

## Reflections on Human Rights and Democracy in Indonesia: The Struggle of Victims Seeking Justice in the Kamisan Action, Amidst the 2024 President Election Vacuum

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### ABSTRACT

*During Indonesia's reformation era, past human rights violations weren't addressed through ad hoc trials despite changing leadership. Ahead of the 2024 President Election, amidst heightened political competition, the issue seemed neglected. Foreign media focused on this, particularly due to Gibran, President Jokowi's son, discussing political dynasties, and controversies surrounding a candidate accused of human rights violations, banned from entering the US. 1) The author aims to analyze the government's policy on the Kamisan Action, supporting human rights trials in Indonesia, and evaluate president candidate's commitment to addressing human rights violations. It's hoped the 2024 elected President prioritizes resolving human rights issues and increases public awareness of ongoing violations. 2) The research adopts a normative juridical approach. 3) Findings: Efforts to address past human rights violations since BJ Habibie's time haven't fully resolved the issue. The planned Ad Hoc Court under Law No. 26 of 2000 remains unimplemented, indicating a lack of state commitment to protecting human rights. The Kamisan Action continues its fight for justice, but hopes were dashed with leadership changes. In the 2024 president election, only candidate pair Anies Rasyid Baswedan-Muhaimin Iskandar, and candidate pair Ganjar Pranowo-Mahfud MD prioritize human rights. Prabowo's victory, despite allegations of involvement in human rights violations, left the Kamisan Action disillusioned. 4) Conclusion, however there's a possibility of establishing an ad hoc court under the current administration. Ensuring perpetrators face justice is crucial to prevent ongoing injustice and implicate the state in human rights violations by not resolving the issue.*

**Keywords:** *human rights violations, human rights enforcement. kamisan action, special court*



## INTRODUCTION

Indonesian democracy is marked by the long struggle of victims of human rights violations in seeking justice. Amidst the euphoria of political contestation ahead of the 2024 President Election, their voices seem to be drowned in a vacuum. The issue of human rights violations is like an old wound that has been neglected. It is often not thoroughly investigated, considered uninteresting, only warmed up shortly before the president election. Politicized by certain groups to gain votes, without real solutions. In the midst of uncertainty and frustration, resistance movements emerged, one of which was the "Kamisan Action".

The Kamisan action began on January 18, 2007, victims and families of victims of human rights violations united in this peaceful action. They consist of victims of the '65 incident, the Trisakti and Semanggi '98 tragedies, the Rumpin tragedy, and various other cases of human rights violations.<sup>1</sup> Every Thursday, from 16.00 to 17.00, they stand firmly in front of the President Palace. Dressed in black, with black umbrellas bearing demands for justice, they remain silent, delivering messages silently. Letters to the President, banners with the names of the victims, photos carved with sadness, and leaflets containing information are distributed to road users. Black became a symbol of grief transformed into love, umbrella as protection, and the President Palace as a symbol of power that was expected to hear their cries. Kamisan action is not just a silent action, behind the silence, there is a cry for justice that has never been answered. A non-violent resistance, proof that love and compassion can fight oppression.<sup>2</sup>

When the state seems to ignore, "Kamisan Action" becomes the last bastion of defense. An effort to reveal the truth, seek justice, and fight against forgetting. An open letter to the President is not only a demand, but also a political education for the nation's leaders. Kamisan Action, a peaceful resistance that taps the conscience. A reminder that democracy is not only about political contestation, but also about justice and human rights.<sup>3</sup>

Research on the Struggle of Victims of Human Rights Violations or called Kamisan Action is not only conducted by this research. But previously there has been research related to this Kamisan Action entitled The Struggle of Kamisan

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<sup>1</sup> Diamanty Ristiano, Christoforus. Meiliana, '8 Facts About 12 Years of Kamisan Action: Invited to the Palace Only Once', *Web Kompas.Com*, 2019, <https://nasional.kompas.com/read/2019/01/17/12072721/8-fakta-tentang-12-tahun-aksi-kamisan-hanya-sekali-diajak-masuk-ke-istana>.

<sup>2</sup> BEM UMM, 'KAMISAN ACTION (Brief History of the Formation of Kamisan Action)', Web BEM Universitas Muhammadiyah Malang, 2022, <https://bem-fe.umm.ac.id/id/pages/artikel-12/aksi-kamisan.html>.

<sup>3</sup> UMM.

Action and the Non Government Organization KontraS in Finding Justice for Human Rights by Sabit Irfani and Sunarso.<sup>4</sup> Research entitled *Kamisan Action: A Practical and Theoretical Review of Symbolic Movement Transformation* by Leonardo Julius Putra.<sup>5</sup> Research entitled *Juridical Study of Ham: The Emergence of Kamisan Action as a Representative of the 1998-1999 Events*.<sup>6</sup> And research entitled *Kamisan Action as a Representation of Civil Society and the Response of the Susilo Bambang Yudhoyono Era Government to Past Human Rights Violations* by Rendy Adiwilaga.<sup>7</sup>

The difference between this research and previous research is that the research conducted by Sabit Irfani and Sunarso focuses on analyzing the struggle of the Kamisan action movement in influencing government policies in the field of human rights, as well as analyzing the role of KontraS NGO in influencing political policies in the central government. Furthermore, research conducted by Leonardo Julius Putra examines the background of the Kamisan Action in Yogyakarta and Jakarta, and analyzes the government's response to this action. And research conducted by Mada Sulistiyo Rini explained the extent of the struggle and efforts made by the government in handling cases of human rights violations, as well as measuring the harmony between written human rights regulations and their implementation in life. Then the research conducted by Rendy Adiwilaga discussed Kamisan actions and policies during the presidency of Susilo Bambang Yudhoyono. While this research summarizes various studies conducted previously, focuses on discussing policies from the third to the seventh president period which in previous studies were not discussed thoroughly and discusses how the commitment of the President Candidate in the 2024 election

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<sup>4</sup> Sabit Irfani and Sunarso, 'The Struggle of Kamisan Action and the Non Government Organization KontraS in Finding Justice for Human Right', *Journal of Citizenship and Legal Education* 9, no. 1 (2020): 55–64.

<sup>5</sup> Leonardo Julius Putra, 'Leonardo Julius Putra, "Kamisan Action: A Practical and Theoretical Review of Symbolic Movement Transformation"', *Polinter Journal: Studies in Politics and International Relations*, *Jurnal Polinter: Kajian Politik Dan Hubungan Internasional* 2, no. 1 (2016): 12–32, <https://doi.org/10.52447/polinter.v2i1.498>.

<sup>6</sup> Mada Sulistiyo Rini, 'Juridical Study of Human Rights: The Emergence of the Kamisan Action as a Representative of the Events of 1998-1999', *JIM: Scientific Journal of History Education Students* 7, no. 4 (2022): 294–305, <https://doi.org/10.24815/jimps.v7i4.22619>.

<sup>7</sup> *Jurnal Politik dan Sosial Kemasyarakatan* Vol, 'Kamisan Action as a Representation of Civil Society and the Government's Response in the Susilo Bambang Yudhoyono Era in Responding to Cases of Past Human Rights Violations', *Politics, Journal, and Social Affairs Vol. Kamisan Action as a Representation of Civil Society and the Government's Response in the Susilo Bambang Yudhoyono Era in Responding to Past Cases of Human Rights Violations* 10, No. 3 (2018): 14–32. 10, no. 3 (2018): 14–32.

who will become the next President in solving the problems behind the kamisan action, this also makes the advantages of this research.

Based on the background above, the formulation of the problem in this study is how the policies of the government and institutions towards kamisan actions demanding human rights courts for human rights violators in Indonesia, how the commitment of President candidates contesting the 2024 President Election in resolving human rights violations in Indonesia. The purpose of this study is to analyze the policies that have been implemented by the government and related institutions towards Kamisan actions demanding human rights courts for human rights violators in Indonesia, evaluate the commitment of President candidates contesting the 2024 President Election in resolving human rights violations in Indonesia, it is hoped that the President who will win in 2024 can resolve and solve the problem of human rights violations and increase reader awareness and concern for cases of unresolved human rights violations.

## RESEARCH METHOD

The approach method in this research is to use a normative juridical approach, namely a legal research method that examines library materials or secondary data. Thus, this research method is also often called doctrinal legal research, research that originates from secondary data, legal principles, legal rules. positive results from library materials, regulations and court decisions.<sup>8</sup> To analyze "Reflections on the quality of human rights and democracy in Indonesia: the struggle of victims of human rights violations in seeking justice, in the vacuum of the 2024 presidential election." This method allows researchers to gain an in-depth understanding of the problems studied and provides a strong legal basis for their analysis.

## RESULT AND DISCUSSION

### **Government and Institutional Policies Towards Kamisan Actions Demanding Human Rights Trials for Human Rights Violators in Indonesia**

The term policy is a translation of the English word "Policy" which is distinguished from the words wisdom (Wisdom) and virtues (virtues). According to Irfan Islamy (1999), wisdom comes from the word "Wisdom" which is an action that requires further and deeper considerations. Meanwhile, policy is an

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<sup>8</sup> Surtini, 'Research Methods Research Methods', *Metode Penelitian Kualitatif*1, no. 17 (2022): 43, [http://repository.unpas.ac.id/30547/5/BAB III.pdf](http://repository.unpas.ac.id/30547/5/BAB%20III.pdf).

action that includes the rules contained in a policy. M.Solly Lubis (2007) says Wisdom in the sense of wisdom or wisdom is a deep thought / consideration to become the basis (foundation) for policy formulation. Policy is a set of decisions taken by political actors in order to choose goals and ways to achieve goals.<sup>9</sup>

Meanwhile, the definition of government policy according to Mc Rae and Wilde is a series of actions chosen by the government that have an important influence on a large number of people.<sup>10</sup> This definition means that government policy consists of various government activities and decisions that are interrelated and affect many people. Therefore, a government policy has an important role in resolving cases of human rights violations in the past.<sup>11</sup>

Komnas HAM based on Article 18 of Law No. 26 of 2000 as an investigator, the Attorney General's Office based on Article 21 of Law No. 26 of 2000 as an investigator, the House of Representatives proposes the establishment of a court, then the President is authorized to issue a President Decree to establish an adhoc court referring to Law No. 26 of 2000.<sup>12</sup>

#### a. The Reign of BJ Habibie

In the post-President Soeharto era, there were strong demands and debates that led to the adoption of MPR Decree No. XVII/MPR/1998 on Human Rights. The content included a mandate for the President and high state bodies to promote the protection of human rights, including a mandate to ratify international human rights instruments and the Charter of Human Rights. 11 Human rights activists argue that maximum protection of human rights is essential to prevent abuses such as those that occurred during the Soeharto regime. The MPR has issued MPR Decree no. XXVII of 1998 on Human Rights and B.J. Habibie issued Law No. Edition 39 of 1998 on Human Rights.

The struggle to include the protection of human rights in the Constitution was finally finalized at the Annual Conference of the MPR in 2000. The MPR agreed to include human rights in CHAPTER XA, which contains 10 human rights articles (Articles 28A-28J) in the second amendment of the 1945 Constitution stipulated on August 18, 2000, which complements and expands Article 28. The politics of human rights law in the Reformation era, which in fact is the era of early democracy, is also characterized by the establishment and

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<sup>9</sup> Kismartini, 'Understanding Government Policy -', *Article* 2019 (2019): 1–88, <https://adm.fisip.unpatti.ac.id/wp-content/uploads/2019/10/Bahan-Ajar-Kebijakan-Pemerintahan-dikonversi.pdf>.

<sup>10</sup> Kismartini.

<sup>11</sup> Kismartini.

<sup>12</sup> Irfani and Sunarso, 'The Struggle of Kamisan Action and the Non Government Organization KontraS in Finding Justice for Human Right'.

strengthening of human rights protection institutions, such as the strengthening of the National Human Rights Commission, the establishment of the Constitutional Court, the National Commission on Women, the National Commission on Children, and sanctions and victim protection institutions. Of the various laws that have been made, the regulation of human rights in the 1945 Constitution, the results of amendments I, II, III, IV are the most basic legal products.<sup>13</sup> In this reform era, the agenda of strengthening, fulfilling and protecting human rights has become a top priority. This agenda was not only responded to by BJ Habibie, but also by the DPR, the Abdurrahman Wahid, Megawati, and SBY governments, which implemented it through various new policies. These included the revocation of Perpu that violated human rights, amendments to the Constitution, the creation of new Perpu explicitly aimed at human rights protection, and ratification of international human rights conventions.<sup>14</sup> However, Indonesia has not ratified several international human rights conventions, and has not established ad hoc courts or special legal institutions to deal with perpetrators of human rights violations as desired by members of the Kamisan Action. Although legal products in the reform era contain principles that support the respect and protection of human rights, their implementation has not been fully optimized until now.

b. The Reign of Abdurrahman Wahid

The National Unity Cabinet under the leadership of President Abdurrahman Wahid did take steps to resolve the cases of violence and human rights violations that underpinned the Kamisan Action. However, these steps still did not touch the root of the problem. The efforts made by Abdurrahman Wahid cabinet in resolving human rights violations, such as the formation of the Tim Gabungan Pencari Fakta (TGPF) In English it is the Joint Fact Finding Team and Gusdur passed Law No. 26 of 2000 concerning the Human Rights Court.

This is progress from the efforts made during the reign of Abdurrahman Wahid. Despite these efforts, the political will of Abdurrahman Wahid cabinet to resolve the problem remains in doubt. This can be seen in the slow pace of the judicial process and the lack of commitment to taking action against perpetrators of human rights violations. As a result of this lack of political will, resistance from the public demanding a judicial process for perpetrators of human rights violations continues. This is a factor that has slowed down the resolution of cases

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<sup>13</sup> Virdatul Anif and Galuh Mustika Dewi, 'Political Legal Direction of Human Rights Protection Policy in Indonesia', *Lex Scientia Law Review* 1, no. 1 (2017): 5–18.

<sup>14</sup> Anif and Dewi.

of past human rights violations.<sup>15</sup> Abdurrahman Wahid himself once said that "humanity is more important than politics." This statement is in line with the liberation values he fought for, where every human being is basically entitled to freedom of thought and expression. This is an important asset in ensuring basic rights for all citizens.<sup>16</sup> Outside the context of the Kamisan Action, a number of names of civilian and military officials allegedly linked to the East Timor violations were mentioned, one of which was General Wiranto, this led to Indonesia coming under pressure from the UN because it was considered not serious about resolving the issue of human rights violations during the Reformation transition. Indonesia was also pressured to bring human rights violators in East Timor to the International Court of Human Rights, as seen in the documentary *High Noon in Jakarta* by independent Australian filmmaker Curtis Levy. In one segment, the documentary, which was produced and aired on the Australian Broadcast Corporation (ABC), records Abdurrahman Wahid and Foreign Minister Alwi Shihab talking about human rights violations and Wiranto's position.

In response to this problem on February 1, 2000 Abdurrahman Wahid stated that he would ask Wiranto to resign from the position of Coordinating Minister for Political and Security Affairs, then on February 13, 2000 Abdurrahman Wahid deactivated Wiranto and was replaced by Soedirdja as Ad Interim Coordinating Minister for Political and Security Affairs, and on May 16, 2000 Wiranto officially resigned from the position of Coordinating Minister for Political and Security Affairs. However, Abdurrahman Wahid consideration for Wiranto's removal was not merely to make the investigation process run smoothly or to free Indonesia from international pressure. According to him, several human rights-sensitive countries were reluctant to invest if Wiranto was still in his cabinet.<sup>17</sup> The values of humanity and liberation championed by Abdurrahman Wahid are important in ensuring basic rights for all citizens. This can be the basis for continuing the struggle to resolve cases of human rights violations in the future.

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<sup>15</sup> No Name, 'Process for Resolving Kidnapping Cases and Human Rights Violations', *Web.KontraS*, 2000, <https://kontras.org/2000/04/28/proses-penyelesaian-kasus-penculikan-dan-pelanggaran-ham/>.

<sup>16</sup> Petrus Riski, 'KOHI and Gusdurian Remind the Government to Complete Missing Persons Cases', *Web.VoaIndonesia*, 2020, <https://www.voaindonesia.com/a/ikohi-dan-gusdurian-ingatkan-pemerintah-tuntaskan-kasus-orang-hilang/5244772.html>.

<sup>17</sup> Fadrik Aziz Firdausi, 'Four Months after Being Inaugurated as President, Gus Dur Fired Wiranto', *Web.tirto.Id*, 2020, <https://tirto.id/empat-bulan-setelah-dilantik-jadi-presiden-gus-dur-memecat-wiranto-ejdk>.

c. The Reign of Megawati Soekarno Putri

During this time, Ms. Sumarsih, the JSKK ( Jaringan Solidaritas Korban untuk Keadilan) presidium. In English it is the Victim Solidarity Network for Justice member who is now a member of the Kamisan Action, stated that she had met with Megawati.<sup>18</sup> And there was a plan to ratify the Rome Statute that was scheduled through RANHAM 2004-2009. The Rome Statute is an international treaty that established the International Criminal Court, abbreviated as ICC in English, and then passed on to the administration of President Susilo Bambang Yudhoyono. During President Yudhoyono's two terms in office, the target of adopting the Rome Statute was not met although officials associated with the implementation of RANHAM repeatedly expressed the government's desire to ratify the Rome Statute.<sup>19</sup> However, to date Indonesia has not ratified the Rome Statute even though Indonesia participated in the conference that ratified the Rome Statute in 1998 due to concerns that the Rome Statute's jurisdiction will punish Indonesian citizens (WNI) for past gross human rights violations.<sup>20</sup> Nonetheless, there are efforts by the government to establish a Joint Fact-Finding Team (TGPF) to investigate cases of human rights violations.

d. The Susilo Bambang Yudhoyono Administration

In a speech on August 16, 2006, President Susilo Bambang Yudhoyono stated that his government was doing well because no gross human rights violations had occurred. This shows that the government is only trying to prevent human rights violations from occurring again, but is ignoring its other responsibility to resolve past human rights violations, which is also an obligation of the current government. However, there was a response from the President Palace to the response to the Kamisan Action through the staff of the President Advisory Council (Watimpres) in the field of law and human rights, namely Albert Hasibuan, who stated that the government knew and had paid more attention to this kamisan action, and in previous years had always opened open meetings with the victims.

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<sup>18</sup> Politik and Vol, 'Kamisan Action as a Representation of Civil Society and the Government's Response in the Susilo Bambang Yudhoyono Era in Responding to Cases of Past Human Rights Violations'.

<sup>19</sup> Parliamentarians for Global Action, 'Senior Legislators and the Government of Indonesia Agree to Accede to the Rome Statute of the International Criminal Court (ICC).', Parliamentarians for Global Action, 2007.

<sup>20</sup> Marfuatul Latifah, 'The Urgency of Indonesia Becoming a State Party to the Rome Statute for the Protection of Human Rights in Indonesia', *Jurnal Politika* Vol.5, no. No.2 (2014): 158-84, <https://jurnal.dpr.go.id/index.php/politika/article/view/341>.

For the demands of the victims, the president palace received the results of the National Human Rights Commission's research on cases of past human rights violations such as the events after 30 September 1965, and so on. Following up on this. President SBY plans to apologize for the gross human rights violations that occurred in the past. "Let's just wait, because the president is currently running more important state agendas". When asked about the government's next strategy, Albert Hasibuan did not continue his explanation. Confirming Albert Hasibuan's statement, Mrs. Sumarsih, representing the victims of human rights violations, said that she had met with President SBY on March 26, 2008, and President SBY stated that the Trisakti and Semanggi cases would be resolved through an adhoc human rights court, that major mistakes would be punished severely, that minor mistakes would be punished lightly, and that the innocent would not be punished. President SBY's statement gave hope to the victims, but in reality the adhoc human rights court was not held.

Bedjo Untung also pointed out that the House of Representatives has recommended the immediate establishment of a Human Rights Court to examine the perpetrators of the abduction of the missing student activists. However, after two years, President SBY has yet to make a decision and Komnas HAM has recommended the President to immediately issue a President Decree on Rehabilitation for Victims of 1965/1966. Yet again, the President has ignored it.<sup>21</sup>

It should be noted that before the establishment of the Kamisan Action, there was a Victims Solidarity Network for Justice (JSKK) at this time. The background of the emergence of JSKK is also the same as Kamisan Action, but from day to day, JSKK movement activities are increasingly slackening both in terms of quantity and quality. This can be seen from the decreasing number of protesters in recent years. Some of them mostly withdrew from the action allegedly because of their physical condition and the absence of the government's response as expected. Meanwhile, the Kamisan Action is still being held to this day.

#### e. Joko Widodo's Reign

During the 2014 general election, president candidate Joko Widodo (Jokowi) and vice president candidate Jusuf Kalla (JK) offered a program to include material on human rights in the general education curriculum. The pair also promised to resolve past human rights issues and revise the Military Justice

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<sup>21</sup> Politik and Vol, 'Kamisan Action as a Representation of Civil Society and the Government's Response in the Susilo Bambang Yudhoyono Era in Responding to Cases of Past Human Rights Violations'.

Law.<sup>22</sup> One of Jokowi's campaign promises contained in the *nawacita* vision and mission was their commitment to resolve past human rights violations that are still a social burden on the Indonesian people. In a meeting with JSKK on 31 May 2018, the President stated that he would study the Semanggi I file, and emphasized his commitment to resolving cases of past violations. At the commemoration of Human Rights Day at the State Palace at the end of 2015, the President stated that we must all have the courage to carry out reconciliation or seek breakthrough solutions through judicial or non-judicial channels.<sup>23</sup>

In a meeting with JSKK on May 31, 2018, the President stated that he would study the Semanggi I file, but until now there have been no concrete steps to resolve the case. The agenda for resolving past gross human rights violations in the era of President Jokowi Jusuf Kalla's administration is dominated by the discourse of resolving cases through reconciliation mechanisms. Unfortunately, this reconciliation discourse is not accompanied by a discourse on resolving cases through judicial channels, which is a prerequisite for transitional justice and also a settlement that prioritizes aspects of justice, accountability and also fulfills the rights of victims and families of victims of past gross human rights violations.<sup>24</sup>

The Semanggi I tragedy, which is categorized as a gross human rights violation, has become a question mark in the community. Therefore, President Jokowi is urged to issue a president decree to establish an adhoc human rights court immediately. Order the Attorney General to investigate cases of gross human rights violations of the Semanggi I Tragedy, November 13, 1998. Reconciliation with truth telling (judicial and non-judicial). Finally, the government decided to resolve the Semanggi I tragedy through non-judicial channels or reconciliation. Chairman of the National Human Rights Commission (Komnas HAM) Imdadun Rahmat said the decision was taken based on the political stance of the current government.<sup>25</sup>

However, this has not led to satisfaction for the victims of gross human rights violations, because there is no legal certainty in the handling and resolution

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<sup>22</sup> Meidella Syahni, 'This Is Jokowi-JK's Promise Regarding Human Rights', *Web Kompas.Com*, 2014, <https://nasional.kompas.com/read/2014/05/21/1630112/Ini.Janji.Jokowi-JK.soal.HAM>.

<sup>23</sup> Annisa Azzahra, 'ANALYSIS OF THE SEMANGGI I TRAGEDY ON PROSECUTION EFFORTS TO RESOLVE HUMAN RIGHTS VIOLATIONS', *Branwijaya University Vocational Education Program* 3, no. 1 (2020): 103–12, <https://ejournal.fisip.unjani.ac.id/index.php/jurnal-academia-praja/article/view/128/115>.

<sup>24</sup> Irfani and Sunarso, 'The Struggle of Kamisan Action and the Non Government Organization KontraS in Finding Justice for Human Right'.

<sup>25</sup> Azzahra, 'ANALYSIS OF THE SEMANGGI I TRAGEDY ON PROSECUTION EFFORTS TO RESOLVE HUMAN RIGHTS VIOLATIONS'.

of this case. Then in 2016, a national history symposium on the 1965 tragedy was organized. The aim of the 1965 Tragedy Symposium was to resolve the events of '65 through reconciliation, on the grounds that evidence and perpetrators were difficult to find. The symposium produced recommendations that concluded that there had been gross human rights violations committed by the state, so an apology and rehabilitation for victims was needed. Unfortunately, this conclusion was rejected by the then Coordinating Minister for Political, Legal and Security Affairs, Luhut Binsar Panjaitan, who also initiated the symposium. Luhut asserted that the state's involvement in the 1965 tragedy was still debatable, so the state did not need to apologize. In addition, rehabilitation efforts also cannot be immediately carried out because they must look at the government's budget posture and also consider victims from the military. Another fact during Jokowi's presidency is that Wiranto, who was once deactivated as Coordinating Minister for Political and Security Affairs in relation to human rights violations in East Timor during Abdurrahman Wahid presidency, has now returned as Coordinating Minister for Political, Legal and Security Affairs.

Wiranto initiated a reconciliation concept called the Dewan Kerukunan Nasional (DKN) in English it is the Nasional National Harmony Council. The institution was approved by President Joko Widodo. DKN has a mission not only to handle and resolve past cases but also present cases, and also to prevent future national-scale conflicts. The establishment of the DKN institution has drawn pros and cons, a member of Commission 1 of the DPR, Effendi Simbolon questioned its effectiveness with the statement "Actually, the problem returns to the political will of the state, the government and the DPR. So I don't really understand if then a body has to be rebuilt that seems to have another institution that must resolve it. In fact, the resolution only refers to the Human Rights Law and other laws," and discussed Wiranto, who is the coordinator of this DKN institution, an official suspected of being involved in past human rights violations. "If the council is filled with the same people who have violated human rights, it looks like their character but in fact they are the same. Moreover, this is under the Ministry of Political, Legal and Security Affairs, so it's the same.". In Mr. Wiranto's time, what was ever resolved thoroughly.

He is also one of those suspected of being involved there," from this statement it can be interpreted that it would not be the same, in vain, the coordinator of his institution was also related to past human rights violations and was disabled from his position by Abdurrahman Wahid. Responding to this Jimly stated "What is the connection? There is no connection. This is the state, you consider all states guilty. Coordinating Minister for Political, Legal and Security

Affairs is an institution, different from Wiranto. Wiranto is a person. Institutions can have anyone sitting there. This is the Republic of Indonesia, not a person, which means that Wiranto being appointed as a minister under President Joko Widodo is not related to past human rights issues involving Wiranto. "Mas'ud, who is also a professor at the Muhammadiyah University of Malang, is against the establishment of this institution, he said "If there are more new institutions, there are new funds that are then released for this matter, even though it already exists. Then there are new personnel assigned to this. Indeed, there is truth in the criticism," this means that this institution only adds to expenses, even though there are already institutions that regulate such as Komnas HAM.<sup>26</sup>

At the end of the term of office of President Joko Widodo and Vice Ma'ruf Amin, President Joko Widodo issued President Decree Number 17 of 2022 concerning the Establishment of a Non-Judicial Settlement Team for Past Gross Human Rights Violations issued by the President through a state speech on August 16, 2022 last month and ratified on August 26, 2022, this president decree is present as a technical rule in resolving human rights violations through non-judicial channels or outside the court.<sup>27</sup>

Civil society has taken note of President Decree No.17 of 2022 on the Establishment of a Team for the Non-Judicial Resolution of Past Gross Human Rights Violations, which was emphasized by President Joko Widodo in his State of the Nation Address on August 16, 2022. The decree stipulates the establishment of a team to uncover and resolve past gross human rights violations based on Komnas HAM recommendations until 2020. Ardi Manto Adiputra from Imparsial highlighted several points related to the Keppres. First, Ardi assessed that the formation of the President Decree was carried out without accountability and minimal public participation, especially from victims and their families.

This raises the suspicion that the president decree is intended to provide impunity to perpetrators of gross human rights violations, especially those associated with President Jokowi's circle of power. Secondly, Ardi notes that the issuance of this Keppres appears to have a hidden political agenda, with the aim of fulfilling Jokowi's political promises in Nawacita. Ardi also noted that this Keppres gives the impression of impunity and facilitates candidates that Jokowi

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<sup>26</sup> Nuraki Aziz, 'National Harmony Council, Will It Be Effective or Redundant?', *Bbc.Comindonesia*, 2018, <https://www.bbc.com/indonesia/indonesia-44371401>.

<sup>27</sup> Abid Zamzami Wafdul Adif1, M Fahrudin Andriyansyah2, 'PRESIDENTIAL DECISION NUMBER 17 OF 2022 CONCERNING THE FORMATION OF A NON-JUDICIAL RESOLUTION TEAM FOR PAST SEVERE HUMAN RIGHTS VIOLATIONS FROM A HUMAN RIGHTS PERSPECTIVE', *Legal Scientific Journal* 10, no. 1 (2022): 1–52, <https://doi.org/10.21608/psjh.2022.250026>.

will allegedly support in the 2024 political contest, even though they have black records related to past gross human rights violations. Ardi emphasized that this President Decree should not turn cases of gross human rights violations into political transaction tools. Third, Ardi encourages Jokowi to revoke President Decree No.17 of 2022 and continue the judicial process by ordering the Attorney General to investigate cases of past human rights violations from Komnas HAM in a transparent and responsible manner.<sup>28</sup>

After the third debate of the 2024 President Election, for example, Jokowi criticized president candidates who he felt were attacking individuals rather than talking about work programs. Although it was not clear to whom Jokowi was referring, Anies Baswedan's statement about Prabowo's land ownership was in the spotlight. And Jokowi gave a statement on Wednesday, January 24, 2024 "The president may campaign, the president may take sides. It is permissible, but the most important thing during the campaign is not to use state facilities. So, it is allowed," Article 281 paragraph (1) of Law No. 7/2017 stipulates that the president may campaign as long as he does not use state facilities, but Article 282 emphasizes that state officials may not take actions that benefit or harm election participants during the campaign period.

The Election Supervisory Agency or in Indonesian is it the Badan Pengawas Pemilu (Bawaslu) has sent an appeal letter to President Jokowi to ensure that his ministers do not violate the restrictions stipulated in the Election Law. Although a minister may campaign, there are restrictions such as having to take leave first or not using state facilities. The letter was sent after Jokowi's controversial statement on the election, but it is unclear whether it was sent before or after the statement.<sup>29</sup>

### **Commitments of President Candidates in the 2024 Election Who Will Become President**

The resolution of past gross human rights violations is expected to remain murky after the 2024 President Elections. This is because only two president and vice president candidates, Anies Baswedan-Muhaimin Iskandar and Ganjar Pranowo-Mahfud MD, have promised to resolve them. This is stated in their

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<sup>28</sup> Ady Thea DA, '3 Impartial Notes on the Issuance of the Presidential Decree on the Establishment of a Team for Resolving Serious Human Rights Violations', Webhukumonline, 22 September 2022, <https://www.hukumonline.com/berita/a/keppres-pembentukan-tim-penyelesaian-pelanggaran-ham-berat-lt63314bfed24e7/?page=2>.

<sup>29</sup> Surya Dua Artha Simanjuntak, 'Jokowi's Strong Signal "All In" Prabowo-Gibran', Web.Bisnis.Com, 2024, <https://kabar24.bisnis.com/read/20240130/15/1736655/sinyal-kuat-jokowi-all-in-prabowo-gibran>.

vision and mission submitted to the General Election Commission. Violations of gross human rights cases in the past must be investigated so that this issue does not reappear in the upcoming president election contest and the families of the victims get justice.

a. Anies Baswedan-Muhaimin Iskandar

Coalition for Change president and vice president candidate Anies Baswedan and Muhaimin Iskandar are committed to resolving human rights violations if elected in the 2024 President Election. Although during the first president debate held on December 12, 2024, this pair of candidates did not get the opportunity to express their ideas regarding gross human rights violations in the past. However, he mostly mentioned human rights cases that occurred in recent years, namely the death of a Prabowo supporter named Harun Al-Rasyid during a demonstration to reject the results of the 2019 president election, as well as the shooting of six members of the Islamic Defenders Front (FPI) at the Jakarta-Cikampek Toll Road in 2020.<sup>30</sup>

However, the idea of resolving cases of human rights violations in the past was still conveyed in the vision-mission document and work program "Indonesia Adil Makmur for All" of the Anies-Muhaimin candidate pair that had been submitted to the General Election Commission (KPU). One of the missions carried by Anies-Muhaimin is, "restoring the quality of democracy, upholding law and human rights, eradicating corruption without selectivity, and organizing a government that sides with the people".

The mission is described in at least three programs, namely:

1. Strengthen national human rights institutions;
2. Resolve cases of human rights violations;
3. Promote socio-economic recovery for victims of human rights violations.

Nevertheless, the Anies Baswedan and Muhaimin Iskandar (AMIN) pair is committed to resolving the issue of past human rights violations. This commitment will be realized by establishing a human rights court.

Quoted from Media Indonesia, Friday, February 9, 2024, at the Slepert Imin event in Bandung, the vice president candidate who is often called Cak Imin, revealed that the Human Rights Court institution will become a national agenda that will address and resolve human rights issues properly. He also revealed his objectives in establishing this judicial institution, one of which was to provide

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<sup>30</sup> Fitria Chusna Farisa, 'First Debate on Human Rights, Listen to the Vision and Mission of the Presidential and Vice Presidential Candidates Regarding Human Rights', <https://Nasional.Kompas.Com/>, 12 December 2023.

legal certainty against various allegations of human rights violations that have always been directed at president candidate Prabowo Subianto.

He said that cases of human rights violations that are always associated with Prabowo are often seen as a five-year issue. Although the 1998 case was decided by the Military Honor Council by dismissing Prabowo, there was no follow-up or resolution.

The Human Rights Court Institution that AMIN will establish will not only be related to Prabowo's case. Other cases that have been recognized by a country as human rights violations but have not been legally explained will also be tried.<sup>31</sup>

Looking at their vision and mission, the president and vice president candidate pair number one promises to strengthen the National Human Rights Institution, resolve cases of human rights violations, and encourage socio-economic recovery for victims of human rights violations. This includes emphasizing punishment of perpetrators through fair trials, disclosure of facts, restoration of victims' rights, and guarantees that it will not happen again. However, Usman a human rights activist, advocate and executive director of Amnesty International Indonesia, like Ganjar Mahfud, believes that Anies Muhaimin's camp needs to clarify concrete steps to implement policies to resolve human rights cases.<sup>32</sup>

#### b. Prabowo Subianto-Gibran Raka Buming Raka

Prabowo has been overshadowed by allegations of past human rights violations during his four president contests. Prabowo stated his commitment to protect human rights in Indonesia. Looking at the vision and mission of the pair of president candidate number two Prabowo Subianto - Gibran Rakabuming Raka, they are the only president and vice president candidate (president-vice president candidate) who do not include a vision and mission to resolve past gross human rights cases.

Human rights activist Usman Hamid believes that what is reflected in the Prabowo-Gibran vision and mission document cannot be separated from Prabowo's track record in the past. Coordinator of the Commission for the Disappeared and Victims of Violence (KontraS) Dimas Bagus Arya assessed that

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<sup>31</sup> Anggi Tondi, 'Anies-Muhaimin Will Resolve Past Human Rights Issues', *METROTVNEWS.Com*, 9 February 2024, <https://www.metrotvnews.com/read/bD2C1pPx-anies-muhaimin-bakal-tuntaskan-persoalan-ham-masa-lalu>.

<sup>32</sup> No Name, 'Measuring the Presidential Candidates' Commitment to Resolving Past Human Rights Cases - "They Make Promises Just to Get Votes"', *BBC News Indonesia*, 14 December 2023, <https://www.bbc.com/indonesia/articles/c51z5kv16ro>.

Prabowo-Gibran's attitude of not including a program to resolve past human rights violations was a form of the candidate's lack of understanding of human rights issues. In fact, Dimas said, the elected President and Vice President will have the highest political authority to resolve past gross human rights violations.<sup>33</sup>

However, in this case, the candidate number two does not appear to have any commitment to resolving cases of gross human rights violations in the past, which further strengthens the assumption that Prabowo is an accuser of human rights violations. Prabowo's spokesperson Dahnil Anzar Simanjuntak could not answer the reason for the absence of a program to resolve past gross human rights violations in Prabowo-Gibran's vision and mission. However, Dahnil said that Prabowo is concerned with the promotion of human rights in Indonesia with the first part of the *asta cita* mission.<sup>34</sup>

In their vision-mission document, Prabowo-Gibran only includes promises to protect human rights for citizens and eliminate discriminatory practices. No resolution of past gross human rights violations is mentioned like the other two president-vice-president pairs, namely Ganjar Pranowo and Mahfud MD, Anies Baswedan and Muhaimin Iskandar.

In fact, as a pair that claims to be the successor to Joko Widodo's government, the Prabowo-Gibran duo should be determined to complete it. The absence of a promise from the Prabowo-Gibran pair certainly raises a question mark. The public is beginning to suspect that the two of them are worried about human rights issues like 'patting themselves on the back'. Prabowo himself is often cited as one of those who should be held accountable for the enforced disappearances of activists. This was also the case in the May 12, 1998 tragedy. At that time, Prabowo was the Commander General of Kopassus.<sup>35</sup>

He will follow the recommendation if the mandated decision is to establish an Ad Hoc Human Rights Court. Meanwhile, Prabowo-Gibran's mission related to human rights reads, "strengthening the ideology of Pancasila, democracy, and human rights". In their mission, Prabowo-Gibran want to ensure the fulfillment of human rights as a form of protection and respect for the rights of every individual. This mission is outlined in five programs, including:

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<sup>33</sup> Dani Prabowo Singgih Wiryono, 'Settlement of Past Serious Human Rights Cases That Prabowo-Gibran Didn't See', *Nasional.Kompas.Com*, 3 November 2023, <https://nasional.kompas.com/read/2023/11/03/09201471/penyelesaian-kasus-ham-berat-masa-lalu-yang-tak-dipandang-prabowo-gibran?page=all>.

<sup>34</sup> Singgih Wiryono.

<sup>35</sup> No Name, 'Prabowo-Gibran Bury Past Human Rights', *Mediaindonesia.Com*, 2 November 2023, [https://mediaindonesia.com/editorials/detail\\_editorials/3245-prabowo-gibran-kubur-ham-masa-lalu](https://mediaindonesia.com/editorials/detail_editorials/3245-prabowo-gibran-kubur-ham-masa-lalu).

1. Protect the human rights of all citizens and eliminate discriminatory practices in accordance with applicable regulations;
2. Ensure that every policy is inclusive, gender-perspective, and prioritizes efforts to empower women and protect children;
3. Prioritize legislation related to the protection of women and children and strengthen law enforcement;
4. Guarantee the fulfillment of basic community rights for the poor, abandoned children, the elderly, people with disabilities, and other vulnerable groups;
5. Strengthen the protection of Indonesian labor, especially overseas.

KontraS Deputy Coordinator, Andi Muhammad Rezaldy, assesses that the Prabowo-Gibran camp is the president-vice-president pair that shows the least commitment to resolving cases of past gross human rights violations. According to him, this is related to Prabowo's alleged involvement in the disappearance of 13 pro-democracy activists in 1998. Prabowo's lack of commitment, said Andi, was also reflected in how he answered Ganjar's question during the president debate.

This commitment is also not clearly reflected in Prabowo-Gibran's vision and mission. Prabowo-Gibran only mentioned that they would "uphold human rights" without mentioning the resolution of past human rights violations. Meanwhile, foreign media have been paying attention to the 2024 President Election, particularly due to the involvement of Gibran, President Jokowi's son, who raised the issue of political dynasties, as well as the controversy surrounding a President candidate allegedly involved in human rights violations. This is notable because it reflects the growing political dynamics in Indonesia, and invites widespread discussion on democratic principles, electoral credibility, and the protection of human rights.<sup>36</sup>

We cannot shake the fear that authoritarianism may resurface in Indonesia. Since the collapse of the Suharto regime in 1998, Indonesia has been steadily walking the road of democracy. It is the responsibility of the incoming administration to prevent the spread of "crony politics" and protect the freedom of the people so as not to reverse the progress made over the past quarter century.<sup>37</sup>

Mr. Prabowo's record on human rights which also includes accusations that his feared Kopassus special forces slaughtered hundreds in a crackdown in

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<sup>36</sup> JST, 'Indonesia's next President Must Not Roll Back Democracy', Asia Nikkei, 2024, <https://asia.nikkei.com/Opinion/The-Nikkei-View/Indonesia-s-next-president-must-not-roll-back-democracy>.

<sup>37</sup> JST.

East Timor led the United States to bar him from entering the country for years. He was never charged in a criminal court. In 2014, he presented himself as a military strongman, bellowing nationalistic speeches, but lost to Mr. Joko. Five years later, Mr. Prabowo portrayed himself as a devout Muslim and leaned on communal dog whistles, accusing Mr. Joko of secretly being a "Chinese Christian". He failed again but claimed that he was a victim of election fraud and rallied hardline Islamists to protest the results in violent street demonstrations. (Indonesia has the world's largest Muslim population. In this campaign, Mr. Prabowo has tried to shed his reputation for a volatile temper by portraying himself as a gemoy, or cute, grandfather who dances at rallies. And he has implicitly won the backing of Mr. Joko by naming his 36-year-old son, Gibran Rakabuming Raka, as his running mate. Billboards all over Indonesia show cartoons of a doe-eyed and chubby Mr. Prabowo together with Mr. Gibran.<sup>38</sup>

### c. Ganjar Pranowo-Mahfud MD

So far, Ganjar Pranowo-Mahfud MD is the only president candidate who has explicitly promised to establish an adhoc human rights court to resolve cases of human rights violations that have occurred previously. This promise is an integral part if they succeed in winning the 2024 president election. However, Usman Hamid, Executive Director of Amnesty International Indonesia, stated that there is no guarantee that the political promise will materialize in real life.<sup>39</sup> Although the pair did not detail the concepts or methods they will apply to address human rights violation cases, experts and activists of 98 are confident that Ganjar-Mahfud have the capability to resolve them. Chairman of Gerak 98, Mixil Mina Munir, stated that his party has given a mandate to Ganjar Pranowo to resolve past human rights violations. "We entrust one of the mandates to Mr. Ganjar is to resolve past human rights violations." Mixil said, quoted on Friday (11/17/2023). According to Mixil, this hope may be realized because Ganjar as a president candidate does not have a black record related to human rights violations, as well as his vice-presidential partner, Mahfud MD. "For Mr. Ganjar and Mr. Mahfud, I am sure that in a short time they will resolve past human rights violations. I think they are both activists, they started as activists," he added. Although the resolution of convoluted and cold-stamped human rights violation

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<sup>38</sup> Sui-Lee Wee, "Why This Presidential Front-Runner Is Stirring Fears of the "Death of Democracy"", NYTimes Asia Pasifik, 2024, <https://www.nytimes.com/2024/01/21/world/asia/prabowo-human-rights-indonesia-election.html>.

<sup>39</sup> Name, "Measuring the Presidential Candidates' Commitment to Resolving Past Human Rights Cases - "They Make Promises Just to Get Votes"".

cases will be complicated, Ganjar-Mahfud are expected to deal with it by using the right strategy, combining Mahfud MD's legal knowledge and Ganjar Pranowo's political skills.<sup>40</sup>

Ganjar is working with Mahfud MD, who functions as Menkopolhukam, in the process of resolving cases of human rights violations that are not decided by judges. The commitment to resolve cases of human rights violations is through the Truth and Reconciliation Commission Law (TRC Law). Ganjar's idea is considered a concrete step in resolving cases of human rights violations.<sup>41</sup>

One of Ganjar-Mahfud's missions also mentions human rights issues, which reads, "accelerating the implementation of substantive democracy, respect for human rights, equitable rule of law, and professional security".<sup>42</sup>

1. The elaboration of the mission on human rights is as follows: Progressive legal supremacy and guaranteeing human rights Ensure a just law with clean law enforcement, and affirm the commitment to respect, protect and fulfill human rights followed by regulations that are adaptive to the times;
2. Human rights violations resolved Continue to resolve cases of human rights violations in a just manner. Especially for cases of human rights violations that are a burden on the civilization of the nation and state;
3. Adherence to standards and human rights Always comply with every rule and can be a role model for the community, including in upholding human rights.

Ganjar emphasized that the issue of human rights violations must be resolved. That way, Indonesia will move forward and not think backwards.<sup>43</sup>

## CONCLUSION

Based on the analysis of the research findings, it is concluded that the government's policies have been ineffective because their resolution has not reached the root of the problem by punishing perpetrators of human rights violations through the long-planned ad hoc court as stipulated in Law Number 26 of 2000, and all presidential candidate pairs have given a mission on human

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<sup>40</sup> Rini, 'Juridical Study of Human Rights: The Emergence of the Kamisan Action as a Representative of the Events of 1998-1999'.

<sup>41</sup> ARM Muhamad Ridwan, 'Ganjar's Firmness in Resolving Cases of Human Rights Violations Is Worthy of Support', *Jawapos.Com*, 13 December 2023, <https://www.jawapos.com/politik/013519411/ketegasan-ganjar-tuntaskan-kasus-pelanggaran-ham-layak-didukung>.

<sup>42</sup> Farisa, 'First Debate on Human Rights, Listen to the Vision and Mission of the Presidential and Vice Presidential Candidates Regarding Human Rights'.

<sup>43</sup> Muhamad Ridwan, 'Ganjar's Firmness in Resolving Cases of Human Rights Violations Is Worthy of Support'.

rights, but only the Prabowo Subianto–Gibran Rakabuming Raka candidate pair has not given a guarantee that they will investigate past human rights cases. Furthermore, with the outcome of the 2024 election solidifying Candidate 02 as the next President, they believe that Prabowo, who is suspected of involvement in human rights violations, is unlikely to address these issues from the past. However, this does not rule out the possibility that under the current administration, an ad hoc court could be implemented and members of the Kamisan Action could obtain the justice they seek. The author suggests conducting ad hoc trials in accordance with existing regulations so that once the perpetrators are identified and tried, there will be no more accusations. However, if this is not done to protect the perpetrators who are politicians and influential officials, the state can be considered complicit if it fails to resolve this issue, and there is a suggestion for further research to examine the continuation of this issue, and the policies undertaken by the new president administration.

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