

RESEARCH ARTICLE

JUGUN IANFU: THE DARKEST HISTORY OF HUMAN RIGHTS VIOLATION

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World War II leaves a sad story for some colonies and occupations, Indonesia which has been colonized by 350 years by the Dutch continuing 3.5 years of Japanese occupation that impact on the development of Indonesia. The painful story of slavery during the Japanese period cannot be separated from the Occupation at that time. The women who have no sin in them get the promise of getting a job, singing, or wrestling in the theater, to follow their wishes that are mere promises of physical and psychological violence that threaten the young women of Indonesia.

Keywords: *Jugun Ianfu; Human Rights Violation; Due Process Law*

I. INTRODUCTION

The first and foremost value that must be obeyed by the law is none other than human dignity. The law for man, should not injure the human dignity itself. Tools should not degrade the subject. Man must remain subject as subject, not as object.¹ A general rule can be cited here, that is. There is no life or human dignity, belonging to whoever he is and wherever he may be treated as valuable, and therefore, as if to dip er done

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¹ Indah Sri Utari, *Filsafat Ilmu*, Grobogan: Sarnu Untung, 2017, p.149.

arbitrarily. Based on this normative assumption, we can affirm that the abuse of human dignity for any reason cannot be justified and cannot be ignored.

Crimes against humanity are one of four Violations The grave human rights within the jurisdiction of the International Criminal Court.²

War crimes are certain acts and omissions committed during the war criminalized by international law.³ Definition of the term crimes against humanity can be found in the London Charter which gave birth to the Nuremberg Trial. In Article 6 the London Charter Of The International Military Tribunal is fully stated: “*Crimes Against Humanity: Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution or of in connection with any crime within the jurisdiction of the tribunal, whether or not in violation of the domestic law of the country where perpetrated*”.

The practice of apartheid in South Africa, for example, discrimination against blacks in the United States, the crime of genocide during the reign of Hitler, the movement of the movement in Indonesia and the violation of human rights in various places throughout the world. Actually we condemn not only because of the abominations that have been made this forever, but for having harassed more have injured the dignity and value of humanity that has been there. All actions against this subjectivity are seen as against human dignity and unforgivable.⁴

International war crimes against women are one of the most abominable acts and have humiliated the human dignity of women as civilized human beings. This issue refers to one of the voices of the occupation. Comfort women is one example of human rights violations which until now has not showed settlement with the victims, even some of the victims have died over the atrocities that happened and old.

Talking about the story of Jugun Ianfu is one important part that cannot be separated from the entertainment world in the Japanese era. The crucial issue that hitherto blankets the cloud of justice is the issue of a comforting woman or called Jugun Ianfu. The debate on whether the Jugun Ianfu as a victim or volunteer became his own debate.⁵ The issues

² Hetty Hassanah, *Kejahatan Genosida dalam Ketentuan Hukum Nasional SebagaiKejahatan Tradisional*, p.218

³ Adeliانا Kartika Putri, *Penembakan Pesawat MH-17 Ditinjau dari Perspektif Hukum Humaniter Internasional*, p.17.

⁴ Theo Huijibers, *Filsafat Hukum*, Yogyakarta: Kanisius, 2007, p.101.

⁵ A. Budi Hartono, Dadang Juliantor, *Derita Paksa Perempuan: Kisah Jugun Ianfu pada Masa Pendudukan Jepang 1942-1945*, Jakarta: Pustaka Sinar Harapan, 1997, p.82.

that are being sued by women who have fallen victim to the Nippon army have taken place in a big city and there is a place to be stolen.⁶

Fair *Due Process* or poses are processes that are run in a transparent, accountable, and objective manner according to the procedural norms. *Due Process* model prioritizes the decency and usefulness of criminal sanctions.⁷ Then how the Japanese government in response to it? Will the government apologize and how to fulfilling the rights of the based on Government Regulation Number 3 of 2002 concerning compensation, restitution and rehabilitation of victims of gross human rights violations in accordance with due process or a fair poses ?

The research process can be seen as a series of interrelated phases and cannot be separated from one another. Denzin and Lincoln in "*Introduction: Entering the field of Qualitative Research*" in *Handbook of Qualitative Research* "(1994): as quoted by Agus Salim presents five phases which are a series of research processes. *Stand-Point*: relates to a tradition that will guide researchers as long as the research process. Tradition in research is grouped into quantitative research and qualitative research. This research will use the qualitative research tradition. Bogdan and Taylor define a qualitative methodology as a research procedure that produces descriptive data in the form of written or oral words of observable persons and behaviors. Paradigm: Etymologically, the word paradigm is actually derived from the mixed word, combination from the Greek *paradeigma*, the meanings is next to, on the side, side by side or on edge. While *deiknunai* or *deigma* means view or show. Guba and Lincoln, in the *Handbook of Qualitative Research* , Paradigm is a major philosophical system, parent or umbrella, which includes certain ontologies, epistemologies and methodologies that cannot be simply exchanged, represents a certain *beliefs system* , which provides the way in which the world is seen, understood, and learned, in other words associating its adherents with a particular *worldview*. Research Strategy: is a normative legal research and empirical/sociological law research term, FX.AdjiSamekto mentions: to determine the research is normative or empirical seen from the goal to be achieved. Soetandyo Wignyosoebroto is called the doctrinal method. is a method of legal research based on rules that require that its adherence can be enforced by the use of state power (normative), acting in the world of necessities (*das sollen*) , and the product is also religious. Data Collection and Analysis Methods: The types of data required in this study are primary data and secondary data. Secondary data will use literature study and Primary

⁶ Budi Susanto, *Gemerlap Nasionalitas Postkolonial*, Yogyakarta: Kanisius, 2012, p.246.

⁷ Abdul Salam Siku, *Perlindungan Hak Asasi Saksi dan Korba dalam Proses Peradilan Pidana*, Jakarta: Indonesia Prime, 2016, p.80.

Data is data obtained from main source directly by purposive way. Primary data sources include: the legislative members (DPRD), member of the Political Parties; executive (Local Government); Religion leaders, ethics leaders and community leaders; Non Governmental Organization (NGO); Judicial apparatus (Police, Prosecutors, and Judges); Private party; Press area; Academics; College student; Human rights activist; Female activist; and Ordinary people. Primary data collection, conducted through the dissemination of Questioners and interviews, in the Pekanbaru city as representing the metropolis of Riau community and Siak Sri Indrapura representing the traditional mindset people of Riau . After the data was collected then conducted the *focus group discussion (FGD)*. Lastly, the data were interpreted based on the methodology of hermeneutics in constructivism.

II. ANALYSIS OF FULFILLING THE RIGHTS OF COMPENSATION, RESTITUTION AND REHABILITATION FOR JUGUN IANFU VICTIMS

Understanding Due Process of Law is a legal process that is true or fair that is the principle of Criminal Procedure Law in Indonesia.⁸ Departing from the above arrangement in accordance with the preamble or the consideration of Government Regulation Number 3 of 2002 on Compensation, Restitution, and Rehabilitation of Victims Against Human Rights Violations that weight and refers to Article 35 Law No 26 of 2000 on the Human Rights Court which states:

- (1) *Every victim and witness in serious violation of human rights and / or his / her heirs may receive compensation, restitution and rehabilitation.*
- (2) *The compensation, restitution and rehabilitation referred to in paragraph (1) shall be included in the Decision of the Human Rights Court.*
- (3) *Provisions on compensation, restitution and rehabilitation shall be further regulated under a Government Regulation.*

The Government Regulation Number 3 of 2002 it has been clear that mandated in 35 Law No 26 of 2000 on the Human Rights Court has

⁸ Rahmat Efendy Al Amin Siregar, 2015, "Due Process of Law Dalam Sistem Peradilan Pidana di Indonesia Kaitannya dengan Perlindungan HAM", Journal FITRAH, Volume I, p. 37

been in accordance with the arrangement (*regeling*) for the victims get protection even a certainty in order to get the appropriate compensation, fast, and feasible. Claims for damages as set forth in the Government Regulation Number 3 of 2002 include:

1. Compensation is a compensation provided by the state because the offender is unable to provide compensation for the full losses he was responsible for. The victims of this *Jugun Ianfu* should get compensation from the Japanese government that deserves and Japanese apology due to the wars that traumatize the victims.⁹
2. Restitution¹⁰ is a compensation paid to the victim or his family by the perpetrator or a third party, may be the return of property, payment of damages for loss or suffering, or reimbursement of fees for certain actions. In this case the victims *Jugun Ianfu* should get restitution from the Japanese government assisted by Japanese companies that must compensate for the crimes of war earlier.
3. Rehabilitation is restoration of the original position, such as honor, reputation, title, or other rights. So that the victim *Jugun Ianfu* get a proper rehabilitation so that his position can be returned as usual, although not entirely the same.

III. JAPANESE PROCEEDINGS AGAINST COMPENSATION TO JUGUN IANFU VICTIMS IN INDONESIA

A *Jugun Ianfu* as a war crime victim then they should be eligible to get their right in the form of compensation, restitution and rehabilitation from the Japanese government as the party responsible for the sexual crimes committed by civilian / Japanese military during the colonial period. This demand is still being fought but the Japanese government has never provided direct reparations to the *Jugun Ianfu* in Indonesia.¹¹

Jugun ianfu is a term that has undergone a development during the Japanese occupation. the term *jugun ianfu* refers to anyone who has been subjected to indecent treatment expressed as a victim of harassment and sexual lust of Japanese soldiers during the occupation in his colonies.

The victims of *jugun ianfu* are recruited with various tricks with a thousand excuses ranging from scholarship, work even through the art

⁹ Handoko, *Kekuasaan Kehakiman di Indonesia*, Pekanbaru: Hawa dan Ahwa, 2015, p.145.

¹⁰ Andrey Sujatmoko, *Tanggung Jawab Negara atas Pelanggaran berat HAM*, Jakarta: Cikal Sakti, 2005, p.88.

¹¹ Komisi Nasional Hak Asasi Manusia, *Pembiaran Jugun Ianfu sebagai Budak Seks Militer & Sipil Jepang 1942-1945*, Jakarta: Komnas HAM, 2010, p.7.

of women candidate jugun ianfu promised to be a singer in Kalimantan. The process of recruiting Jugun Ianfu is done through the brokers of a local occupation, this strategy is certainly to avoid the suspicion of the community. brokers who have been given the task of searching and recruiting jugun ianfu not only know what the real thing is going to happen, even some brokers are also giving up their family to be jugun ianfu because it has been consumed by the false promise of Japanese trickery.¹² Women are people who are victims of crime. In practice jugun ianfu, the victim must be human. Other creatures other than humans are not considered victim jugun ianfu. people who have female sex are victims of crime so that people who do not have female gender are not victims of crime.¹³

In the criminal justice system, due process of law is defined as a good, just and fair legal process. Such a legal process occurs, when the law enforcement officers associated with the process, not only perform their duties in accordance with existing rules, but also grant all the rights of the suspect/ accused defendants, and implement the principles and principles underlying such justice (even if such a principle or principle is not a positive law)¹⁴

Related to the number of female victims who become sex slaves can not be ascertained clearly. This is due to the lack of official documentation that records the number of women in each embroidered military house and also the fact that the documents referring to it are destroyed by the Japanese government itself.

For Japanese soldiers, jugun ianfu is a concept that has recently evolved to refer to anyone who was declared a victim of Japanese military lust during the Japanese occupation period in his clan areas. the victims of this jugun ianfu have only dared to open their voices to the public after the protests of former *uranifi junni* abusers in North Korea, who ventured to ask the Japanese government to account for the former jugun ianfu who were both victims of violence and harassment soldiers during the occupation of World War II.¹⁵

The Japanese government made private institution called the Asian Women's Fund (AWF) which aims to provide compensation money in cash to the Asian comfort women still alive in the absence of formal apology from the Japanese itself. This condition occurred and has

¹² Hany Nurpratiwi, Jurnal Skripsi, *Kiprah Mardiyem dalam Memperjuangkan Hak-Hak Manta Jugun Ianfu di Yogyakarta (1993-2007)*,p.10

¹³ Dewi Savitri, Jurnal Kriminologi Indonesia Vol.6 No.III Desember 2010, *Kejahatan Perang oleh Jepang (Studi Kasus terhadap Jugun-Ianfu sebagai Hegmoni Kebudayaan di Indonesia Periode 1942-1945)*,p.287.

¹⁴ Hiroshi Ishikawa, sebagaimana dikutip dalam Muladi, *loc.cit.* Muladi, 1998. *Kapita Selekta Sistem Peradilan Pidana*. Semarang: Penerbit UNDIP

¹⁵ A. Budi Hartono dan Dadang Julianto, *Derita Paksa Perempuan: Kisah Jugun Ianfu Pada Masa Pendudukan Jepang 1942-1945...*p.87.

triggered the controversy because recognized as source funding is not derived from the Japanese government But is collected from Japanese businessmen and society who do not even know the problem of Jugun Ianfu. The formation of the AWF was judged by the Japanese government's actions that were out of war responsibility and made the ex-jugun ianfu refuse the compensation payments from the AWF group. Yet as for some ex jugun ianfu who succeeded in being exposed to deceit and received compensation for economic destruction.

The absence of due process, all criminals or perpetrators have right to a fair trial. This right includes both the right to self-defense directly or through a lawyer/legal counsel, the right to be presumed innocent and the right to call and examine witnesses. An amicus argues that the act of prosecuting the defendant after the death of the person so unable to appear in the hearing and unable to plead, constitutes a violation of the right in due process. In support of the argument, he refers to the Japanese Criminal Procedure Code which violates the proceedings after the defendant dies.¹⁶

IV. GENERAL PRINCIPLES THAT REFLECT THE PRINCIPLES OF DUE PROCESS

There are ten principles explicitly described in the KUHAP explanatory section, actually reflecting the *due process* principles. That principle is part of the life of the human psyche.¹⁷ The principle of equal treatment before the law without discrimination.¹⁸ Equal treatment or equality before the law, cannot be construed as a prohibition of discrimination against suspects and perpetrators based on social status but relates to race, color, sex, language, religion, political direction, nationality and so on. The principles include as follows:

1. The presumption of innocence. Its elements are the main principle of protecting citizens' rights through a just legal process. The principle of presumption is not guilty as a principle that has been universally applicable.¹⁹

¹⁶ Komisi Nasional Hak Asasi Manusia, *Pengadilan Kejahatan Perang Internasional terhadap Perempuan*, Jakarta: Komnas HAM, 2013, pp.16-17.

¹⁷ E. Nurhaini Butarbutar, *Asas Praduga Tidak Bersalah: Penerapan Dan Pengaturannya Dalam Hukum Acara Perdata*, p.471.

¹⁸ Tina Asmarawati, *Hukum dan Psikiatri*, (Yogyakarta: Deepublish, 2015), p.152.

¹⁹ Bachtiar, *Asas Praduga Tidak Bersalah Dalam Dimensi Pembuktian: Telaah Teoritik dari Optik Perlindungan Hak Asasi Manusia*. p.5.

2. The principle of the right to receive compensation and rehabilitation includes two basic principles: the right of a person to obtain redress and restoration of good reputation and the obligation of law enforcement officials to account for his / her mistake in carrying out pre-adjudication tasks.
3. The principle of the right to legal aid is a counterweight to the state's power in prosecuting a person and demanding independence or advocate's freedom to defend the client under any circumstances.
4. The principle of the right of presence of preachers in court aims to give the defendant a chance to file a defense in a fair trial process.
5. The free and simple judicial principle is intended to reduce to a minimum the suffering of both the suspect and the defendant in anticipation of certainty of the alleged wrongdoing.
6. The principle of justice open to the public means to avoid a secret hearing.
7. The principle of enforcing the forced effort shall be based on a written order from an official authorized by law. This principle aims to respect and protect the rights of individual citizens for independence.
8. The principle of the right to obtain legal remedies is one of the basic elements of citizens' right to liberty and security.

The principle of being in the aftermath of adjudication in which the judge is obliged to supervise the execution of his / her spouse in order to achieve the purpose of the punishment he or she sets.

V. CONCLUSION

Jugun Ianfu story is an important part that cannot be separated from the entertainment world during the Japanese era. The crucial issue that hitherto blankets the cloud of justice is the issue of a comforting woman or called Jugun Ianfu. Claims for damages as set forth in the Government Regulation Number 3 of 2002 include: Compensation is a compensation provided by the state because the offender is unable to provide the full compensation for which he or she is responsible, Restitution is a compensation provided to the victim in the form of return of property, payment of compensation for loss or suffering, or reimbursement of fees for certain actions, and Rehabilitation is restoration of the original position. The Japanese government bribed a private institution called Asian Women's Fund (AWF) aimed at providing cash compensation to Jugun Ianfu that sparked controversy because the sources of funding were not from the Japanese government but were gathered from Japanese businessmen and society who did not even know the problem of Jugun Ianfu. The formation of the AWF was judged by the Japanese government's actions that were out of war responsibility and made the

ex-jugun ianfu refuse the compensation payments from the AWF group. Yet as for some ex jugun ianfu who succeeded in being exposed to deceit and received compensation for economic needs. The absence of a *due process* or a fair process because the act of prosecuting the defendant after the death of the person so unable to attend the hearing and unable to present a defense is a violation of the right in due process. In support of the argument, he referred to the Japanese Criminal Procedure Code which violated the proceedings after the death of the defendant. The government in cooperation with women's justice institutions for victims of war should the victims of war have got the three components contained in the government regulation that is in the form of compensation in the form of compensation provided by the state because the perpetrator is unable to give full compensation for his responsibility. Restitution in the form of compensation provided to the victim in the form of restitution of property, payment of compensation for loss or suffering, or reimbursement of costs for certain actions and Rehabilitation such as recovery in the original position. The Indonesian government keeps a good relationship with the Japanese government so that the Japanese government is aware and immediately apologize directly to the victims of the war.

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