

The Aceh Truth and Reconciliation Commission Roles in Victims Reparations

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ABSTRACT

The Armed Conflict that occurred in Aceh Province between Indonesia and the Free Aceh Movement (Gerakan Aceh Merdeka/GAM) has lasted for almost 30 years (1976-2005) still remains an enormous humanitarian problem in particularly for the victims of the conflict and mostly civilians. Pursuant to victims of the conflict, the Local Government of Aceh established the Aceh Truth and Reconciliation Commission (Komisi Kebenaran dan Rekonsiliasi Aceh/KKR-Aceh) in 2013. Set against this background, this study aims to give an exploratory insight into an initiative of national government and actions in response to KKR-Aceh. The method of this study is conceptual paper, using a normative juridical as the type of research and secondary data collection. The result of this study highlights that the KKR-Aceh provides victims reparations by conducting some programs such as reconciliation of society, rehabilitation, house construction/renovation, and establishing monuments. The implication of this study highlights the necessity for all the parties involved to resolve and revealing the truth peacefully. Failure to do so would arguably adversely on human rights violations in the past and future.

Keywords: KKR-Aceh; Reconciliation; Victims Reparations; Human Rights

1. INTRODUCTION

As the westernmost province of Indonesia, Aceh is known for its long history of war, resistance, and rebellion. It encountered the longest fight against the Dutch pioneer legislature of any area in Indonesia. Following autonomy, Indonesia began the mind-startling course of building both a state and a country. The humanitarian problems are appeared as the dark side of the nation history during the “new order” era who led by the President Suharto when the Aceh Freedom

Movement/GAM fought against the Government of Indonesia.

During the conflict, it was believed, there were many gross violations human rights that occurred and caused a massive victim, mostly civilians. Unfortunately, GAM no judicial settlement has been conducted by the government of Indonesia forth said violations in Aceh and no comprehensive reparations to the victims as well. The data on Figure 1 and Figure 2, describe a number of deaths during the armed conflicts in Aceh.

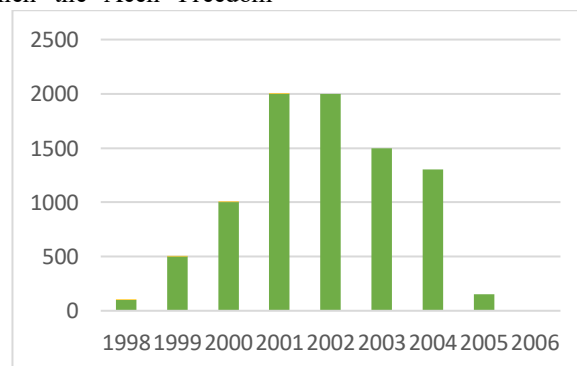


Figure 1 Describes a number of deaths during the armed conflicts in Aceh (reprinted with permission from [1])



Figure 2 Number of deaths (reprinted with permission from [1])

Comprehensive reparations of past gross human rights violations victims have not been conducted yet in Indonesia. Although the Law 31/2004 on the Amendment of the Law 13/2006 on the Protection of Witness and Victim stipulates right to reparations of victims of past gross human rights violations, however until today many victims have not attained reparations. Numerous basic liberties infringements of the past, be it in Aceh, East Timor, or Papua or with different occurrences, in which the Indonesian government and security powers have been involved, and of the later vicious struggles all over Indonesia.

Referring the data from the National Commission of Human Rights (Komnas HAM), there are 12 unresolved cases of past gross human rights violations in Indonesia, although the cases has already been investigated *pro justitia* by the Komnas HAM R.I. The legal process regarding those cases cannot be taken because until know the attorney general (jaksa agung) has not determined the suspect, made indictment, and proceeded in the court. From 12 cases only three cases that have been followed up by the attorney general until the human rights court namely: Timor Timur case, Tanjung Priok Case, and Abepura case. The data of the 12 cases can be seen in the Figure 3 [2].



Figure 3 Human rights violations

The settlement of past human rights violations almost more than a decade has not been resolved when the current remedies are open again in the era of the President Jokowi government. Settlement through the process of the Human Rights Court has been taken against three (3) events but the results were disappointing. Non-judicial settlement efforts are still untried, this effort puts the victims, who play an important role in settlement efforts. Whatever the remedies that will be pursued, judicial or non-judicial, must prioritize the fulfilment of a sense of justice for the victims and the best interest for the victim [3].

Basically, victim reparations can be given through judicial mechanisms and non-judicial mechanisms. As

the non-judicial mechanism, truth and reconciliation commission/KKR is a model to fulfil the right to reparations. But the main law, the Law 27/2004 on Truth and Reconciliation Commission has nullified by the Constitution Court/MK through its decision Number 006/PUU-IV/2006. After that, there was no specific law as the legal basis for establishing the national KKR institution.

According to Zaki Ulya, the pros and cons concerning the dissolution of the Aceh Truth and Reconciliation Commission flourished as the assessment of the Aceh Truth and Reconciliation Commission was established after the abolition of the provisions of the National

Commission for Truth and Reconciliation by the Constitutional Court [4].

Therefore, establishment of the Aceh Truth and Reconciliation Commission/KKR-Aceh in the province of Aceh is very important, in general, for victim’s reparations of gross human rights violations and in particular for victim’s reparations of armed conflict between Indonesia and Aceh Freedom Movement/GAM. From the experience and achievement which are gained by the KKR-Aceh can be used to establish the next KKR institution to settle other past gross human rights violations in Indonesia.

The Aceh Truth and Reconciliation Commission is a non-structural independence institution which established to reveal the truth, pattern, and motive of human rights violations during armed conflict in Aceh and also to recommend the follow up, reparations, and carry-on reconciliation. Reparations (or ‘pemulihan’ in Indonesia language) are the right of victim which is protected by international law [5].

This article inquires two research questions. First, how does the KKR-Aceh provide reparations for victims of past gross human rights violations in Aceh? Second, can the KKR-Aceh be a role model as non-judicial reparations institution for the settlement of other past gross human rights violations in Indonesia?

2. METHOD

The method of this study is a conceptual paper, using a normative juridical as the type of research and secondary data collection. This article utilized normative method, it serves to see the law from the relevant regulations, both national and international legal instruments. Further is used by the author to obtain secondary data from library research.

The legal instruments, among others, are: the Universal Declaration on Human Rights (1948), the Act No. 39/1999 on Human Rights, the Act No. 27/2004 on the Truth and Reconciliation Commission/TRC, the MoU Helsinki 2005 between the Government of Indonesia and the Aceh Freedom Movement (here and

after called MoU), the Act No. 11/ 2006 on the Aceh Government, the Qanun [6]. No. 17/ 2013 on the Aceh Truth and Reconciliation Commission, and the Aceh Governor Decision No. 330/1269/2020 on the Urgent Reparations.

3. RESULT AND DISCUSSION

3.1. KKR Aceh and Victim’s Reparations in Aceh

Human rights should be protected by the rule of law. It means that legal instruments have an important role to protect, respect, and fulfil human rights [7]. Indonesia as the country which is ruled by law, constitutionally, guarantees human rights in the Indonesia Constitution 1945[8].

According national and international law, Indonesia has legal obligation regarding three partite obligations of state on human rights as mentioned above. Failure to do so could cause state responsibility for the state concerned to make reparations. It includes reparations for victims of gross human rights violations and reparations can be addressed through the establishment of KKR.

Truth commissions have become a popular mechanism within the transitional justice field for addressing past episodes of political violence and repression. Until now, however, they have generally focused on providing clarification of, reparation for, and more recently, punishment for civil and political rights violations [9].

From the past gross human rights violations in Indonesia (including in Aceh), according to the data from the Witness and Victim Protection Agency/LPSK R.I., since 2012 to 2020, LPSK has been given the protection to the victims in several cases, such as: the Event of ‘65/’66, the Event of Tanjung Priok 1984, the Event of Talang Sari 1989, the Event of Activist Kidnapping ‘97/’98, and three cases in Aceh which covers: the Event of Rumah Geudong 1998, the Event of Simpang KKA 1999, and the Event of Jambu Keupok 2003. Those are described in the Figure 4 [10].

TERLINDUNG PADA TINDAK PIDANA PHB



Figure 4 Protected against crime

Measures to reveal gross human rights violations have long been conducted by the availability of non-judicial mechanism, that is Truth and Reconciliation Commission (the Act No. 27 of 2004 on the Truth and Reconciliation Commission). It paves the way for revealing truth. This process is very important to analyze inheritance of conflict which can be a barrier for the nation future [11].

Aceh is one of the provinces in Indonesia which obtains special autonomy status. Implementation of special autonomy in Aceh is held under the Act No. 11/2006 on the Aceh Government. The establishment of KKR in Aceh is based on Article 229 the Act No. 11/2006, then legalized in the Qanun No. 17/2013[12]. The reasons for granting the status of special autonomy in Aceh, one of which, was to eliminate the GAM movement which aims to separate itself from the Homeland. Granting autonomy status is determined through the Helsinki MoU is transformed in Law No. 11 of 2006[13]. The said Qanun stated that the KKR-Aceh aims to recommend comprehensive reparations for human rights violation victims, in accordance with the universal standard which relates to the rights of victims

The existence of the KKR Aceh *prima facie* refers to the MoU which is stated that the KKR-Aceh will be established by the Indonesian Commission of Truth and Reconciliation with the task of formulating and determining reconciliation measures [14].

The KKR Aceh is still trying to reveal the truth on the events of human rights violations that occurred during the conflict in Aceh (1976-2005) through taking the confession of 14 Regencies/Cities region, that is Aceh Besar, Pidie, Pidie Jaya, Bireuen, Aceh Utara-

Lhokseumawe, Aceh Timur-Langsa, Aceh Tengah, Bener Meriah, Pidie Jaya, Aceh Barat-Nagan Raya, Aceh Jaya dan Aceh Selatan. Besides, the KKR Aceh has requested information and document to government and non-government institutions in order to conduct investigation for deepening of certain event [15].

Taking confession of victims as mentioned above is a method to reveal facts or data which are relevant to any event of human rights violations in the context of the KKR's works. In general, it is also used by KKR institutions in many states to gather information regarding facts through public hearings, such as: the South African Truth and Reconciliation Commission/SATRC [16], the Peruvian Truth and Reconciliation Commission/PTRC [17], and truth commission in Argentina, namely National Commission on the Disappeared (Comisión Nacional sobre la Desaparición de Personas/CONADEP)[18].

Taking Confession activity is conducted by the KKR Aceh since December 2017. In the five of the work areas (Kabupaten Aceh Besar, Kabupaten Pidie, Kabupaten Bener Meriah, Kabupaten Aceh Utara dan Kabupaten Aceh Selatan). Further, since October 2018, the KKR Aceh expands its work area in seven new areas which covers Kabupaten Pidie Jaya, Bireuen, Aceh Tengah, East Aceh, Aceh Tamiang, Aceh Jaya and West Aceh. This activity taking officer (Petugas Pengambil Pernyataan/PP), those who disclose voluntarily statement, concerning alleged events of human rights violation that have experienced, seen, heard, and or witnessed directly at location and or as direct executor's certain actions which can be qualified as human rights violation which can see the Table 1.

Table 1 The area and the sum of statement taking since December 2017–March 2021[19]

No.	Regency	Exit Form	Sign-in form	Realization of Statement Taking
1	Aceh Selatan	235	235	185
2	Aceh Barat	392	392	384
3	Aceh Besar	896	896	849
4	Aceh Tengah	271	271	239
5	Aceh Tamiang	252	252	237
6	Bener Meriah	368	368	310
7	Aceh Timur	372	372	335
8	Langsa	109	109	89
9	Aceh Jaya	490	490	466
10	Pijay	408	408	375
11	Pidie	686	686	615
12	Aceh Utara	799	799	723
13	Bireun	410	410	371
14	Lhokseumawe	88	88	70
15	Abdya	1	1	1
16	Nagan Raya	15	15	13
17	Banda Aceh	2	2	2

Total	5794	5794	5264
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During 2016-2021, the KKR Aceh has taken confession of victims and its families totally 5.264 persons and recommended 245 victims in order to get the urgent reparations service to the Aceh Government. It has followed up through the Aceh Governor Decree No. 330/1269/2020 on the Decision of the Urgent Reparations Receiver of 245 Victims of Human Rights Violations in Aceh which was carried on by the Aceh Reintegration Agency/BRA. The Commissioner in the period of 2016-2021 is assisted by expert which analysed finding and impact, also arranging specific recommendation which will be delivered in the next December.

Entering the end of duty of the KKR Aceh Commissionership in the period of 2016-2021 focused on some issues: 1. Makes study and analysed comprehensively which involved a competent expert on the finding of KKR Aceh; 2. Write the final work report which contains pattern, motive, and impact of armed conflict that occurred in Aceh in the period of 1976-2005; 3. Study and analyse the needs of reparations recommendation formulation (reparations of victims' right); 4. Study and analyse to arrange the concept of reconciliation based on local wisdom which involve traditional (adat) figure, mufti (ulama), and other related parties; 5. Submit the final work report of the KKR Aceh in the period of 2016-2021 to the government, the Aceh Government and the Aceh Legislative Assembly/DPRA also the public by recommending reformation of institution, fulfilment of reparations of victims' right, to facilitate reconciliation based on local wisdom and other important recommendations which are necessary in order for the fulfilment and respect of human rights.

Regarding the position of mufti in reconciliation, according to Sahlan, the position of Ulama in the of post-conflict reconciliation in Aceh can be found in four ways. Firstly, knowledge transmission. Secondly, as a legal decision-maker which refers to Sharia law, especially related to the reconciliation process. Thirdly, as a mediator. Fourthly, cultural roles in the form of ritual or ceremonial guides that are carried out when the parties of the conflict have met an agreement to reconcile [20].

Toward the end of the term of the KKR Aceh Commissionership in 2016-2021, on the 05 November 2021 the Commissioners of the KKR Aceh convey the advancement work report to the Governor of Aceh. The substance of the advancement work report contains work movement that has been finished by the KKR Aceh in directing the order dependent on the Act No. 11/2006 on the Government of Aceh and the Qanun No. 17/2013 on the KKR Aceh which uncovering truth, suggesting

casualties' compensations and working with the accomplishment of compromise [21].

In her thesis, Sustikarini found that MoU Helsinki has addressed the grievances sufficiently and that the MoU has also been translated well into subsequent regulations at the national and local levels to maintain peace in Aceh. However, this thesis also reveals that grievance-alleviation through regulation in the subject of human rights and justice is halted at the national level but emerging at the local level through the promulgation of local law on the Aceh Truth and Reconciliation Commission [22].

The last of KKR's Aceh work result in the period of 2016-2021 is a comprehensive report which were contains motive, pattern, and impact of Aceh conflict which delivered to the Aceh Governor and the Aceh Parliament and the public. The protection and respect of human rights, also to prevent the non-repetition of a similar conflict in the future and the KKR Aceh recommends four actions to the Government, the Aceh Government, and the Aceh Parliament. *First*, change political policy, law and administration. *Second*, victim's reparations. *Third*, facilitate reconciliation based on local wisdom. *Fourth*, recommend legal action and other things which are considered important in order to respect of human rights [23].

The work report hopefully can be useful for future KKR in Indonesia, it provides valuable guidelines for documenting cases, as well as analysing types/patterns of violations, main/fields actors of perpetrators, impacts, and setting up a reparations plan that responds to the different needs and situations of the certain human rights violations cases that reoccurred during the authoritarian regime in the past.

The Aceh Governor Decree 330/1629/2020 has signed and set by the ad interim of Aceh Governor/Plt. Gubernur Aceh Nova Iriansyah in 27 May 2020. Through this regulation, the victims of human rights violations in armed conflicts era in Aceh will accept reparations services. The reparations services which will be served by the Aceh government, among others, are medical and psychological services, venture capital assistance, living allowance aids, and residency status [24].

Nova Iriansyah explains, at least, there are three points in the Governor Decree. First, determines the reparations receiver of the urgent reparations of victim's rights of human rights violations victim as mentioned in the annex which is an integral part of the Governor Decree. Second, implementation of the urgent reparations is conducted by the Aceh Reintegration

Agency/BRA. Third, the Governor Decree is entry into forced since the date of signing.

The KKR Aceh has recommended the urgent reparations to the Aceh government for 245 people of victims and it has been followed up by the Aceh Government through the Aceh Governor Decree Number 330/1629/2020. Implementation of the recommendation is handed over to the Aceh Reintegration Agency/BRA. The type of service of the recommendation of the urgent reparations is consists of medical service, psychosocial service, resident service, living allowance and business assistance. The sum of services which are recommended urgently consist of medical service for 123 people, psychological service for 63 people, business assistance for 101 people, living allowance 111 people and the needs of resident service for 6 people.

Based on the study of service recommendation, it is found the type of service as follows: house construction and renovation for 933 people; agricultural venture capital assistance for 168 people; animal husbandry venture capital assistance for 159 people; fisheries and marine venture capital assistance for 70 people; living allowance for 427 people; compensation for 149 people; job creation for 148 people; appointments of civil servants for 33 people; medical service for 349 people; education/scholarship 407 people; spiritual service for 51 people, and infrastructure service for 17 people.

Regarding memorialization, the KKR Aceh in cooperation with some local government has already established the memorials in the form of an inscription in one village in Pidie Jaya, Aceh Jaya, Bireuen, and Beutong Ateuh.

The result of this study highlights that the KKR-Aceh provides victims reparations by conducting some programs such as reconciliation of society, serves rehabilitation, and establishing monuments. The implication of this study highlights the necessity for all the parties involved to resolve and revealing the truth peacefully. Failure to do so would arguably adversely on human rights violations in the past and future.

The KKR Aceh experience can become the rule of law model for the settlement of the same cases in the future. It is because of the problems that are faced by the Acehnese society in the transition era at this moment, stimulating the whole of the nation's energy to think holistically and futuristic, which every problem is being faced must be looked for a wise solution, instead of postponed to be solved.

The similar statement is addressed from the Presidential Staff Office (Kantor Staf Presiden/KSP) which appreciates the efforts of the KKR Aceh in revealing truth, reparations of victims, and realizing of reconciliation to the victims of conflict and human rights

human rights violation in Aceh. Further, KSP evaluates that what has been achieved by the KKR Aceh in its works to reveal of the truth, to recommend reparations, and realizing reconciliation could be a model for the settlement of past human rights violation in other places or in wider scale [25]

4. CONCLUSION

The KKR-Aceh has the roles to fulfill victims' rights through some programs by providing, among others: free health care/medical and psychosocial services, living allowance aid, venture capital assistance, residency status, house construction/renovation, and establish memorial.

In principle, the KKR-Aceh can be a role model as non-judicial reparations institution for the settlement of other past gross are human are rights violations in Indonesia. However, in some instances, every KKR must have characteristics which depend on cases and some aspects, such as: place of violation (it is relating to social, political and cultural aspects), moment or time of violation occurred, pattern and duration of violations, scale of victims, and type of crimes.

ACKNOWLEDGMENT

All praise would only be bestowed to the Lord, because only by His blessing this paper could be finished. We are deeply thankful to the Universitas Trisakti and to the Dean of Faculty of Law Universitas Trisakti, Jakarta, Indonesia, have provided the financial support and facilitating this paper.

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