

Dynamics of Resolving Gross Human Rights Violations in Aceh

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Abstract:

This study aimed to analyze the dynamics of resolving gross human rights violations in Aceh post-conflict, with a focus on the obstacles and opportunities faced in implementing transitional justice mechanisms. The armed conflict that lasted for decades in Aceh left a legacy of gross human rights violations, including killings, enforced disappearances, and torture. Although the 2005 Helsinki peace agreement paved the way for conflict resolution, the implementation of justice mechanisms for victims of human rights violations still faces complex challenges. This study uses a qualitative approach with descriptive analysis to identify key actors, policies implemented, and socio-political factors that influence the resolution of gross human rights violations in Aceh. The results of the study show that despite efforts to advance justice, such as the establishment of the Aceh Truth and Reconciliation Commission (TRC), political challenges, lack of legal support, and resistance from various parties are the main obstacles in resolving gross human rights violations completely. This study suggests the need to strengthen the legal framework, increase victim participation, and cross-sectoral cooperation to ensure the fulfillment of victims' rights to justice, truth, and restitution.

Keywords: Truth and Reconciliation Commission, Reparations, Victims of Human Rights Violations

INTRODUCTION

In the Preamble to the 1945 Constitution of the Republic of Indonesia, it is emphasized that the main ideal of the state is to protect and nurture all Indonesian people. This goal not only shows the state's obligation to maintain sovereignty, but also to uphold human rights as inseparable rights of every individual. Thus, the state has a responsibility to ensure that any violation of these rights is handled fairly and proportionally (Nurhayati, 2017).

Human rights violations in Indonesia, especially during the New Order era under President Soeharto, have left a deep impact and continue to haunt the nation's journey. Aceh, which is rich in natural resources, has been one of the areas most affected by repressive policies, especially the Military Operations Area (DOM) Policy implemented since 1989 to suppress the separatist movement of the Free Aceh Movement (GAM) (Siregar et al., 2024). Although intended to maintain stability and resolve conflict, the policy has actually led to many human rights violations, including violence against civilians not involved in the conflict. As a result, the people of Aceh have suffered greatly, with many lives lost and freedoms taken away, and have left historical wounds that are difficult to heal in their collective memory (Perlindungan et al., 2024).

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Although the policies implemented by the government during the New Order era were intended to maintain order and security in Aceh, these policies actually caused very serious human rights violations. These human rights violations not only had a short-term impact, but also had long-term impacts that affected Acehnese society as a whole, both in social, political, and psychological aspects. This means that policies that should have aimed to create stability instead caused deep and ongoing suffering for the people of Aceh, with impacts that are still felt today (Sriwidodo, 2020).

In response to the tragedy of human rights violations that occurred in the past, the Indonesian government responded by formulating Law Number 26 of 2000 concerning the Human Rights Court. This law aims to strengthen the legal framework in handling cases of gross human rights violations and provide justice for victims. In addition, the formation of this law also realizes the mandate contained in Article 104 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, which underlines the importance of the formation of a Human Rights Court in the Indonesian justice system to try gross and serious human rights violations. Thus, this law shows the government's efforts to ensure that human rights violations can be resolved fairly and in accordance with the law (Putra & Irwansyah, 2019).

In Law Number 26 of 2000 concerning the Human Rights Court, there are two main mechanisms for handling gross human rights violations, namely the judicial route and the Truth and Reconciliation Commission (TRC) route. The judicial route leads to a settlement process through the courts, where cases of human rights violations are handled through clear legal procedures, which are regulated in articles 10 to 33 of the law. Meanwhile, the TRC route provides an opportunity to openly explore the truth about the human rights violations that occurred, with the main goal of seeking the truth and achieving national reconciliation. Both routes are designed to provide justice to victims, restore their rights, and repair social relations that have been torn apart by the violations, so that the process of resolving human rights violations is not only legal, but also seeks to restore social harmony in society (Herlinda Safira et al., 2022).

In Law Number 26 of 2000 concerning the Human Rights Court, the granting of reparations for victims of serious human rights violations can only be done after a court decision. Article 35 paragraph (2) of this law emphasizes that forms of reparations, such as compensation, restitution, and rehabilitation, will only be given after the court process is completed, and will be stated in the verdict of the Human Rights Court. Therefore, the decision regarding reparations depends entirely on the judge's decision, which will determine the appropriate and proper form of recovery for victims of human rights violations. In other words, victims must wait until the court process is completed to obtain the recovery rights recognized by law (Syuib & Hasnawati, 2022).

In the case of human rights violations that occurred during the armed conflict in Aceh, the reparation approach is different from the general approach, where reparations can be given through recommendations from the Aceh Truth and Reconciliation Commission (TRC). After the peace agreement in 2005, the state gave a special mandate to resolve human rights violations that occurred during the conflict as part of a broader peace effort. As a concrete step, the Indonesian government passed Law Number 11 of 2006 concerning the Governance of Aceh, which stipulates the state's responsibility in dealing with human rights violations in Aceh, including by establishing the Aceh TRC. Through this institution, it is hoped that the state can provide justice to victims, restore their rights, and support the reconciliation process for the Acehnese people who have long suffered from the impact of the conflict. This reflects the state's efforts to end the cycle of violence and rebuild harmonious relations in Aceh (Taufik, 2017).

Law Number 11 of 2006 on the Governance of Aceh (UUPA) provides a comprehensive legal basis for the state to address human rights violations that occurred in Aceh, as part of the post-conflict peace process (Hadi & Herinawati, 2024). UUPA establishes two main pathways for resolving human rights violations in Aceh: first, the human rights court pathway, which aims to prosecute gross human rights violations that occurred during the conflict; and second, the establishment of the Aceh Truth and Reconciliation Commission (KKR), which plays a role in uncovering the truth about the violations and initiating a process of reconciliation between the parties involved. Both pathways are designed to provide in-depth justice for victims, while supporting the creation of sustainable peace in

Aceh, after the end of the long-running conflict. This reflects the state's efforts to resolve past trauma and build a more peaceful future (Mukhtar et al., 2022).

In an effort to uncover the truth and promote reconciliation, in accordance with the mandate of Articles 229 and 260 of the Aceh Government Law (UUPA), the Aceh Government has passed Aceh Qanun Number 17 of 2013 concerning the Aceh Truth and Reconciliation Commission. This Qanun gives three main tasks to the Aceh Truth and Reconciliation Commission, which are listed in Article 3. First, the commission has the responsibility to deepen the peace process by revealing the truth about past human rights violations. Second, the commission acts as a liaison for reconciliation between perpetrators of violations both individuals and institutions and the affected victims. Third, the commission is required to provide comprehensive reparation recommendations for victims of human rights violations, which are based on international human rights principles, in order to ensure fair and adequate reparation for victims. Thus, this commission not only functions to uncover the truth, but also to ensure that there is justice and concrete reparation for the Acehnese people affected by human rights violations (Nurhidayat, 2021).

For victims of armed conflict in Aceh, reparations can be made through recommendations from the Aceh Truth and Reconciliation Commission (KKR). In accordance with Articles 229 and 260 of the UUPA, the KKR is mandated to reveal the truth and carry out reconciliation for cases of human rights violations that occurred in Aceh.

METHODS

This study used normative juridical research methods. Normative juridical research is type of research conducted to analyze and understand applicable legal regulations and norms. This approach focuses on analyzing legal sources, such as laws and regulations, court decisions, and other legal documents (Soekanto, 2019). This study aims to understand, interpret, and apply the relevant legal regulations in a particular context. In addition, the normative research method is also understood to examine the law from an internal perspective with legal norms, whether emptiness, ambiguity, or norm conflict is the object of research (Dianti, 2020). Law No. 26 of 2000 concerning the Human Rights Court stipulates that the process of resolving gross human rights violations is carried out through judicial channels, contrary to the previous government's policy of using non-judicial channels to resolve gross human rights violations.

In this study, both legislative and conceptual approaches were employed. The legislative approach is used to investigate and analyze various legal regulations related to human rights law, especially regulations regarding the resolution of gross human rights violations in Indonesia in the past. The conceptual approach is used to examine the perspectives or beliefs of experts related to the research subject. This allows for the discovery of relevant legal understandings, concepts and principles (Abdul Kadir, 2015). This study used primary and secondary legal materials. Primary legal materials include all relevant laws in Indonesia, including the 1945 Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, and Law of the Republic of Indonesia Number 26 of 2000 concerning the Human Rights Court. Secondary legal materials included books, legal writing materials (such as legal and scientific journals), theses, dissertations, and sources from the Internet and official websites. This secondary legal material was used to support the primary legal material in this study (Christiani, 2016).

RESULTS

Resolving Gross Human Rights Violations through the Courts (Litigation) in Indonesia

As previously mentioned, gross human rights violations are legally processed by the Human Rights Court based on Law 26/2000. According to Article 18 (1) of Law 26/2000, investigations into gross human rights violations are conducted by the National Human Rights Commission (Komnas HAM) (Article 19 (1) (b) of Law 26/2000). On the other hand, the Attorney General is responsible for the investigation and prosecution of gross human rights violations (Article 21, Paragraph (1) in

conjunction with Article 23, Paragraph (1) of Law 26/2000). According to Article 18 paragraph (1) of Law 26/2000, investigations into gross human rights violations are conducted by the National Human Rights Commission (Komnas HAM) (Article 19 paragraph (1) letter b of Law 26/2000). On the other hand, the Attorney General is responsible for the investigation and prosecution of gross human rights violations (Article 21 paragraph (1) in conjunction with Article 23 paragraph (1) of Law 26/2000). According to Article 43, paragraph 1 of Law 26/2000, the Ad Hoc Human Rights Court was established to examine and decide on cases of serious human rights violations that occurred before the enactment of Law 26/2000.

The President's decision is made based on a proposal from the People's Representative Council (DPR) regarding a particular event (Article 43 paragraph (2) of Law 26/2000), which reads as follows (Ali & Rauf, 2021): "In the event that the People's Representative Council of the Republic of Indonesia proposes the establishment of an ad hoc Human Rights Court, the People's Representative Council of the Republic of Indonesia shall base this on the allegation that there has been a serious human rights violation that is limited to a certain locus and tempos delicti that occurred before the enactment of this Law."

Komnas HAM can investigate gross human rights violations without a report or complaint. Komnas HAM can also conduct direct investigations or through certain mechanisms to investigate allegations of gross human rights violations. In addition, even though other mechanisms in the judicial system have handled the case being investigated, this authority can still be exercised. An incident can be submitted to a human rights court in accordance with applicable provisions if, based on the results of the Komnas HAM investigation, sufficient evidence is found to state that the incident can be considered a gross human rights violation based on its nature and extent (Khusniah, 2024).

The first-level human rights court, as stated in Article 2 of Law No. 26 of 2000 concerning the Human Rights Court, is within the general court environment. However, since this law was enacted, only four human rights courts have been established, the provisions of which are in the transitional provisions of Article 45 of Law No. 26 of 2000 concerning the Human Rights Court. Human rights courts are located at the Central Jakarta District Court, Surabaya District Court, Medan District Court, and Makassar District Court (Nurhayati, 2017).

Resolving Gross Human Rights Violations through Non-Judicial Mechanisms in Indonesia

Respect for Human Rights is an obligation for anyone, whether a state, institution, or individual, which not only includes local countries but also the obligations of the Global State in protecting, respecting, fulfilling, and advancing Human Rights. Law Number 26 of 2000 concerning the Human Rights Court mandates two resolutions for gross human rights violations: the judicial route and the Truth and Reconciliation Commission (TRC) (Hambali, 2023). Through the judicial route, the resolution process is through the courts, where the mechanism can be taken through the stages that have been regulated in Law Number 26 of 2000 concerning the Human Rights Court, as regulated in Articles 10-33 of the Law on the Human Rights Court. If a Human Rights violation occurred before the enactment of the Law on the Human Rights Court, then it is through the ad-hoc Human Rights Court (A. Rahmah, 2023). Through the TRC route, the resolution is carried out by revealing the truth about the Human Rights violations that occurred (Nugroho, 2019).

Presidential Decree Number 17 of 2022 concerning the Establishment of a Non-Judicial Resolution Team for Past Gross Human Rights Violations was issued by the President through a state speech on August 16, 2022, and ratified on August 26, 2022. This presidential decree is present as a technical regulation for resolving Human Rights Violations through non-judicial channels or outside the court (Sobarnapraja, 2020).

Article 3 of this Presidential Decree states that there are three tasks of the PPHAM (Resolution of Human Rights Violations) Team, namely (Purnama Santhi & Priscyllia, 2024):

- a. Conducting disclosure and efforts for Non-Judicial Resolution of past serious Human Rights Violations based on data and recommendations established by the National Human Rights Commission until 2020,

- b. Recommend restitution for victims and their families
- c. Recommend steps to prevent the recurrence of past gross Human Rights Violations in the future. In terms of Recovery, this Presidential Decree recommends physical rehabilitation, social assistance, health insurance, scholarships, and other steps for the benefit of victims and their families.

In addition, another task assigned to the PPHAM Team by the Presidential Decree is to reveal and analyze past gross human rights violations (Adam & Afrizal, 2025):

- a. Examine at the background of Gross Human Rights Violations that occurred in the past
- b. Investigate the causes and consequences of past gross human rights violations.
- c. Identify the triggering factors.
- d. Victim identification;
- e. Analyze the impact felt by the families of victims of past gross human rights violations.

In carrying out the disclosure and analysis, assistance is requested from ministries, institutions, and local governments, as well as from other parties who are considered to know about the events of Past Gross Human Rights Violations. Presidential Decree Number 17 of 2022 concerning the Establishment of a Team for the Non-Judicial Settlement of Past Gross Human Rights Violations, a Team was formed. The Team is called the PPHAM Team or referred to as the Non-Judicial Settlement Team for Human Rights Violations which is positioned under and responsible to the President, this PPHAM Team consists of a Steering Team and an Implementing Team. The duties of the Steering Team are to provide policy direction to the Implementing Team, monitor the progress of the Implementation of the Implementing Team's duties, and determine recommendations (Sugiyar, 2017).

Meanwhile, the duties of the Implementation Team, as explained earlier, are (Khusniah, 2024):

- a. Conducting disclosure and analysis of past Serious Human Rights Violations based on recommendation data set by the National Human Rights Commission;
- b. Propose recommendations for recovery steps for victims and their families.
- c. Recommend preventing the recurrence of past Gross Human Rights Violations;
- d. Prepare the final report.

The government must adhere to universally recognized general principles, even if the approach used is non-judicial. These principles include the state's obligation to resolve human rights violations by fulfilling the right to know (right to know), the right to restitution of victims (right to restitution), and enforcing accountability through legal prosecution to prevent the recurrence of human rights violations. In addition, they include an institutional reform agenda. In addition, Article 2, paragraph (3) of the International Covenant on Civil and Political Rights regulates the nature of the obligation of states that cause losses to pay compensation. The article stipulates that victims of human rights violations must receive reparations. This applies even if violations are committed by official state officials. This means that states must allow civil action by compensating for violations considered crimes against humanity. because no court verdict can effectively punish such crimes (Setiawan et al. 2024).

Presidential Decree Number 17 of 2022 Concerning the Establishment of a Non-Judicial Resolution Team for Past Gross Human Rights Violations is another effort. In resolving past Gross Human Rights Violations through Non-Judicial means, this effort is carried out independently, objectively, carefully, fairly, and thoroughly to achieve respect for the value of Human Rights as an effort of reconciliation to maintain National Unity. Therefore, the mechanism for resolving past Gross Human Rights Violations through Non-Judicial means is an alternative for the government in enforcing the law on past Gross Human Rights violations that have not been resolved (Rahmadhani & Wardana, 2023).

DISCUSSION

Policy on Implementing Reparations for Victims of Human Rights Violations in Aceh

The Aceh government, as a region that has gone through the transition from armed conflict to a phase of peace, bears a great burden in designing and building a more prosperous future for Aceh. The implementation of special autonomy provides space for the regional government to formulate more effective policies for improvement and sustainable development. Therefore, the peace that has been achieved should be seen not only as the end point of conflict or the cessation of violence that threatens safety but as the starting point for a process of developing a deeper, more inclusive, and more harmony-oriented peace (Kamaruddin, 2011).

Peace in Aceh should be understood in a broader context, beyond simply ending violence. Referring to Hick's thinking, a key element in peace lies in resolving structural violence. Resolving this type of violence depends on achieving structural justice, which includes social, economic, and political justice. Therefore, Hick's view is very relevant as a basis for designing policies that touch on the essence of systemic improvement during the post-conflict transition period in Aceh (Kusnadi, 2017).

One of the major challenges faced by the Aceh government in the transitional era is fulfilling the right to justice for victims of human rights violations due to past conflicts. Therefore, the application of the concept of transitional justice is the right step. Globally, transitional justice is an effective approach for resolving past human rights violations. Transitional justice includes a series of processes and mechanisms aimed at ensuring accountability, providing justice, and achieving reconciliation in post-conflict societies. These processes and mechanisms are also an important part of international efforts to strengthen the rule of law and support sustainable peacebuilding (Matsyah & Aziz, 2021).

Four main elements must be implemented in the concept of transitional justice in post-conflict areas. First, revealing the truth about human rights violations that occurred during the conflict. Second, prosecution, which is the process of trying perpetrators of human rights violations. Third, reparation provides the right to recovery for victims. Fourth, institutional reform is a step to ensure that similar violations do not recur in the future (N. Rahmah et al., 2021).

Concept of Implementing Reparations for Victims of Human Rights Violations in Aceh

Basic Concepts of Repair

UN General Assembly Resolutions No. 60/147 and No. 40/34, issued on November 29, 1985, have become international guidelines governing the right to reparations for victims of human rights violations. At the national level, the right to reparation for victims of gross human rights violations is guaranteed through a number of regulations, including the Human Rights Court Law and Government Regulation No. 44 of 2008, which regulates the provision of compensation, restitution, and assistance to victims and witnesses. However, after the Constitutional Court annulled the Truth and Reconciliation Commission (TRC) Law, the reparation process must now be carried out through a decision of the Human Rights Court as the official channel for granting these rights to victims (Nasution, 2018).

In Aceh, post-peace legal and human rights politics offer a different approach from the national level. The fulfillment of reparation rights for victims of past human rights violations in Aceh can be achieved through recommendations or determinations from the Aceh Truth and Reconciliation Commission (KKR), which allows the process of resolving cases without having to wait for a decision from the Human Rights Court. This shows that Aceh has a special mechanism that is faster in providing victims' rights according to local needs and contexts post-conflict (Huda et al., 2022).

Opportunity for Repair Implementation

After the peace agreement, Aceh's status as a special autonomy region provided a great opportunity for the Aceh government to run a reparation program for victims of human rights violations. One of the advantages of this status is the transfer of Special Autonomy Funds that can be used for various developmental needs. Based on Article 183, paragraph (1) of the Aceh Government Law, these funds

are focused on five main sectors: infrastructure development and maintenance, empowerment of the people's economy, poverty alleviation, and funding for education, social, and health (Pasha, 2017).

Article 183 paragraph (1) provides a basis for the Aceh government to implement reparations or recovery for victims of past human rights violations in Aceh. The Aceh government can link this reparation program with the five main development programs currently being implemented, which are adjusted to the analysis of victims' needs recommended by the Aceh Truth and Reconciliation Commission (KKR). There are two ways to implement the reparation recommendations: first, by creating a special program focused on implementing the reparation recommendations through institutions such as the Aceh Reintegration Agency, and second, by integrating the recommendations into existing programs that are being implemented by the Aceh Government Work Unit (SKPA). This shows that the Aceh government has the flexibility to implement reparations, both through new programs and by strengthening existing ones.

Mainstreaming Through SKPA Program

Five forms of urgent reparations have been identified through the work of the KKR: (1) medical services, (2) psychosocial services, (3) living allowances, (4) business assistance, and (5) residency status. Based on the Aceh KKR's analysis of victims' needs, the Aceh government does not need to wait for special budgeting to carry out these reparations, because urgent reparations are very urgent needs and must be met immediately by the government (Wiratraman et al., 2020).

Urgent reparations for victims of human rights violations must be implemented immediately by connecting victims to existing and ongoing programs in relevant agencies or Aceh Government Work Units (SKPA). Each victim has different needs; therefore, they must be directed to programs that are appropriate for those needs. For example, victims who need medical services can be directed to the Aceh Health Office and related hospitals (Ghozali et al., 2024).

Victims who need psychosocial services can be directed to mental hospitals or special programs at the Women and Children Protection and Empowerment Office (DP3A) for female victims. Likewise, for the needs of living allowances, business assistance, and issues of residency status, each victim will be connected to the appropriate program from the appropriate agency, such as the Social Service, Community and Village Empowerment Service (DPMG), Aceh Plantation and Agriculture Service, or Population Service. This emphasizes the importance of fulfilling victims' rights through the utilization of existing resources and programs in the Aceh Government.

CONCLUSION

Political support for law and human rights that has developed since the Aceh peace process must be used as momentum to resolve all cases of past human rights violations in Aceh. Thus, the Aceh Government needs to strengthen the Aceh Truth and Reconciliation Commission (KKR) institution with regulatory and budgetary support. Similarly, for the implementation of victim reparation recommendations, the Aceh government must take advantage of the opportunities that are available and can take advantage of Aceh's special autonomy fund. To support the implementation of reparations for victims of past human rights violations in Aceh, real commitment is needed from policymakers, especially the Governor of Aceh. This support must be realized through real policies and programs, both regulatory support needed for the implementation of reparations, support for the human resources needed, and support for the provision of an implementation budget.

The development of legal and human rights politics after the Aceh Peace Agreement should be used by the Aceh Government as an opportunity to resolve past human rights violations. Therefore, it is important for the Aceh Government to strengthen the Aceh Truth and Reconciliation Commission (KKR) with adequate regulatory and budgetary support. In addition, in implementing reparations for victims, the Aceh Government must utilize various existing opportunities, including the use of Aceh's special autonomy funds. To ensure that reparations are implemented properly, a strong commitment is needed from policymakers, especially the Governor of Aceh. This commitment must be realized in the form of clear policies and programs, which include the preparation of supporting regulations, the

provision of competent human resources, and the allocation of a sufficient budget to implement reparations.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

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