

The Urgency Of Strengthening The Aceh Truth And Reconciliation Commission: An Effort To Sustain Peace By Reparations Of Conflict Victims

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ABSTRACT

The conflict for Aceh's independence from the Unitary State of the Republic of Indonesia ended peacefully through political negotiations in 2005. However, the issue of the rights of conflict victims has not been resolved until now. At the same time, the Truth and Reconciliation Commission (TRC) was established to handle it. This article aimed to explain the main causes of TRC's weakness in getting the attention and support of related parties, including the community, to strengthen the institution. This article uses a qualitative method with document data to explain the weaknesses of the Aceh TRC. Its findings show that the Aceh TRC could not encourage the government to make reparations for victims of the conflict, the main reason being that the formal regulatory status that underpins the institution's existence is too low.

Keywords: Reparations, Conflict Victims, Peace, Human Rights

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1. INTRODUCTION

The Aceh conflict (1976-2005) caused many human casualties due to the protracted war. In 1990-1998, Aceh was declared a Military Operations Area (DOM), where the Armed Forces of the Republic of Indonesia (ABRI) were suspected of committing large-scale and systematic human rights violations against fighters from the Free Aceh Movement (GAM) and Acehese civilians [1]. Then after the DOM was revoked and the fall of the authoritarian New Order regime in May 1998, Military Operations in Aceh were changed to other names. Such as Operation of Authority Awareness, Operation of Rencong Awareness (I, II, III), Operation Meunasah, and Operation Security Restoration. However, in practice, it still caused the violence that can be categorized as gross human rights violations, such as; torture at Rumoh Geudong in Pidie district and at the Lhokseumawe KNPI building. In addition, the massacres in Beutong Ateuh in July 1999, and at Simpang KKA in North Aceh in May 1999 [2]. Following are the number of human rights violations during DOM and after.

Table 1. Acts of Violence and Human Rights Violations in Aceh

| Period | Case Type | Number of Victims |
|----------------------|--|-------------------|
| DOM (1989 – 1998) | Express/Arbitrary Killings Outside Legal proceedings | 1,321 persons |
| | Enforced Disappearance | 1,958 persons |
| | Rape | 128 persons |
| | House Burning | 597 houses |
| Post DOM (1999-2002) | Express/Arbitrary Killings Outside Legal proceedings | 2,508 persons |
| | Enforced Disappearance | 533 persons |
| | Torture | 2,946 persons |
| | Arbitrary arrest | 1,600 persons |

Source: [2]

The Human Rights Concern Forum (FPHAM) in 1998/1999 revealed that there had been 7,727 cases of human rights violations in Aceh during the implementation of Operation Red Net (1989-1998) in the Aceh DOM period

[3]. Furthermore, KontraS also noted that there were 204 victims of enforced disappearances during the Aceh conflict. Meanwhile, Amnesty International noted that there were around 30 – 35 thousand conflict victims due to the prolonged conflict in Aceh [4].

Reparations for victims of conflict and human rights violations are a must in the peacebuilding agenda. Reparations are actions to satisfy victims, such as revealing the truth, holding perpetrators accountable, and ending human rights violations. Reparations can take many forms; symbolic forms, such as a formal apology or erection of a monument, legal actions, such as restoration of rights or acquittals; or material compensation, such as direct payments to victims or their descendants, restoration of property, or payments of funds or assistance programs [5].

For this reason, a special institution that deals with reparations is needed, such as the Truth and Reconciliation Commission. This institution plays a role in strengthening peace and helping achieve reconciliation between perpetrators and victims of violence during times of conflict [6], [7]. In line with this, the Aceh TRC was formed with the objectives: (1) Strengthening peace by revealing the truth about human rights violations during the conflict; (2) Helping achieve reconciliation between perpetrators of human rights violations, both individuals and institutions, and victims; and (3) Recommend comprehensive reparations for conflict victims and victims of human rights violations under universal values standards. Reparations are the restoration of victims of conflicts and human rights violations through paying/compensating the state to the victims for the cases they have experienced. The Aceh TRC has two forms of reparations: urgent reparations and comprehensive reparations [8].

Reparations for victims can be used as a benchmark to ensure that the peace agreement that was signed by both parties (RI and GAM) on August 15, 2005, is carried out following the shared hopes or aspirations of "Resolving the Aceh conflict in a comprehensive, dignified and sustainable manner." However, the implementation of reparations for the abovementioned cases has not shown results that empower victims to enjoy peace dividends. This indicates that the Aceh TRC that has been formed is weak in carrying out reparations for victims of the conflict. Therefore, this article aims to explain the causes of the Aceh TRC's weaknesses by comparing it to several TRCs in other former conflict areas deemed successful in

reparations. Qualitative methods were used to explain the problem. The data of documents were used to address the problems, obtained online, then analyzed interactively to avoid bias.

2. RESULTS AND DISCUSSION

1.1. Overview of the Peace Agreement and the Mandate of Reparations for Victims of Human Rights Violations

Susilo Bambang Yudhoyono and Jusuf Kalla, who led the Indonesian government since October 2004, looked for a peaceful way to resolve the protracted Aceh conflict to end the humanitarian crisis that is getting worse in Aceh. For this reason, it was decided to involve a third party from the European Union, namely a non-governmental organization, the Crisis Management Initiative (CMI), led by the former president of Finland, Martti Ahtisaari as a mediator in conducting negotiations [9], [10]. These negotiations lasted five rounds, starting on January 27, 2005, and ending with the signing of a peace agreement on August 15, 2005. The agreement became known as the Helsinki MoU, signed by three parties consisting of Hamid Awaluddin as Minister of Law and Human Rights on behalf of the government of the Republic of Indonesia, Malik Mahmud representing the Free Aceh Movement, and Martti Ahtisaari from the Crisis Management Initiative as a facilitator and mediator in the Aceh conflict negotiation process [3], [11].

The signing of the agreement marked the turning point of the entire series of conflicts and violence over three decades in Aceh. In general, the peace agreement covers six things, namely: (1) Administration of governance in Aceh; (2) Human Rights; (3) Amnesty and reintegration into society; (4) Security arrangements; (5) Establishment of a monitoring mission in Aceh; and (6) Settlement of disputes. Of these six points, one of the most important agendas in peacebuilding is the resolution of human rights violations. For this reason, three important things were emphasized, namely: (1) The Government of the Republic of Indonesia will comply with the United Nations International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights; (2) A Human Rights Court will be established for Aceh; and (3) a Truth and Reconciliation Commission (TRC) will be established in Aceh by the Indonesian Truth and Reconciliation Commission with the task of formulating and determining reconciliation efforts [12].

The formation of the TRC is one of the ways to formulate a mechanism to seek the truth of various forms of human rights violations that occurred during the Aceh conflict. This can be useful in reconciling conflicting parties and

providing justice to victims of violence, such as restoring victims' rights as a whole and legal consequences for the perpetrators of crimes. [13]. For this purpose, the Aceh Truth and Reconciliation Commission (KKR) was formed through the Aceh Qanun number 17 of 2013 as a derivative of Law Number 11 of 2006 concerning the Government of Aceh (UUPA) and the mandate of the Helsinki MoU peace agreement [7], [12].

The KKR is a general name for commissions formed during a political transition situation to deal with past gross human rights violations or human rights crimes. According to various studies, no less than 20 TRCs have existed in various countries with different names, mandates, and powers. [14]. However, the goal is generally the same, to provide a sense of justice to victims of violence caused by civil war. This will be realized if the TRC is carried out independently. The state must disclose and explain and account for past actions, both those carried out by the current government and those carried out by the previous regime, concerning the victims and perpetrators of crimes [13].

1.2. Comparison of the Aceh TRC and the TRC in Other Former Conflict Areas

Kasim [15] revealed that historically the presence of the TRC in former conflict areas was not the first in Aceh. The formation of the TRC by the government and nongovernmental organizations has started in several other former conflict countries, with different models and results. However, when viewed from the reasons for their formation, they have similarities; in the same situation, both were born during the transition of power from an authoritarian regime to a more democratic regime, as happened in South Africa, Uruguay, Guatemala, El Salvador, Congo, and East Timor.

The Truth and Reconciliation Commission in South Africa is more focused on telling the truth. Victims and perpetrators of crimes are allowed to give their testimony, particularly to grant amnesty to perpetrators of crimes for apartheid. Most of the testimony was broadcast nationally and internationally [16]. However, the postMandela administration in South Africa was slow to implement the TRC's recommendations, particularly for the reparations program. Similarly, to reconcile the parties. What is meant by reconciliation by the TRC in South Africa is a national political reconciliation, not individual reconciliation [17], [18]. This approach is considered successful in dealing with human rights violations. After extensive political changes, other countries that have experienced conflict have also formed similar commissions with the same or different scope. Each commission has a slightly different set of tasks based on

past and present circumstances, and the mandate has been received to complete their work. Therefore, its success can be judged on how extent the commission carries out what is instructed by the mandate [19], [20].

Likewise, in Timor Leste, it is called the Commission for Reception, Truth, and Reconciliation. Its Portuguese acronym name better known as CAVR (Comissão de Acolhimento, Verdade e Reconciliação). The mandate of the CAVR was to establish the 'truth' regarding human rights violations in Timor Leste between 1974 and 1999. Its main objective was to facilitate the reconciliation and reintegration into society of those who committed 'minor' violations (such as arson, theft, house destruction, or the killing of livestock). Meanwhile, to deal with serious crimes, the Serious Crimes Unit was formed to indict and try those accused of crimes such as murder and rape [21].

The CAVR designed the Community Reconciliation Process to promote grassroots reconciliation among East Timorese, whose relationships were torn apart by the violent conflict. However, the drawback is still the same problem, namely in carrying out the recommendations from the commission for the repair section. As a result, the status of impunity for perpetrators of past crimes has strengthened. "The supra-individual political game has always been carried out by the perpetrators of human rights violations and gross crimes against humanity to end the semiotic process of solving past violence. The perpetrators of human rights violations and gross crimes against humanity will choose a settlement through a reconciliation process. However, they will continue to avoid the demands of the principles of justice and reveal the truth." [22].

The humanitarian institutions (the Human Rights Court and the KKR), which were formed after the authoritarian regime fell apart from strengthening impunity for perpetrators of past human rights violations, are hindered by recommendations from the KKR for reparations for victims of past human rights violations. So if we look further at the Aceh TRC, reparations are also challenged. The recommendations of TRC have yet to be followed up by the government. Since the first term of the Aceh TRC Commissioner in office in 2016-2021, there have been 5,264 witness statements on victims whose statements have been taken since 2017 [23]. On the one hand, the Aceh Qanun on the TRC mandates the TRC only to make recommendations for reparations. The recommendation can be for the central government or local government.

Looking further at the Aceh TRC compared to the two commissions (South Africa and Timor Leste), which exist and are regulated by their respective national laws, their legal force is certainly stronger when compared to the

legal force governing the Aceh TRC. This is, of course, very influential in the journey of the Aceh TRC in resolving issues of past human rights violations in Aceh. In the context of the Aceh TRC, the Helsinki MoU stated in point 2.3, "A Truth and Reconciliation Commission will be formed in Aceh by the Indonesian Truth and Reconciliation Commission with the task of formulating reconciliation efforts." Then after the points of the peace agreement were promulgated into Law Number 11 of 2006 on Governing Aceh, the Aceh TRC was also regulated. On the contrary, Law Number 27 of 2004 on the Truth and Reconciliation Commission at the national level was canceled by the Constitutional Court (MK) of the Republic of Indonesia [24], [25].

3. CONCLUSION

Based on the existence of the Aceh TRC, which is regulated by provincial regulations, and compared to two other TRC institutions (in South Africa and Timor Leste), they are regulated by their central government. This article concludes that implementing reparations for victims of human rights violations in Aceh cannot improve the relationship between the victim and the perpetrator. Therefore, it can be said that one of the main causes for the cessation of follow-up on the recommendations of the Aceh TRC, which until now has not touched the victims of the Aceh conflict, is the result of weak regulations governing the Aceh TRC.

Finally, various thoughts and rational discussions are needed so that the community and especially the government can participate in efforts to legally and formally strengthen the Aceh TRC's existence. Thus, in the future, the Aceh TRC will be more optimal in carrying out its duties, especially regarding reparations. Furthermore, the existence of the Aceh TRC can benefit the victims of the conflict and become agents of peacebuilding that can be a lesson for other countries with a history of similar conflicts.

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