



## THE LEGAL EFFECTIVENESS OF HANDLING GROSS HUMAN RIGHTS VIOLATIONS IN THE SEMANGGI TRAGEDY (1998 – 1999)

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**Abstract:** The Semanggi Tragedies I (1998) and II (1999) marked two major episodes of violence during Indonesia's political transition from the New Order regime to the Reform era. Both incidents resulted in dozens of deaths and hundreds of injuries, thereby falling into the category of alleged gross human rights violations. However, more than two decades later, their handling has shown no significant progress. This study aims to examine the historical context of these events, the position and responsibility of the state in the human rights violations that occurred, and the extent to which the legal response to the Semanggi Tragedies aligns with Soerjono Soekanto's Theory of Legal Effectiveness. The study employs a normative juridical method with qualitative descriptive analysis. The data used are entirely secondary, including legislation, official parliamentary records, documents from the National Commission on Human Rights (Komnas HAM), civil society reports, academic literature, and relevant media coverage. Data were collected through library research and systematically analyzed to produce deductive conclusions regarding the effectiveness of legal enforcement in the Semanggi cases. The findings show that the handling of the Semanggi cases fails to meet the indicators of legal effectiveness. In terms of regulation, there exists a duality of interpretation regarding investigative authority between Komnas HAM and the Attorney General's Office. From the perspective of legal apparatuses, inconsistencies persist, including statements from the Attorney General that contradict the mandate of the Human Rights Court Law. Meanwhile, evidentiary infrastructure has weakened due to the lengthy passage of time and the limited availability of forensic evidence. Lastly,

public responses reflect a low level of trust in formal human rights enforcement mechanisms. Overall, this study underscores that the handling of the Semanggi Tragedies remains far from effective and requires comprehensive reform to ensure legal certainty and justice for the victims.

**Keywords:** Gross Human Rights Violations; Legal Effectiveness; Semanggi Tragedy

## I. INTRODUCTION

Human Rights (HAM) are fundamental rights inherent to every individual from birth as a gift from God Almighty. These rights are universal, without distinction of religion, race, ethnicity, or culture. Through these rights, human beings are afforded the opportunity to grow, develop themselves, and realize their aspirations and life goals. In practice, both the state and individuals share responsibility for the enforcement of human rights. The state holds a crucial role, bearing the obligation to respect, protect, fulfill, and promote the human rights of all its citizens. Consequently, the state occupies a vital position in ensuring the implementation of human rights protection and respect within national and civic life.<sup>1</sup>

The responsibility of the state, particularly the government, is explicitly affirmed in Article 28I paragraph (4) of the 1945 Constitution, which stipulates that the state is obliged to protect, promote, uphold, and fulfill human rights. Similar provisions are found in Law No. 39 of 1999 concerning Human Rights, specifically in Article 71, which states:

*"The Government shall be obligated and responsible to respect, protect, uphold, and promote Human Rights as regulated by this law, other statutory regulations, and international human rights law recognized by the Republic of Indonesia."*

A deeper examination of the subjects and objects in human rights violations shows that the government or state apparatus may be categorized as perpetrators when such violations are committed by state institutions, public officials, ministers, or legislative bodies that formulate or implement state policies resulting in infringements on citizens' rights. Meanwhile, the structural victims of human rights violations are the wider public, whether as individuals or as social groups.<sup>2</sup>

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<sup>1</sup> Dwi Resti Bangun, 2015. *Pembangunan Hukum Nasional: Implementasi Pemenuhan dan Perlindungan Hak Asasi Manusia*. Jurnal Cahaya Keadilan 3, no. 2, p. 42 - 43.

<sup>2</sup> Setiyani & Joko Setiyono, 2020. *Penerapan Prinsip Pertanggungjawaban Negara Terhadap Kasus Pelanggaran HAM Etnis Rohingya di Myanmar*. Jurnal Pembangunan Hukum Indonesia 2, no. 2, p. 263.

Within its historical trajectory, Indonesia carries a collective memory of several past events involving human rights violations that remain unresolved to this day. One such event is the Semanggi I Tragedy. This incident occurred in the Semanggi area of South Jakarta on 13 November 1998, when thousands of university students staged a protest against the government of Bacharuddin Jusuf Habibie. The protest had begun earlier, on 11 November 1998, when students and residents marching from Jalan Salemba clashed with Pamswakarsa near the Proclamation Monument. The following day, 12 November 1998, large crowds of students and civilians again took to the streets and attempted to reach the DPR/MPR building from various directions such as Semanggi, Slipi, and Kuningan. However, all access roads were heavily guarded by the military (TNI), Mobile Brigade (Brimob), and Pamswakarsa, preventing them from entering the parliamentary complex. That evening, the first major clash erupted near Slipi, injuring dozens of students who were rushed to nearby hospitals. A high-school student named Lukman Firdaus suffered severe injuries and later died several days after the incident.<sup>3</sup>

Moving to the next day, 13 November 1998, the number of protesting students and civilians grew significantly, concentrating around the Semanggi area and the vicinity of Atma Jaya Catholic University of Indonesia. Jalan Sudirman had been tightly secured by security forces since the night before, and by midday, the number of personnel had increased to block the demonstrators' movement. Students and civilians became trapped from both ends of Jalan Sudirman, while the authorities deployed armored vehicles to disperse the crowd. The number of demonstrators at that time was estimated to be in the tens of thousands. At around 3:00 PM (WIB), security forces advanced and opened fire indiscriminately toward the fleeing crowd. In this tragic event, a student named Teddy Wardhani Kusuma was fatally shot at the scene.<sup>4</sup>

The issue of human rights violations in the Semanggi tragedy has, in fact, been acknowledged by the Indonesian government. On Wednesday, 11 January 2023, President Joko Widodo, based on the recommendations of the Non-Judicial Settlement Team for Gross Human Rights Violations, officially recognized the truth of twelve incidents of human rights violations throughout Indonesia's history. One of these twelve incidents was the Semanggi Tragedy. However, this acknowledgment does not represent the final step in resolving a case that has

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<sup>3</sup> Annisa Azzahra, 2020. *Analisis Tragedi Semanggi I Terhadap Upaya Penuntutan Penyelesaian Pelanggaran HAM*. Jurnal Academia Praja: Jurnal Magister Ilmu Pemerintahan 3, no. 01, p. 106.

<sup>4</sup> Annisa Azzahra., *Ibid*, p. 103 – 112.

remained stagnant for years. As emphasized by the Director of the SETARA Institute, the acknowledgment was not accompanied by specific truth regarding the actors behind the tragedy, nor by clear legal guarantees, both of which remain obscure to this day.<sup>5</sup>

Building on the background above, this article examines the development of the human rights violation case by analyzing it through Soerjono Soekanto's Theory of Legal Effectiveness. Therefore, the focus of this paper is to explore the historical background of the event, the position of the state in this human rights violation, and the effectiveness of the law in addressing the human rights violations of the Semanggi Tragedy. It is hoped that this study will contribute to similar scholarly discussions and enhance human rights literacy in Indonesia.

## **II. RESEARCH METHODS**

This study employs a normative juridical method, an approach used to examine legal issues based on historical and legal-formal foundations. The data utilized in this research were obtained through library research, drawing on secondary sources collected from various literature, books, statutory regulations, and previous studies relevant to the subject matter. Meanwhile, this research is categorized as descriptive qualitative, in which the collected data are analyzed qualitatively to produce a coherent, logical, and in-depth description. The analysis is conducted to interpret the data systematically, thereby generating findings that address the core focus of the study.<sup>6</sup> To sharpen the analysis, this paper adopts Soerjono Soekanto's Theory of Legal Effectiveness as its primary analytical framework.

## **III. ANALYSIS AND DISCUSSION**

### **a. Historical Overview of the Semanggi Tragedy**

The Semanggi incident is historically divided into two episodes known as Semanggi I and Semanggi II. Fundamentally, both tragedies occurred amid escalating public pressure regarding Indonesia's political situation throughout 1998–1999. The major unrest began on 13 November 1998, when student protests against the administration of Bacharuddin Jusuf Habibie culminated in the Semanggi area,

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<sup>5</sup> Han Revanda Putra, 2023. *Inilah 12 Pelanggaran HAM Berat yang Diakui Presiden Jokowi*. <https://www.tempo.co/hukum/inilah-12-pelanggaran-ham-berat-yang-diakui-presiden-jokowi-229945>.

<sup>6</sup> Lexy J. Moleong, 2004. *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosda Karya, p. 248.

South Jakarta. Tensions had actually surfaced earlier, on 11 November 1998, when groups of students and residents marching from Jalan Salemba clashed with Pamswakarsa near the Proclamation Monument. The situation did not subside. On 12 November 1998, hundreds of thousands of demonstrators attempted to reach the DPR/MPR building through various routes, including Semanggi, Slipi, and Kuningan. However, all access roads had been tightly sealed by security forces consisting of the military (TNI), Mobile Brigade (Brimob), and Pamswakarsa, preventing any group of protesters from approaching the parliamentary complex. That night, clashes erupted in the Slipi area, leaving dozens of students injured and rushed to hospitals. A student named Lukman Firdaus suffered a severe gunshot wound and later died several days after the incident.

On the peak day, 13 November 1998, waves of students and civilians from various directions converged once again in the Semanggi area and its surroundings. They joined thousands of other students who had already filled the area in front of Atma Jaya Catholic University of Indonesia. From the night through the early morning, security forces had already closed Jalan Sudirman, and their numbers increased further by midday. Demonstrators were trapped from both directions along the corridor of the street, while armored vehicles were deployed to push back the crowd. It is estimated that tens of thousands of people were present at the location at that time. At around 15:00 WIB, armored vehicles began advancing to disperse the crowd. Protesters fled in panic, only to be met with bursts of gunfire from security forces. Amid the chaos, a student named Teddy Wardhani Kusuma was fatally shot. Demonstrators then sought refuge on the campus of Atma Jaya University, which quickly turned into an emergency evacuation zone for injured students and civilians. It was in this area that additional victims were shot. Bernauds R. Norma Irawan, a student of Atma Jaya's Faculty of Economics, was shot in the chest while attempting to assist an injured colleague in the campus parking area. The gunfire did not stop until late into the night. From late afternoon until the early hours of the morning, the sound of continuous gunfire echoed throughout the Semanggi area. The number of casualties continued to rise, both fatalities and those suffering severe injuries. Each time a new group of demonstrators attempted to join, they were met with bullets and tear gas.

The Semanggi I Tragedy ultimately claimed 18 lives, five of whom were university students: Teddy Mardani, Sigit Prasetya, Engkus Kusnadi, Herus Sudibyo, and B.R. Norma Irawan. In addition, at least 109 other individuals, both students and

civilians, were injured as a result of the security forces' violence.<sup>7</sup> Meanwhile, according to several news reports and official releases from the Volunteer Team for Humanity concerning the events during the Special Session of the MPR from 10-13 November 1998, a total of 17 civilians were reported dead and 456 others injured in the Semanggi I incident.<sup>8</sup>

Before this tragedy had been fully investigated, another wave of mass demonstrations erupted a year later, demanding political accountability under President B.J. Habibie's administration. On Friday morning, 24 September 1999, thousands of demonstrators consisting of civilians and students from the University of Indonesia, Atma Jaya University, Trisakti University, and the National University marched toward the DPR / MPR building.<sup>9</sup> The protesters demanded the cancellation of the Draft Law on the Management of States of Emergency (UU PKB).<sup>10</sup> Initially, the demonstration proceeded peacefully, but chaos broke out later that night. While the protesters were taking a meal break, gunshots were heard from the direction of the Karet–Sudirman overpass, triggering widespread panic. According to Amnesty International, the violent incident resulted in the deaths of 11 civilians and injuries to 217 others.<sup>11</sup> One of the victims was Yap Yun Hap, a student of the Faculty of Engineering at the University of Indonesia, who died from a gunshot wound to his back.<sup>12</sup>

## **b. State Obligations in Cases of Human Rights Violations**

Within the concept of Human Rights, three fundamental elements are inherent in every human being, both as an individual and as a social entity, namely integrity, freedom, and equality. A human rights violation occurs when a person or a group of people, including state officials, either intentionally or through negligence, commit

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<sup>7</sup> Annisa Azzahra., *Ibid*, p. 107.

<sup>8</sup> Amnesty International, 2024. *26 Tahun Tragedi Semanggi I: Negara Wajib Usut Tuntas Pelanggaran HAM Berat*. <https://www.amnesty.id/kabar-terbaru/siaran-pers/26-tahun-tragedi-semanggi-i-negara-wajib-usut-tuntas-pelanggaran-ham-berat/11/2024/>.

<sup>9</sup> Sandra, 2025. *Tragedi Semanggi II: Kekerasan Aparat Terhadap Pro-Demokrasi*. <https://inca.ac.id/tragedi-semanggi-ii/>.

<sup>10</sup> Semanggi Peduli. *Tragedi Semanggi II*. <https://semanggipeduli.com/sejarah/tragedi-semanggi-ii/>. Accessed November 1, 2025.

<sup>11</sup> Amnesty International, *Ibid*.

<sup>12</sup> Michelle Gabriela, 2024. *25 Tahun Tragedi Semanggi II, Yap Yun Hap Mahasiswa UI Tewas Disebut Tak Ada Pelanggaran HAM Berat*. Tempo.Co, <https://www.tempo.co/politik/25-tahun-tragedi-semanggi-ii-yap-yun-hap-mahasiswa-ui-tewas-disebut-tak-ada-pelanggaran-ham-berat-6259>.

acts that unlawfully restrict, obstruct, or deprive individuals of their fundamental rights guaranteed by law, and when victims do not receive, or are at risk of not receiving, fair legal remedies in accordance with applicable regulations (Article 1 paragraph 6).<sup>13</sup>

In principle, the protection and advancement of human rights are the primary responsibilities of the state. As an entity with the highest authority, the state is obligated to respect, protect, and fulfill the fundamental rights of all its citizens, and political, economic, or cultural reasons may not be used as justification to diminish these obligations.<sup>14</sup> State responsibility in the field of human rights encompasses three core duties. First, the obligation to respect, which requires the state to refrain from interfering with individual rights except as permitted by law. Second, the obligation to fulfill, which mandates the state to ensure the realization of these rights through legislative action, administrative measures, and practical implementation. Third, the obligation to protect, which means that the state must guarantee that every individual within its jurisdiction is safeguarded from any form of violation, whether committed by state apparatuses or by other parties.<sup>15</sup>

Universally, the standards for the fulfillment of human rights differ depending on the type of right, namely civil and political rights on one hand, and economic, social, and cultural rights on the other. For civil and political rights, the International Covenant on Civil and Political Rights (ICCPR) stipulates that states must take direct and immediate measures, whether through regulation or other policy instruments, to ensure respect for and fulfillment of these rights. Meanwhile, in the domain of economic, social, and cultural rights, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) requires states to pursue fulfillment gradually through progressive realization, in accordance with the maximum capacity and resources available to them.<sup>16</sup>

Understanding the dynamics of human rights enforcement in Indonesia, the protection and promotion of human rights must be viewed within the framework of

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<sup>13</sup> Masyhur Effendi & Taufani S. Evandri, 2014. *HAM dalam Dinamika / Dimensi Hukum, Politik, Ekonomi, dan Sosial*. Bogor: Penerbit Ghalia Indonesia, p. 156.

<sup>14</sup> Muhammad Jailani, 2011. *Tanggung Jawab Negara dalam Memberikan Perlindungan Terhadap Hak - Hak Korban Pelanggaran HAM Berat di Indonesia*. Syiar Hukum: Jurnal Ilmu Hukum 13, no. 1, p. 84.

<sup>15</sup> Setiyani & Joko Setiyono., *Ibid*, pp. 267 - 268.

<sup>16</sup> Resti Dwi Bangun., *Ibid*, p.47.

a constitutional state grounded in clear constitutional rules and institutional systems. In line with this, Adnan Buyung Nasution formulated five essential steps that the government should undertake. First, improving human rights regulations and legislation so that they align with constitutional provisions, thereby providing a strong foundation for human rights protection. Second, reviewing and evaluating all regulations that conflict with human rights principles, including criminal law and criminal procedures, and integrating these reforms into broader legal reform agendas and the ratification of international human rights instruments. Third, strengthening the capacity of judicial institutions and other bodies related to law enforcement and human rights. Fourth, enhancing the understanding and dissemination of human rights values, particularly within the bureaucracy and institutions that frequently engage with human rights issues. Fifth, expanding collaboration between the government and civil society, including NGOs, academics, and community groups, in order to reinforce efforts toward human rights protection and law enforcement in Indonesia.<sup>17</sup>

Since the onset of the Reform Era, Indonesia's legal history has continued striving to strengthen the enforcement and advancement of human rights through the establishment of clearer and more comprehensive legal instruments. One of the initial steps was the formulation of normative foundations for human rights across various legislative products.

- 1) Human rights provisions that existed prior to the amendments to the 1945 Constitution originally contained in Articles 27 to 34, were revised and reinforced through the drafting of Articles 28A to 28J following the constitutional amendment process.
- 2) The enactment of Law No. 39 of 1999 on Human Rights, which more explicitly regulates various fundamental rights of citizens, including the right to life, the right to form a family and continue one's lineage, the right to self-development, the right to justice, the right to personal freedom, the right to security, the right to welfare, the right to participate in governance, as well as specific protections for the rights of women and children.
- 3) The government also enacted Law No. 26 of 2000 on Human Rights Courts, which provides the juridical basis for adjudicating cases of gross human rights violations and strengthens mechanisms of state accountability in such cases.

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<sup>17</sup> Adnan Buyung Nasution, 2003. *Implementasi Perlindungan Hak Asasi Manusia dan Supremasi Hukum*, in Seminar Pembangunan Hukum Nasional VIII 14-18 July 2003, Badan Pembinaan Hukum Nasional, Departemen Kehakiman dan Hak Asasi Manusia RI, Denpasar, p. 8.



As noted earlier, in addressing cases of gross human rights violations in Indonesia, particularly the Semanggi I and II tragedies, the Indonesian government has, in fact, made efforts to exercise its constitutional authority and obligations to respect, protect, and fulfill human rights in accordance with prevailing legal provisions. This commitment is reflected, among other ways, in the official statement of President Joko Widodo, who reaffirmed the state's position regarding these events: *"With a clear mind and sincere heart, I, as the Head of State of the Republic of Indonesia, acknowledge that gross violations of human rights did indeed occur in various incidents."*<sup>18</sup>

The gross human rights violations he acknowledged include:

- 1) The 1965–1966 Events;
- 2) The 1982–1985 Mysterious Shootings;
- 3) The 1989 Talangsari Incident in Lampung;
- 4) The 1989 Rumoh Geudong and Pos Sattis Incidents in Aceh;
- 5) The 1997–1998 Forced Disappearances;
- 6) The May 1998 Riots;
- 7) The 1998–1999 Trisakti and Semanggi I–II Incidents;
- 8) The 1998–1999 Killings of *Dukun Santet*;
- 9) The 1999 Simpang KKA Incident in Aceh;
- 10) The 2001–2002 Wasior Incident in Papua;
- 11) The 2003 Wamena Incident in Papua; and
- 12) The 2003 Jambo Keupok Incident in Aceh.<sup>19</sup>

Law No. 26 of 2000 on Human Rights Courts stipulates that the handling of gross human rights violations must be conducted through a special court established on an *ad hoc* basis. The provisions regarding the nature of such an *ad hoc* court are elaborated in Article 43, which essentially states that its formation must be based on a proposal submitted by the House of Representatives (DPR RI) and subsequently formalized through a presidential decree.

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<sup>18</sup> Humas Kemensetneg, 2023. *Presiden Jokowi Sesalkan Terjadinya Pelanggaran HAM Berat di Tanah Air*. Kementerian Sekretariat Negara Republik Indonesia, <https://setneg.go.id/baca/index/presiden-jokowi-sesalkan-terjadinya-pelanggaran-ham-berat-di-tanah-air>.

<sup>19</sup> Humas Kemensetneg., *Ibid*.

### c. Effectiveness of Law in Addressing the Semanggi Tragedy

The concept of effectiveness derives from the term *effective*, which refers to the degree of success in achieving predetermined objectives. This concept relates to the extent to which actual outcomes align with or approximate the expected results. Effectiveness can be understood as the ability of an organization or institution to perform its duties, functions, and programs without significant obstacles or pressures. Based on this definition, legal effectiveness means that its measure of success is determined by how far previously established goals or targets can be achieved as planned.<sup>20</sup>

According to Hans Kelsen, discussions on legal effectiveness cannot be separated from the issue of legal validity. Validity indicates that a legal norm possesses binding force and requires everyone to act in accordance with the provisions it contains. Meanwhile, legal effectiveness refers to the extent to which society actually observes, complies with, and applies these norms in practice, as required by law.<sup>21</sup> Furthermore, Soerjono Soekanto's theory of legal effectiveness emphasizes the degree to which a group succeeds in realizing predetermined objectives. A legal rule is considered effective when it produces positive outcomes, namely, when the law truly fulfills its primary function of guiding or altering social behavior so that it conforms to prevailing legal norms.<sup>22</sup>

More broadly, the law aims to create order and harmony by ensuring certainty and justice within society. Legal certainty requires norms to be formulated in general terms and enforced consistently. For this reason, the public must be able to clearly understand legal rules, as these norms are designed to regulate both present and future events and apply to all individuals. Thus, in addition to ensuring certainty and justice, the law also encompasses utility. This means that members of society clearly understand what is permitted and prohibited, while also receiving protection from actions that may harm their interests within reasonable limits.<sup>23</sup>

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<sup>20</sup> Sabian Usman, 2009. *Dasar-Dasar Sosiologi*. Yogyakarta: Pustaka Belajar, p. 13.

<sup>21</sup> Sabian Usman., *Ibid*, p. 12.

<sup>22</sup> Soerjono Soekanto, 1988. *Efektivitas Hukum dan Penerapan Sanksi*. Bandung: CV. Ramadja Karya, p. 80.

<sup>23</sup> Soerjono Soekanto, 1976. *Beberapa Permasalahan Hukum dalam Kerangka Pembangunan di Indonesia*. Bandung: Yayasan Penerbit Universitas Indonesia, p. 40.

Building upon the definitions of effectiveness outlined above, it can be understood that effectiveness serves as a benchmark for assessing the extent to which predetermined targets have been achieved. Accordingly, Soerjono Soekanto formulated several indicators that strengthen or weaken the effectiveness of a legal norm, namely:

- 1) The law itself;
- 2) Law enforcement officials;
- 3) Supporting facilities or infrastructure for law enforcement;
- 4) Society;
- 5) Culture.<sup>24</sup>

According to Soerjono Soekanto, the effectiveness of the law in relation to the first factor, the law itself, concerns the quality of the regulation, which includes the following aspects:

- 1) Regulations governing specific areas of life are organized in a transparent manner.
- 2) These rules exhibit harmony, both hierarchically and horizontally, without creating contradictions among themselves.
- 3) In terms of quantity and quality, the provisions established to regulate specific sectors are considered adequate.
- 4) The dissemination or publication of these rules has been carried out in accordance with applicable legal requirements.<sup>25</sup>

Referring to the aspects within the first factor above, efforts to improve legal instruments governing human rights violations have, in fact, shown a generally positive trajectory. In Indonesia, at least three legislative frameworks seek to provide a legal umbrella for the recognition and protection of human rights. The 1945 Constitution of the Republic of Indonesia, particularly Articles 28A to 28J, affirms these guarantees, as reflected in Article 28I paragraph (1), which states:

*“The right to life, the right to be free from torture, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the*

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<sup>24</sup> Soerjono Soekanto, 2008. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Raja Grafindo Persada, p. 8.

<sup>25</sup> Muhammad Miftahul Huda, et al., 2022. *Implementasi Tanggung Jawab Negara Terhadap Pelanggaran HAM Berat Paniai Perspektif Teori Efektivitas Hukum Soerjono Soekanto*. IN RIGHT: Jurnal Agama dan Hak Azazi Manusia 11, no. 1, p. 130.

*right to recognition as a person before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be limited under any circumstances.”*

Beyond mere formal recognition, the development of Indonesian law has been relatively progressive in addressing human rights violations. This progress is evident in the enactment of Law No. 39 of 1999 on Human Rights and Law No. 26 of 2000 on Human Rights Courts, which outline the substantive concepts of human rights and the mechanisms for their adjudication. However, these laws and regulations have yet to guarantee their effective implementation. As noted by Huda et al. (2022)<sup>26</sup>, legal impunity remains difficult to avoid in handling cases of human rights violations. Although Komnas HAM has conducted investigations into the twelve major cases, its findings were deemed insufficient to meet both formal and material requirements. The process of proving gross human rights violations also faces substantial obstacles because it must adhere to evidentiary rules under the Criminal Procedure Code (KUHAP). Under this system, the testimony of a single witness is insufficient without corroboration from other forms of evidence, such as forensic expert statements, ballistic tests, or supporting documents. These challenges are compounded by the fact that many of these violations occurred decades ago, causing crucial evidence and traces of events to disappear or change over time, along with shifts in the conditions at the crime scenes. In other words, this first factor continues to leave significant room for improvement.<sup>27</sup>

Examining the second factor, law enforcement, Soerjono Soekanto outlines four essential aspects that must be fulfilled to achieve legal effectiveness:

- 1) The degree to which law enforcement officers adhere to the applicable rules and regulations;
- 2) The extent to which discretion may be granted to officers in carrying out their duties;
- 3) The forms of exemplary conduct that officers must demonstrate to the public;
- 4) The clarity and coherence of the division of tasks assigned to officers, enabling them to understand the limits of their authority with certainty.

In the context of the Semanggi tragedy, efforts to address gross human rights violations continue to traverse a dark and difficult legal path. The case appears to be

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<sup>26</sup> Muhammad Miftahul Huda, et al., *Ibid*, p. 125 - 126.

<sup>27</sup> Muhammad Miftahul Huda, et al., *Ibid*, p. 126.

treated with indifference by law enforcement when brought to the judicial arena. Over the span of 28 years, the case has progressed no further than the investigative stage. According to the Executive Director of Amnesty International Indonesia, Usman Hamid, the Semanggi I tragedy is, in fact, one of the clearest cases of gross human rights violations in terms of available evidence, ranging from the types of firearms used against demonstrators to the specific military units present at the scene.<sup>28</sup> Rather than resolving the case, the Attorney General, in the view of the Commission for the Disappeared and Victims of Violence (KontraS) representative Dimas Bagus Arya, seems to be attempting to systematically whitewash the Semanggi tragedy and other human rights violations.<sup>29</sup> The acknowledgment of the twelve cases of gross human rights violations by President Joko Widodo appears to be little more than political rhetoric, lacking any substantive judicial follow-up.

The third factor concerns facilities and infrastructure. These refer to the various resources and instruments that serve as supporting elements for achieving effective law enforcement. Such supporting facilities include competent and well-trained human resources, an organized institutional structure, adequate equipment, and sufficient financial support. When these supporting components are not fulfilled, efforts to enforce the law will struggle to produce the desired outcomes. Certainty and efficiency in handling legal cases depend heavily on the completeness of these facilities, particularly those required for crime prevention and prosecution.

Reviewing the trajectory of the Semanggi case, the case files have repeatedly circulated between the Attorney General's Office and Komnas HAM. On 30 September 2024, the Attorney General's Office stated that no investigative action had been taken regarding the alleged gross human rights violations. In contrast, Komnas HAM asserted that the investigative files had already been returned to the Attorney General's Office as of 7 October 2024. This situation indicates an absence of commitment and responsibility on the part of state institutions in resolving the case.<sup>30</sup> Moreover, President Joko Widodo's earlier acknowledgment of past gross human rights violations has had no tangible effect on the prosecution process.

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<sup>28</sup> Hidayat Salam & Willy Medi Christian Nababan, 2024. *26 Tahun Tragedi Semanggi I, Kapan Kasus-Kasus Pelanggaran HAM Berat Dituntaskan?*. Kompas.Id, <https://www.kompas.id/artikel/26-tahun-tragedi-semanggi-i-kapan-kasus-kasus-pelanggaran-ham-berat-dituntaskan>.

<sup>29</sup> Hidayat Salam & Willy Medi Christian Nababan., *Ibid*.

<sup>30</sup> Eryana Trikarinaputri, 2024. *26 Tahun Tragedi Semanggi I, KontraS Sebut Proses Hukum Masih Stagnan*. Tempo.Co, <https://www.tempo.co/hukum/26-tahun-tragedi-semanggi-i-kontras-sebut-proses-hukum-masih-stagnan-1167926>.

Complicating matters further is a clear discrepancy in perception between the Attorney General's Office and Komnas HAM regarding the Semanggi incidents. During a Working Meeting with the House of Representatives (DPR) on 16 January 2020, the Attorney General argued that the Semanggi I and II tragedies did not constitute gross human rights violations, citing the 2001 findings of the DPR's Special Committee (Pansus). Conversely, KontraS emphasized that the Attorney General has no authority to declare whether an incident qualifies as a gross human rights violation. According to KontraS, such authority lies solely with Komnas HAM, as stipulated in Article 18 of the Law on the Human Rights Court. Komnas HAM itself has already classified the Semanggi cases as gross human rights violations.<sup>31</sup>

Factor four concerns society. Society here includes all elements within the state, ordinary citizens, law enforcement personnel, and government officials. The key point is the level of public awareness in complying with the law, often referred to as the degree of obedience. Once a regulation has been formally enacted and enforced according to lawful procedures, it becomes legally binding. However, there is often an assumption that all citizens automatically know about the regulation's existence, which is not always the case in practice.<sup>32</sup> In the Semanggi tragedy, the perpetrators have been clearly identified based on Komnas HAM's investigation. The bullets fired at the demonstrators originated from the weapons of security forces. Given this, the perpetrators, being state officers, should have understood the law and the proper legal procedures for responding to public demonstrations. Instead, security personnel handled the crowd with excessive and violent force, resulting in loss of life. This situation demonstrates that understanding the law does not necessarily equate to being conscious of or compliant with the law.<sup>33</sup>

Fifth is the cultural factor. The development of Indonesia's legal culture should ideally involve continuous legal reform. Legal development is fundamentally a political process, meaning its success heavily depends on the commitment of political actors who shape and direct it. These actors determine the direction, character, and substance of legal reform. Moreover, legal development cannot stand

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<sup>31</sup> Ervana Trikarinaputri., *Ibid.*

<sup>32</sup> Ria Ayu Novita & Suparno Agung Basuki Prasetyo, 2017. *Efektivitas Pelaksanaan Undang - Undang Nomor 2 Tahun 1960 Tentang Perjanjian Bagi Hasil Tanah Pertanian (Tanah Kering) di Desa Bringin, Kecamatan Bayan, Kabupaten Purworejo*. Diponegoro Law Journal 6, no. 2, p. 8.

<sup>33</sup> Amnesty International., *Ibid.*

alone; it must align with policies in other sectors to ensure overall coherence.<sup>34</sup> From President Joko Widodo's rhetorical statements, to the remarks of the Attorney General, and the broader issues of weak commitment and responsibility among state institutions in resolving the Semanggi human rights violations, as previously discussed, it becomes evident that Indonesia's legal culture has not been cultivated with genuine seriousness.

#### IV. CONCLUSION

The Semanggi I and II tragedies reflect a pattern of state violence during Indonesia's post-New Order transitional period, in which security forces employed disproportionate force that resulted in numerous deaths and injuries. This indicates that the incidents were not sporadic events, but rather systemic failures in protecting citizens. From a human rights law perspective, the state did not adequately fulfill its constitutional obligations. Although a comprehensive legal framework exists, such as the 1945 Constitution, Law No. 39/1999, and Law No. 26/2000, its implementation has been inconsistent and has not produced concrete measures of legal enforcement. These shortcomings are further evidenced by the low level of legal effectiveness, as shown by the stagnation of investigations, the lack of institutional coherence, weak facilities and coordination, and minimal political commitment. Together, these factors have hindered accountability processes and allowed impunity to persist.

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<sup>34</sup> Any Ismayawati, 2011. *Pengaruh Budaya Hukum Terhadap Pembangunan Hukum di Indonesia (Kritik Terhadap Lemahnya Budaya Hukum di Indonesia)*. *Pranata Hukum* 6, no. 1, p. 59.

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