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Settlement of Gross Human Rights Violations in the Perspective of Local Wisdom in Indonesia (Case Study of Tanjung Priok)

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Abstract
This article aims to explain the obstacles in handling cases of gross human rights violations in Indonesia and the concept of resolving cases of serious human rights violations in the perspective of local wisdom. This article does not only lead to normative law that is more directed to research on the legal principles but also considers empirical facts as a reality in the settlement of gross human rights violations. Using the Case study of Tanjung Priok, the author focuses on the challenges to the settlement of gross human rights violations in the perspective of local wisdom. The results showed that the settlement of gross human rights violations through the legal process has encountered many challenges and deadlock, along with trauma to victims that result in a severe and long-lasting effect. Second, the settlement of gross human rights violations in the Tanjung Priok case can be carried out by the state, by apologizing to the victim as well as providing reparations, rehabilitation, and compensation as a state responsibility. For the recommendations, the author suggests the need for more detailed arrangements of solutions for victims whose case already has permanent legal force, such as in the Tanjung Priok case, and accommodating the values of local wisdom to improve the norms contained in the Law on Human Rights Court, especially those relating to the process of settling gross human rights violations through non-judicial channels.

Keywords: Settlement of Gross Human Rights Violations; Tanjung Priok case; local wisdom.

Abstrak
Artikel ini bertujuan untuk menjelaskan hambatan dalam penanganan perkara pelanggaran HAM berat di Indonesia dan konsep penyelesaian penanganan perkara pelanggaran HAM berat dalam perspektif kearifan lokal. Artikel ini tidak hanya mengarah pada hukum normatif yang lebih mengarah kepada penelitian terhadap asas-asas hukum. Akan tetapi juga melihat fakta-fakta empiris sebagai sebuah kenyataan dalam penyelesaian pelanggaran HAM berat. Dimana fokus penulis adalah apa hambatan dalam penyelesaian pelanggaran HAM Berat yang memperhatikan kearifan lokal dengan studi kasus tanjung priok. Hasil penelitian menunjukan: Pertama, Penyelesaian pelanggaran HAM berat melalui penegakan hukum menemui banyak hambatan dan jalan buntu serta trauma korban yang sulit hilang. Kedua, Penyelesaian pelanggaran HAM berat dalam kasus tanjung priok bisa diselesaikan dengan kearifan lokal dengan permintaan maaf terhadap korban sekaligus memberikan reparasi, rehabilitasi dan kompensasi sebagai bentuk kepedulian dan tanggung jawab negara. Sebagai rekomendasi: Pertama: perlunya pengaturan lebih detail atas jalan keluar bagi korban yang proses penegakan hukum sudah berkekuatan hukum tetap seperti perkara Tanjung Priok. Kedua: norma-norma kearifan lokal perlu diakomodir dalam penyempurnaan norma yang terkadung dalam UU Pengadilan HAM khususnya yang berkaitan dengan proses penyelesaian Perkara HAM Berat melalui jalur non yudisial.

Kata Kunci: Penyelesaian HAM Berat; Kasus Tanjung Priok; kearifan lokal.

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Introduction

Indonesia is a state of law, where all issues are settled through applicable legal mechanisms, including the settlement of gross human rights violations. Gross human rights violations are one of the special forms of political crimes that have a special nuance, including abuse of power, meaning that the perpetrators act in the context of government and are facilitated by government power. The crime contains elements of "state action or policy" which in terms of the nature of the crime has a fairly wide range of victims as in crimes against humanity (one of the gross human rights violations) which requires elements that the act is "committed as part of a widespread or systematic attack directed against any civilian population" (Muladi, 2000).

Fundamentally, human rights are universal, these rights are inherent in humans. Humans are not the same, but there should be no difference in the provision of guarantees or protection of human rights (Reksodiputro, 1997). In terms of the concept of human rights, as reviewed by Yash Ghai (in Aiston (ed), 1996), the basic concept of human rights enforcement always changes from time to time. This is greatly influenced by international socio-political developments, as well as from the priority aspect of the enforcement of gross human rights violations.

Within the framework of human rights enforcement, Article 140 paragraphs (1), (2), and (3) of the Law of Human Rights emphasizes the existence of the Human Rights Court as a judicial instrument in the enforcement of gross human rights violations. In accordance with the provisions of Article 6 and Article 7 of the Rome Statue of The International Criminal Court, the Human Rights Court was established to adjudicate serious human rights cases, such as genocide, arbitrary or extrajudicial killings, the use of torture, enforced disappearances, slavery, and or systematic discrimination. Based on the mandate of Article 140 paragraphs (1), (2), and (3) of the Law on Human Rights, then Law Number 26 of 2000 concerning the Human Rights Court was born, hereinafter referred to as the Law on the Human Rights Court.

The settlement of gross human rights violations through legal channels still encounters verification and institutional challenges. Gross human rights violations legal process are currently in the preliminary investigation process, such as submission of recommendations from preliminary investigator to investigator, which settlement is generally constrained by verification issues. These events are divided into two categories as follows: *First*, there were 9 (nine) past gross human rights violations, including the 1965/1967 incident; The Mysterious Shooting Incident in1982-1985; Talangsari incident in 1989; The Incident of Enforced Disappearances of Activists in 1998/1999; May 1998 riots; the Trisakti, Semanggi I and Semanggi II incidents in 1999; the KKA Intersection Incident in 1999; th e 1989 Rumoh Geudong incident in 1989-1998; and The Incident of Witches, Ninjas and Crazy People in Banyuwangi in 1998-1999. *Second*, there were 3 (three) incidents of gross human rights violations that occurred after the enactment of the Law on the Human Rights Court, including the Jamboe Keupok incident in 2003, the Wasior incident in 2001, and the Wamena incident in 2003.

To overcome these challenges, some notions suggest the settlement of gross human rights violations by using local wisdom. As is known, local wisdom is a view of life and knowledge as well as various life strategies in the form of activities carried out by local communities in responding to various problems in meeting their needs.

There have been studies concerning gross human rights violations and local wisdom, such as the studies regarding the resolution of local wisdom with the example of resolving the 1965 PKI human rights violations in the southern Blitar region (Winandi and Dwirokhmeiti, 2019) or Saidah (2019) in her thesis studied the role of human rights concerning the judicial caning in Aceh. Additionally, there was an article on the reconciliation of gross human rights violations in Aceh (Sulaiman, 2016) based on the performance of the Truth and Reconciliation Commission (TRC). TRC has now been dissolved by the constitutional court. This article is different compared to the previous studies, not just did the author choose the Tanjung Priok case but also analyzed the law enforcement that had been carried out.

The urgency of this article is to analyze the linkage of local wisdom with the settlement of gross human rights violations especially the Case study of Tanjung Priok in the hope to establish a model for settling gross human rights violations that have permanent legal force with the perspective of local wisdom. This article can also be the alternative solution after the dissolution of the Truth and Reconciliation Commission (TCR).

Research Problems

Based on the background mentioned above, the authors formulate the problem as follows: *first*, what are the challenges in settling gross human rights violations? and *second*, how is the settlement of gross human rights violations in the Tanjung Priok case seen by the perspective of local wisdom?

Research Methods

This paper not only leads to normative law that is more directed to research on legal principles but also considers empirical facts as a reality in the settlement of gross human rights violations. Using the Case study of Tanjung Priok, the author focuses on the challenges to the settlement of gross human rights violations from the perspective of local wisdom. The writer works as a prosecutor who has served in the field of handling cases of gross human rights violations and with this advantage, the author finds it easier to investigate and be directly involved in activities as investigator of gross human rights violations. There is almost no distance between the researcher and the object under study. Using the qualitative method, the experience of the researcher becomes the main basis for detailing the problems of investigating gross human rights violations in detail and - depth, especially in the context of local wisdom.

Discussion

Challenges in Handling Gross Human Rights Violations in Indonesia

In the period between the enactment of the Law on the Human Rights Court to the present, it has been approximately 2 (two) decades that the Indonesian nation has struggled with gross human rights violations, which can be categorized as follows:

1. Gross human rights violations have been on trial and ruled by the court.
   At the beginning of the enactment of the Law on the Human Rights Court, from around 2001 to 2002, amid pressure from the international community to settle gross human rights violations in East Timor, Tanjung Priok, and Abepura, the Indonesian state through its complementary tools, which are the National Commission on Human Rights as preliminary Investigator and attorney general as an investigator of gross human rights violations. They have succeeded in bringing up and settling gross human rights violations in East Timor, Tanjung Priok, and Abepura judicially. Based on data from the Directorate of Serious Human Rights Violations, Deputy Attorney General for Special Crimes, and Attorney General's Office, the gross human rights violations are:
   a. The East Timor incident in 1999
   b. The Tanjung Priok incident in 1984
   c. The Abepura incident in 2002
2. Gross human rights violation in the preliminary investigation phase.
   Gross human rights violations that are still under preliminary investigation and pre-investigation can be categorized into 2 (two) groups, including:
   a. Alleged gross human rights violations that occurred before the enactment of the Law on Human Rights Courts.
      According to data from the Directorate of Gross Human Rights Violations, the Junior Attorney General for Special Crimes, there are 9 (nine) files of the conclusion of the preliminary investigation submitted by the National Commission on Human Rights which until now there is still no formulation of the most appropriate settlement. Attorney General R.I. as the Investigator, in his instructions, concluded that the conclusion of the preliminary investigation submitted by the National Commission on Human Rights was incomplete, meaning that it did not meet the formal and material requirements for an investigation.
      The alleged gross human rights violations are as follows:
      1) The 1965/1966 incident;
      2) The mysterious shooting incident in 1982-1985;
      3) The Talangsari incident in 1989;
      4) The Incident of Enforced Disappearances of Activists in 1998/1999;
      5) The May 1998 riots;
      6) The Trisakti, Semanggi I dan Semanggi II incident in 1999.
      7) The KKA intersection incident in1999;
      8) The Romah Geodong incident in 1989 – 1998;
      9) The Incident of Witches, Ninjas and Crazy People in Banyuwangiin 1998 – 1999;

b. Alleged gross human rights violations following the enactment of the Law on Human Rights Courts.

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The alleged gross human rights violations are as follows:

1) The Jamboe Keupok incident in 2003
2) The Wasior incident in 2001
3) The Wamena incident in 2003

Based on the results of the author's research by studying the investigator's findings on the 13 (thirteen) files of preliminary investigation, it can be summarized the main points of the investigator's instructions from a formal and material aspect, as follows:

1) In the formal aspect, the Investigator indicated in his instructions that for gross human rights violations prior to the enactment of the Law on Human Rights Court, an Ad Hoc Human Rights Court should first establish, as referred to in Article 43 of the Law on Human Rights Court. In addition, the Investigator also reminds the preliminary Investigator that the procedure and format of the report of a witness examination by the preliminary investigator should be made as referred to in Article 74 of the Criminal Procedure Code.

   The instructions were conveyed considering that the preliminary investigator's legal action was *pro justisia*.
2) In the material aspect, investigators provide instructions to preliminary investigators based on jurisprudence in court judgment for the East Timor Incident in 1999, Tanjung Priok Incident in 1984, and Abepura Incident in 2002. The general characteristics of the conclusion of the preliminary investigation conducted by Komnas HAM lead to the accountability of commanders/superiors but concerning material aspects, the following things have not been fulfilled:
   a) The field actors and their actions have not yet been described therefore it is difficult to link accountability to the commander/authority;
   b) Insufficient preliminary evidence to prove a causal relationship between the incidents of attacks on civilians and the policies of the authorities or policies related to an organization.;
   c) Insufficient preliminary evidence for gross human rights violations in the form of killing, which related to evidence of premeditated killing as referred to in Article 340 of the Criminal Code

d) The absence of supporting evidence, including *visum et repertum*, ballistic tests, and autopsies on victims of murder, torture, and rape.

Based on the description above, the main challenge to able to suspect gross human rights violations is the adequacy of evidence. In addition, there are differences in perception between preliminary investigators and investigators regarding the authority of each party as referred to in the Law on Human Rights Court.

3. Gross Human Rights Violations in Prosecution/Trial Process

At the end of 2021, after a lengthy process of trying to resolve the deadlock between the preliminary investigator National Commission on Human Rights, and the Attorney General's investigator, the Government of the Republic of Indonesia through the Attorney General made a legal breakthrough by taking over the handling of gross human rights violations of the Paniai Incident in 2014 by issuing an investigation order. The issuance of the investigation order is a step forward by taking into account the results of the National Commission on Human Rights investigation of the Paniai incident in 2014, which according to the investigator was incomplete. The investigator conclude that there has not been sufficient evidence that lead to gross human rights violations in the Paniai incident in 2014 and has not been able to identify the perpetrators of the Paniai incident in 2014 based on preliminary evidence as referred to in Article 20 paragraph (1) of the Law on the Human Rights Court and its Elucidation. Currently, The Public Prosecutor Team has transferred the case files of alleged gross human rights violations in Paniai in 2014 to the Human Rights Court of the Class IA Special Makassar District Court.

The Attorney General's Office investigators had to begin the investigation once more and must collect sufficient evidence to further determine the suspect. Following the judicial mechanism in the Law on the Human Rights Court, if the investigation carried out by Komnas HAM is complete, the case would be transferred to the investigation stage and at the same time would determine the suspect. This legal breakthrough is risky because based on Law of the Human Rights Court, there is a time limitation regarding the period of the investigation thus it is possible for gross human rights violations will fail in the trial. In case of prosecution failure, which resulted in the release *(vrijspraak)* of the suspect of gross human rights violations, then the rights of the victim will be neglected.

Although the efforts of the Attorney General's Office have given hope to resolving gross human rights violations that are unsolvable, the breakthroughs mentioned above do not eliminate the real issue because there is a possibility of failure in a prosecution which will affect the fate of the victim. Therefore, such a legal breakthrough should not eliminate efforts to find a way to resolve gross human rights violations that occur so that justice, certainty, and benefit of human rights law enforcement can be achieved.

Settlement of Gross Human Rights Violations in the Perspective of Local Wisdom, Case study of Tanjung Priok.

Local wisdom consists of two words, namely local and wisdom and also known as local knowledge or local genious. According to “the Great Indonesian Dictionary”, wisdom means intelligence as something needed in interacting. The word local means a place or in a place or in a place where there is growth, there is life, something that may be different from other places, or is in a place where value may apply locally or may also apply universally (Njatrijani, 2018). According to Rosidi (2011), the term local wisdom is the result of the translation of local genius which was first introduced by Quaritch Wales in 1948-1949 which means the ability of local culture to deal with foreign cultural influences when the two cultures meet. In the past, the legal politics adopted seemed to want to abolish legal pluralism, so it seemed as if it would not provide space for customary law or religious (Islamic) law. Because the elements of customary law and Islamic law, as well as local wisdom concerned, will be transformed or become part of the national legal system (Hartono, 1991).

For Indigenous peoples in Indonesia, the term "customary law" is unfamiliar and people only know the word "custom". The "customary law" term was first proposed by Cristian Snouck Hurgronye in his book entitled "De Acheers" (the Acehnese), which was then followed by Cornelis van Vollen Hoven in his book entitled "Het Adat Recht van Nederland Indie". The Dutch colonial government then officially used the customary law term at the end of 1929 in Dutch legislation (Salim, 2016).

Local wisdom has lived in society, communities, and individuals. Thus local wisdom is a traditional view and knowledge that becomes guidance in life and has been passed on for generations to meet the needs and challenges in social life. Local wisdom is useful in the community both in the conservation of natural and human resources, customs, and culture, and is believed to be the guidance in life. To actualize the enforcement of human rights for indigenous peoples, the state is responsible for providing legal protection for indigenous peoples as mandated in the constitution (Kristyanto, 2017), as regulated in the 1945 Constitution Article 18B paragraph (2) which states" The State recognizes and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law."

Local wisdom that continues to develop in the community is a legacy in the values of life that are integrated into the form of religion, culture, and custom. Since Indonesia was established as a sovereign state, customary law has played its role and in its development, customary law has a special place in the development of the national legal system. Over the last few years, in the development of the national legal system, the habits that continue to develop in the community or are often referred to as local wisdom is one of the important considerations in the process of establishing legislation in the national legal system, including constitution and regional regulations. So that the development of a national legal system no longer dichotomizes the state law on the one hand with the system of folk law and religious law on the other side (Rosidin, 2019).

The Tanjung Priok case ended in the acquittal of all defendants. This case is a lesson learned on how crucial the settlement of gross human rights violations is in responding to cases that ended in the acquittal of the defendant. In the handling and settlement of the 1984 Tanjung Priok Incident, there were 4 (four) case files with 14 (fourteen) defendants, including:

1. The defendant as a Military Commander (Article 42 paragraph (1) of the Law on Human Rights Courts), including:
   a. The Defendant, Major General Rudolf Butar Butar, TNI, Retired (former Military District Commander of North Jakarta), was found guilty and sentenced to a total period of 10 (ten) years imprisonment by District Court. However, the Court of Appeals later decided that the defendant was acquitted (Decision of Ad Hoc Human Rights Court to Central Jakarta District Court Number 03/PID.HAM/AD.HOC/ 2003/PN.JKT.PST date 30 April 2003 Jo. Decision of Ad Hoc Human Rights Court of Appeal to Central Jakarta District Court Number No.02/Pid.AM/Ad.Hoc/PT.DKI. date 8 Juni 2005).
   b. The Defendant, Major General Pranowo, TNI, Retired (former Military Regional Commander), the District Court decided that the defendant was acquitted (Decision of Ad Hoc Human Rights Court to Central Jakarta District Court Number 02/PID. HAM/AD.HOC/2003/PN. JKT.PST, Agustus 2004).
   c. The Defendant, Major General Sriyanto, TNI (former Military District Command Head Ops of North Jakarta), The District Court decided and was confirmed by the Court of Appeals that the defendant was acquitted (Decision of Ad Hoc Human Rights Court to Central Jakarta District Court Number 04/PID.HAM/ AD.HOC/ 2003/PN. JKT.PST 12 Agustus 2004 Jo. Decision of the Supreme Court of the Republic of Indonesia Number 07K/Pid.Ham/Ad.Hoc/ 2005, date 29 September 2005).
2. The defendants qualified as Field Actor (former Arhanudse II Team) including, defendant I. Sutrisno Mascung, defendant II. Asrori, defendant III. Siswono, defendant IV. Abdul Halim, defendant V. Zulfata, defendant VI. Sumitro, defendant VII. Sofyan Hadi, defendant VIII. Prayogi, defendant IX. Winarko, defendant X. Idrus, defendant XI. Muhson (Article 7 jis Article 9 Law on Human Rights Court). The District Court decided that defendant I was found guilty and sentenced to 3 (three) years of imprisonment, defendants II to XI were found guilty and sentenced to each defendant 2 (two) years of imprisonment but later were acquitted by the Court of Appeals and confirmed by cassation decision (Decision of Ad Hoc Human Rights Court to Central Jakarta Disctrict Court Number 01/PID.HAM/ AD.HOC/2003/PN. JKT.PST date 20 Agustus 2004 Jo. Decision of Ad Hoc Human Rights Court of Appeal to DKI Jakarta High Court Number No. 01/Pid.HAM/Ad.Hoc/PT.DKI date 31 Mei 2005 Jo. Supreme Court's Cassation Decision Number 09K/Pid/Ham Ad Hoc/2005 date 28 Februari 2006).

The consideration of the judge in the court decision on Tanjung Priok incident, which acquitted all the defendants, can be summarized as follows:

1. The judges' considerations in acquitting all the defendants qualified as Military Commander are basically as follows:
   a. Specifically for the Defendant, Major General Rudolf Butar Butar, TNI, Retired, because there was no essential element of gross human rights violation committed by his members during the incident, was not proven regarding command responsibility. After the defendant received information regarding the incident, he immediately ordered his men to hold fire, and his men directly obey his order. Based on Head Ops's report, the defendant, together with Intelligence Task Force Latsusda Jaya, had examined the members of Team II and the Military District Command Head Ops of North Jakarta.
   b. Specifically for the defendant, Major General Pranowo, TNI, Retired, only receive transferred detainees in custody and was not proven in doing mistreatment of detainees, because of the presence of detainees in Pomdam of Greater Jakarta and Cimanggis Military Detention Facility is based on Detention Orders from both the Police and the Special Capital Region of Jakarta High Prosecutor's Office in the context of investigation and prosecution before the District Court.
   c. Specifically for the Defendant, Major General Sriyanto, TNI, because the incident occurred of a sudden immediately after the defendant tried to open a dialogue with the mob. The troops started firing a warning shot but the mob started to attack the troops. There was no intention from the authority to attack or to fire a shot and cause fatalities.
2. The judges' considerations in acquitting all the defendants qualified as field actors are basically as follows:
   a. The mob threw stones at the defendants who were on Reo's military truck, so the defendants got out of the truck and formed a line formation.
   b. Major General Sriyanto, TNI as Military District Command Head Ops of North Jakarta) approached the mob and tried to open a dialogue with the mob but was refused.
   c. Troops were attacked with stones, wood, and sharp objects and even attempted to seize firearms, then the troops fired warning shots but the mob continued to attack.
   d. The clashes only occurred in that place and lasted for five to ten minutes with 14 (fourteen) death and 11 (eleven) injured by civilians.
   e. The Panel of Judges considered that the incident was an act of spontaneity, not a pre-planned action, and was an act of self-defense. In addition, it is not proven that there is an order from an authority or organization to attack a group of civilians.

Reviewing the judge's considerations as mentioned above, it is crucial to take into account of the sociological effect of the incident on the victims so that the approach that should take after the court decision is to use social approach. Various approaches known in the social sciences, sociology, and legal anthropology can be used to explain problems in conflict resolution based on local potential. However, to find out what is the differences between this approach and the normative legal approach. According to Roscoe Pound on

normative law theory, "law as a tool of social engineering". This theory was born based on the assumption that social relations between individuals or groups in society are very sensitive to human control. Human control is people who use formal legal instruments as a tool to control. Pound's theory differs compare to the sociological approach, such as Cochrane's theory who believed that society itself controls social relations, meaning the society is active in finding, choosing, and determining its law. The least approach becomes essential to resolve the family conflict, land, environment, and natural resources using a sociological-inductive approach (Erwin, 2015).

In the context of sociological settlement, non-judicial settlement of gross human rights cases has been regulated in Law No. 27/2004 on the Truth and Reconciliation Commission, hereinafter referred to as the KKR Law. However, the KKR Law was deemed unconstitutional by the Constitutional Court, which in its decision stated that the TRC Law did not have binding legal force. However, this decision does not mean that the Court has closed efforts to resolve past gross human rights violations through reconciliation. There are many ways to do this, including by realizing reconciliation in the form of legal policies (laws) that are in harmony with the 1945 Constitution and universally applicable human rights instruments, or by carrying out reconciliation through political policies in the context of rehabilitation and amnesty in general.

The alternative solution from the perspective of local wisdom is to provide reparations to victims of the Tanjung Priok incident where one of the important instruments that form the basis for fulfilling the obligation of reparations to victims is the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law 1995*; and the Declaration of Basic Principles of Justice for Victims of Crimes and Abuses of Power.

Based on the provisions in the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law* 1945, it is stated that victims should be provided with full and effective reparation, which includes the following forms: 1) Restitution; 2) Compensation; 3) Rehabilitation; 4) Satisfaction; and 5) Guarantees of non-repetition. In Theo Van Boven's study, these forms of reparations are explained in detail, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Restitution, for example, is related to property rights or also the reputation of the victim. Compensation refers to any economically assessable damage. Rehabilitation includes medical and psychological services.

Satisfaction refers to public acknowledgment that involves an acceptance of government responsibility and a public apology from the high–level government official. Guarantees of non-repetition refer to reviewing and reforming certain laws and regulations. In addition, Mc Donald dan Moore defines transformative justice as efforts aimed at resolving conflicts that result in changes like the relationship between the stakeholders involved. Transformative justice aims at the reconciliation of gross human rights violations. In the context of transformative justice, apart from reconciliation, the

following step after reconciliation is restitution or compensation (Sulivan and Tifft, 2006). In transformative justice, a truth and reconciliation commission is usually established. The truth commission is tasked to find the truth regarding gross human rights violations, while reconciliation is focused on conflict resolution (Hirsch, et.al., 2003).

United Nations Charter states that nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII, meaning reconciliation is domestic jurisdiction to resolve conflict regarding gross human rights violations. Reconciliation is not recognized as an impunity act because reconciliation is an alternative dispute resolution where all stakeholders affected agreed and and the rights of the victims are fulfilled properly (Statuta Roma). In addition, reconciliation is not considered as government's unwillingness or inability to settle the gross human rights violations. The success of reconciliation is to achieve the UN purpose which is to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. There are several examples of the settlement of gross human rights violations in other countries using non-judicial instruments, such as the South African Reconciliation Incident, the East Timor Reconciliation, and an apology from a country for past human rights violations to another country.

Based on the description above, we understand that the general principle in reconciliation efforts is to rely on the agreement of the stakeholders to reveal the truth about the nature, causes, and adequacy of gross human rights violations, identification, and verification of victims, rehabilitation and recovery of victims. In addition, what is no less important is the statement (declaration) of the state as the responsible party in the form of an apology for past gross human rights violations. Those are the principles of local wisdom that are recognized in Indonesian society, which need to be accommodated in reviewing the norms contained in Article 47 of the Law on the Human Rights Court. In addition, to improve the norms contained in Article 35 of the Law on the Human Rights Court regarding compensation, restitution, and rehabilitation, there is no need for an obligation that compensation, restitution, and rehabilitation be included in the decisions of the Human Rights Court.

The concept of settlement using local wisdom with Indonesian characteristics that is compassionate, in the concept of Tanjung Priok incident, can be carried out by the government, even after the court decision, by apologizing to the victim as well as providing reparations, rehabilitation, and compensation.

Conclusions

1. The settlement of gross human rights violations through the legal process has encountered many challenges and deadlock, along with trauma to victims that result in a severe and long-lasting effect.
2. Settlement using local wisdom with Indonesian characteristics that compassionate, in the concept of Tanjung Priok incident, can be carried out by the government, by apologizing to the victim as well as providing reparations, rehabilitation, and compensation as a state responsibility.

Recommendations

1. The need for more detailed arrangements of solutions for victims whose case already has permanent legal force, such as in the Tanjung Priok case.
2. Accommodating the values of local wisdom to improve the norms contained in the Law on Human Rights Court, especially those relating to the process of settling gross human rights violations through non-judicial channels.

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