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Juridical Analysis OF Commando Accountability in Law No 26 of 2000 Concerning Human Rights Court

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ABSTRACT

Command responsibility is essential in international human rights enforcement, namely the 1998 Rome Statute. This is also regulated in Article 42 of Law No. 20 of 2000 on the Human Rights Court. Along the way, there are several areas for improvement in Law No. 20 of 2000 concerning the Human Rights Court, namely mistranslations, interpretations and unclear norms relating to command responsibility. This study aims to: (1) To be able to identify and analyze the Command Responsibilities in Law No. 26 of 2000; and (2) To be able to find out and analyze the comparison of Law No. 20 of 2000 on the Human Rights Court and the 1998 Rome Statute of command responsibility. This research is classified as normative research with a philosophical and analytical approach. Materials are collected through document studies and then analyzed prescriptively. The study results show that the Command Accountability in Law Number 26 of 2000 concerning the Human Rights Court has several weaknesses, interpretations and unclear norms related to command responsibility. Therefore, it is necessary to synchronize the 1998 Rome Statute with the Elaborated Approach, namely by adopting the provisions in the Rome Statute, which are elaborated with the National Legal Interest.

ABSTRAK

Pertanggungjawaban Komando merupakan salah unsur penting dalam penegakan HAM internasional yakni Statuta Roma tahun 1998. Hal ini turut di atur dalam pasal 42 Undang-undang No 20 tahun 2000 tentang Pengadilan HAM. Dalam perjalananya terdapat beberapa kelemahan dalam Undang-undang No 20 tahun 2000 tentang Pengadilan HAM yakni adanya kekeliruan terjemahan, penafsiran sampai dengan ketidakjelasan norma yang berkaitan dengan pertanggungjawaban komando. Penelitian ini bertujuan untuk : (1) Untuk dapat mengetahui dan menganilisis Pertanggungjawaban Komando dalam Undang-undang No 26 tahun 2000; dan (2) Untuk dapat mengetahui dan menganalisis perbandingan Undang-undang No 20 tahun 2000 tentang Pengadilan HAM dan Statuta Roma Tahun 1998 terhadap pertanggungjawaban komando. Penelitian ini tergolong dalam penelitian normatif dengan pendekatan filosofis dan analitika. Bahan dihimpun lewat studi dokumen, kemudian dianalisis secara preskriptif. Hasil Penelitian menunjukan bahwa Pertanggungjawaban Komando dalam Undang-undang Nomor 26 tahun 2000 tentang Pengadilan Hak Asasi Manusia terdapat beberapa kelemahan yakni kekeliruan terjemahan, penafsiran sampai dengan ketidakjelasan norma yang berkaitan dengan pertanggungjawaban komando. Oleh sebab itu di perlukan sinkronisasi dengan statuta roma tahun 1998 dengan pendekatan *Elaborated Approach* (Pendekatan Elaborasi) yaitu dengan cara mengadopsi ketentuan dalam Statuta Roma yang di elaborasi dengan Kepentingan Hukum Nasional.

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I. INTRODUCTION

The term gross human rights violations emerged to describe the enormity of the consequences of these criminal acts on the body, soul, dignity, civilization and human resources. Therefore, a judicial institution called the Human Rights Court was formed based on Law Number 26 of 2000 with absolute competence of the criminal court for gross human rights violations (Article 4) in the form of crimes of genocide and crimes against humanity (Articles 7, 8 and 9).

The struggle to uphold human rights in Indonesia is a natural obligation for all of us, caused by the demands of our state philosophy values Pancasila. All the precepts in this philosophy give birth to our commitment to try to uphold human rights. In addition, as members of the United Nations, we automatically accept and agree with and are bound by the points in the 1948 Universal Declaration of Human Rights.

The perpetrators carried out these gross human rights violations with clear intentions and objectives to attack and destroy certain people or groups to bring broad consequences or impacts. Criminal acts of gross human rights violations are usually widespread or systematic. In Article 7 of Law Number 26 of 2000, the gross human rights violations include Genocide crime and Crimes against humanity

Indonesia has experienced many human rights violations, which continue to cause prolonged polemics. For example, the massacres of our fellow nation's children that occurred before and after the outbreak of the 30 September 1965 Movement (G30S) incident with a total number of victims of around 75 thousand - 1.5 million people, the mysterious shooting of "Petrus" 1982-1985 with several victims of about 1,678 people, the case in East Timor after the 1999 Referendum with 97 victims, as well as cases in Aceh before the 1976-1989 DOM with thousands of victims. Apart from that, there is also the Tanjung Priok case in 1984 with 74 victims, the issues in Papua from 1966-2007 with thousands of victims, the Banyuwangi Shaman Santet case in 1998 with dozens of victims, the Marsinah case in 1995, the missing Wiji Thukul case, the Bulukumba case in 2003 with two dead and dozens injured, Talangsari Lampung, 1989 (Jufri, 2017).

The hope of the Trisakti and Semanggi I and II Tragedy cases to hold an ad hoc human rights court for the bloody tragedy individuals was confirmed to have failed to be achieved. The Deliberative Body of the House of Representatives on March 6, 2007 again vetoed the recommendation. The ruling made the human rights court's proposal run aground, because it would never be passed at a plenary meeting. The decision to reject the Deliberations was the second time. Previously, the Deliberations had refused, but at the r apat level the leadership of the House of Representatives was decided to be returned to the Deliberative Body.

Based on the facts above, it is clear that handling human rights violations in Indonesia is still very concerning; one might even say very weak. Even though in Indonesia there is a Human Rights Law Number 39 of 1999 concerning Human Rights and Law Number 26 of 2000 concerning Human Rights Courts, which should be a wall to protect the human rights of the Indonesian people, even Article 2 it is stated that:

"The Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are naturally inherent and inseparable from humans, which must be protected, respected and upheld for the sake of increasing human dignity, prosperity, happiness, and intelligence and justice ".

Article 4 also states that "The Human Rights Court has the duty and authority to examine and decide cases of gross violations of human rights.". However, their human rights are still not protected even though handling human rights violations is critical to upholding them. That is because human rights

concern the interests of every individual, which is the obligation of the state and all human beings to protect them.

The Human Rights Court is sufficient to bring fresh air to efforts to uphold human rights in the country, as well as evidence and effort so that we can be included in the category of a nation that is considered to respect and give sufficient appreciation to human rights, considering our country's track record which has always been slumping in However, in terms of upholding and respecting human rights, it turns out that there are not a few parties who try to impede the consistent implementation of the Law on Human Rights Courts, they exist in all corners of the legislature, executive/bureaucracy, military or the judiciary itself. Budi Santoso states that (Sucondro, 2019) :

"Problems or weaknesses in the Law on Human Rights Courts can consist of the legislation, its implementing apparatus, and those caused by the bill are weaknesses or constraints generally caused by the adoption of incomplete international instruments, and there are translation errors".

Weaknesses of Law No. 26/2000 itself, one example is in article 42, paragraph 1, which states:

“The Military Commander or someone who effectively acts as a military commander can be held accountable for crimes that are within the jurisdiction of the Human Rights Court, committed by troops under their effective command and control or their influential power and control, and the crime is the result of from not properly controlling troops.....”

Using can instead of will or should have led to that command responsibility (Sucondro, 2019). In cases of gross human rights violations, it is not obligatory but rather is borne by the direct actors in the field (in this case, the subordinates/soldiers in the area).

This also results in the still strong practice of impunity in Indonesia as a result of not maximally implementing Command Accountability; usually, in handling cases of human rights violations and their resolution, they only focus on perpetrators who commit direct or physical violations, but related officials and their superiors are not charged with offences (Mercatoria, 2018). Even though they don't do it physically, they know and take orders because it is impossible for a soldier to carry out an operation without the knowledge or charges from his superiors (Setiyono, 2019).

In this regard, quoting what has been disclosed by Satjipto Rahardjo, the making of Indonesian laws has the impression of "legal speed making" (Wantu et al., 2021). The meaning of this statement is making of laws in Indonesia seems so fast. The applicable provisions of law do not only concern jurisdische geltung (*Juridical Applicable Power*) but also involve the geltung philosophies (*Philosophical Applicable Power*) and soziologische (*Sociological Applicable Power*).

Contemporary human rights developments have started with the Rome Statute, a milestone in enforcing human rights violations in various countries. Still, Indonesia is a country that has committed to upholding human rights violations but has yet to fully adopt the Rome Statute, even though this has been stated in the National Action Plan for Human Rights 2004 – 2009 and the National Action Plan for Human Rights 2009-2014, however, ratification has not yet been carried out owever, ratification has not yet been carried out even though ratification of the Rome Statute is very urgent in upholding human rights in Indonesia in eliminating various practices of impunity that have occurred in Indonesia as the legitimacy of the people to achieve justice even though the 1945 Constitution has regulated and protected the human rights of the Indonesian people. Article 28 I, paragraph 4 stated:

" Protecting, promoting, upholding and fulfilling human rights is the responsibility of the state, especially the government."

In this case, the state must play an active role in protecting citizens from human rights violations. Indeed Indonesia already has Law no. 26 of 2000 concerning the Human Rights Court, which is a special court for gross human rights violations.

Based on that problem, Indonesia's system of upholding human rights is still weak in efforts to frame the spirit of reform in 1998. It becomes confusing when implementing human rights enforcement must use a rule that is still substantially problematic or has no legal certainty. Therefore the authors formulate the problem as follows: 1). What are the weaknesses of Law No. 26 of 2000 concerning the Human Rights Court regarding command accountability? 2). How does Law No. 26 of 2000 concerning the Human Rights Court and international law compare to the implementation of Command Accountability in Indonesia?.

II. RESEARCH METHODS

This research is categorized into the normative legal analysis based on the issues and themes raised as research topics. The research approach used is philosophical and analytical, namely, research that focuses on rational views, critical analysis and philosophy and ends with conclusions that aim to produce new findings as answers to the main problems that have been determined (M. Marzuki, 2017). It will also be analyzed using descriptive-analytical methods, namely by describing the applicable laws and regulations related to legal theory and positive law enforcement practices related to the problem (P. M. Marzuki, 2016).

III. RESULTS AND DISCUSSIONS

Weaknesses of Law No. 26 of 2000 Concerning Human Rights Courts Against Command Accountability

The formation of Law No. 26 of 2000 concerning the Human Rights Court in principle contains the spirit of the nation in its association in the international world as a result of the Reformation wave which made Indonesia experience many human rights violations. This makes the urgency of establishing effective legislation in accommodating human rights, one of which is is Command Accountability, which was only recently recognized by the Indonesian legal system after the 1998 Reformation, of course this has had the impact of changing laws in Indonesia in accommodating various kinds of legal regulations.

Law No. 26 of 2000 concerning human rights courts explicitly regulates Command Accountability in Article 42 paragraph 1 which reads:
“The military commander or someone who effectively acts as a military commander can be held accountable for crimes that are within the jurisdiction of the Human Rights Court, committed by forces under their effective command and control, or under their effective power and control and the crime is the result of not properly controlling troops, namely: a. the military commander or such person knew or on the basis of the circumstances at the time should have known that the troop was committing or had recently committed gross human rights violations; and b. the military commander or said person did not take appropriate and necessary actions within the scope of his powers to prevent or stop the said act or hand over the perpetrators to the authorized official for investigation, investigation and prosecution.”

The main elements of command responsibility according to Muladi are (Widhiarto et al., 2014):
"There is a relationship between the subordinate and the superior, the superior knows or has reason to know that a crime has occurred or is being committed, and the superior fails to take the necessary and reasonable steps to prevent or stop the crime or attempt to punish the perpetrator."

Francoise Hampson put forward three reasons (rationale) underlying the idea of the principle of command accountability for military commanders, police superiors and other civilian superiors, namely(Widhiarto et al., 2014): a. Commanders or superiors who have power, on the one hand can give orders to other parties, but on the other hand he is always responsible for the orders he gives and for the actions of those under his authority; b. Commanders or superiors are responsible for

damaging the reputation of their troops and their country, due to failure to control or control their subordinates who commit gross human rights violations; c. The state is responsible for the behavior of its armed forces that commit gross human rights violations within and outside its territory that threaten peace and security.

Furthermore, in its implementation, Command Accountability has several basic principles, namely (Victor Hezkia Mewoh, 2020): a. Commander Must guarantee Respect for Law; b. The command would be younger if the soldiers understood the laws better; c. The commander may not turn a blind eye to a violation; d. If the Law is broken the Commander must take action.

The author argues that commanders are responsible for preventing their subordinates from violating the law and are responsible for punishing their subordinates if the law is violated thus, it can be seen that command responsibility ensnares two actions taken by command holders, namely omission and positive law violations.

Commands are divided into two types, namely de jure and de facto. Command de jure focuses on the formal structure of the executive, such as state entities. In this case, the power holders issue policies. Meanwhile, de facto command focuses on the ability to control effectively (duty to control) of the command holder over his subordinates, the necessity of knowing all actions of subordinates (had reason to know). In addition, the obligation (duties) is to prevent violations (duty to prevent) and provide punishment for subordinates who violate the rules (duty to punish). The superior-subordinate relationship creates a chain of command, the tactical command holder carries out its functions directly for the troops under it. While the highest command holders (executive commanders) - in this case the president - are responsible as holders of civil policy at the center. Generally, the holder of the highest command is the ruler of the occupied territory who is given the authority to prevent crimes against civilians in the occupied territory (Morteza, 2016).

The essence of the unit commander has full responsibility for all activities that take place within his unit in military life, a commander is responsible for the actions taken by his subordinates in order to carry out unit tasks. The commander's responsibility to control and supervise his subordinates is the main joint of military life. A commander in giving orders must be clear to his subordinates so that they are easy to understand and ensure that the orders he issues are truly understood by his subordinates. The commander must supervise and control the behavior and actions of his subordinates at all times. Thus, the commander guarantees the achievement of basic tasks by being directly in the midst of his subordinates, as well as by carrying out continuous security and supervision.

Command responsibility is not only carried out personally, but is the commander's responsibility for crimes committed by his subordinates or responsibility for decisions taken by commanders that have consequences for other people to hold a commander accountable for crimes committed by soldiers who are under him. the command and control needs to have an element of involvement, knowledge or intention of a commander with the crimes committed by his subordinates.

According to Maroni, in order for a leader to be punished on the basis of leadership responsibility, there are three elements that must be proven cumulatively. These three elements are (Widhiarto et al., 2014): a. there is effective control between subordinates who commit gross human rights violations and leaders who are blamed; b. the leader must be in a position to know or should know that the subordinates will or are committing gross human rights violations; c. the leader must be proven that he has not taken any action against his subordinates who are about to commit or have committed gross human rights violations.

The author argues that of the three elements explained by Mahroni, the command responsibility of a commander is divided into direct responsibility and indirect responsibility of a commander, it can be said that direct responsibility when a commander has effective control over his subordinates means

that the commander participates directly both in the field and planning, while accountability does not directly when the commander does not plan or is not directly involved in military operations but a commander knows or is obliged to know as a commander who is responsible for his subordinates.

Comparison of Law No. 26 of 2000 concerning Human Rights Courts and International Law Against the Implementation of Command Accountability in Indonesia

Command responsibility is principally the adoption of the 1998 Rome Statute which was intended to provide a sense of justice and legal certainty after the 1998 reform which was criticized by the international community for many gross human rights violations.

Command responsibility is also regulated in Additional Protocol I to the 1977 Geneva Convention, the principle of Command Responsibility is clearly regulated in Article 86 paragraph (2) AP I reads:
"The fact a breach of the conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not all feasible measures within their power to prevent or repress the breach".

This article does not create a new legal rule, but explains customary law rules that violations can arise as a result of not fulfilling an obligation. Article 86 paragraph (2) stipulates the responsibility of a superior in relation to the actions taken by his subordinates. In this case the supervisor is obliged to intervene by taking all possible steps according to the authority they have to prevent or take action against the violation.

In principle, commanders or superiors can be criminally responsible in two categories. First, responsibility arises because of an unlawful act committed by the commander in response to a situation in this case in the form of the commander's involvement in orders and planning which resulted in his subordinates violating the law. The first category is known as direct command responsibility (vicariuos or direct command liability) (Wibowo, 2014).

Second, commander or superior is criminally responsible for not taking any action in accordance with the authority and power he has. The commander allows the omission of his subordinates or does not take appropriate measures to stop and act against his subordinates as perpetrators of crimes. The commander's responsibility in this case is indirect command responsibility or imputed liability (Wibowo, 2014).

In this regard, the adoption of the Rome Statute in Law No. 26 of 2000 has many weaknesses. This adoption made law No. 26 of 2000 concerning the Human Rights Court in carrying out Command Accountability experience various kinds of weaknesses, ambiguity, erroneous translations to the point of eliminating some of the things regulated in the 1998 Rome Statute.
Irregularities in the Indonesian translation quoted from the original text in this case the Rome Statute can be seen in Article 42 of Law Number 26 of 2000 concerning Command Responsibilities which reads:

A military commander or a person who effectively acts as a military commander can be held accountable for crimes that fall within the jurisdiction of the Human Rights Court, committed by troops under their effective command and control or under their effective power and control and the crime is the result of not properly controlling troops, namely: a. the military commander or such person knew, or based on the circumstances at the time, should have known that the troops were committing or had recently committed serious human rights violations; and b. The military commander or said person does not take appropriate and necessary actions within the scope of his power to prevent or stop the said act or hand over the perpetrator to the authorized official for investigation, investigation and prosecution.

A superior, both police and other civilians, is criminally responsible for gross violations of human rights committed by his subordinates who are under his effective power and control, because the superior does not exercise control over his subordinates properly and correctly, namely: a. the superior knows or consciously ignores information that clearly indicates that the subordinate is committing or has recently committed a gross violation of human rights; and b. the superior does not take appropriate and necessary action within the scope of his authority to prevent or stop the said act or hand over the perpetrator to the authorized official for investigation, investigation and prosecution.

Furthermore, Command Accountability in the Rome Statute is regulated in article 28 which reads: a. A military commander or someone who effectively acts as a military commander is criminally responsible for crimes within the jurisdiction of the Mahamah committed by forces under his effective command or control, or effective authority and control as the case may be, as a result of his failure to properly exercise control over the troops, where: (i) the military commander or the person knew or, because of the circumstances at the time, should have known that the troops were committing or about to commit the crime;and (ii) the military commander or the person failed to take the necessary and reasonable steps within his power to prevent or suppress their conduct or to refer the matter to the competent authorities for investigation and prosecution; b. With regard to superior-subordinate relationships not described in paragraph 1, a superior is criminally liable for crimes falling within the jurisdiction of the Court committed by a subordinate under his effective authority and control, as a result of his failure to exercise proper control over the subordinate, where: (i) The superior knows, or knowingly ignores information that clearly indicates that the subordinate is committing or intending to commit the crime; (ii) The crime involved an activity over which the supervisor had effective responsibility and control.

Article 42 of this Law uses the term 'can' and removes the word 'criminally' whereas in the original text Article 28 (a) of the Rome Statute uses the term 'shall be criminally responsible' whose equivalent is 'must be criminally responsible'.
This can lead to a double interpretation for law enforcement circles because it can be interpreted that a commander 'does not always have to' be held criminally responsible for the actions of his subordinates. The use of the term 'can' and the omission of the word 'criminally' are inconsistent with the intent of Article 28 (a) of the Rome Statute, as well as Article 42 (b) of Law Number 26 of 2000 in conjunction with Article 28 (b) of the Rome Statute. Article 42 is an important article in Law Number 26 of 2000 because this article is the legal basis for military commanders or other individuals who are in superior positions or other holders of commanding powers to be criminally responsible for their negligence or failure to exercise control over their subordinates. resulting in international crimes (Syahfudin & S, 2022).

The author is of the opinion that article 42 paragraph 1 which regulates military commanders has something special in that it does not include the word "Criminal Responsibility" as is the case with article 42 paragraph 2 which regulates police and civilian superiors, this makes military superiors so special by not including "Criminal Responsibility" because by only using the word "can be responsible: without adding a meaningful criminal wordthe commander does not have to be criminally punished but sufficient administrative punishment.

If you look at the pattern of forming laws and regulations in Indonesia, in essence it is to produce good legal products. The principles for forming laws and regulations are regulated in the Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Regulations. Article 5 of the Law states: a. clarity of purpose; b. proper forming institutions or officials; c. suitability between types, hierarchies, and payload materials; d. can be implemented; e. usability and effectiveness; f. clarity of formulation; and g. openness.

Furthermore, in article 6 paragraph 1 of the Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislation, it states Material content of Legislation must reflect the principles of: a. protection; b. humanity; c. nationality; d. kinship; e. archipelago; f. Unity in Diversity; g. justice; h. equal position in law and government; law order and certainty; and/or balance, harmony, and alignment.

The author is of the opinion that the existence of Law No. 12 of 2011 concerning the Formation of Legislation becomes a legitimacy for the government in compiling and synchronizing the Rome Statute while maintaining Indonesian characteristics and Indonesian positive law, in synchronizing and interpreting it, legitimacy from the nation's components is needed. to formulate, describe and integrate these efforts will result in a harmonization between national human rights values and universal human rights even though harmonization has been obtained, but the performance of human rights regulations depends on the factors of law makers, role holders or society and law enforcers or the executive bureaucrat.

Based on this, in principle it is necessary to synchronize Law No. 26 of 2000 concerning Human Rights Courts and the Rome Statute which Romli Atmasasmita stated that there are four approaches that can be taken in synchronizing international regulations, namely (Panjaitan, 2022): a. *Comprehensive Approach*, all international conventions relating to international crimes, such as war crimes, are used as a "blank rule" for all international crimes that have been regulated in conventions or international customs; b. *Mirror Approach*intended as an approach that only imitates the formulation of provisions regarding criminal acts regulated in the Rome Statute concerning the International Criminal Court (ICC); c. *Elaborated Approach*is to imitate the formulation of criminal provisions stipulated in the Rome Statute (mirror approach), but added to the national legal language of the country concerned; d. *Combined Approaches*intended to use the advantages of the three previous approaches and formulate them into the draft National Criminal Law.

The author is of the opinion that the approach for synchronizing Law No. 26 of 2000 concerning human rights courts and the Rome Statute is the Elaborated Approach, namely by adopting the provisions in the Rome Statute which are elaborated with National Legal Interests
Synchronization is done vertically and horizontally. Vertically carried out against universal human rights values with local (national) human rights values. Meanwhile, horizontally it is carried out on legislation that has the same degree.

This comparison can be done through legal interpretation (legal interpretation). Interpretation aims to learn the true meaning and content of applicable legal regulations. In Indonesian law, several forms of interpretation are known, including (Susanti, 2021): a. Grammatical interpretation (taalkundige or grammaticale interpretetie) is a way of interpretation based on the sound of the provisions of the law, guided by the meaning of words in relation to each other in the sentences used in the law; adopted is the meaning of words according to everyday grammar; b. Valid or authentic or official interpretation, namely the interpretation as intended by the legislators themselves with the intention of being binding like other provisions or articles; c. Sociological interpretation, namely interpretation that takes into account the values prevailing in society which are the background for making a law d. Teleological interpretation, namely interpretation which states the intent and purpose of the legislator; e. extensive interpretation, namely expanding the meaning of words in a regulation so that an event or action can be included in it; f. Restrictive interpretation, namely interpretation by narrowing (limiting) the meaning of words in a regulation; g. Analogical interpretation, namely giving an interpretation of a legal regulation by using parables (like comparisons) to the words in the regulation in accordance with its legal principles; e. Interpretation of argumentum a contrario or denial, namely a way of interpreting a law based on conflicting understandings between the problem at hand and the problem regulated in a law. So that it is concluded that the problems faced are not regulated in the law.

The interpretation of international rules (conventions) that use different languages is interpreted grammatically and systematically so that there are no differences in meaning. In addition to substance, synchronization and interpretation are also carried out on cultural components, namely ideas, expectations from all human rights regulations (Susanti, 2021).

Formally, vertical and horizontal synchronization is the duty and authority of the Ministry of Justice and Human Rights. After synchronization, it is submitted to the President to make a draft bill which will then be submitted to the House Of Representative for approval. If approved, the resulting product is UU. But politically, the Department of Foreign Affairs plays a role in examining whether the making of an agreement does not conflict with the national interest and whether the closing provisions of the agreement comply with the prevailing norms.

To become part of Indonesian law, after interpretation and synchronization, Indonesia must carry out an elaboration of the Rome Statute through the submission of a Draft Law which is then processed by the legislature, in this case the House Of Representative. If approved, the bill will become a new law that is in accordance with the Rome Statute. This will certainly bring Indonesian law forward and better because the synchronization function is essentially an adjustment or adaptation to contemporary developments. Indonesian law must be more effective with complex legal developments and various obstacles in the future.

Furthermore, it is necessary to pay attention to what matters must be accommodated in the regulations implementing the Rome Statute, so we must also look at the rules in Indonesia's national legal instruments. Is it in harmony with the rules of the Rome Statute above, or are there actually a lot of contradictions that need to be synchronized.

Countries that have not ratified or have not ratified an international convention regarding an international crime, if based on certain considerations do not intend to ratify it, can take other ways in making the substance of the international agreement a part of their national law or legislation, so without ratifying and without enacting it into national law, the substance of the convention can be directly taken or adopted by the country to then be made into its national law in the field concerned (Winarta, 2012).

The author believes that this method will be more practical because if carried out with the ratification mechanism as stipulated in international treaty law, Indonesia will be bound and subject to the international treaty and will require a long time and various differences of opinion because in essence the adoption is intended to take the substance of the convention adopted. stipulate in its national law to maintain the characteristics of Indonesian law, for example, Indonesia before October 2005, did not or had not ratified the International Covenant on Economic, Social,and Culture of 1966 and the 1966 International Covenant on Civil and Political Rights, but in practice Indonesia has adopted the substance of the two Conventions, including the adoption of the Universal Declaration of Human Rights 1948 to be further used as the substance of its laws and regulations in the field of Human rights such as the 1945 Constitution of the Republic of Indonesia articles A to J and Law No. 26 of 2000 concerning the Human Rights Court(Winarta, 2012).

Based on this, the existence of a grammatical interpretation of the Rome Statute will be used as a reference by Law No. 26 of 2000 concerning human rights courts which will be far more effective and avoid various different legal interpretations because of words, sentences per sentence, and does not cause ambiguity or unclearness.

IV. CONCLUSION

Command Accountability is a widely recognized regulation and has long been used by international courts to prosecute perpetrators of serious human rights crimes internationally but was only

regulated in Indonesia in 2000 through Law No. 26 of 2000 concerning Human Rights Courts, which have various weaknesses. i.e. misinterpretation, translation, unsuitable content/material of Article 42. Therefore it is essential that the synchronization of Law No. 26 of 2000 concerning Human Rights Courts can be carried out with an Elaborated Approach approach, namely by adopting the Rome Statute, which is elaborated with Law No. 26 of 2000 concerning Human Rights Courts and grammatical interpretation (*taalkundige* or grammatical interpretation). Namely, the way of understanding is based on the sound of the provisions of the law - in this case, the Rome Statute of 1998. It is necessary to revise Law No. 26 of 2000 concerning the Human Rights Court by adjusting contemporary international legal arrangements, especially in managing command accountability in Indonesia.

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