (1) of the Criminal Procedure Code: “If an act which forms the basis of an indictment in a criminal case examination by a district court causes harm to another person, the head judge at the request of that person may decide to combine the claim for compensation with criminal case. “
- g) Article 98 paragraph (2) of the Criminal Procedure Code: “The request as referred to in paragraph (1) can only be made not later than before the public prosecutor submits a criminal charge in the event that the public prosecutor is not present; the request is submitted at the latest before the judge submits a verdict. “
- h) Article 99 paragraph (1) of the Criminal Procedure Code: “If the injured party requests a merger of his lawsuit case in the criminal case as referred to in article 98, the district court shall consider his general authority to try a lawsuit regarding the correctness of the lawsuit basis and on the penalty for reimbursement of costs incurred by the court of injured party. “
- i) Article 99 paragraph (2) of the Criminal Procedure Code: “Unless the district court states that it is not authorized to hear the lawsuit as referred to in paragraph (1) or the lawsuit is declared unacceptable, the judge’s decision only contains the stipulation of compensation for costs incurred by the injured party. . “
- j) Article 99 paragraph (3) of the Criminal Procedure Code: “Decisions regarding compensation automatically have permanent strength, if the criminal verdict also has permanent legal force.
- k) Article 100 paragraph (1) of the Criminal Procedure Code: “In the event of a merger between a civil case and a criminal case, the merger automatically takes place in an examination at the appeal level.”
- l) Article 100 paragraph (2) of the Criminal Procedure Code: “If there is a criminal case an appeal request is not filed, then an appeal request for compensation is not allowed.”
- m) Article 101 of the Criminal Procedure Code: “The provisions of the civil procedural law apply as a claim for damages as long as the law does not provide otherwise.”
- n) Article 274 of the Criminal Procedure Code: “In the event that a court also passes a judgment for compensation as referred to in Article 99, the implementation will be carried out according to the procedure for a civil judgment.”
- o) Article 275 of the Criminal Procedure Code: “If more than one person is

convicted in one case, the court fee and / or compensation as referred to in Article 274 shall be given to them together equally.”

- 4) Government Regulation number 27 of 1983 jo. Government Regulation Number 58 of 2010 jo. Government Regulation number 92 of 2015 concerning Implementation Regulations of the Criminal Procedure Code (Criminal Procedure Code of Implementation Government Regulations)

The Government Regulation on the Implementation of KUHAP regulates the technical mechanism of providing compensation to victims of errors in the application of the law contained in article 7, article 8, article 9, article 10, article 11, which are as follows:

Article 7

- (1) Claims for compensation as referred to in Article 95 of the Criminal Procedure Code can only be filed within a period of 3 (three) months from the date of excerpt or a copy of a court decision that has obtained legal force is still accepted.
- (2) In the event that a claim for compensation is filed against a case that is terminated at the level of investigation or at the level of prosecution as referred to in Article 77 letter b of the Criminal Procedure Code, the period of 3 (three) months shall be counted from the date of notification of the pretrial ruling.

Article 8

- (1) Compensation can be given based on the judge's consideration.
- (2) In the event that a judge grants or rejects a claim for compensation, the reasons for giving or refusing the claim for compensation shall be stated in the ruling.

Article 9

- (1) 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 500,000 IDR (five hundred thousand rupiah) and a maximum of 100,000,000.00 IDR (one hundred million rupiah).
- (2) The amount of compensation based on the reasons as referred to in Article 95 of the Criminal Procedure Code resulting in serious injury or disability resulting in the inability to perform work, the amount of compensation is at least 25,000,000.00 IDR (twenty five million rupiah) and a maximum of 300,000,000.00 IDR (three hundred million rupiah).
- (3) The amount of compensation based on the reasons as referred to in Article

95 of the Criminal Procedure Code that resulted in death, the amount of compensation is at least 50,000,000.00 IDR (fifty million rupiah) and a maximum of 600,000,000.00 IDR (six hundred million rupiah).

Article 10

- (1) An excerpt of the decision or determination regarding compensation as referred to in Article 8 is given to the applicant within 3 (three) days after the verdict is pronounced.
- (2) An excerpt of the decision or stipulation of compensation as referred to in paragraph (1) shall be given to the public prosecutor, investigator and the minister who administers government affairs in the financial sector.

Article 11

- (1) The payment for compensation is made by the minister who administers government affairs in the financial sector based on an excerpt of a decision or court order as referred to in Article 10.
 - (2) The compensation payment shall be made within a period of 14 (fourteen) working days as from the date the application for compensation is received by the minister who administers government affairs in the financial sector.
 - (3) Provisions regarding the procedure for payment of compensation shall be regulated in a Ministerial Regulation that administers government affairs in the financial sector.
- 5) Decree of the Minister of Finance of the Republic of Indonesia No. 983 / KMK.01 / 1983 concerning Procedures for Payment of Compensation

This decree of the minister of finance is an implementing rule that specifically regulates the procedures for paying compensation as mandated by Article 11 paragraph (1) and (2) PP Implementation of Criminal Code Procedures (KUHAP), which states:

- (1) Payment of compensation shall be made by the minister who is in charge of government affairs in the financial sector based on an excerpt of a decision or court order as referred to in Article 10;
- (2) The compensation payment shall be made within 14 (fourteen) working days as from the date the application for compensation is received by the minister who administers government affairs in the financial sector.
- (3) Provisions regarding the procedure for payment of compensation shall be regulated in the minister's regulation who administers government affairs in the financial sector.

2. Weaknesses in the Implementation of Compensation for Victims of Errors in implementing the law.

a. The small amount of compensation

In its development, Government Regulation No. 92 of 2015 concerning the second amendment of Government Regulation No. 27 of 1983 concerning Compensation and Settlement of Amount of Compensation has a problem related to the number of fines regulated in Government Regulation No. 92 of 2015 concerning the second amendment of Government Regulation No. 27 of 1983 Concerning Compensation and Settlement of Amount of Indemnity. It is as explained in Article 9 of Government Regulation No. 92 of 2015 concerning the second amendment to Government Regulation No. 27 of 1983 concerning Compensation and Settlement of Amount of Compensation, which states:

- a) The amount of compensation based on the reasons referred to in Criminal Code Procedures (KUHAP) article 77, letter b, and article 95 is at least Rp. 500,000.00 (five hundred thousand rupiah) and a maximum of Rp. 100,000,000.00 (one hundred million rupiah).
- b) The amount of compensation based on the reasons referred to in Article 95 of the Criminal Procedure Code, which resulted in serious injury or disability resulting in unable to perform work, the amount of compensation is at least Rp. 25,000,000.00 (twenty five million rupiah) and a maximum of Rp. 300,000,000.00 (three hundred million rupiah).
- c) The amount of compensation based on the reasons referred to in Article 95 of the Criminal Procedure Code, which resulted in death, is at least Rp. 50,000,000.00 (fifty five million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah).

The amount of the fine that has been replaced, namely of five hundred thousand rupiahs by the government to victims of law implementation error by law enforcers, is very small compared to the victim's labor and costs. It shows how the implementation of Government Regulation No. 92 of 2015 concerning the second amendment of Government Regulation No. 27 of 1983 concerning Compensation and Settlement of Amount of Compensation has overlooked the value of justice and legal benefits.

If only based on Article 9 of Government Regulation No. 92 of 2015 concerning the second amendment to Government Regulation No. 27 of 1983 concerning Compensation and Settlement of Amounts of Compensation in a normative manner, it will result in the neglect of justice for the victim. Due to the labor and costs incurred and losses on the law implementation error, it is not proportional to compensation of only Rp. 500,000.00 (five hundred thousand rupiah). It will also result in a mismatch of the criminal law's objectives, which should have brought justice to society.

This situation is an increasing dilemma with an expensive and convoluted

mechanism to obtain compensation for acts of law implementation error, which must be through a court lawsuit. Besides, there is no threat to the government committing an act of law implementation error through its apparatus to people who are victims of law implementation error.

a. Difficult Access to Legal Aid for Victims of Law Implementation Error that affects the Poor Most

In its development, most of the victims of law implementation error are poor people. It is because most of the standards in society see that street children and homeless people have a habit of committing crimes. However, in reality, not all poor people can be accused to commit crimes.

Negative stigma to society often results in wrongdoing in law enforcement. It can be seen in the case of the law implementation error in Cipulir. In case number 98/Pid. Prap/2016/PN.Jkt.Sel, the judge granted part of the claim for Andro and Nurdin, who were victims of law implementation error. Andro and Nurdin were victims of wrongdoing in applying the law by officers who did not work professionally. Both Andro and Nurdin were accused of murdering Dicky, which made Andro and Nurdin follow a series of deviant trials.⁸ The discrepancy between regulations, implementation, and community needs in this matter is obvious. From the regulation perspective, the amount of compensation is very large and in the provision of compensation, it is also quite complicated because one has to submit a formal application to the community, even though there is a judge's decision that has permanent legal force. These two things are ultimately out of sync with the needs of the community, especially victims.

There has been a problem of law enforcement bureaucracy. It is further complicated by the difficulty of accessing legal aid for the poor who are victims of the law implementation error. The difficulty suffered by the poor is caused by a dilemmatic situation between the high legal aid operational costs that cannot be obtained from cases involving the poor.⁹

b. Lack of Government Role

In its development, the government should disseminate the existence of compensation for victims of law implementation error. However, it did not work well. The evidence from this statement is that most people do not know that there is compensation for the victims of law implementation error. Even if they do know, the community also does not understand the mechanism for obtaining such compensation.¹⁰

8. LBH Jakarta, *Hakim Kabulkan Ganti Kerugian Pengamen Cipulir*, retrieved from www.bantuanhukum.or.id, on 12 May 2019.

9. *Loc. cit.*

10. *Loc. cit.*

c. The Relevance of Justice Value in the Implementation of Compensation for Victims of Law Implementation Error

Based on the various kinds of explanations above, it can be seen that the implementation of compensation for victims of law enforcement errors has not been effective, it has resulted in a disposition of the value of legal justice.

Moch. Koesnoe considered that in the Preamble to the 1945 Constitution of the Republic of Indonesia contained the basic values of our national legal system, which are the *rechtsidee* of law, which includes the first basic value, namely the law to protect and not just rule and the second basic value, law aims to realize social justice for all. Indonesian people and social justice is not merely a goal but a concrete guide in making legal regulations.¹¹

Based on the existing explanation, it is clear that the implementation of compensation for victims of law enforcement error is not following 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 law enforcement error.

It can be seen from the incompatibility of the implementation of compensation for victims of law enforcement error with Pancasila's values . These values are accumulated in the principles of Pancasila, which are reflected in the form:¹²

a. Religious Moral Value

It means that Pancasila law ideals will give birth to a national law based on and oriented towards religious values in the context of a religious nation state, but not a religious state. Religious moral value means that every Indonesian believe in God, according to his religion and belief. All religions must receive the same treatment. All people can practice their religion and beliefs in a civilized manner and respect each other.

b. Humanistic Value

It means that the ideal laws of Pancasila are law oriented towards human values, namely the recognition that all Indonesian people are equal. So, every human being must recognize, accept, maintain and protect the personality of every human in society, have the same position before the law regardless of ethnicity, nation, race, and religion.

c. Nationalism/ Unity Value

This value means that Pancasila law ideals are nationalism-oriented laws that close

11. Tongat, *Pancasila Sebagai Dasar Falsafah Negara dan Makna Filosofisnya dalam Pembaharuan Hukum Pidana Nasional*, Journal of Legal Issues Vol. 41, No. 3, p.404

12. Achmad Irwan Hamzani, dkk., 2019, *Cita Hukum Pancasila di antara Pluralitas Hukum Nasional*, Proceedings of the National Seminar on Transcendental Law, Doctor of Law, Surakarta Muhammadiyah University, p. 224-225

the opportunity for national disintegration. Pancasila is the driving force and controller of the realization of Indonesian unity.

d. Democracy Value

It means that the law ideals of Pancasila are laws that are oriented towards democratic democracy, namely the values that are believed, respected, and obeyed by the Indonesian people or nation.

e. Social Justice Value

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

E. Conclusion

1. The implementation of compensation for victims of law enforcement error is not yet fair. It is indicated by the amount of compensation, which is only Rp. 500,000.00 (five hundred thousand rupiah);
2. The reasons for the implementation of compensation for victims of law enforcement error are not yet fair, namely weaknesses in terms of legal regulations, difficulty in accessing legal aid for the poor, and the lack of the government's role;
3. So, it is clear that the implementation of compensation for victims of law enforcement error is contrary to the mandate of the Pancasila and the 1945 Constitution of the Republic of Indonesia, so that the implementation of compensation for victims of law implementation error has not been able to bring justice.

F. Suggestions

1. There needs to be an increase in the number of compensation sanctions in cases of law enforcement errors;
2. There is a need for assistance facilities for the poor, specifically in the field of claims for compensation against victims of law implementation error;
3. Implementing a bureaucratic system in the payment of compensation in simpler and less complicated legal application errors is necessary.

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