

Kompensasi dan restitusi bagi korban pelanggaran hak asasi manusia yang berat

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Abstrak

Tesis ini membahas tentang konsep ganti rugi bagi korban tindak pidana dalam peraturan perundang-undangan di Indonesia dan praktiknya dalam pengadilan HAM yang telah berlangsung, serta optimalisasi peran penuntut umum dalam memperjuangkan hak-hak korban khususnya korban pelanggaran HAM yang berat atas ganti kerugian dalam proses peradilan pidana. Metode penelitian adalah yuridis normatif. Hasil penelitian ini menyimpulkan bahwa meskipun undang-undang memberikan jaminan bagi korban pelanggaran HAM berat dalam memperoleh restitusi dan kompensasi, namun dalam implementasinya tidak efektif. Kelemahan konsep dan prosedur restitusi dan kompensasi yang diatur dalam Undang-Undang No. 26 Tahun 2000 menjadi faktor penting efektifitas pelaksanaan restitusi dan kompensasi, sehingga perbaikan konsep dan penguatan hukum acara menyangkut kompensasi dan restitusi harus dilakukan agar efektif dalam implementasinya. Disamping itu, pihak-pihak yang terlibat langsung dalam pengajuan kompensasi dan restitusi melalui mekanisme peradilan pidana khususnya penuntut umum belum secara optimal memperjuangkan terpenuhinya hak-hak korban tersebut. Seharusnya, Kejaksaan Agung sudah memiliki kebijakan yang jelas dalam memperjuangkan hak-hak korban atas restitusi dan kompensasi.

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Abstract

The thesis discusses the concept of compensation for the victims of criminal acts in the laws and regulations in Indonesia and its practice which has been implemented in the human rights court, as well as the role optimization of the public prosecutors in fighting for the rights of the victims, especially the victims of serious human rights violation, to get compensation in criminal justice process. The research method is normative judicial. The research results conclude that although the law guarantees the victims of serious human rights violation to get restitution and compensation, in the implementation it is not effective; the weak concept and procedure of the restitution and compensation governed in the Law No. 26 of the year 2000 become the important factor of the restitution and compensation implementation effectiveness so that the improvement of the concept and the strengthening of the law of procedure concerning the compensation and restitution must be done in order to be effective in the implementation. Moreover, the parties directly involved in filing for compensation and restitution through criminal justice mechanism, especially the

public prosecutors, have not optimally fought to fulfill the rights of those victims. The Attorney General's Office should have had a clear policy to fight for the rights of the victims to receive restitution and compensation.