

## CHAPTER IV

### CLOSING REMARKS

#### A. Conclusion

The willingness of both parties, the Indonesian government and the Free Aceh Movement (*GAM*) to put aside differences between them through the Helsinki Memorandum of Understanding (MoU) peace agreement on August 15, 2005 has led to a successful end to the armed conflict in Aceh. However, the fundamental provisions of the peace agreement and the obligation of the Indonesian state through its government to ensure the upholding of justice in past human rights violations, especially in the case of *Rumoh Geudong*, did not produce any results. Whereas in the state human rights law is the obligation of human rights holders, in this case the government. The state has three obligations, namely in the form of to respect, to protect, and to fulfill. This is also recognized in Indonesian national law. In Article 28I paragraph (4) the 1945 Constitution states with the following words, protection (*perlindungan*), promotion (*pemajuan*), enforcement (*penegakkan*) and fulfillment of human rights (*pemenuhan hak asasi manusia*) are the responsibility of the state, especially the government.

Therefore, based on the results of the analysis in chapter III which is corroborated by the theoretical framework in chapter II and the National Commission on Human Rights data on the summary of the *Komnas HAM* executive team, the results of the monitoring team and investigation of human

rights violations during the Emergency Military Operations in Aceh Province, which chaired by Dr. Otto Nur Abdullah in 2013, the authors conclude as follows:

1. There is sufficient preliminary evidence to suspect the occurrence of crimes against humanity as a form of past gross human rights violations in the *Rumoh Geudong* case. As for the gross human rights violations proved by the actions carried out based on the provisions of Article 7 *jo* with Article 9 of Law Number 26 of 2000 concerning Human Rights Court. The act is part of an attack directed directly against the civilian population, which is a series of actions carried out against the civilian population as a continuation of the ruling policy. Proof of the attack aimed at the civilian population was the act of the Military Resort Command 011 / *Liliwangsa* against the victims (both dead and seriously injured and / or minor injuries) who were interrogated in *Rumoh Geudong* which at that time was used as the *Sattis* Post or Place of Case (*TKP*), using weapons or not using weapons (kicks, punches, and other acts of violence). These acts are also carried out extensively or systematically, then these forms of acts can be categorized as crimes against humanity. The actions carried out in a widespread and systematic manner are evidenced by the existence of a policy of the Government of Indonesia establishing the Aceh region as a Military Operational Area (DOM) precisely in 1989, with the deployment of troops from the Military Resort Command Unit 011 / *Liliwangsa* in *Rumoh Geudong*

(*operasi jaring merah*) and the many casualties from unconstitutional acts by the military against civilians.

2. Talking about the human rights court law still contains many weaknesses, especially in resolving cases of gross human rights violations through the ad hoc human rights court which resulted in obstacles in achieving legal certainty. In the *Rumoh Geudong* case which is the obstacle in the settlement, there is a different interpretation in the case of a pro-*yustisia* investigation (*penyelidikan*), because in Law 26 of 2000 concerning the Human Rights Court, if there are other matters that are not regulated in this Law, then the Criminal Procedure Code will be used in the ongoing process of investigation. So that in the case of an investigation there will be legal uncertainty. And the other problem is, due to legal uncertainty as explained above. Then there was a difference in views between *Komnas HAM* as investigators and the Attorney General's Office as investigators in seeing formal and material provisions in carrying out the procedural law for gross human rights violations in the *Rumoh Geudong* case.

Therefore, reflects that the position of the ad hoc human rights court and the provisions of the procedural law for gross human rights violations are still problematic because of the non-specific provisions of the law.

3. Law Number 26 of 2000 concerning human rights courts still contains many weaknesses which result in juridical obstacles in the application of Law No. 26 of 2000. These weaknesses include not completely adjusting the criminal acts regulated, namely Crimes Against Humanity and

Genocide Crimes which should also be accompanied by an explanation of the elements of criminal acts (elements of crimes). Law Number 26 of 2000 concerning the Court of Human Rights also does not regulate the procedure of evidence specifically to prosecute crimes that are “extraordinary crimes”.

## **B. Recommendation**

Based on the conclusions above, the authors propose the following suggestions:

1. In accordance with the provisions of Article 1 number 5 with conjunction Article 20 paragraph (1) of law number 26 of 2000 concerning the Human Rights Court, the National Human Rights Commission shall continue the results of the investigation (*penyelidikan*) of cases of gross human rights violations in the *Rumoh Geudong* case to the Attorney General to be followed up with investigation (*penyidikan*) and prosecution (*penuntutan*).
2. To advise the Attorney General's Office of the Republic of Indonesia to accept and follow up on the recommendations of the investigation into the alleged past gross human rights violations in the *Rumoh Geudong* case that was sent by the National Commission on Human Rights.
3. Recommend to the executive (*pemerintah*) and legislative (*DPR RI*) branch to separate the two documents between formal and material elements, namely the document The Elements of Crime and The Rule of

Procedure and Evidence document. Because according to the author 2 legal provisions are put together as existed in Law 26 of 2000 concerning Human Rights Court will complicate the completion process based on unclear rules.

