

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

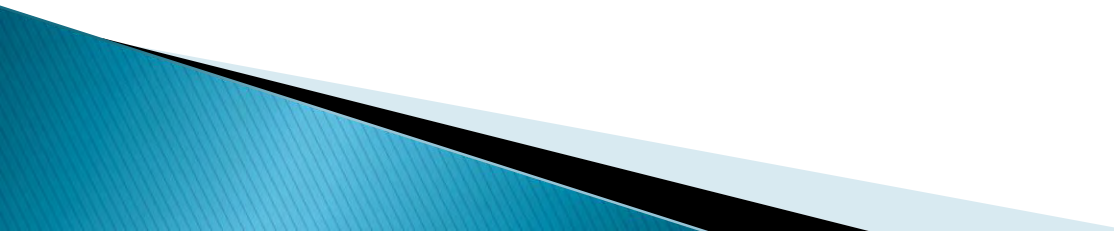
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# The Indonesian National Commission on Human Rights: Its View and Position

- ▶ 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)

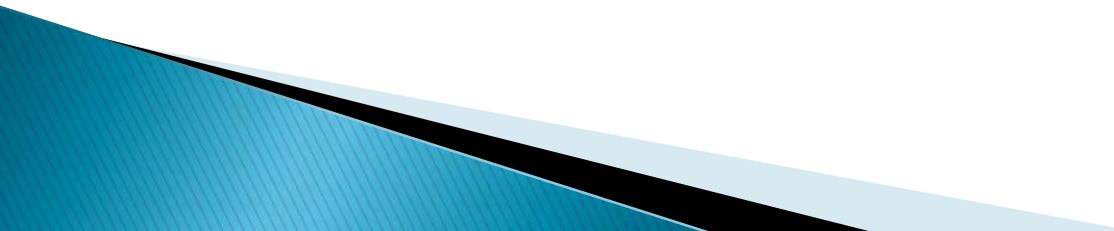
# **The Mechanism in Protecting Civilians: UU No. 26/2000 on Human Rights Court (*misleading title*)**

- 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
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# 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:*

- a. President Joko Widodo's speech on Human Rights Day to give commitment to handle past human rights abuses: (truth and justice)*
- b. 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)



THANK YOU

