



ANALYSIS ON THE IMPLEMENTATION OF POLICY FOR THE NON-JUDICIAL SETTLEMENT OF PAST GROSS VIOLATIONS OF HUMAN RIGHTS IN INDONESIA

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Abstract

This study analyzes the implementation of the non-judicial resolution policy for past gross human rights violations utilizing Merilee S. Grindle's (1980) Policy Implementation Theory, examining two primary dimensions: the content of policy and the context of implementation. The findings reveal that the policy's implementation continues to encounter significant obstacles. These challenges are primarily driven by a lack of legal legitimacy, as the policy is merely grounded in Presidential Decree Number 17 of 2022 concerning the Establishment of the Team for the Non-Judicial Resolution of Past Gross Human Rights Violations. Furthermore, there is a distinct disharmony between this legal basis and existing statutory regulations governing the resolution of past gross human rights violations. The implementation is also hindered by the minimal involvement of victims and their families in both the formulation and execution of the policy, as well as a perceptible lack of political will from the current administration to sustain its implementation. Consequently, several key recommendations are proposed: the state must redraft a robust legal framework to resolve gross human rights violations through non-judicial mechanisms via a Truth and Reconciliation Commission (TRC); the state should issue a formal apology to the victims and their families; and the government must establish clear delineations of authority among state institutions tasked with human rights functions. These measures are imperative to achieve national reconciliation in alignment with the paradigm of Transitional Justice, which inherently encompasses truth-seeking, the prosecution of perpetrators, the restoration of victims' rights, and guarantees of non-recurrence.

Keywords: Policy Implementation, Gross Violations of Human Rights, Non-Judicial Resolution, Transitional Justice

INTRODUCTION

Human rights are universally recognized as fundamental, inalienable entitlements codified in cornerstone international instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Under international human rights law, the state functions as the primary duty-bearer, entrusted with the moral and legal obligations to respect, protect, and fulfill these rights (Taqiyya, 2022). Any failure of these duties, whether through active commission or passive omission, constitutes a human rights violation. Within the Indonesian context, severe violations of non-derogable rights are legally classified as "gross violations of human rights," encompassing acts such as genocide, arbitrary killings, and enforced disappearances under Law Number 39 of 1999. Historically, Indonesia has struggled to comprehensively address its legacy of past gross human rights violations. Efforts to attain accountability through judicial mechanisms, specifically via ad hoc Human Rights Courts established under Law Number 26 of 2000, have demonstrably failed to deliver comprehensive justice, with only four cases ever brought to trial and very few convictions secured. This systemic judicial ineffectiveness is fundamentally attributed to a myriad of complex structural obstacles, including overlapping institutional jurisdictions, deeply entrenched political interference, the persistence of impunity for powerful actors, and the post-New Order regime's lack of coherent prioritization for historical justice (McGregor & Setiawan, 2019) (Fathonah & Angkasa, 2024) To circumvent the enduring deadlock characteristic of judicial proceedings, the Indonesian

government under President Joko Widodo initiated an alternative, non-judicial settlement paradigm through the promulgation of Presidential Decree Number 17 of 2022, which formally established the Non-Judicial Resolution Team for Past Gross Human Rights Violations (PPHAM Team). Tasked with uncovering historical truths and proposing reparative measures, the PPHAM Team's efforts culminated in the state's official acknowledgment and expression of profound regret for twelve distinct cases of gross human rights violations occurring up to the year 2020 (SKP-HAM Sulteng, 2023). Conceptually, non-judicial mechanisms diverge significantly from judicial approaches by shifting the primary focus away from the penal prosecution of perpetrators and toward a victim-centric approach aimed at the comprehensive restoration of victims' rights. Despite its reparative intentions, the operationalization of this non-judicial policy has encountered profound empirical and conceptual impediments. Empirically, the integration of victim perspectives has been heavily criticized, with victim participation frequently reduced to a mere procedural formality as decisions are often made without consideration of their perspectives or aspirations (Ramadhan et al., 2025). Moreover, some state actions, such as the sudden demolition of the Rumoh Geudong site, sparking substantial controversy, because that act is considered an act of destruction and elimination of an important site of human right violations (Yusuf, 2025). Conceptually and legally, the policy rests on a precarious foundation, Presidential Decree Number 17 of 2022 functions strictly as a normative administrative act (*beschikking*) rather than a binding statutory regulation (*regeling*), precipitating constitutional disputes and engendering a critical governance vacuum following the expiration of the PPHAM Team's mandate at the end of 2022. The President is said to have no authority to resolve such matters through non-judicial mechanisms based on Presidential Decrees (Syofyan & Nazmi, 2024).

Driven by the manifest empirical obstacles and conceptual vulnerabilities surrounding the state's current reparative efforts, this study fundamentally aims to rigorously analyze the implementation dynamics of the non-judicial resolution policy for past gross human rights violations in Indonesia, while systematically identifying the multifaceted factors that influence its execution. The analytical scope of this research is strictly delineated to the twelve specific instances of gross human rights violations formally recognized by the Indonesian government in 2023. To systematically operationalize this inquiry, the research is theoretically anchored in Merilee S. Grindle's (1980) Policy Implementation Theory. This robust theoretical framework evaluates the efficacy of public policy execution through two principal dimensions: the content of policy (examining how the substantive elements and goals of the policy affect its outcomes) and the context of implementation (evaluating how political, institutional, and administrative environments shape the policy's real-world trajectory) (Grindle, 1980). Ultimately, this research aspires to yield substantial academic and practical significance; academically, it seeks to enrich the public policy literature concerning transitional justice and human rights administration, while practically, it intends to furnish empirical recommendations to relevant governmental stakeholders for the development of more targeted, inclusive, and enduring resolution strategies.

LITERATURE REVIEW

The resolution of past gross human rights violations consistently encounters formidable structural obstacles, particularly regarding the systemic failure of judicial mechanisms. This judicial deadlock is largely attributed to the deeply entrenched impunity of perpetrators who have seamlessly integrated into the democratic and political processes (Fadhil, 2020). Furthermore, perpetrators of these gross violations often possess substantial political power and influence, which effectively enables them to evade legal accountability and maintain their societal standing (Moeltazam et al., 2024). The foundational construction of ad hoc Human Rights Courts has been heavily criticized for being predominantly driven by sociological and political agendas rather than objective juridical considerations (Putra & Irwansyah, 2018). This is compounded by the inherent ineffectiveness of existing human rights enforcement institutions, highlighting the urgent necessity for establishing an independent body dedicated exclusively to handling these severe cases (Nugroho & Tajmahal, 2022). Consequently, non-judicial approaches have increasingly emerged as vital alternative solutions that can facilitate a more expeditious resolution while actively repairing the fractured relationship between victims and the state within a democratic framework (Fatchrurhozi & Hardiyanto, 2023).

Despite their distinct operational characteristics, judicial and non-judicial mechanisms must be viewed as mutually complementary frameworks that require a comprehensive and multifaceted approach to achieve genuine accountability (Tandry et al., 2025). While judicial avenues strictly ensure legal certainty through the penal prosecution of perpetrators, non-judicial mechanisms prioritize the comprehensive restoration of victims' rights through systemic compensation, rehabilitation, and social reconciliation (Ramadhan et al., 2025). In an ideal transitional justice setting, such non-judicial reparative measures would be holistically facilitated by a formalized Truth and Reconciliation Commission aimed at achieving durable national unity (Syofyan & Nazmi, 2024).

However, the Indonesian government's contemporary implementation of a non-judicial policy via the PPHAM Team has faced profound academic scrutiny for disproportionately serving state interests while marginalizing the fundamental demands of victims for transparency (Munif, 2023). A critical manifestation of this marginalization is the state's persistent reluctance to issue a formal, public apology, which remains a paramount reparative instrument essential for restoring the intrinsic human dignity of the victims (Putri et al., 2022).

THEORETICAL FRAMEWORK

This study primarily employs theoretical model of Policy Implementation written by Grindle (1980). Merilee S. Grindle's Policy Implementation Theory serves as a robust analytical framework designed to establish a direct relationship between the formulated objectives of public policy and the ultimate outcomes of governmental actions. This theoretical model essentially functions to construct a "policy delivery system," wherein specific administrative methods are meticulously planned and pursued to achieve predetermined goals. The theory inherently emphasizes the critical role of public administrators as implementing actors who must remain highly attentive to the surrounding environment that can significantly affect policy execution. Furthermore, the successful implementation of any policy is fundamentally evaluated through two primary parameters: the appropriateness of the policy process itself and the actual achievement of policy objectives. This objective achievement parameter necessitates a rigorous examination of the policy's tangible impact on society, the specific degree of change that takes place, and the target group's overall acceptance of these systemic changes.

Within Grindle's conceptual framework, the successful execution of public policy is fundamentally driven by two primary dimensions, the first of which is the content of policy. This specific dimension analytically focuses on how the substantive elements and intrinsic characteristics of a public policy directly affect its real-world implementation. To systematically evaluate this structural content, the dimension is categorically divided into six distinct sub-dimensions. These essential sub-dimensions explicitly comprise the specific interests affected by the policy, the inherent type of benefits it delivers, the overarching extent of changes envisioned by policymakers, the designated site of decision making, the specific program implementors tasked with execution, and the total resources committed to the initiative.

The second foundational dimension in Grindle's theoretical model is the context of implementation, which critically examines the external environment surrounding the policy execution. This dimension specifically focuses on how the broader political context of administrative actions systematically influences the overall trajectory of policy implementation. To rigorously analyze these complex environmental dynamics, the context of implementation is further divided into three primary sub-dimensions. These critical sub-dimensions systematically evaluate the power, interests, and strategies of the various actors involved, the inherent characteristics of the governing institutions and regimes, and the overall levels of compliance and responsiveness demonstrated throughout the implementation process

METHOD

This study employs a descriptive qualitative research type aimed at comprehensively detailing specific situations and phenomena without attempting to establish cause-and-effect relationships between variables. Furthermore, the research fundamentally utilizes a post-positivist paradigm approach, which acknowledges that research subjects exist within complex social environments and requires the researcher to test, verify, and refine theories to better interpret the world. To rigorously gather the requisite qualitative information, the data collection techniques consist of field research via in-depth interviews and the examination of relevant documents, such as laws, regulations, and official government statements. Geographically conducted in Jakarta, Indonesia, the study systematically draws primary insights from a targeted list of informants comprising the Assistant Deputy at the Coordinating Ministry for Law, Human Rights, Immigration, and Correctional Affairs, the Deputy at the Ministry of State Secretariat, a representative from the Commission for the Disappeared and Victims of Violence (KontraS), and an academic expert from Universitas Diponegoro.

RESULTS AND DISCUSSION

A. ANALYSIS OF FACTORS AFFECTING THE IMPLEMENTATION OF POLICY FOR THE NON-JUDICIAL RESOLUTION OF PAST GROSS VIOLATIONS OF HUMAN RIGHTS IN INDONESIA

1. CONTENT OF POLICY

Interests Affected. The formulation of the non-judicial resolution policy, primarily targeting victims and their families, was fundamentally orchestrated by the government without sufficient integration of these critical stakeholders. Led by the Coordinating Ministry for Political, Legal, and Security Affairs, the policy was materialized through Presidential Decree Number 17 of 2022, yet it prominently lacked victim representation during its developmental phases. Consequently, the target demographic was only informed of the state's reparative intentions following President Joko Widodo's public address on January 11, 2023, which occurred post-expiration of the PPHAM Team's mandate. This exclusionary approach, compounded by the appointment of PPHAM Team members who lacked established connections with the victims, indicates that the profound interests of the primary target group were not optimally accommodated (Hanafi, 2025).

Type of Benefits. In terms of the type of benefits provided, the policy mandates the comprehensive restoration of victims' constitutional and inherent rights as citizens, encompassing material, psychological, social, and cultural support to facilitate societal reintegration. Despite these reparative intentions, the empirical execution of the policy heavily defaulted to standard, pre-existing social welfare distributions, such as the Family Hope Program (PKH) and the Healthy Indonesia Card (KIS). This structural execution has been extensively criticized for employing a "one-size-fits-all" approach that merely distributes generalized material assistance without conducting tailored case-by-case assessments. As a result, the provided benefits fundamentally fail to recognize the beneficiaries' distinct status and specific needs as victims of gross human rights violations (Farida et al., 2025).

Extent of Changes Envisioned. The overarching extent of changes envisioned by this non-judicial policy framework is the realization of enduring national reconciliation, restoring public trust in the state, and ensuring the non-recurrence of past atrocities. Situated within the broader paradigm of transitional justice, such envisioned changes theoretically necessitate comprehensive truth-seeking processes alongside guarantees of non-recurrence. This concept encompasses four primary pillars, criminal prosecution, reparation, truth seeking, and institutional reform (Fajriyah et al., 2024). However, the current non-judicial reparative measures remain substantially incomplete, as genuine reconciliation fundamentally requires an explicit, official apology from the state acknowledging its historical transgressions. Furthermore, to achieve comprehensive justice, this non-judicial mechanism cannot function in isolation and must be systematically implemented alongside penal prosecutions and substantive institutional reforms.

Site of Decision Making. The site of decision-making for the non-judicial resolution policy was overwhelmingly concentrated within the state apparatus, with the Coordinating Ministry for Political, Legal, and Security Affairs serving as the leading sector. While designating a coordinating ministry was administratively logical given the policy's cross-institutional complexity, this state-centric framework generated a markedly top-down formulation process. The government strictly controlled the narrative and the architecture of the policy, evidenced by the direct recruitment of PPHAM Team members by the Coordinating Minister himself (Hanafi, 2025). Consequently, this highly centralized decision-making locus systematically marginalized the active participation of civil society and the victims themselves.

Program Implementors. Regarding the program implementors, the execution of the policy necessitates a complex bureaucratic mobilization involving seventeen distinct state Ministries and Agencies, in addition to the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri). The selection of these specific institutions was meticulously predicated on their respective statutory mandates, technical authorities, and the direct relevance of their programmatic capabilities to the multifaceted recovery needs of the victims. This extensive multi-agency involvement explicitly highlights the profound administrative complexity of the non-judicial policy, thereby requiring robust leadership and ongoing alignment from a coordinating ministry to ensure the coherent delivery of rights restoration programs.

Resources Committed. The vast mobilization of administrative actors inherently reflects a massive commitment of resources distributed across the various mandated ministries and agencies. Tracking the precise magnitude of these financial commitments is highly challenging, as the necessary budgets were decentralized and allocated individually to each participating institution for tasks ranging from victim verification to the execution of strategic recovery measures. Tangible commitments of these resources have

been empirically manifested through targeted cross-sectoral interventions, such as the provision of priority health coverage by the Ministry of Health, socio-economic assistance from the Ministry of Social Affairs, and housing renovations executed by the Ministry of Public Works and Public Housing (Rohman & Harkrisnowo, 2024).

2. CONTEXT OF IMPLEMENTATION

Power, Interests, and Strategies of Actors. The implementation of the non-judicial resolution policy is characterized by a profound divergence in perspectives and interests between state actors and civil society organizations. From the governmental standpoint, the Coordinating Ministry for Law, Human Rights, Immigration, and Correctional Affairs is strategically mandated to orchestrate cross-institutional coordination, align perceptions, and ensure that victim recovery programs are effectively integrated without overlapping. Conversely, civil society actors, such as the Commission for the Disappeared and Victims of Violence (KontraS), adopted a strategy of categorical rejection toward the policy while concurrently acting as victim advocates who closely scrutinize the state's actions. This fundamental friction highlights the inherent complexity of the policy's implementation, a condition significantly exacerbated by the state's failure to meaningfully engage civil society and accommodate the primary targets' interests during the formulation process.

Institution and Regime Characteristics. The transition of presidential power from Joko Widodo to Prabowo Subianto has fundamentally altered the institutional landscape and the political trajectory of the non-judicial resolution policy. Political transitions inevitably dictate shifts in policy priorities, generating profound pessimism regarding the current regime's commitment to sustaining this transitional justice initiative. Although the Prabowo administration established a dedicated Ministry of Human Rights, the institution currently suffers from severe operational constraints, including obscure jurisdictional authority and a complete lack of a dedicated budget. This structural regression is further compounded by the administration's "Asta Cita" development agenda, which strategically omits the resolution of past gross human rights violations in favor of human rights issues that carry negligible political risks. Conversely, President Prabowo Subianto carries a historically negative association regarding human rights issues in Indonesia, given the allegations of his involvement in the forced disappearance of several activists during the 1998 Reform period (Zulfikar & Bahri, 2026). Consequently, these regime characteristics vividly demonstrate a critical deficit in political will to effectively continue the restorative measures for historical human rights abuses.

Compliance and Responsiveness. The final dimension of the implementation context critically evaluates the mechanisms utilized to ensure systemic compliance and institutional responsiveness among the involved actors. To maintain operational compliance, the government executed continuous oversight mechanisms through rigorous coordination forums, synchronization meetings, progress reporting, and cross-ministerial evaluations concerning implementation bottlenecks. Despite the existence of these administrative monitoring frameworks, the fundamental legal instruments underpinning the policy, namely Presidential Decree Number 17 of 2022, Presidential Instruction Number 2 of 2023, and Presidential Decree Number 4 of 2023, have all reached their expiration dates in 2026. Due to these structural expirations and the extensive bureaucratic restructuring under the new administration, there is an urgent necessity to formulate a novel, robust legal framework to anchor future oversight operations and guarantee sustained governmental responsiveness.

B. ANALYSIS OF THE IMPLEMENTATION OF POLICY FOR NON-JUDICIAL RESOLUTION OF PAST GROSS VIOLATIONS OF HUMAN RIGHTS IN INDONESIA

Indonesia has historically struggled to comprehensively address gross human rights violations through judicial mechanisms under Law Number 26 of 2000, which have consistently failed to hold perpetrators accountable and thereby perpetuated systemic impunity. In response to this enduring deadlock, the government initiated a non-judicial alternative through the issuance of Presidential Decree Number 17 of 2022, which formally established the PPHAM Team. This restorative policy explicitly targets the victims and their families across twelve officially acknowledged historical cases, fundamentally aiming to pursue truth-seeking, recommend reparative measures, and establish guarantees of non-recurrence.

Despite its restorative intentions, the implementation of this non-judicial policy is fundamentally constrained by profound legal vulnerabilities. The reliance on a Presidential Decree, which functions strictly as

a unilateral executive product rather than formalized statutory legislation, severely undermines the institutional legitimacy and operational capacity of the PPHAM Team. Furthermore, a comprehensive transitional justice framework necessitates that non-judicial mechanisms align strictly with existing statutory mandates to ensure that restorative efforts operate as a dual-track mechanism that complements, rather than negates, the pursuit of penal accountability (Fajriyah et al., 2024). Ideally, such non-judicial resolutions should be systematically facilitated through a formalized Truth and Reconciliation Commission, yet Indonesia's previous legislative attempt to establish this commission was completely annulled by the Constitutional Court.

Empirically, the policy's tangible impact remains suboptimal and highly problematic due to severe discrepancies in the baseline data utilized to identify beneficiaries. Overlapping and chaotic victim registries have precipitated critical exclusion errors, effectively denying reparations to legitimate victims simply due to their absence from the government's official records. Consequently, rather than achieving its overarching objective of comprehensive national reconciliation, the flawed implementation of this state policy has paradoxically catalyzed further fragmentation and division among the victim communities themselves

CONCLUSION

Indonesia's protracted history of gross human rights violations has persistently been met with inadequate judicial accountability under Law Number 26 of 2000, where legal proceedings have frequently culminated in systemic impunity for perpetrators. In response to these enduring judicial failures and the Constitutional Court's prior annulment of the Truth and Reconciliation Commission legislation, the state initiated an alternative non-judicial resolution mechanism orchestrated through Presidential Decree Number 17 of 2022 and its subsequent supplementary directives. When evaluated through Merilee S. Grindle's Policy Implementation Theory, the substantive content of this state-centric policy reveals profound structural deficiencies. Notably, the primary target demographic, the victims and their families, was severely marginalized during the formulation process, resulting in restorative benefits that are generalized into existing social welfare schemes rather than being individually tailored to address their specific reparative needs. Furthermore, while the overarching objective is to achieve national reconciliation within a transitional justice paradigm, the highly centralized decision-making process dominated by state actors fundamentally undermines the comprehensive realization of this goal. Despite the extensive mobilization of resources across seventeen ministries and agencies to implement these rights-restoration programs, the execution fundamentally lacks the necessary nuance required for genuine restorative justice.

The operational context of this non-judicial policy is profoundly characterized by substantial friction between state actors and civil society organizations, driven by the government's failure to meaningfully integrate victim interests during the policy's inception. This precarious implementation trajectory is further compounded by the recent political transition to President Prabowo Subianto's administration, which demonstrates a discernible deficit in political will to sustain these transitional justice initiatives despite the formal establishment of a dedicated Ministry of Human Rights. Consequently, the overarching efficacy of the state's reparative framework remains heavily constrained by critical systemic impediments. The foundational reliance on transient executive decrees, which were already expired in 2026 severely compromises the institutional legitimacy of the executing bodies and necessitates the urgent formulation of a robust statutory mandate. Ultimately, chaotic victim data registries that precipitate severe exclusion errors, coupled with a critical lack of harmonization with the existing judicial mandates under Law Number 26 of 2000, vividly illustrate a profound misalignment between the severe gravity of historical atrocities and the state's current restorative policy framework.

Based on a comprehensive analysis of the implementation of the non-judicial resolution policy for past gross human rights violations, several strategic recommendations are proposed to systematically enhance the state's transitional justice framework. First, to effectively achieve the envisioned national reconciliation, the government must prioritize the formulation of a new Law on the Truth and Reconciliation Commission (TRC), serving as a vital non-judicial component mandated by preexisting legal frameworks. Second, these restorative non-judicial mechanisms must operate synergistically with continuous judicial pursuits under Law Number 26 of 2000, ensuring that the imposition of penal sanctions upon perpetrators remains a paramount objective. Third, the state must formally issue an official public apology to explicitly demonstrate its commitment to truth disclosure and formally recognize the profound suffering endured by the victims. Finally, to demonstrate genuine political will, the government must foster robust coordination and establish clear delineations of authority among key human rights institutions, particularly between the Coordinating Ministry for Law, Human Rights, Immigration, and Correctional Affairs and the Ministry of Human Rights.

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Zulfikar, Z., & Bahri, S. (2026). A Comparison of Prabowo Subianto's Political Rhetoric on Human Rights Issues in the Presidential Candidate Debates of the 2019 and 2024 General Elections. *JISPAR: Jurnal Ilmu Sosial*, 15(1), 2684–9119. <https://ejournal.upr.ac.id/index.php/JISPAR/index>