

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 39 OF 1999
ON
HUMAN RIGHTS

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that human beings, as creations of the Almighty God charged with the task of managing and protecting the universe, with total devotion to and responsibility for the welfare of humanity, being His creation are bestowed with rights to guarantee their human dignity and honor and harmony with their environment;
 - b. that human rights are basic rights bestowed by God on human beings, are universal and eternal, and for this reason must be protected, respected, defended, and may not be disregarded, derogated, or deprived by anyone;
 - c. that besides rights, human beings also have fundamental obligations to one another and to society as a whole, with regard to society, nation, and State;
 - d. that Indonesia as a member of the United Nations has a moral and legal responsibility to uphold in the highest esteem and execute the Universal Declaration on Human Rights promulgated by the United Nations, and several other international instruments on human rights ratified by the Republic of Indonesia;

- e. that based on consideration of point a, point b, point c, and point d in order to implement Decree of the People's Representative Assembly of the Republic of Indonesia Number XVII/ MPR/1998 on Human Rights, it is necessary to establish Law on Human Rights;

- Observing : 1. Article 5 section (1), Article 20 section (1), Article 26, Article 27, Article 28, Article 30, Article 31, Article 32, Article 33 section (1) and section (3), and Article 34 of the 1945 Constitution;
2. Decree of the People's Representative Assembly of Number XVII/MPR/1998 on Human Rights;

With approval of:

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

- To enact : LAW ON HUMAN RIGHTS.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Law:

1. Human rights mean a set of rights bestowed by the Almighty God in the essence and existence of humans as creations of the Almighty God and which must be respected, upheld in the highest esteem and protected by the State, law, Government, and every person for respectability as well as protection of human dignity and worth.
2. Human fundamental obligations mean a set of obligations which if not executed, it is impossible for human rights to be executed and upheld.
3. Discrimination means all limitations, affronts, or ostracism, both direct and indirect, on grounds of differences in religion, group of family, race, ethnicity, group, faction, social status, economic status, sex, language, or political belief,

that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in individual or collective life in the field of politic, economy, law, social, culture, or any other aspects of life.

4. Torture means any deliberate action, that cause severe pain or suffering, whether physical or mental, inflicted on an individual person to obtain confession or information from that person or from a third person, by punishing an individual for an act committed or suspected to have been committed by an individual or third person, or by intimidating or coercing an individual or third person, or for reasons based on discrimination of any kind, if such pain or suffering inflicted as a result of provocation by, with the acquisition of, or with the consent of any person and or public official.
5. Child means every human being below the age of 18 (eighteen) and unmarried, including baby in pregnancy if the best interests of the child are a primary consideration.
6. Human rights violation means any act of person or groups of persons including the state apparatus, both intentional and unintentional or neglect, limit and or revoke the human rights of an individual or group of persons guaranteed by this Law, and do not obtain, or it is feared do not obtain fair and total legal settlement under the prevailing legal mechanism.
7. National Human Rights Commission, hereinafter referred to as Komnas HAM, means an independent institution whose position is at the same level as other state institutions that function to carry out study, research, dissemination, monitoring and mediation of human rights.

CHAPTER II FUNDAMENTAL PRINCIPLES

Article 2

The Republic of Indonesia acknowledges and holds in high esteem the human rights and fundamental freedoms as rights

which are bestowed by God and which are an integral part of humans, which must be protected, respected, and upheld in the interests of promoting human dignity, prosperity, contentment, intelligence and justice.

Article 3

- (1) Every person is born free with equal and same level of human dignity and honor and is bestowed with the intellect and to live in a society, nation, and state in a spirit of brotherhood.
- (2) Every person has the right to recognition, guarantee, protection, and fairly legal treatment as well as legal certainty and equality before the law.
- (3) Every person has the right to the protection of human rights and fundamental freedom, without discrimination.

Article 4

The right to life, the right to not to be tortured, the right to individual freedom, to freedom of thought and conscience, religion, the right not to be enslaved, the right to be recognized as an individual and equal before the law, and the right not to be prosecuted retroactively under the law are human rights that cannot be derogated under any circumstances whoever.

Article 5

- (1) Every person is recognized as an individual who has the right to demand and obtain equal treatment and protection as befits his/her human dignity before the law.
- (2) Every person has the right to fair assistance and protection from an objective and impartial court.
- (3) Every person who belongs to a vulnerable group has the right to receive treatment and more protection with regard to its special.

Article 6

- (1) In order to uphold human rights, the differences and needs of *masyarakat hukum adat* must be taken into

consideration and protected by the law, public and the Government.

- (2) The cultural identity of *masyarakat hukum adat*, including *ulayat* land rights, must be protected, in accordance with the development of the times.

Article 7

- (1) Every person has the right to use all national legal means and international forums against all violations of human rights guaranteed under Indonesian law, and under international law on human rights which has been ratified by the Republic of Indonesia.
- (2) International law provisions ratified by the Republic of Indonesia especially on human rights become Government's responsibility.

Article 8

Human rights protecting, promoting, upholding, and fulfilling especially become Government's responsibility.

CHAPTER III

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Part One

Right to Life

Article 9

- (1) Every person has the right to live, to sustain life, and to improve his/her standard of living.
- (2) Every person has the right to tranquility, safety, peace, happiness, physical and mental prosperity.
- (3) Every person has the right to an adequate and healthy environment.

Part Two

Right to Marry and Bear Children

Article 10

- (1) Every person has the right to found a family and bear children through legal marriage.

- (2) A legal marriage is only happened over the free will of the intending husband and wife, in accordance with provisions of the legislation.

Part Three

Right to Self-Development

Article 11

Every person has the right to fulfillment of his/her basic needs to grow and develop decently.

Article 12

Every person has the right to protection of his/her self-development, to obtain an education, to educate his/her self, and to improve the quality of his/her life in order to be a faith, devotion, responsible, noble, content, and prosperous human, in accordance with human rights.

Article 13

Every person has the right to develop and benefit from scientific knowledge and technology, arts and culture as befits human dignity, in the interests of his/her own welfare, and the welfare of the nation and humanity.

Article 14

- (1) Every person has the right to communicate and obtain information needed to develop his/her individuals and his/her social environment.
- (2) Every person has the right to seek, obtain, possess, store, process, and deliver information by using all available facilities.

Article 15

Every person has the right to fight for the right to self development both individually and collectively, to build society, nation, and State.

Article 16

Every person has the right to undertake social work and policy, to found organizations for this purpose, including to organize education and teaching, as well as to raise funds for these purposes in accordance with provisions of the legislation.

Part Four

Right to Justice

Article 17

Every person, without discrimination, has the right to justice of filing a petition, complaint, and lawsuit, of a criminal, civil, and administrative case, and to a hearing by an independent and impartial court, according to legal procedure that guarantees a hearing by a just and fair judge allowing a just and right verdict to be reached.

Article 18

- (1) Every person arrested, detained, or charged for a penal offence has the right to be presumed innocent until proven guilty according to law in a court at which he has had all the guarantees necessary for his defense, in accordance with provisions of the legislation.
- (2) Every person may not be charged or held guilty of a penal offence for any act or omission which did not constitute a penal offence under prevailing legislation, at the time it was committed.
- (3) If the legislation is amended, so most beneficial provisions apply for suspects.
- (4) Every person brought before a court has the right to legal assistance from the start of the investigation until final and binding court decision.
- (5) Every person may not be prosecuted for twice for the same cases for an act which has obtained final and binding court decision.

Article 19

- (1) No violation or crime is threatened with punishment in the form of seizure of whole assets that legally owns.

- (2) No person found guilty by a court may be imprisoned or incarcerated for being unable to fulfill the obligations of a loan agreement.

Part Five

Right to Individual Freedom

Article 20

- (1) No one may be held in slavery or servitude.
- (2) Slavery or servitude, slave trade, and women's trafficking, and all activities for similar purpose are prohibited.

Article 21

Every person has the right to integrity of the individual, both mental and physical, and because of that may not be an object of a research without his/her approval.

Article 22

- (1) Every person is free to choose his/her religion and to worship according to his/her religion and beliefs.
- (2) The State guarantees freedom for every person to choose and practice his/her religion and to worship according to his/her religion and beliefs.

Article 23

- (1) Every person is free from choosing and holding his/her political beliefs.
- (2) Every person is free from holding, expressing and widely disseminate his/her beliefs, orally or in writing through printed or electronic media, taking into consideration religious values, morals, order, public interest and nation's unity.

Article 24

- (1) Every person has the right to peaceful assembly and association.

- (2) Every citizen or group of community has the right to found a political party, civil society organization, or other organization in order to take part in the government and administration of the State in line with the purpose of protecting, upholding and promoting human rights, in accordance with provisions of legislation.

Article 25

Every person has the right to express opinion in public, and this includes the right to strike, in accordance with the provisions of legislation.

Article 26

- (1) Every person has the right to hold, acquire, change or maintain his/her citizenship.
- (2) Every person is free from choosing his/her citizenship and without discrimination has the right to enjoy his/her rights sourced of and embedded in his/her citizenship and is required to undertake his/her obligations as a citizen in accordance with the provisions of legislation.

Article 27

- (1) Every citizen has the right freely to move, transmigrate and settle in the territory of the Republic of Indonesia.
- (2) Every citizen has the right to leave and return to the territory of the Republic of Indonesia, in accordance with the provisions of legislation.

Part Six

Right to Security

Article 28

- (1) Every person has the right to seek and receive political asylum from another country.
- (2) The right as referred to in section (1) does not apply perpetrators of non-political crimes or of acts that contravene the objectives and principles of the United Nations.

Article 29

- (1) Every person has the right to protection of the individual, family, honor, dignity, and property.
- (2) Every person has the right to recognition before the law as an individual wherever he/she is.

Article 30

Every person has the right to security and peace as well as protection against the threat of fear to do or not do something.

Article 31

- (1) Every one's residency may not be interfered.
- (2) Stepping on or entering in a field of residency or entering a house is contrary to will of person who lives in it, it is only permitted for matters that have been issued by law.

Article 32

Freedom and confidentiality in correspondence including communication through electronic media may not be interrupted, except because of judge's order or other legal authority in accordance with the provisions of legislation.

Article 33

- (1) Everyone has the right to free from torture, or cruel, inhuman and degrading treatment or punishment.
- (2) Every person has the right to free from enforced disappearance and loss of life.

Article 34

No one may be subjected to arbitrary arrest, detention, torture, ostracism, isolation or-exile.

Article 35

Every person has the right to live in a peaceful, safe and secure society and nation which respects, protects and implements human rights and fundamental obligations as referred to in this Law.

Part Seven
Right to Welfare

Article 36

- (1) Every person has the right to own property, both alone and in association with others, for his/her self-development, his/her family, nation, and society through lawful means.
- (2) No one may be subjected to arbitrary or unlawful seizure of his/her property.
- (3) The right to ownership has a social function.

Article 37

- (1) Derogation of the right to ownership of a property for public interest is only permitted by reasonable and immediate compensation as well as its implementation in accordance with the provisions of legislation.
- (2) In the event that in the public interest based on legal provisions a property must be destroyed or abandoned, either permanently or temporarily, compensation is paid in accordance with the provisions of legislation, unless otherwise determined.

Article 38

- (1) Every citizen has the right to have decent work in accordance with his/her talents, skills and ability.
- (2) Every person has the right free to choose a work and has the right to get fair work requirement.
- (3) Every person, both men and women, who works has the right to equal pay for equal work, and the right to equal work conditions.
- (4) Every person, both men and women, who works equal to his/her human dignity has the right to fair wages in accordance with his/her achievement and can guarantee his/her family life.

Article 39

Every person has the right to form trade unions and may not be hindered to be a member of it to protect and fight for his/her interest in accordance with the provisions of the legislation.

Article 40

Every person has the right to a place to live and the right to an adequate standard of living.

Article 41

- (1) Every citizen has the right to the social security required for decent life and for the development of his/her well-being as whole.
- (2) Every person with disabilities, elderly, pregnant women and children have a right to special facilities and treatment.

Article 42

Every citizen who elderly, physical and/or mental disability, has the right to special care, education, training and assistance at the expense of the state, ensuring an existence worthy of human dignity, and building his self-confidence and capacity to participate in the life of society, nation, and state.

Part Eight

Right to Participate in Government

Article 43

- (1) Every citizen has the right to vote and be voted for in general elections and has equal rights to a direct, free, secret, fair and just vote, in accordance with the provisions of legislation.
- (2) Every citizen has the right to participate in government either directly or through his/her freely elected representative, in ways determined in legislation.
- (3) Every citizen has the right to be appointed to any position in the government.

Article 44

Every citizen, both individually and collectively, has the right to submit orally or in writing requests, complaints and/or proposals to the government for the implementation of a clean, effective and efficient government, in accordance with the provisions of legislation.

Part Nine
Women's Rights

Article 45

Under this Law, women's rights are human rights.

Article 46

The system of general election, political party, electing members of people's representative organizations, and appointing executives, judicative must ensure that women are adequately represented.

Article 47

The citizenship of a woman married to a foreign citizen is not automatically change to that of her husband; rather, she has the right to maintain, change, or re-gain her citizenship.

Article 48

Women have the right to obtain education and teaching in all types, levels and paths of education in accordance with predetermined requirements.

Article 49

- (1) Women have the right to select, be selected and appointed to a job, position or a profession in accordance with the requirements and the legislation.
- (2) Women have the right to special protection in the undertaking of work or a profession that can put her safety and/or her reproductive health.
- (3) The special rights to which women are entitled arising from their reproductive function are guaranteed and protected by law.

Article 50

Women of full age and/or who have married have the right to legal action as individuals, unless determined otherwise under religious law.

Article 51

- (1) During marriage, a wife and husband have equal rights and responsibilities with regard to all aspects of marriage, contact with their children, and rights to joint control of assets.
- (2) Following dissolution of marriage, a wife and her former husband have equal rights and responsibilities with regard to all matters concerning their children, taking into account the best interests of the child.
- (3) Following dissolution of marriage, a wife and her former husband have equal rights with regard to all matters concerning joint assets while not undermining children's rights, in accordance with the provisions of the legislation.

Part Ten

Children's Rights

Article 52

- (1) Every child has the right to protection by parents, family, society, and State.
- (2) Children's rights are human rights which in the children's interest are recognized and protected before the law even since the children are in pregnancy.

Article 53

- (1) Every child has the right to life, to maintain life and to improve his/her standard of living since in pregnancy.
- (2) Every child has the right to a name and citizenship since he/she was born.

Article 54

In the event of physical and/or mental disability, every child has the right to special care, education, training and assistance at the expense of the State, ensuring an existence worthy of human dignity, and building his/her self-confidence and capacity to participate in the life of society, nation, and State.

Article 55

Every child has the right to practice his/her religion, to think and to express as befits his/her intellectual capacity and age under the guidance of a parent or legal guardian.

Article 56

- (1) Every child has the right to know who his/her parents are and to be brought up and cared for by his own parents.
- (2) In the event that the parents of a child not be able to bring up and care for their child adequately and in accordance with this Law, the child concerned may be fostered and/or adopted by another person, based on and in accordance with the provisions of legislation.

Article 57

- (1) Every child has the right to be raised, cared for, educated and guided through life by his/her parents or legal guardian until coming of age, in accordance with provisions of the legislation.
- (2) Every child has the right to get an adoptive parent or legal guardian based on a court decision if both parents have died as parents or because of legal reason cannot do their obligations as parents.
- (3) An adoptive parent or legal guardian as referred to in section (2) must fulfill the obligations of a parent.

Article 58

- (1) Every child has the right to protection before the law against all forms of physical and mental violence, neglect, mistreatment and sexual assault while under the care of his/her parents, legal guardian, or any other party responsible for his/her care.
- (2) In the event that child's parent, legal guardian, or benefactor commit any form of physical or mental abuse, neglect, mistreatment, sexual assault, including rape, or murder of a child who should be protected, he/she must be subjected to maximum legal sanctions.

Article 59

- (1) Every child has the right not to be separated from his parents against his/her wishes, except for valid legal reasons and procedures indicating that this separation is in the best interests of the child.
- (2) Under the circumstances as referred to in section (1), the child's right to regular direct meetings and individual contact with his/her parents is guaranteed by Law.

Article 60

- (1) Every child has the right to access to education and teaching for his/her individual development as befits his/her interests, talents, and intellectual capacity.
- (2) Every child has the right to seek, receive, and impart information as befits his/her intellectual capacity and age in the interests of his/her own development, insofar as this meets moral requirements.

Article 61

Every child has the right to rest and mix with children of his own age, and play, have vacation and create as befits his/her intellectual capacity in the interests, talents and intelligence for his/her own development.

Article 62

Every child has the right to access to adequate health services and social security as befits his/her physical, emotional and spiritual needs.

Article 63

Every child has the right not to be involved in war, armed conflict, social riot, and other incidents involving violence.

Article 64

Every child has the right to protection from economic exploitation, and from doing any work which endangers him/her so it can interrupt his/her education, physical, moral, social life, and mental spiritual health.

Article 65

Every child has the right to protection from sexual exploitation and abuse, abduction, child trafficking, and from the misuse of narcotics, psychotropic, and other addictive substances.

Article 66

- (1) Every child has the right not to be the object of oppression, torture, or inhuman degrading treatment or punishment.
- (2) Death sentence or life imprisonment is not subject to juvenile delinquency.
- (3) Every child has the right not to have his/her freedom unlawfully taken from him.
- (4) Children may be arrested, detained, or imprisoned only in accordance with prevailing law and only as a measure of last resort.
- (5) Every child whose freedom is taken from him/her has the right to humane treatment and by paying attention to the personal development needs as befits of his/her age and must be separated from adults, unless this is for his/her own interest.
- (6) Every child whose freedom is taken from him/her has the right to access effective legal or other aid at every stage of ongoing legal proceedings.
- (7) Every child whose freedom is taken from him/her has the right to defend him/herself and to obtain justice in a private hearing before an objective and impartial Juvenile Court.

CHAPTER IV

FUNDAMENTAL OBLIGATIONS

Article 67

Every person within the territory of the Republic of Indonesia is required to comply with legislation, including unwritten law and international law on human rights ratified by Indonesia.

Article 68

Every citizen is required to participate in measures to defend the State in accordance with the provisions of legislation.

Article 69

- (1) Every person is required to respect the basic rights of others, morals, ethics and society, nation, and State and order.
- (2) Every human right gives rise to the basic obligation and responsibility to respect the human rights of others vice versa as well as it is the duty of Government to respect, protect, uphold and promote them.

Article 70

In executing his/her rights and obligations, everyone is required to observe the limitations issued in the provisions in this Law in order to guarantee the recognition and respect of rights and freedoms of others and to fulfill interests of justice, taking into account the moral, security, and public order considerations of a democratic society.

CHAPTER V

GOVERNMENT OBLIGATIONS AND RESPONSIBILITY

Article 71

The government is obligated and responsible to respect, protect, uphold and promote human rights regulated in this Law, other legislation, and international law concerning human rights ratified by the Republic of Indonesia.

Article 72

The obligations and responsibilities of the Government as referred to in Article 71; include measures towards effective implementation in law, politics, economics, social and cultural aspects, state security defense, and other areas.

CHAPTER VI

LIMITATIONS AND PROHIBITIONS

Article 73

The rights and freedoms regulated in this Law may be limited only by and based on law, solely for the purposes of guaranteeing recognition and respect for the human rights and freedoms of another person, morality, public order, or nation interest.

Article 74

No provisions in this Law may be interpreted to mean that the Government, or any political parties, factions, or any party whosoever is permitted to degrade, impair or eradicate the human rights and fundamental freedoms regulated in this Law.

CHAPTER VII

NATIONAL COMMISSION ON HUMAN RIGHTS

Article 75

Komnas HAM aims to:

- a. develop conducive conditions to the execution of human rights in accordance with Pancasila, the 1945 Constitution, the United Nations Charter, and the Universal Declaration of Human Rights; and,
- b. improve the protection and upholding of human rights in the interests of the personal development of Indonesian people as a whole and their ability to participate in several aspects of life.

Article 76

- (1) To achieve its aims, Komnas HAM functions to study, research, disseminate, monitor, and mediate human rights issues.
- (2) Members of Komnas HAM are from public figures who are professional, dedicated, have a high level of integrity, who fully comprehend future goal of legal State and welfare State based on justice, respect human rights and fundamental human obligations.
- (3) Komnas HAM is domiciled in the capital city of the Republic of Indonesia.
- (4) Representative offices of Komnas HAM may be established in the regions.

Article 77

Komnas HAM is based on the principles of Pancasila.

Article 78

- (1) Komnas HAM comprises:
 - a. plenary council; and
 - b. sub-commissions.
- (2) Komnas HAM has a Secretariat General for the provision of services.

Article 79

- (1) The Plenary Council is holder of the highest authority in Komnas HAM.
- (2) The Plenary Council consists of all members of the National Commission on Human Rights.
- (3) The Plenary Council determines the Rules and Regulations, Work Program and Work Mechanism of Komnas HAM.

Article 80

- (1) The activities of Komnas HAM are implemented by Sub-commissions.
- (2) Provisions regarding these Sub-commissions are regulated in the Rules and Regulations of Komnas HAM.

Article 81

- (1) The Secretariat General provides administrative services for the implementation of the activities of Komnas HAM.
- (2) The Secretariat General is headed by a Secretary General who is assisted by work units in the form of bureaus;
- (3) The position of Secretary General is held by a Civil Servant who is not a member of Komnas HAM.
- (4) The Secretary General is proposed by the Plenary Council and is ratified in a Presidential Decree.
- (5) The position, duties, responsibilities and organizational structure of the Secretariat General is determined in a Presidential Decree.

Article 82

Provisions regarding the Plenary Council and Sub-Commissions are further determined in the Rules and Regulations of Komnas HAM.

Article 83

- (1) Members of Komnas HAM comprises 35 (thirty-five) members selected by the House of Representatives of the Republic of Indonesia based on the recommendation of Komnas HAM, and validated by the President as Head of State.
- (2) Komnas HAM is headed by a Chairperson and two Vice-Chairpersons.
- (3) The Chairperson and the Vice-Chairpersons of Komnas HAM are elected by and from among the Members.
- (4) The Chair, Vice-Chairs, and Members serve for a period of five years, and may be re-appointed for a further 1 (one) period.

Article 84

Those eligible for appointment as members of Komnas HAM are Indonesian citizens who:

- a. have experience in the promotion and protection of individuals or groups whose human rights have been violated;
- b. are experienced as lawyers, judges, police, attorneys, or other members of the legal profession;
- c. are experienced in legislative and executive affairs and in the affairs of high level state institutions; or
- d. are religious figures, public figures, members of non-government organizations, or from universities.

Article 85

- (1) Discharge of a member of Komnas HAM is based on the resolution of the Plenary Council and informed to the House of Representatives of the Republic of Indonesia and ratified by a Presidential Decree.
- (2) A member of Komnas HAM may be discharged:
 - a. in the event of his/her death;
 - b. upon the request of the Member him/herself;
 - c. in the event that prolonged psychological or spiritual ill-health prevents the member from carrying out his duties consecutively for a period of one year;

- d. in the event that he perpetrates a gross criminal act; or
- e. in the event that he/she perpetrates a reprehensible act or other act which the Plenary Council deems to besmirch the dignity and reputation, and/or diminish the independence and credibility of the National Commission on Human Rights.

Article 86

Provisions concerning the election, appointment, and discharge of members and leadership of the National Commission on Human Rights are determined in the Rules and Regulations of Komnas HAM.

Article 87

- (1) Every member of Komnas HAM are required to:
 - a. obey provisions of the legislation and decisions of Komnas HAM;
 - b. participate actively and sincerely towards attaining the objectives of Komnas HAM;
 - c. maintain confidentiality of information that by nature is a secret of Komnas HAM obtained based on his/her position as a member.
- (2) Every Member Komnas HAM has the right to:
 - a. submit proposals and opinion to the Plenary Council and Sub-commissions;
 - b. provide input into the decision making of the Plenary Council and Sub-commissions;
 - c. propose nominees for and elect the Chairperson and Vice-Chairperson on of Komnas HAM the Plenary Council; and
 - d. nominate prospective Members of Komnas HAM for interim and regular replacement.

Article 88

Provisions concerning the obligations and rights of Members of Komnas HAM are determined in the Rules and Regulations of Komnas HAM.

Article 89

- (1) To carry out the functions of Komnas HAM in study and research as referred to in Article 76, Komnas HAM has duties and authority to carry out:
 - a. study and research international human rights instruments with the aim of providing recommendations concerning their possible accession and ratification;
 - b. study and research legislation in order to provide recommendations concerning establishment, amendment and repeal of legislation concerning human rights;
 - c. study and research result publishing;
 - d. literature studies, field studies and comparative studies with other countries concerning human rights;
 - e. discussion issues related to protecting, upholding and promoting human rights; and
 - f. study and research cooperation with organizations, institutions or other parties, at regional, national and international levels in human right sector.
- (2) To carry out the function of Komnas HAM in dissemination as referred to in Article 76, the National Commission on Human Rights has duties and authorities to carry out:
 - a. information dissemination concerning human rights to the Indonesian public;
 - b. steps to raise public awareness about human rights through formal and non-formal education institutes and other bodies; and
 - c. cooperation with organizations, institutions or other parties at national, regional and international levels in human rights sector;
- (3) To carry out the function of Komnas HAM in monitoring as referred to in Article 76, Komnas HAM has duties and authority to carry out:
 - a. monitor the execution of human rights and compile reports of the result of this monitoring;

- b. investigation and examination incidents occurring in society which either by their nature or scope likely constitute violations of human rights;
 - c. call on complainants, victims and accused to request and hear their statements;
 - d. call on witnesses to request and hear their witness statements, and in the case of prosecution witness to request submission of necessary evidence;
 - e. survey incident locations and other locations as deemed necessary;
 - f. call on related parties to give written statements or to submit necessary authenticated documents as required upon approval of the Head of Court;
 - g. examine houses, yards, buildings, and other places that certain parties reside in or own, upon approval of the Head of Court; and
 - h. on approval of the Head of Court, provide input into particular cases currently undergoing judicial process, if the case involves violation of human rights of public issue and court investigation, and the input of Komnas HAM is made known to the parties by the judge;
- (4) To carry out the function of Komnas HAM in mediation as referred to in Article 76, the Komnas HAM has duties and authority to:
- a. arbitrate between the two parties;
 - b. settlement cases through consultation, negotiation, mediation, conciliation and expert evaluation;
 - c. give recommendations to the parties for resolving conflict through the courts;
 - d. submit recommendations concerning cases of human rights violations to the Government in order that their Settlement may be followed up on; and
 - e. submit recommendations concerning cases of human rights violations to the House of Representatives of the Republic of Indonesia to be followed up.

Article 90

- (1) Every person and groups of people who have strong grounds that their human rights have been violated may submit an oral or written complaint to Komnas HAM.
- (2) Complaints will be dealt with only if the true identity of the complainant is made known and if adequate and clear evidence/statement of the subject matter of the complaint is provided.
- (3) In the event that a complaint is made by a third party, the complaint must be attached with the approval of the party whose rights is violated as victim, with the exception of certain human rights violations as based on the consideration of Komnas HAM.
- (4) Complaint on human rights violation as referred to in section (3) also covers complaints made by proxy concerning violation of human rights experienced by the group of community.

Article 91

- (1) Examination on complaint to Komnas HAM is not undertaken, or suspended in the event that:
 - a. there is insufficient evidence;
 - b. the subject matter of the complaint is not a violation of human rights;
 - c. the complaint is not presented in good faith, or if the complainant is not in earnest;
 - d. more effective legal measures are available to settle the complaint;
 - e. settlement through available legal means, in accordance with the provisions of legislation.
- (2) The mechanism for implementation the authority not to undertake or to suspend investigation as referred to in section (1) is issued in the Rules and Regulations of Komnas HAM.

Article 92

- (1) In certain cases and if deemed necessary to protect the interests and rights of those involved, or to realize the

settlement of an issue, Komnas HAM may decide to keep confidential the identity of the complainant, those providing statements or other evidence, and parties related to the subject matter of the complaint or monitoring.

- (2) Komnas HAM may determine to keep confidential or restrict dissemination of a statement or other evidence obtained by Komnas HAM which is related to the subject matter of the complaint or monitoring.
- (3) Determination as referred to in section (2) is based on the consideration that dissemination of the statement or other evidence may:
 - a. endanger State security and safety;
 - b. endanger public safety and public order;
 - c. endanger the safety of an individual;
 - d. divulge state secrets or other matters which must be kept confidential in the government decision-making process
 - e. divulge matters which must be kept confidential in the process of investigation, prosecution and trial of a criminal case ;
 - f. hamper the settlement of an existing issue; or ;
 - g. divulge matters of trade secret.

Article 93

Investigation of human rights violations is conducted closely, unless deemed otherwise by Komnas HAM.

Article 94

- (1) Complainants, victims, witnesses and other related parties as referred to in Article 89 section (3) points c and d, are obligated to fulfill the request of Komnas HAM.
- (2) If the obligations as referred to in section (1) are not be fulfilled by other related, the provisions of Article 95 are applicable for them.

Article 95

If a person called on fail to appear or refuse to give a statement, Komnas HAM may seek the assistance of the Head of Court to enforce its request, in accordance with the provisions of legislation.

Article 96

- (1) The settlement as referred to in Article 89 section (4) points a and b, is carried out by a Member of Komnas HAM appointed as mediator;
- (2) The settlement reached as referred to in section (1), in the form of a written agreement signed by parties and validated by the mediator;
- (3) Written agreement as referred to in section (2) constitutes a mediation settlement which is legally binding and officially valid;
- (4) In the event that a mediation decision is not executed by one of the parties within the period of time set forth in the decision, the other party may entreat the local District Court to declare that this settlement be executed, by appending the words, "In the name of Justice by Grace of God Almighty".
- (5) A Court may not refuse the request referred to in section (4).

Article 97

Komnas HAM is required to submit annual reports concerning the execution of its functions, duties and authority, and on the condition of human rights and on cases handled to the House of Representatives of the Republic of Indonesia and the President, and submit copies to the Supreme Court.

Article 98

The budget for Komnas HAM is borne from the State Budget.

Article 99

Provisions and procedure for the execution of functions, duties and authority as well as activity of Komnas HAM are further regulated in the Rules and Regulations of Komnas HAM.

CHAPTER VIII
PUBLIC PARTICIPATION

Article 100

Every person, groups, political organizations, community organizations, non- government organizations and other society institutions, have the right to participate in protecting, upholding and promoting human rights.

Article 101

Every person, groups, political organizations, community organizations, and non-government organizations and other society institutions, have the right to submit reports of human rights violations to Komnas HAM or other competent institutions, in the interests of protecting, upholding and promoting human rights.

Article 102

Every person, groups, political organizations, community organizations, and non-government organizations, self-reliant organizations and other society institutions, have the right to submit proposals to concerning matters and policy related to human rights to Komnas HAM or other agency.

Article 103

All people, groups, political organizations, community organizations, and self-reliant organizations, higher educational institutes, study agencies or other non-government organization, both individually and in cooperation with Komnas HAM, have the right to study, educate and disseminate information about human rights.

CHAPTER IX
HUMAN RIGHTS COURTS

Article 104

(1) To prosecute gross violations of human rights, a Human Rights Courts is established within the General Courts;

- (2) The courts as referred to in section (1) are established under law within a period of 4 (four) years.
- (3) Prior to the establishment of the Human Rights Court as referred to in section (2), cases of human rights violations as referred to in section (1) are heard by an authorized court.

CHAPTER X TRANSITIONAL PROVISIONS

Article 105

- (1) All provisions concerning human rights regulated in other legislation remain in effect insofar not regulated in this Law.
- (2) At the time this Law comes into force:
 - a. Komnas HAM established based on Presidential Decree Number 50 of 1993 on the National Commission on Human Rights/Komisi Nasional Hak Asasi Manusia is declared as Komnas HAM according to this Law;
 - b. the Chairperson, Vice-Chairperson, and Members of Komnas HAM continue to carry out their functions, duties and authority according to this Law until such time new members of Komnas HAM are appointed; and
 - c. all issues currently being handled by Komnas HAM continue to be settled according to this Law.
- (3) Within 2 (two) years of this Law coming into force, the organizational structure, membership, duties and authority, and regulations of Komnas HAM must be in accordance with this Law.

CHAPTER XI CLOSING PROVISIONS

Article 106

This Law comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta,
23 September 1999

PRESIDENT OF THE REPUBLIC
OF INDONESIA

signed

BAHARUDDIN JUSUF HAIBIBIE

Promulgated in Jakarta
23 September 1999

MINISTER OF STATE SECRETARY
OF THE REPUBLIC OF INDONESIA,

signed

MULADI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 1999 NUMBER 165

Jakarta, 22 August 2019

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,



WIDIA KATJAHJANA