

INDONESIA AND THE PROCESS TOWARDS ACCESSION TO THE ROME STATUTE -IDENTIFICATION OF OBSTACLES-

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The Indonesian National Commission on Human Rights: Its View and Position

- ▶ The Rome Statute –is *international legal instrument ensuring the protection of human rights*
- ▶ The ICC → its existence and its work:
 - a. Promoting and protecting human rights
 - b. Punishing the perpetrator
 - c. Deterrence against the repetition of the most serious crimes (including in peace time – crimes against humanity- systematic and widespread)
- Urge Indonesia to accede to the Rome Statute: Implement the commitment of Indonesia to promote and protect human rights (as stated in the Constitution of Indonesia)

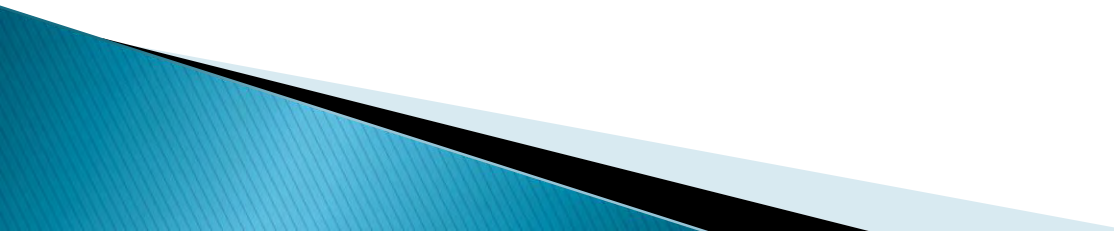
The Mechanism in Protecting Civilians: UU No. 26/2000 on Human Rights Court (*misleading title*)

- Indonesia does have a national mechanism to protect civilian against two of international crimes: crimes against humanity and genocide (UU No. 26/2000 on Human Rights Court-misleading title): “Partially implement”
- The Indonesian National Commission on Human Rights (Komnas HAM) has a mandate to conduct the inquiry (10 cases- crimes against humanity)
- The new draft of penal code: included the crimes under Rome Statute

The “STRONG” Formal Commitment

1. The Preamble of the Indonesian Constitution:
 - “..in order to form a Government of the State of Indonesia which shall protect the entire Indonesian nation...”
 - in line with the principle of responsibility to protect against mass atrocities
 - In line with the object and purpose of the Rome Statute
 - The Rome Statute could be an instrument for Indonesia to implement its Constitution
2. The Indonesian Human Rights National Plan of Actions (2003-2008/2010-2014): Accession of the Rome Statute
3. The Indonesian Medium Term Development Plan (RPJMN) 2015-2019 → 9 (nine) development agenda (Nawa Cita) → Number one: State existence to protect and provide safety to the citizen

The “STRONG” Commitment

- ▶ The Indonesian Constitution (the amendment): respect, protect, fulfill human rights (civil and political rights, economic, social and cultural rights)
 - ▶ Indonesia is a party to human rights instrument (CAT, CERD, CRC, CEDAW, CRPD, CMW, including two major human rights instrument: ICCPR and ICESR)
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Indonesia: Context and Reality

- ▶ Lack of understanding on certain issues (i.e. non-retroactivity and complementary principle)
- ▶ The issue of past human rights abuse (court mechanism/now yet followed up) and other issues of Military and Police Reform)

NOTE: the commitment of the Indonesian Government to handle past human rights abuses:

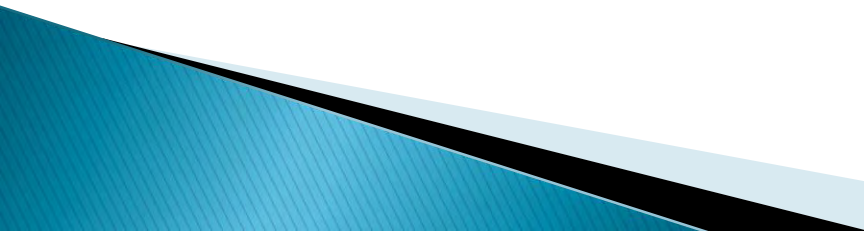
- President Joko Widodo's speech on Human Rights Day to give commitment to handle past human rights abuses: (truth and justice)*
- the Indonesian Mid Term Development Plan/RPJMN 2015-2019: to handle past human rights abuses fairly, setting up an ad hoc commission as a "truth commission"*

The Commitment of the Parliament and the Government

- ▶ 2008: The political parties in The Indonesian Parliament shared the same view of the importance towards accession of the Rome Statute for Indonesia
- ▶ The Government has been drafting the academic paper and the bill towards accession the Rome Statute for Indonesia

Accession of the Rome Statute: Joint Effort and Joint Commitment ?

- ▶ The best time to accede to Rome Statute for Indonesia : New Administration, New Member of parliament and Senator, New Political Commitment

 - ▶ Let us conduct a joint effort in addressing (at least) 3 problems:
 1. To make the Rome Statute well understood to reduce resistance
 - a. Raising awareness especially for certain issues
 - ▶ The ICC is complementary to the domestic mechanism (para 10, preamble, article 1, 17, 19): Exhaustive remedies and “Unable and unwilling”
 - ▶ The Non-retroactivity Principle
 2. To transform the “formal” commitment to become “real” commitment: joint effort, lobby etc → Identify what party and group should be focus on
 3. In Parallel, put effort to have best condition for human rights and civilian protection (i.e. implement the plan to handle past human rights abuses)
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THANK YOU

