



## The Impact of the Implementation of Permenkumham No. 23 of 2022 on Efforts to Handle Alleged Human Rights Violations

Gloria Meliana Sitohang<sup>1\*</sup>, Janpatar Simamora<sup>2</sup>  
Faculty of Law, Universitas HKBP Nommensen Medan

**Corresponding Author:** Gloria Meliana Sitohang

[glorameliana.sitohang@student.uhn.ac.id](mailto:glorameliana.sitohang@student.uhn.ac.id)

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### ABSTRACT

Five basic objectives that form the cornerstone of national and state life are mandated under the Republic of Indonesia's 1945 Constitution. Protecting national sovereignty, raising the level of life for all Indonesians, enhancing public welfare, and establishing a global order founded on social fairness and independence are some of these objectives. Furthermore, the Republic of Indonesia's 1945 Constitution's Article 1 Paragraph 1 highlights the country's status as a unitary state in the form of a republic. The term "unitary state" itself describes a sovereign body that functions as an indivisible whole and has a centralized form of government. Increasing the capability of human resources in the sphere of law and human rights is one of the Ministry of Law and Human Rights' strategic goals for the 2020–2024 term, framework of national development. In this instance plays a crucial role in promoting greater proficiency Ministry of Law and Human Rights' apparatus.

## **INTRODUCTION**

The law formulated by humans aims to build a life order that is structured, conducive, and in harmony with the principle of order which has two main roles, namely:

- a. Control people's lives and maintain the way of life in them.
- b. Using criminal sanctions that function as a mechanism to protect the legal rights and interests of a person who commits a heinous act that violates community standards.

Once a sentence is handed down, a person is considered guilty and must serve his sentence in a correctional institution, which has many prisons across the country. Most of these prisons have excessive capacity, even more than one hundred percent. Of course, this condition can have a negative impact on the process of carrying out crimes and coaching inmates in prisons.

In simple terms, overcrowding in the correctional system can occur due to the high rate of inmate acceptance that is not balanced with the capacity of correctional institutions. This imbalance is further exacerbated by the number of inmates who enter which is much higher than the number released, as well as the number of new inmates whose sentences are longer than the number of prisoners who leave prisons.

To protect inmates and prison services, as well as maintain the security of state prisons and correctional homes, every inmate and detainee must comply with the rules and punishment mechanisms. Compliance with the code of conduct is one of the factors that determines the standards applied both in state prisons and in correctional homes.

- Disciplinary sanctions in the light category;
- intermediate category disciplinary sanctions; or
- severe sanctions for violations.

Article 9 of the Regulation of the Minister of Law and Human Rights (Permenkumham) Number 29 of 2017, which is an amendment to Permenkumham Number 6 of 2013 concerning the Rules of Conduct of State Correctional Institutions and Prisons, has been amended. provide an explanation of the requirements for disciplinary punishment: Disciplinary sanctions in the light category include reprimands given orally or in writing. Meanwhile, the intermediate category disciplinary sanction includes placement in solitary confinement for six (6) days, with the possibility of extension to two (2) days. The disciplinary sanctions for the severe category can be in the form of postponement or revocation of rights. In addition, severe category disciplinary sanctions may also include placement in solitary confinement for six (6) days.

One of the efforts of the Ministry of Law and Human Rights is the Regulation of the Minister of Law and Human Rights (Permenkumham) Number 23 of 2022 concerning the Handling of Alleged Human Rights (HAM) Violations, which is designed to expand public access to services.

Human rights and accelerate the process of complaining about alleged human rights violations. The purpose of this regulation is to create a more efficient and effective mechanism for dealing with alleged human rights violations, so that human rights can be better preserved and respected. However,

there are some issues that need to be overcome when implementing them. These include a lack of public knowledge of complaints procedures, a lack of resources, and changes in nomenclature that have not been fully implemented in the field. As a result, this policy evaluation is essential to evaluate how effective the implementation of the regulation is and find the best way to solve the problem.

The purpose of this study is to evaluate legal and human rights policies related to Permenkumham No. 23 of 2022, with a special emphasis on problems and solutions related to the handling of alleged human rights violations. It is hoped that this evaluation will provide useful input for the Ministry of Law and Human Rights to increase the effectiveness of policy implementation and ensure the improvement of human rights protection in Indonesia.

**Method** The author uses empirical legal research methods to examine the subject of this research. Normative law is the basis of this research. It does not study the legal norm system, however, it emphasizes more on the observation of the dynamics of reactions and interactions that arise when the norm system is applied in people's lives.

Five national goals are enshrined in the fourth paragraph of the Preamble to the 1945 Constitution. These goals include the protection of the entire Indonesian nation, the protection of all Indonesian territories, the improvement of community welfare, the advancement of the quality of life of the nation, and contributing to creating a world order based on the principles of independence and social justice.

As a gift of God Almighty, every human being must be respected, cherished, and protected by the state, law, government, and everyone to maintain human dignity and dignity. If a person or group, including state officials, does something intentionally or unintentionally or as a result of negligence that causes a reduction, degradation, or loss of human dignity, it is referred to as a human rights violation.

#### *Problem Formulation*

1. What are the main challenges faced in the implementation of Permenkumham No. 23 of 2022 in handling alleged human rights violations.
2. What are the solutions that can be applied to overcome challenges in the implementation of Permenkumham No. 23 of 2022.
3. What is the impact of the implementation of Permenkumham no. 23 of 2022 on efforts to handle alleged human rights violations.

#### **THEORETICAL REVIEW**

Regulation of the Minister of Law and Human Rights Number 23 of 2022 concerning the Handling of Alleged Human Rights Violations. Permenkumham Number 23 of 2022 was issued to improve the process of handling alleged human rights violations in Indonesia. It is hoped that this regulation will increase transparency, responsibility, and efficiency in handling cases of human rights violations.

Permenkumham Number 23 of 2022 consists of several chapters that regulate the mechanism for handling alleged human rights violations starting from the stage of receiving complaints to the stage of resolving cases.

Some of the important points regulated in this regulation are as follows:

- a. Complaint Mechanism: Explains how the community receives complaints of alleged human rights violations.
- b. Handling Team: Establish a special team responsible for handling complaints of alleged human rights violations.
- c. Evaluation Process: The stages of evaluation and investigation that must be carried out to assess the truth of alleged human rights violations.
- d. Action Recommendations: Develop recommendations on what should be done to address alleged human rights violations.

*Challenges in Implementation:*

- a. Lack of Resources: There are limited resources and budget shortages.
- b. Suboptimal Socialization: Many people do not know their rights and procedures for complaining about alleged human rights violations.
- c. Inter-Agency Coordination: Effective cooperation between various government agencies and related institutions is needed to deal with alleged human rights violations.

*Efforts to Overcome Challenges:*

- a. Human Resource Capacity Building: Increasing the capacity of experts who handle alleged human rights violations through training and training.
- b. Budget Addition: Provide sufficient budget to support the implementation of this regulation.
- c. Socialization and Education: Increase public socialization and education about their rights and the mechanism for complaining about alleged human rights violations.
- d. Permenkumham Number 23 of 2022 is a big step towards improving the process of handling alleged human rights violations in Indonesia. The goal of this regulation can be achieved only by overcoming a few obstacles.

## **METHODOLOGY**

This research was conducted using normative legal or normative juridical research methods. Ediwarman in his book "Monograph of Legal Research Methods", states that normative legal research is literature law research, namely conducting research by researching library materials that are secondary materials. This type of research is inherent in legal issues that are the focus of the research by focusing on the analysis of applicable laws and regulations. The data collection technique is from reviewing literature sourced from data from books, articles, doctrines, laws, dictionaries, and added from the author's opinion and comparing interrelated variables to describe and describe the phenomena of Human Rights protection (HAM).

## RESEARCH RESULTS

### *The main challenges faced in the implementation of Permenkumham no. 23 of 2022 in handling alleged human rights violations*

As part of the analysis of policy strategies in the field of human rights, based on the regulation of the Minister of Law and Human Rights Number 23 of 2022 concerning the Handling of Human Rights Complaints (PDPHAM), it aims to identify the standards and substances regulated in it, and its implementation in the field. The purpose of this PDPHAM is so that it can be updated to meet the needs and problems of P5HAM and can be well planned for the future.

As an effort to protect and fulfill human rights, which is stipulated by the Regulation of the Minister of Law and Human Rights Number 23 of 2022 concerning the Handling of Human Rights Complaints (PDPHAM), it aims to determine the standards and substances regulated in it, as well as how they are applied in the field. This PDPHAM was created with the aim that it can be updated to meet the needs and problems of P5HAM and can also be planned for the future.

It is very important to increase socialization about the implementation strategy of Permenkumham No. 23 of 2022 so that the public better understands the complaint mechanism and their rights. Without good socialization, this policy will be difficult to implement optimally.

Correctional is the last part of the coaching system in the criminal system. Correctional institutions are regulated by Law Number 12 of 1995 concerning Corrections. Correctional institutions provide training to students and teachers. The obligation of correctional institutions is to provide the right to remission and conditional guarantee to the sender who has fulfilled its provisions, regardless of the type of criminal act. Government Regulation No. 99 of 2012, which amends Government Regulation No. 32 of 2012, changes the requirements and procedures used to implement the rights of inmates. According to the Supreme Court Decision Number 28P/HUM/2021 dated October 28, 2021, Article 34A paragraph (1) letter (a) and paragraph (3), as well as Article 43A paragraph (1) letter (a), and Article 43A paragraph (3) of Government Regulation Number 99 of 2012, concerning the Second Amendment to Government Regulation Number 32 of 1999, concerning and Procedures for the Implementation of the Rights of Correctional Assisted Citizens, have the right to material tests. According to Article 34A paragraph (1) letter a, offenses convicted of terrorism crimes, drugs and drug precursors, psychotropics, corruption, state security crimes, gross human rights, or other transnational organized crimes must meet the following requirements: they must be willing to cooperate with legal counsel to assist in committing the offense.

The following are some of the main problems faced in implementing the handling of alleged human rights violations, including:

- Limited Resources: Handling requires adequate resources, including experts, facilities, and budgets; lack of resources can hinder the process of investigating and resolving cases of human rights violations.
- Lack of institutional coordination: Handling alleged human rights violations involves many institutions, such as the police, prosecutor's office, and non-

governmental organizations. If these institutions do not cooperate properly, the investigation and law enforcement process can be hampered.

- Lack of institutional coordination: Handling alleged human rights violations involves many institutions, such as the police, prosecutor's office, and non-governmental organizations. If these agencies do not cooperate, the investigation and law enforcement processes can be hampered.
- Challenges of Lack of Institutional Coordination: The handling of alleged human rights violations is carried out by many institutions, such as the police, prosecutor's office, and non-governmental organizations. If these agencies do not cooperate, investigations and law enforcement can be hampered.
- Lack of Protection for Whistleblowers and Victims: Whistleblowers and victims of alleged human rights violations are often threatened. Because they do not have sufficient protection, they may not report or provide the necessary information during the investigation process.
- Rigidity in Case Handling: Handling allegations of human rights violations is often done with a rigid and formalistic approach, which can reduce flexibility in finding solutions that are fair and appropriate for all parties involved.

When Permenkumham Number 23 of 2022 was implemented, the main problems faced included limited public awareness, lack of resources, poor coordination between institutions, complicated administrative processes, lack of protection for whistleblowers and victims, and rigidity in handling cases. Governments, relevant institutions, and communities must work together to deal with human rights violations more effectively.

### ***Solutions that can be applied to overcome challenges in the implementation of Permenkumham No. 23 of 2022***

There are several solutions that can be applied to improve the efficiency and effectiveness of handling alleged human rights violations. These solutions are:

1. Increase public awareness of solutions:
  - Socialization and Education: Carry out socialization and education campaigns on human rights as well as complaint procedures regulated in Permenkumham Number 23 of 2022. Social media and mass media can be incorporated into educational programs and activities in schools.
  - Training for Officials and Communities: Provide training on human rights and how to report human rights violations to human rights activists, law enforcement, and the general public.
2. Improving the Collaboration of Solution Organizations by Forming a Coordination Team Representatives from the police, prosecutor's office, non-governmental organizations, and other relevant agencies are members of this coordination team. Such a system can increase the efficiency and effectiveness of handling alleged human rights violations.
3. The impact of the implementation of Permenkumham no. 23 of 2022 on efforts to handle alleged human rights violations

Permenkumham Number 23 of 2022 has helped deal with alleged human rights violations in Indonesia. With a better and systematic mechanism, efforts to deal with alleged human rights violations are expected to be more efficient and effective.

- **Improving the Quality of Handling:** Handling alleged human rights violations can be carried out more systematically and effectively with more detailed guidelines.
- **Supervision and Evaluation:** This regulation also emphasizes the importance of monitoring and evaluating the implementation of handling alleged human rights violations to maintain improvement and improvement.
- **Complaints of Alleged Human Rights Violations:** The public can complain about alleged human rights violations through several channels provided by the Ministry of Law and Human Rights.
- **Peace Efforts:** The regulation also includes peace efforts mechanisms as a way to handle cases of human rights violations, with the aim of achieving peaceful and just settlements.
- **Education and Socialization:** the importance of reporting alleged human rights violations.

## **CONCLUSIONS AND RECOMMENDATIONS**

According to the evaluation of Permenkumham Number 23 of 2022, this policy is a big step towards the implementation of human rights in Indonesia. In practice, there are several problems faced, such as a lack of public understanding and awareness of the content of the policy, as well as limited resources to follow up on cases of alleged human rights violations. In addition, coordination between related institutions still needs to be improved to ensure effective policy implementation.

It is hoped that the implementation of Permenkumham Number 23 of 2022 will ensure the welfare and progress of the community. This has helped the process of handling alleged human rights violations in Indonesia. Increased public awareness, an increase in the number of complaints, increased coordination between institutions, increased effectiveness in handling cases, and increased protection for whistleblowers and victims are the main impacts that occur.

## **ADVANCED RESEARCH**

An advanced research approach to evaluating the implementation of Permenkumham Number 23 of 2022 should focus on a multi-dimensional analysis encompassing legal, social, and institutional perspectives. A quantitative and qualitative assessment can be conducted by analyzing statistical data on human rights complaints before and after the policy's enactment, measuring the effectiveness of case resolutions, and assessing trends in public engagement. Additionally, a comparative study with similar policies in other countries can provide valuable insights into best practices and potential improvements. Field research involving stakeholder interviews, surveys, and focus group discussions with policymakers, law enforcement agencies, human rights organizations, and affected individuals can help identify systemic gaps

and bottlenecks in policy enforcement. Furthermore, leveraging machine learning and AI-driven data analytics to track human rights violation patterns and predict high-risk areas can optimize policy responses. This research should also explore the socio-political dynamics influencing institutional coordination and the role of digital platforms in increasing public awareness and reporting mechanisms, ultimately proposing evidence-based recommendations to enhance the sustainability and impact of this regulation.

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