

THE BINDING AUTHORITY OF HUMAN RIGHT LAW AS GUARANTEE OF LEGAL PROTECTION TOWARD THE BODY INTEGRITY OF WOMAN AS THE VICTIM OF NOT-FULFILLED PROMISE TO MARRY

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ABSTRACT

The Human Right forms series of rights adhering on the principle of human existence as the Only God creature and becomes the God gift that should be honored, upheld, and protected by the country, law, government, and anyone for the honor and protection of human dignity and prestige. The essence of woman body integrity as the victim of not fulfilled promise to marry become unity and completeness of thought, feeling, and human body by self-acceptance as complete individual adhering in her as the collective of physical, psychological, emotional, aspiration characteristics and self-achievement to develop woman self-concept as a whole in order to develop. In line with the above fact, the research formula forms how the tied power of human right law in giving legal protection toward the woman body integrity as the victim of not fulfilled promise to marry. This study refers to normative legal study using qualitative judicial analysis. The study show that the woman body integrity as the victim of not fulfilled promise to marry must get guarantee of legal protection because the woman body forms integral part of humanity substance. The Human Right Existence cannot be separated from the law. Even, almost all the acts of Human Right stated in Declaration of Universal Human Right 1948 (as International Customary Law) become substance of international law, although it still use national law in its implementation. Thus, the Human Right Existence ties all countries and international society to respect, to protect, and to uphold the human right and its implementation, including in Indonesia as member of Declaration of Universal Human Right. Therefore, it believes that the woman body integrity as the victim of not fulfilled promise to marry must get guarantee of legal protection. The reason refers to any legal instrument and mechanism of human right implementation form tool to sustain the Human right.

Keywords : Human Right, Legal protection, body integrity, woman, promise to marry

INTRODUCTION

The Law Number 39 of 1999 on the human right is based on universal human right principles as stated in Universal Declaration of human right. The principles include ⁵first the Law states that the Indonesian commitment to give priority to human right and freedom (act 2) declared that Indonesian Republic admit and give priority to Human right and human duty as natural right adhering and not separable from the human.

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⁵ Anton Baker, dalam Niken Savitri, *HAM Perempuan Kritik Teori Hukum Feminis Terhadap KUHP*, Revika Aditama, 2008.

The right must be protected, honored, and increased for the humanity prestige, happiness, intelligence, and justice. For that reason, the country forms as the main element of developing and protecting the human right. *Second*, it restates the principle of non-discrimination (Acts 3 and 5). Everyone is born with the same level of dignity and prestige in front of the law. *Third*, the guarantee of rights protection cannot be decreased in any conditions (Act 4). The rights include right to live, not being tortured, personal freedom, thought and inner heart, have religion, not being slavered, and accepted as individual, legal equality and not being claimed based on retroactive legal basic.

The concept of Human Right purposes to develop the human consciousness of the significance to accept, honor and create integrated and complete human. In Act 1 of the Law Number 39 of 1999 of Human right, it states that “Human Right forms series of rights adhering on the human dignity and prestige as creature of The Only God and refers to God gift that must be Honored, kept high, and protected by the country, law, government, and everyone for the honor and protection of human dignity and prestige”.

The case of woman as the victim of not fulfilled promise to marry begins from the relationship between adult man and woman, but not yet in marriage relation as a loving couple. In this relationship, they tie each other with promise to marry. Usually, the man is the one who give the promise. The promise is said orally, or written using communication tool or HP via application such as WhatsApp, WeChat, Line, and Kakao Talk, SMS (*Short Message Service*), or using computer. Using this promise to marry from the man, the woman voluntarily gives her body that they have sex. However, the man broke his promise finally. It shows a reason that result in event where the woman who ask for the man promise to marry her, in the condition pregnant or not, often experience may forms of violence and it effect in the body integrity of woman as the victim.

The conduct man do to the woman of the victim of not-fulfilled promise to marry can be considered being against the humanity essence of woman and it forms action giving loss and suffers (physical, psychis, sexual, social and economy) toward woman, in pregnant or not pregnant condition.⁶ Moreover, the woman pain suffered in time or post the violence, in fact, become more traumatic that what man suffers.⁷ However, this conduct become attack form or denial toward human right that resulting in the woman lost of her body integrity. Thus, it needs significantly to give legal protection toward the body integrity of the woman as the victim of not-fulfilled promise to marry in order not being insulted and played a fool by the man and avoid born kid with status of illicit child.

The woman as the one of society powers has the same right in filling the independence and changing to the woman advance, thus her right guarantee must be stated explicitly and specifically. Based on the arrangement, several international conventions have main purpose to understand deeper on the convention in line with woman that become parameter of equality and justice for the woman.

The body integrity⁸ is description of ideal body related to completeness of someone body. The woman body integrity means a whole and completeness of woman body covering physical and nonphysical. The woman will feel loss of her body integrity when she loses one component of her feminine parts⁹ (virginity or woman vagina).

In line with the fact, the writer believes that woman body integrity related to self/individual integrity as a whole covering physical and nonphysical parts of woman reflecting a whole

⁶Harkristuti Harkrisnowo, *Op. cit* Hlm.3

⁷*Ibid*

⁸M.M. Nilam Widyarini, *Kunci Pengembangan Diri*, Jakarta, PT. Elex Media Komputindo, 2009, Hlm. 77

⁹<http://Mualang.artikata.com/arti-365379-kehormatan.html>

integrity and not separable from woman life. It close related to protection of personal¹⁰ integrity in this case virginity (woman feminine part/miss V) and related to self concept and woman honor.

The woman body integrity close related to description of woman self concept that must be kept and honored in the essence of human being. The woman self concept¹¹ forms her feeling of complete individual with unique characteristic, that she will easily known as special personality. Someone who knows well her needs, benefit, and weakness will be able to think rational and objective.

RESEARCH METHOD

This research purposes to describe and analyze the tied power of the human right law in giving guarantee of legal protection toward the body integrity of the woman as the victim of not-fulfilled promise to marry.

The research forms normative legal study examining the legal rules, legal concepts, philosophical opinions or legal principles as the background of the urgent need of legal protection guarantee toward the body integrity of the woman in the national law. This study focuses more on philosophical approach, statute approach, conceptual approach and case approach. The legal materials collected are calculated and analyzed judicial and quantitatively with attention more on legal penalans such as using legal manifestation.

DISCUSSION

Human right

The general statement of human right refers to a declaration formulated by the United Nations in 1946, in which the statement covered protection toward human right and independence. The declaration includes fundamental freedom for any person, man and woman, without any discrimination. The point is that Human Right has existed since someone lives in the mother uterus, born, a whole life, and till dies. The human right was born together with human being. In other word, human right has existed since the human being exists.

The Declaration of Universal Human Right becomes the first element of the human right regulation (*international bill of rights*) as the basic joining legally and additional protocol in the international covenant of civic and political rights and these two committees watch the implementation and each covenant provides mechanism of upholding the rights.

The obedient on the principles reflected in Declaration of Universal Human Right becomes key criterion of confession of a new country or regime by other countries. Besides, the respect on human right in real becomes requirement of membership in various international and regional organizations, including the United Nations. There is no country that able to responsible the losses that may happen of ignorance the human right. On the other hand, they must make sure the respect on the right and freedom articulated in the Declaration as a minimum standard. It may be right to say that there is no other international instrument having that kind of effect.¹²

¹⁰Hak bagi integritas tubuhnya dipergunakan secara meningkat untuk menangkap rentang jaminan yang diperlukan untuk melindungi semua orang dan terutama perempuan dalam melawan kekerasan dan pelecehan yang mengarah pada pengurangan, kesehatan, kemerdekaan, dan kedaulatan diri dari ancaman. Lihat Konferensi Dunia PBB dalam Semua Bentuk Kekerasan Terhadap Perempuan yang berhubungan dengan hak akan integritas tubuh Dokumen PBB A. 162/122/Add. Paragraf 277

¹¹Lukaningsih, Zuyina Luk, *Pengembangan Kepribadian*. Yogyakarta, Mulia Medika, 2010

¹²Elemen-elemen humaniter dalam konvensi Jenewa dan Den Hag juga diakui dengan tingkatan

The guarantee of human right should be created through respecting and giving priority as well as guaranbinding of human right protection by the country. The Human Right refers to series of rights adhering on the essence of human existence as the creature of the Only God and the God gift that must be honored, given priority and protected by the country, law, government, and everyone for the honor and protection of human dignity and prestige¹³.

The human right is given by the Only God with its natural characteristic and has embedded since the person born in this world as the God gift. Thus, since the Adam as the first human created by the God exists, that time the human right has existed. The honor and dignity of Human Right become valuable matter. The feeling of respect each other and tolerance among the God's creatures will give peaceful feeling to anyone in this world¹⁴.

In Indonesia, together with the regulation of formulated Indonesian Republic, Pancasila become the fundamental of state ideology and philosophy. Therefore, the confession of dignity and prestige people (Indonesia) is not the result of long struggle but it intrinsically embed on Pancasila reflected in its principles. It also includes in the preamble and numbers of Acts in the original papers of the Fundamental Constitution of 1945.

The main instrument of Human Right in Indonesia included in:

1. The Preamble of the Fundamental Constitution of Indonesian Republic in 1945 stated: "That the independence is the right of every nation and therefore the colonialism in the world must be eliminated, for colonialism is against the humanity and justice". Moreover, the preamble of the Fundamental Constitution stated that: "... the structure of Indonesian Republic being sovereignty of the people based on: The Only God, Justice and Civilized Humanity, The Indonesian Unity, and The democracy led by the inner wisdom consultative/representative by creating social justice for a whole Indonesian people".
2. In November, 13rd, 1998, the People's Consultative Council (MPR) took an decision having important meaning to the development, honor, and upholding on the Human Right, or by legitimating the Decision of the People's Consultative Council of the Indonesian Republic Number XVII/MPR/1998 on Human Right with appendix covering "The Indonesian View and Behave toward the Human Right" (Appendix Number I) and "Carter of Human Right" (Appendix Number II).

The Consideran of MPR Decision Number XVII/MPR/1998 stated, " that the Preamble of the Fumdamental Constitution of Indonesian Republic has mandated aquisition, respect, and willing for implementation of human right in conducting life of society, state and country" (letter b) and "that Indonesia as part of world society should respect the human right including in the Universal Declaration of Human Right of the United Nations as well as other International elements related to human right" (letter e). Then, the MPR Decision stated " that Indonesia as member of the United Nations has responsibility to respect the Universal Declaration of Human Rights and other International elements related to human right" (Appendix I B (Fundamental), number 2).

yang serupa, namun instrumen-instrumen tersebut memang dapat ditegakkan secara hukum, menuntut pertanggungjawaban individu, dan merupakan bagian yang lebih khusus dalam aturan hak asasi manusia internasional, yakni berada di dalam ranah hukum humaniter dan pidana internasional

¹³Pasal 1 angka 1 Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia.

¹⁴Pengantar Redaksi Majalah Hukum dan HAM Nomor.24 May – Juni 2007, (Jakarta : Biro Humas dan HLN Departemen Hukum dan HAM, 2007), Hlm. 5

3. The most important is formulation and addition of Chapter XA on the Human Right, including Act 28A-28J, in the Fundamental Constitution of the Indonesian Republic of 1945.
4. The issuing of the Law of Indonesian Republic No. 7 of 1984 on legitimation of the Convention on the Elimination of All Forms of Discrimination against Women.
5. The issuing of the Law of Indonesian Republic No. 39 of 1999 on the Human Right. Part Nineth covering Acts 45—51 discuss the woman right. Act 45 decides: the woman right in the law is the human right.¹⁵

In line with the existence of value between equality of “Human Right” and “Main Duty” as well as the government protection has been reflected in the formulation of the Law acts No. 39 of 1999 such as, :

Act 1 :

In the Law, the meaning of :

1. The human right forms series of rights adhering on the human essence and existence as the creature of the Only God and the God gift that should be honored, given priority, and protected by the State, law, government, and everyone for the honor and protection of human dignity and prestige.
2. The human fundamental duty is series of duty that if conducted, it results in implementation and upholding of the human right.

Act 69 :

1. Everone has duty to honor other’s right, moral, ethic, and rules of living in society, nation and state.
2. Each of someone right results in basic duty and responsibility to honor others’ right in turn and becomes the government duty to honor, protect, uphold, and develop it.

The concept of Human Right in Indonesia intrinsictly set in Pancasila as the Ground norm as well as the existence of right together with the duty toward society and state. Therefore, the right and duty should be equal based on justice and civilized humanity (Principel II of the Pancasila) in interaction. In this principle, it is logical consequence of the first principle because the admission of the GOD existence means to confess the God creatures and the highest creatute is human being as the image of Allah.¹⁶ Moreover, it means to confess the dignity and prestige as the highest creature of the God. Having meaning that humanity covering any matters of human being and felling toward the human, the justive and civilized humanity closed related to the human basic needs and basic freedom.¹⁷

The fact is not againts the articles of *The Universal Declaration of human Right*. The human right is known officially included in the Fundamental Constitution of 1945 showing the original thought¹⁸ on the human right specifically in its preamble. Then, it is explained in the form of policy on number of applied regulation. It accept and give priority the human right and human freedom as the natural right adhering and inseparated from human self that must be protected, honor, and upheld for improving the human pretige, wealfare, happiness and intellegence as well as justice as the guidance of upholding the human right.

¹⁵Achie Sudiarti Luhulima, *CEDAW Menegakkan Hak Asasi Perempuan*, Yayasan Pustaka Obor Indonesia, Jakarta, 2014, Hlm. 4

¹⁶ Philipus M. Hadjon, *Op. cit*, Hlm 65

¹⁷ Ramdlon Naning, *Cita dan Citra Hak-Hak Asasi Manusia di Indonesia*, (Jakarta : Lembaga Kriminologi Universitas Indonesia, 1983, Hlm. 8

¹⁸*Ibid* , Hlm 59

The tied power of human right law as the guarantee of legal protection on the body integrity of the woman as the victim of not-fulfilled promise to marry

Series of legal rules appear in order to create a peaceful and comfort condition. How the legal role as stabilizer in the society has many factors. One of them is the source from where the law comes from. The Universal Declaration on the Human Rights forms, covering detail of numbers of rights in the human rights.

The international Human Right instrument become tool of limitation standard on the execution and control mechanism toward agreements between two countries on the Guarantee of Human Right in the form of International Bill of Right. The International Bill of Right covered in form of covenant (agreement) and protocol. The covenant means agreement tying of the countries that have signed it. The term of covenant is used together with treaty (agreement) and convention (convention/treaty). Whereas, protocol is agreements of countries that has signed and has function to achieve the purposes of the covenant.

This declaration has function as “corporated achievement standard”. Therefore, the declaration is formulated in declaration form, not agreement that will be signed and ratified. However, the declaration has proved as big step in the process of human right internationality. As seen as authentic interpretation toward the content of the United Nations Declaration on the Rights of Women, the declaration has developed to be the law of the international habits binding legally for all countries.¹⁹ Thus, the violation toward the declaration becomes violation toward the international law.

The tied characteristic of human right instruments cover 3 points²⁰ :

1. **Derogation**, means “the exception”, that a mechanism in which a country deviates its responsibility legally because of the emergency situation. If a country put in the derogation in its country, it makes the country avoid its responsibility in legal way on certain human right violation. However, there are several rights that cannot be deviated or derogated (*non derogable*) and several instruments forbid the derogated. In general, a country must declare to the centre institutions, and any prerequisites allowing derogation have decided in the international agreement. It refers to derogation clause included in the International Covenant on the Civil and Political Rights. Article 4 of the International Covenant on the Civil and Political Rights state that:
 - (a) In the general emergency condition threatening the national existence and the condition has announced officially, the Party Nation of the Covenant has right to take action to decrease their duty according to the Covenant, as long as it really needs as the situation claimed, in condition that the action does not against the other duty of the Country in line with the international law and not related to discrimination including ethnic, skin color, gender, language, religion or social status.
 - (b) The deviation toward Articles 6, 7, 8 (verses 1 and 2), 11, 15, 16 and 18 may not be conducted according to this regulation.
 - (c) Each Party Nation in this Covenant using right to do deviation must immediately let the other Party Countries through the General Secretary of the United Nations as the mediator about the regulation being deviated and the reason supporting the deviation. The following communication must be conducted through the same mediator in line with the date of ending the duty deviation.

¹⁹Louis B. Sohn, “*The New International Law: Protection of the Rights of Individuals Rather than States*,” 32 Am. U.L. Rev. 1, 1982

²⁰Pusat Studi Hak Asasi Manusia, Universitas Islam Indonesia (PUSHAM UII) Yogyakarta *Op.Cit*, Hlm, 41.

Generally, the international treaty has regulation of the same derogation as in the International Covenant on the Civil and Political Right. The reason allowed to use to make derogation refers to very emergency condition and threatening the life of a nation, essential threat toward the national safety and state disintegration. Civic war and natural disaster (such as tsunami) can be the reason of derogation. However, derogation may be used to decided rights and freedom. A country may use derogation to one certain matter, for example arrest the suspicion, but it does not make derogation to clause of human right as a whole. It results from assumption that human right must be applied as far as possible. The most controversy one of using derogation is derogation on the Law of Anti-Terrorism. Lately, the use of derogation has increased fast that it forces the International watching institutions to review it.

2. Reservation

Quoted the Act 2 verse (1) letter (d) of the Vienna Convention in 1969 on the Treaty Law (accommodating and developing the International Treaty Law), “reservation” refers to unilateral statement, in any formula and name, created by a country when the country signs, ratifies, accepts, or excepts an international treaty, where the country purposes to except or modify the legal effect of certain regulation in the international treaty going to be applied in the country. The country must conduct reservation when it ratifies one international treaty. The reservation is announced to all party countries and the countries may state objection if the reservation considered being inappropriate to the object and purpose of the international treaty. The Law Number 24 of 2000 on the International Treaty, using term of “persyaratan” as the Indonesian translation of the English term ‘*reservation*’ gives definition of reservation as ‘one-side statement of a country to not accept the application of certain regulation in the International Treaty, in formulation created when signs, accepts, agrees, or legitimates a multilateral International Treaty’ (Act 1 number 5). The use of term ‘persyaratan’, meaning ‘decision of requirement’ as the comparable term of ‘*reservation*’ consider to be misleading, because ‘*making reservation or reservations*’ does not mean ‘*setting a condition or conditions*’. Therefore, though the term of ‘persyaratan’ has been the legal term, however this term has ambiguity the purpose of its comparative term in English, it is better that the term of ‘*reservation*’ is meant as ‘reservasi’ in Indonesian language, but this term also need to be fixed. Every country in time of signing, ratifying, accepting, agreeing or excepting of International Treaty may create reservation, except in the following matters:

- (a) Reservation explicitly considered being forbidden by the international treaty in line with a whole or certain regulation of the related international treaty;
- (b) the international treaty decides that only special reservation that may be created;
- (c) reservation is not appropriate with the target and purpose of the international treaty (see: Act 19 of the Vienna Convention on the Law of the International Treaty, 1969).

For a long time, Indonesia always makes reservation on the regulation of the international treaty ratified or excepted related to dispute resolution as result of different manifestation and application of the international treaty. Reservation is conducted by stating that the Indonesian government only accepts to resolve dispute through the International Court of Justice (ICJ) if the dispute cannot be resolved through discussion or other non judicial process decided by the international treaty. It can be conducted in condition that reference to the International Court can only be conducted with the approval of all the parties being querell. Reservation has made in Indonesia such as in Act 22 of the International Convention on the International Convention on the Elimination of All Form of Racial Discrimination (ICERD), 1965, Act 29 verse (1) the International Convention on the Elimination of All Form

of Racial Discrimination against Women (ICEDAW), 1979, and Act 30 verse (1) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984. Here is the example, the statement of reservation Act 22 on the Elimination of All Form of Racial Discrimination, 1965 as stated in Appendix of the Law No. 29 of 1999 on legitimating the Convention and then stated in the Exception Carter and toward the act 30 verse (1) the Convention against the Torture or Cruel Treatment or Punishment, Non Humane, or Underestimating Prestige, 1984, as stated in Appendix of the Law Number 5 of 1998 on the convention Legitimation and finally stated in the Ratification Carter.

3. Declaration

Country may create declaration. Though, it generally identifies the national interpretation of a right (such as, the right to live appears since someone born), some countries use the term of declaration when the effect of an action is reservation. It is clear that the declaration refers to reservation—of test to decide object and effect of action, apart from the term may be used. The Vienna Convention on the International Treaty, 1969, does not include the regulation on ‘declaration’ toward a multilateral international treaty, and therefore, it does not include specifically the definition of the term. Thus, if a statement, though using the name ‘declaration’, indicates will of a country to eliminate or modify the legal effect of certain regulation, the international treaty in time the country signs, ratifies, accepts, agrees, or excepts it, the statement called as ‘declaration’, in fact it is still a ‘reservation’ as stated in the Vienna Convention on the International Treaty, 1969. As long as a statement using name of ‘declaration’ does not show will of a country as explained before, the statement (with title ‘declaration’) is declaration in the general meaning, not declaration as the legal term in the international treaty according to the Vienna Convention on the International Treaty, 1969. Some international treaties include regulation that possibly make the country express declaration stating that the country broaden the continuity of the international treaty to the area having foreign relation become the country responsibility, when the country signs, ratifies, accepts, agrees, or excepts the international treaty (see, for example: Act 40 verse (1) the Convention on Refugees Status, 1951, Act 36 verse(1) the Convention of the Status of People without Citizenship 1954, and Act 7 verse (4) Protocol of Refugees Status, 1967). This declaration may be possible, even being motivated by the international treaty and for clear intention as arranged in it. The regulation included in the national law forms legitimation in line with national law of founding Indonesia as being followed before. As the example, such as, ‘declaration’ made by Indonesia when it ratifies the Convention of Torture and Cruel Treatment or Punishment, Against the Humanity or Underestimate Prestige, 1984, stated as follow:

Declaration:

The Government of the Republic of Indonesia declares that the provisions of paragraphs 1, 2 and 3 of Article 20 of the Convention will have to be implemented in strict compliance with the principles of the sovereignty and territorial integrity of States.

The declaration has been included in appendix of the Law Number 5 of 1998 legitimating the convention issued on September, 28, 1998, thus before being issued the Law Number 24 of 2000 on the International Treaty on October, 23, 2000 (and then put into Ratification Carter that given to the General Secretary of the United Nations as the Institution of convention keeper). The same position taken by Indonesia in line with the regulation Act 1 number 6 of the Law Number 24 of 2000 on the International Treaty when legitimating the International Convention of Civic and Political Rights, 1966 (the Law Number 12 of 2005). The

declarations states, each of them, as follow: The declaration toward Act 1 of the International Convention on the Social Economic and Culture Rights Reference on Act 1 of the International Convention on the Economic, Social and Cultural Rights, the Indonesian Republic states that, in line with the Declaration of Giving Freedom to Country and People colonialized and Declaration of the International Legal Principles on the Friendship and Cooperation Relation among the Countries, as well as the acts related to the Declaration and Action Program of Wina 1993, the term 'right to decide its own destiny' as stated in this act does not appropriate to part of people in an independent and integrated country and cannot be defined as legitimate of force devisive or destroyed actions, a whole or a part, of the integrity or unity of political areas in the integrated and independent country. Declaration to Article 1 of the International Covenant on Economic, Social and Cultural Rights: *With reference to Article 1 of the International Covenant on Economic, Social and Cultural Rights, the Government of the Republic of Indonesia declares that, consistent with the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Declaration of Principles of International Law concerning Friendly Relations and Cooperation Among States, and the relevant paragraph of the Vienna Declaration and Program of Action of 1993, the words 'the right of self-determination' appearing in this article do not apply to a section of people within a sovereign independent state and cannot be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity of political unity of sovereign and independent states'*.);Delaration as made by Indonesia in the process of being its party in an international treaty becomes practice followed by many countries, that sometimes with title 'declaration' (Indonesia uses term of 'pernyataan' (statement), not 'deklarasi' (declaration), or 'deklarasi interpretatif' ('interpretative declaration'), or 'pernyataan interpretatif' ('interpretative statement')).

Having the character of binding, the human right instrument explains that the existence of the instrument is legitimated by any country including in the Universal Declaration of Human Rights and one of them is Indonesia based on the constitutional provision. Indonesia as the Legal Country arranges every living side, civic, public or international, where the legal regulation is based on and decided by the governance system according to the Fundamental Constitution of 1945.

The country must guarantee the existence of upholding and protection for implementing the human right toward woman, by conducting the international duty as the form of ratification and implement all forms of the regulations upholding the woman right. Thus, the Indonesian Government in the name of Indonesian Nation and Country have to be brave and strict to take steps to develop new law to protect women including the protection toward the body integrity of the woman as the victim of not-fulfilled promise to marry. As the form of human right protection, it becomes effective implementation as the constitutional mandate. Thus, the implementation of Human Right instrument hopefully be able to give justice for the woman as the victim of not-fulfilled promise to marry as the subject.

CONCLUSION

The guarantee of human right must be performed through respect and uphold as well as guarantee of human right protection by the country. The Human Right refers to series of rights adhering on the human existence as the creature of the Only God and as the God gift that has to be respected, upheld, and protected by the country, law, government, and everone for the honor and protection of human dignity and prestige.

The international Human Right instrument refers to tool of limitation standard of implementation and control mechanism toward agreements among the countries on the

Human Right guarantee in form of the International Bill of Right. This Law forms covenant (treaty) and protocol. Covenant means treaty binding for those countries having signed it. The term of covenant is used together with treaty and convention (convention/agreement). Protocol is agreement of countries signing it and having function to follow up to achieve the purposes of the covenant.

Having the character of binding, the human right instrument explains that the existence of the instrument is legitimated by any country including in the Universal Declaration of Human Rights and one of them is Indonesia based on the constitutional provision. Indonesia as the Legal Country arranges every living side, civic, public or international, where the legal regulation is based on and decided by the governance system according to the Fundamental Constitution of 1945.

The country must guarantee the existence of upholding and protection for implementing the human right toward woman, by conducting the international duty as the form of ratification and implement all forms of the regulations upholding the woman right.

REFERENCES

- [1] Baker, A., & Savitri, N. (2008). *HAM perempuan kritik teori hukum feminis terhadap KUHP*. Indonesia: Revika Aditama
- [2] Luhulima, A. S. (2014). *CEDAW menegakkan hak asasi perempuan*. Jakarta: Yayasan Pustaka Obor Indonesia.
- [3] Lukaningsih, Z. L. (2011). *Pengembangan kepribadian*. Yogyakarta: Mulia Medika.
- [4] Naning, R. (1983). *Cita dan citra hak-hak asasi manusia di Indonesia*. Jakarta: Lembaga Kriminologi Universitas Indonesia.
- [5] Pengantar Redaksi Majalah Hukum dan HAM Nomor.24 May – Juni 2007, (Jakarta : Biro Humas dan HLN Departemen Hukum dan HAM
- [6] Pusat Studi Hak Asasi Manusia, Universitas Islam Indonesia (PUSHAM UII) Yogyakarta
- [7] Widyarini, M.M. (2009). *Kunci pengembangan diri*. Jakarta: Elex Media Komputindo.