

CHAPTER VI

CLOSING

A. Conclusion

Based on the research results and analysis, there are several things that can be concluded, which emphasized:

1. International regulation of command responsibility, rooted in the Hague and Geneva Conventions and implicitly recognized in the Nuremberg Charter, has evolved into a core principle of international criminal law through post-Cold War jurisprudence. The ICTY and ICTR refined the doctrine by clarifying superior liability based on knowledge and failure to prevent or punish, later consolidated in the Rome Statute and applied by the ICC and hybrid tribunals. Although the Rome Statute enhanced legal certainty by emphasizing effective control and a higher knowledge standard, judicial practice still reveals interpretative inconsistencies. Despite these challenges, command responsibility remains central to ensuring accountability and rejecting impunity based on hierarchical power.
2. The command responsibility principle in Indonesia is regulated in Article 42 of Law Number 26 of 2000 concerning Human Rights Courts (Law 26/2000), adopting Article 28 of the Rome Statute, and is now integrated into Articles 598-599 of Law Number 1 of 2023 concerning Criminal Code (KUHP 2023) to align domestic law with international obligations. Although applied in serious human rights cases such as Tanjung Priok, East Timor, Abepura, and Paniai, its implementation has been problematic due to non-judicial interventions and evidentiary weaknesses that hinder courts from establishing effective control, command relationships, and other essential elements.

3. The formulation to improve the model of command responsibility in Indonesia requires comprehensive criminal law reform by integrating political criminal law through value and policy-based approaches. This includes harmonizing Article 42 of Law 26/2000 with the Rome Statute, expanding the scope of core crimes and responsible actors, strengthening standards of knowledge and effective control, clarifying the role of KUHP 2023 while maintaining Law 26/2000 as *lex specialis*, and enhancing institutional coordination, procedural law, and evidentiary standards to ensure effective accountability and human rights protection.

B. Suggestion

Based on the conclusion formulated from the research results and analysis, the suggestion that can be put forward by the author includes:

1. It is recommended that the United Nations, International Criminal Court, and related international institutions establish more concrete and uniform standards of proof for elements of serious human rights violations, particularly in the application of the principle of command responsibility. This step is crucial for creating harmony in the interpretation and application of norms across jurisdictions, so that future solving of serious human rights violations can be more effective, fair, and in line with the spirit of law enforcement and universal human rights protection.
2. In the context of the Indonesian legal system, it is recommended that law enforcement performance in solving cases of serious human rights violations be immediately accelerated and strengthened, given that many cases remain unsolved, delaying the realization of justice for victims and their families. Furthermore, law enforcement should place greater emphasis on recovery and

justice for victims, while still upholding the principle of legal certainty, as a concrete manifestation of the state's commitment to respect, protect, and fulfill human rights in Indonesia. The government, along with law enforcement institutions, needs to take firm steps to eliminate all forms of political intervention and the influence of power that could hinder the legal process, so that human rights enforcement can truly be carried out independently and with integrity.

3. In order to achieve an ideal normative conceptualization regarding the principle of command responsibility, it is recommended that DPR as a policy-making institution immediately complete the discussion on amendments to Human Rights Courts Law, by considering and integrating the various findings obtained in this master-thesis. The urgency of legal reform in the field of human rights justice, particularly regarding the principle of command responsibility, is increasingly pressing considering that the law is already a quarter of a century old and is now also faced with the implications of new regulations in KUHP 2023. Therefore, a conceptual reform is needed to the norms governing this principle so that they are more in line with developments in national and international law, while also reflecting the public's sense of justice and the actual needs in upholding human rights in Indonesia.

