

Research Article

Legal Liability for Crimes against Humanity as A Form of Human Rights Violation (Criminal Law Perspective)

Juanrico Alfaramona Sumarezs Titahelu
Faculty of Law, Universitas Pattimura Ambon
juanricotitahelu80@gmail.com

ABSTRACT

Moluccas is known as its “*Pela-Gandong*” culture, an old tradition where the local community live together hand in hand compassionate and respecting each other, maintaining kinship relation. Cases of Human Rights violation in 1999 and 2011 in Ambon have brought serious damage to the kinship relation of local community in Ambon. This study aims to examine and discuss legal responsibility for violence against humanity as a form of Human rights violation. This study used some approaches as legislations, case based approaches, and conceptual approaches. This study shows that criminal system in Indonesia is based on individual responsibility, however, the action done by a group or an organization is a crime against humanity. Legal responsibility for crimes against humanity as a form of Human Rights violations like what happened in Moluccas can be charged to the leader or the officials in the form of imprisonment. Meanwhile, punishment or sanction to the organization must be in the form of organization dissolution.

Key words : Legal Responsibility/liability; Crime against Humanity; Criminal Law.

A. INTRODUCTION

Human rights belong to all human being (Erdman, 2017). Regulations on human rights have existed since Pancasila was promulgated as the blue print of Indonesia as a Nation, although implied, regarding relation between human and the One and Only God and the relation between one human to others (Yanto, Rahmadi, & Sari, 2022). This concept is conveyed in the principles of Pancasila. In the Law Number 39 Year 1999 on Human Rights, the regulation of Human Rights is determined by referring to United Nations Declaration of Human Rights (Supriyanto, 2014).

Pancasila as the legal foundation of the Republic of Indonesia contains morals and equality for all Indonesian people without discriminating races,

tribes, and religions. The regulating of Human Rights basically relates to the essence of the fifth principle of Pancasila, which is social justice for all Indonesia people. This principle means that The Country shall guarantee legal protection for each and every individual, particularly in this case this means that the Country is responsible to provide justice and legal certainty for the victims of gross violation of human rights in the past (Saira, Sakinah, & Pasca P, 2020). Conflicts or disputes between society groups happen in various places in the world The settlement of those conflicts or dispute indicates that the enactment of international law in the settlement of violation of human rights do not reach crimes which are categorized as violation of human rights such as violation against humanity (Titahelu, 2019b).

While legal subject is responsible for Human rights violation, the violation of human rights emphasizes on state responsibility according to both criminal law and international law (Yuningsih, 2020). The State responsibility deals with protection for rights to individual freedom and rights to communal freedom (Daud, 2021). The occurrence of violation committed by one party to another party and vice versa has demanded the state responsibility for the loss of rights to individual freedom and individual group of each party (Titahelu, 2003).

International crime can be categorized as serious crime (Erdman, & Cook, 2020), because it involves several countries, and most of the crime committed is considered inhumane, so that it becomes main attention of international community in some other countries (Latukau, 2020). International crimes categorized as serious crimes are crimes which involve violation to human rights. Gross violation to Human Rights consists of genocide, crimes against humanity, war crime, and aggression crime (Ratnawati, 2020). All of the crimes mentioned frequently happened in international scale, as for example in World War II, in the case involving Nuremberg and Tokyo, and also in the case involving Rwanda and Yugoslavia, crimes committed in those cases can be called and/or categorized as gross violations to Human Rights (Fani, 2020).

This is in line with the thought of the following Author:

“Most victims of acts of terrorism are those who do not know anything about the goals of terror carried out by terrorist. In recent years it has shown that terrorist attacks are a very serious

threat to individuals, society, countries and the international community. Terrorism is not an ordinary crime but is an extra ordinary crime even classified as a crime against humanity” (Titahelu, 2021).

One example of a case of violation to human rights occurred in Moluccas, in the city of Ambon. The case which was a humanity conflict occurred on 19 January 1999 which then reoccurred in 11 January 2011 has brought adverse consequence in kinship life of local community in Moluccas. As we all know, since the beginning of 1999, social conflict happened in Ambon which then spread to almost all parts of Moluccas. This conflict put Muslim community – which in local language is called Acang (from the word ‘Hasan’) – head to head with Christian community called Obet (from the word ‘Robert’). In this conflict, Acang community occupied coastal area and low land residence while Obet community occupied high land and hill area residence. Most of Houses, shops, and all buildings owned by Obet community which were occupied by Acang community at that time were looted and burn down. The same case also happened with properties of Acang community which were located at the area controlled by Obet community. They were all burn down and looted. Consequently, as we can see, hundreds or even thousands of people’ houses and shops were burn down. Fundamental infrastructures and facilities such as government offices, schools, telecommunication network, and water supply network became the target of the riot. Riot in Ambon, Moluccas in 1999, an accumulated social friction which grew into massive conflict occurred in 11

September 2011, was not completely a conflict of religion. The conflict was actually rooted from the dissatisfaction of some group of the local community of the social political condition which alluded the sentiment of religion difference (Kompas, 2011). As we all know, Moluccas is well known for its community kinship, where people live side by side with compassion and respect to each other. This way of life is driven by the culture and tradition which has existed since a long time ago called "*Pela Gandong*" "*Pela Gandong*" has principle that a cut in the nail will also feel hurt in the flesh. This is the reflection of kinship in Moluccas. When one person suffers, the others will also feel suffered. Ironically, the social incidence had made the kinship among communities in Moluccas became loosen.

The state responsibility can be manifested through positive law (Dimiyati, & Angkasa, 2019). Positive law in this case is criminal law on the cases of gross violation of Human Rights, and international convention also mentions the presence of individual responsibility and group or organization responsibility. Procedure or mechanism of responsibility for violation of human rights depends on the cases handled because there are various roles involved, such as the role of the state, individual, and the organization.

Conflict occurred in Moluccas in 1999 and 2011 is violation of Human Rights and is classified into non-international armed conflict. Nevertheless, in this conflict occurred in Moluccas, the government is required to provide protection to human rights from

various kinds of violations in the form of physical assault committed by irresponsible people.

The definition of the concept of "liability" in essence is about acts, morals, punishment which all indicates "error". Therefore, the principle of error (the principle of culpability is a fundamental principle in criminal law. Thus, to prove whether a person can be punished or not must be based on whether the act he/she are accused has fulfilled the elements of the offense. If it is fulfilled the elements of the offense, then proceeded to the second stage, which is to see whether there is error and whether the perpetrator can take responsibility (Wongkar, 2006). Liability pr responsibility in legal criminal law domain focuses on the error occurred because of the violation of the provisions of laws (Pratama, 2020).

The ability to be responsible for the action if seen from the inner or mental condition of the person committing the crime is the ability to be responsible, and this becomes foundation to determine the presence of error, in that the mental condition of the person committing the crime must be categorized as normal because a normal and healthy person can control his/her behaviors according to what the society consider good behavior. Meanwhile, for a person who is considered not healthy and not normal, this standard is not applicable for them, thus it is no use to bear responsibility to him/her as stipulated in the provision of Chapter III Article 44 Criminal code (Bahreisy, 2016).

Hans Kelsen explained a theory about responsibility in law. Kelsen stated that the concept of legal responsibility/ liability is the concept of legal

liability. A person is said to be liable in law for a certain crime means that he/she can be charged in a case of an act against the law. Normally, in a case, sanction is charged to the actors (*deliquent*) because his/her act makes him/herself responsible for that (Asshiddiqie, & Safa'at 2012).

In brief, *Pela-Gandong* can be described as an alliance among villages whose people are from different religions. *Pela-Gandong* consists of a village with all Islam villagers and a village with all Christian villagers (Titahelu et al., 2015).

The alliance is in the form of kinship known as *gandong*. The word '*gandong*' is derived from the word '*kandung*' (blood-related). It means that two or more *negeri* are in alliance because villagers of all *negeri* within a certain alliance are descendants from one same womb. The people of *negeri-negeri* are called *gandong*, or *bongso* (also often pronounced as "*bonso*"). Some examples are the relation between "*bongso*" or "*bonso*" between *negeri* Tamilouw (whose villagers are Islam) in Seram and *negeri* Siri-sori Serani and Pia Village (whose villagers are Christians) in Saparua Island and *negeri* Hutumuri (whose villagers are Christians) in Ambon island. Another example is *Gandong* alliance between *negeri* Naku (Christians in Ambon island) and Larike (Christians in Ambon island), *negeri* Ema (Christians in Ambon island) and *negeri* Batu Merah (Islam in Ambon island). *Pela* alliance is not merely friendship and ordinary alliance. *Pela* alliance also characterizes brotherhood although each pair of *pela* is not from the womb of the same mother. Wasisto Raharjo Jati said that *pela* is usually conducted in the

form of *tuak* (liquor) drinking which is mixed with the blood of both *negeri* (village) chiefs, showing *pela* relation between both *negeri* and remembering their descendants forever (Jati, 2013). *Pela Gandong* is also symbolized as the relation between brothers between both *negeri*. The example of this alliance is between *negeri* Oma (Christians in Haruku island) and Ulath (Christians in Saparua island) with Buano (Islam, in a small island on the west of Seram island). Another example is *pela* alliance between *negeri* Ema (Christians in Ambon island) and *negeri* Ameth (Christians in Nusa Laut island), and *negeri* Naku (Christians in Ambon island) and Batu Merah with *negeri* Passo, and also *pela* alliance between *negeri* Siri-sori Islam (whose all of villagers are Islam) in Saparua island and *negeri* Haria (whose all villagers are Christians) also in Saparua island. Another example is *pela* alliance between *negeri* Ori (whose all villagers are Islam) in Haruku island and *negeri* Tuhaha (whose all villagers are Christians) in Saparua island.

Based on the aforementioned explanation, it can be concluded that the dispute occurred in Moluccas in 1999 and 2011 needs to receive special attention from the concerned government in terms is the crime against humanity as a form of Human rights violation. The problem in this study is what is defined as an act of violation to human rights? ; and what is legal liability for crime against humanity as a form of violation to human rights? General aim if this study is to answer and examine the existing problems related to legal liability for crime against humanity as a form of violation to human rights.

The studies examining legal liability for crime against humanity as a form of violation against humanity are various and have their own characteristics. This study is different from several previous international or national studies. Those national and international journals are as follows; Zunnuraeni talked about legal politics of Human Rights enforcement in Indonesia related to cases of gross violation to Human Rights (Zunnuraeni, 2013); Juanrico Alfaromona Sumarezs Titahelu talked about The Settlement of Crime against Humanity Conflict occurred in Moluccas after 1999's riot. (Titahelu, 2019); Juanrico A.S Titahelu, Irwansyah, Hamid Awaludin, Muhammad Asri discussed The Strengthening of *Pela-Gandong* Based on The Theory of Justice by Jhon Rawls in order to build economic, social, and cultural life of traditional society in Moluccas (Titahelu dkk, 2015); Luh Putu Sela Septika discussed the regulation of the government liability in legislations related to the settlement of Human Rights violation and provided clear picture of the effort to settle Human Rights violation committed by the country. The government liability meant in this study is the responsibility arising from the occurrence of human rights violation (Septika, 2016); Ryan Fani discussed the definition of command responsibility in the scope of international crime, what is the purpose and concept of the implementation of the doctrine of command responsibility for gross violation of human rights in International Criminal Law (Fani, 2020); and Oksiderfa Yanto, Imam Fitri Rahmadi & Nani Widya Sari discussed the reasons of justification and

remission for justice and human rights (Yanto, Rahmadi & Sari, 2022). All those previous studies have contributed in the state of the art (the novelty of this study) of this study particularly in the form of theories and references or other supporting sources for this research. All the international and national journals mentioned previously emphasize on different perspective. The study emphasizes on Legal Liability for Crime against Humanity occurred in Moluccas in 1999 and 2011 As A Form of Violation of Human Rights.

B. RESEARCH METHODS

The study is normative legal research or also called literature study of legal research (Disemadi, 2021). Soerjono Soekanto and Sri Mamuji define normative legal research as legal research which is conducted by researching literature sources (HS, & Nurbani, 2013), or a research which is based on legal provisions in positive legislation (Marzuki, 2005), which then is used to address the issue at hand. The approach used in this study was conceptual approach and legislation approach (Atmadja, 2015).

C. RESULTS AND DISCUSSION

1. Normative Study of the Act of Violation to Human Rights

Etymologically, a right is a normative element which functions as guidelines of behavior, to protect freedom, immunity and guarantee the presence of opportunity for human being to defend his/her pride and dignity. Meanwhile, basic means essential or fundamental. Thus, basic human rights means the

most fundamental rights owned by human being as the nature so that nobody can intervene or revoke them. As for example the right to live, no one in this world has authority to take the life of other human being. The term of 'human right itself' comes from the term "*droits l'home*" (France), '*menselijke rechten*' (Netherlands), '*fitrah*' (Arabic), and '*human right*' (English) (Faisal, 2019).

Article 1 number 1 Law number 39 1999 stipulates that "Human rights mean a set of rights bestowed by the Almighty God in the essence and existence of humans as creations of the Almighty God and which must be respected, upheld in the highest esteem and protected by the State, law, Government, and every person for respectability as well as protection of human dignity and worth." The provision of this Article clearly stated that the state and the government have obligation to protect Human Rights, which are the fundamental rights. Violation to human Rights can be done by an individual or a group of people including by government officers, whether the act of violation is intentional or unintentional. Negligence against the law in the form of eliminating, obstructing, eliminating, and or revoking Human Rights as guaranteed by Law No. 39/1999 is categorized as violation, even in the case when there is no fair and proper legal settlement which follows legal mechanism or, it is worried so, it is considered violation (Article 1 number 6 Law No. 39/1999) (Septika, 2016).

The presence of Universal Declaration Of Human Rights, which was declared on 10 December 1984, is a moral form which gives big impact on

human kind and motivate all human being to be educated about humanity. The beginning of the declaration is a control over all issues of crimes against humanity that are neglected and degraded, and is about how to examine this issue further and how to overcome it.

Human Rights have become everyday topic and have been applied in bureaucracy, military, and society. In order to understand the concept of Human Rights, the definition of right becomes important. A right is a normative element which functions as guidelines of behavior, to protect freedom, immunity and guarantee the presence of opportunity for human being to defend his/her pride and dignity. According to Law No. 26 year 2000 on Human Rights Courts, Violation to Human Rights is an act of a person or group including government officers with or without intent resulting in negligence which legally eliminates, obstructs, limits, and or revokes a person's or group of people's Human Rights, which are guaranteed by Law, and there is no legal settlement, or it is worried that it will not receive fair and proper legal settlement according to legal mechanism of positive law. Violation of human rights can be committed by state actors or non-state actors (Sabila, Bustamam, & Badri 2018).

Violation of Human Rights is defined as every act conducted by a person or group including state officers with intent, or any negligence which against the law eliminates, obstructs, limits, and revokes human rights of a person or a group, guaranteed by law, and there is no or it is worried that there will be no fair and proper legal settlement according to the

applied legal mechanism. Violation to Human Right occurs when the state and its officers fail or do not perform their obligation to respect, protect, and fulfill Human Rights leading to eliminating or losing the fulfillment of human rights (Sriwidodo, 2020).

An act or behavior of crime against humanity is Violation to Human Rights that can be committed by a group of people or an organization. So far, the issue on protection and the enforcement of Human Rights has frequently focused on natural person's responsibility, as a matter of fact, there have been many cases categorized as violation to Human Rights committed by a small or big group instead.

Nowadays, gross violation of Human Rights has become a continuously debatable issue. Theoretically, gross violation of human rights is an unlawful act and there is no reason to justify it. However, there are certain elements which differentiate this crime from other ordinary crimes or at least considered so and resulting in the implementation of universal jurisdiction (Agustina, 2018)

As mentioned previously, there is no one effective definition to explain an act that can be categorized as gross violation of Human Rights. Various forms of gross violation of Human Rights are not sufficiently explained by only one law definition. Nuremberg's Charter of the International Military Tribunal states crimes that can be categorized as gross violation to Human Rights are as follows: 1) crimes against peace. What includes as crimes against peace are: planning, preparation, initiation, or waging of a war of aggression, or a war

in violation of international treaties, agreements or assurances; or participation in a common plan or conspiracy for the accomplishment of any of the foregoing; 2) war crimes, including violation of the laws or customs of war such as murder, ill-treatment to civilian population by exiling them, practicing slavery to civilian people, or in the occupied territory, ill-treatment and murder of prisoners of war or persons of the seas; plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity; 3) crimes against humanity: namely murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; persecutions of fundamental rights on political, racial, or religious grounds. The leaders or the persons who organize, incite, and assist those who participate in arranging or executing the plan together with the group to commit those foregoing crimes are responsible for the actions committed by those people (Nusantara 2021).

Crimes against humanity are regulated in Article 9 Law on Human Rights Court. This Article stipulates that "Crimes against humanity as referred to in Article 7 point b is any action that is deliberately committed as part of a widespread or systematic attack directed against any civilian, in the form of: Murder; Annihilation; Slavery; Expulsion or deportation of residents by force; Deprivation of liberty or arbitrary deprivation of other physical freedoms which violate (principles) the basic provisions of international law; Torture; Rape, Sexual

slavery, Forced prostitution, Forced pregnancy, Forced sterilization or other forms of sexual violence; persecution of a certain group or association based on the same political understanding, race, nationality, ethnicity, culture, religion, sex or other reasons that are universally acknowledged as being prohibited under international law; forced disappearance; or crime of apartheid.

This Article was directly adopted from the concept written in Rome Statute. However, different from the concept conveyed in Rome Statute, the concept of crime stipulated in Law number 26 Year 2000 was distorted in its interpretation so that it causes fundamental differences from the concept applied in Rome Statute (Zunnuraeni, 2013).

Rome Statute in Article 30 stipulates that there is intent and knowledge of the actor to commit the act or to participate in committing the act. In relation to the consequence of the act or the conduct, the actor has intent to, or consciously, yields the consequence from the act about to happen. Meanwhile, knowledge is defined as sensitivity or comprehension about the act or the impact of the act.

2. Legal Liability for Crimes against Humanity as A Form of Violation of Human Rights

Indonesia is a state based on law thus each and every public activities must be based on the positive regulations and the applied norms in the society. Law cannot be separated from human life because law is rules to regulate human's behavior. Legal norms existing in today's society are often violated, consequently there have been many

violations to law committed by the people (Sibuea, 2016).

Articles in The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) does not specifically regulate how is the implementation of government liability for the handling of Human Rights issues. Yet, it is stated that the government liability is a very pivotal part particularly in providing protection, development, strengthening, and fulfillment of Human Rights.

Hadibah Z Wadjo stated that:

“The effectiveness of a law product to be enforced in a society must be supported by good law enforcement by law enforcers, besides that the community also takes an important role in its enforcement which is manifested in the form of obedience.” (Wadjo et al., 2021)

The 1945 Constitution and Pancasila become the foundation or the state of Indonesia. The various different regulations applied in this country make this country a legal state whose people have to obey those rules and regulations. As a state that is based on law, the behavior and act of the people become limited. It is allowed to do any activities only if the activities are positive, meaning that they do not cause any harm to the surrounding environment and do not hurt people. The aim of the enactment of rules and regulations in the state of Indonesia is to manifest prosperity, justice, and welfare for all of the people living in Indonesia including any foreigners visiting must also follow the positive rules to maintain the harmony in society (Manggala, Dewi, & Suryani 2021).

The 1945 Constitution of The Republic of Indonesia guarantees Human Rights as mentioned in Article 28A – 28J. The Constitution states that Human Rights or every individual are highly upheld. Further arrangement on Human Rights is provided in the existing regulations. Nevertheless, Violation of Human Rights in Indonesia has long existed even since Indonesia was occupied, and continuing until after the independence of Indonesia. The settlement of violation of Human Rights occurred has not been fair despite the fact that Human Rights, as guaranteed in The Constitution, are the most fundamental rights and the presence must be guaranteed. In addition, the state has to protect its citizens from the violation of Human Rights (Astuti, 2016).

The Constitution clearly regulates legal liability for violation against humanity, and the aim is to specifically provide thorough protection in the enforcement of Human Rights. When the government, in this case the state, violates Human Rights, the government may be brought to National Human Rights Court, and also International Crime Court.

Particular criminal law does not only regulate material criminal law, but also regulate procedural law, therefore, it is important that those regulations must carefully follow general principles stated in Criminal Code, for material criminal law, and, for formal criminal law, must follow the provisions stipulated in Criminal Code (KUHAP) (Titahelu, 2019a).

In Indonesia, there are various forms of injustice and gross violation of human rights that have happened in the old order era or in today's reformation era. Those gross violations have caused suffering for the victims, the victims' family, and people in general. Moreover, those violations have never been objectively revealed, and there has been no fair and adequate settlement or solutions (Jailani, 2011).

In order to enforce Human Rights, a country needs juridical mechanism to charge those actors of conflict in the case of Human Rights violation to regain Moluccas people's trust to respect dignity as human being based on the state of law. However, in reality, people's hope that there will be punishment for Human Rights violation is still far from the realization. The effort to fight violation of Human Rights still faces many obstacles, either politically or technically.

It is important to note that there are several indicators or qualifications of crimes against humanity. Those indicators are 1) The conduct or act must be committed as an element of violence which is widespread and systematic, planned and focused on civilians; and 2) Certainty that there is knowledge of the actor that the act or conduct performed is planned to accomplish the goal of the assault which is widespread and well organized against the people or civilians.

Provisions in Criminal Code of Indonesia related to gross violation of Human Rights also stipulate the types of crimes, namely, murder, deprivation of liberty, torture or persecution, and

rape. The types of crimes stipulated in Criminal Code are the types of crimes which are considered ordinary crimes. These crimes must fulfill the provisions in Indonesia's Criminal Code concerning gross violation of Human Rights which also regulates the type of crimes, namely, murder, deprivation of liberty, torture or persecution, and rape. The types of crimes regulated in Criminal Code are the types of crimes which are considered ordinary crimes. In order to be qualified as gross violation of Human Rights, they must fulfill some elements or certain characteristics according to Rome Statute.

Considering that there is no regulation that explicitly requires the court to adopt the practice of international law, it is uncertain whether the interpretation will also be used in Ad Hoc Human Rights Court in Indonesia. However, in the case of gross violation of Human Rights, the judge's interpretation of the substance of law towards an individual cannot be based on national law of his/her state because gross violation of Human Rights is not only national problem, it has become an international issue. Thus, the interpretation towards the actor as an individual must obey international requirements, more than the obligation to his/her national law, binding the judge in term of legal moral (Meyners, 2021).

History has condemned that violation of Human Rights relate to the lack of awareness of law enforcement and government's intent to implement the norms of Human Rights. This happens as in the case of human rights occurred in Moluccas on 19 January 1999, specifically in the city of Ambon in the

form of humanity conflict which then reoccurred on 11 September 2011, leading to adverse consequence for the people of Moluccas.

Therefore, the absence of law after humanity incident occurred in Moluccas need to be solved. The handling of the issue is pivotal in order to enforce Human Rights firmly based on the principle that there is no such crime that cannot be punished. To handle the absence of law, a set of new legal norms can be made as legal liability of a group of people or an organization for the violence which causes crimes against humanity. .

One interesting issue for the author is concerning legal liability for crimes against humanity as a form of violation of Human Rights. Hans Kelsen stated that legal obligation is positive legal norm which controls an individual's behavior by imposing sanction for the reversed behavior. An individual is legally required to behave in a certain way, the individual who receives sanction is said to be responsible or liable or legally liable for the violation (Kelsen, 2014).

The types of groups involving in the conflict occurred in Moluccas which the author found during this study are 1) A group which was systematic in an organized pattern and had many members 2) A group in a simple organization with few members; and 3) A group which was not systematic like followers. The author notices that the present system of criminal law holds to individual responsibility, however, as mentioned by the author previously, the action of the conduct committed by a group or an organization is crimes against humanity. Therefore,

violation against humanity, in the author's opinion, is one form of gross violations of Human Rights, and it is necessary for the actors who commit the violations and crimes against humanity in Moluccas to not be freed from legal consequence because, as mentioned previously, there is no such crime that cannot be punished.

In the case of crimes against humanity as a form of violation of Human Rights which occurred in Moluccas as conducted by the group type (1) and (2) or by any groups or organization, in the author's view, the legal liability can be given to the leaders or to the board of officials while the sanction for the group or organization must be in the form of dissolution of the organization or group. Meanwhile, imprisonment can be charged to the actors, in this case the leaders or officials. In this case, it is the idea of the actors who were proposing the act or conduct against personal legal liability system for the crime of humanity as a form of Human Rights violation. As we all know, nowadays there have been many incidents of violence or crimes as what happened in Moluccas which cannot be treated as ordinary crimes, but they are considered gross violation of Human Rights which instead require the government to seriously handle the issue and provide legal protection for the victims.

D. CONCLUSION

An Act or conduct against humanity is violation of Human Rights. This act can be committed by a group of people or an organization. The protection and enforcement of Human Rights mostly focus on

personal liability (natural person), however, there have been many cases in reality which were categorized as violation of Human Rights committed by either big or small groups. The types of groups involved in the conflict occurred in Moluccas are as follows : (1) A group which was systematic in an organized pattern and had many members, (2) A group in a simple organization with few members, and (3) A group which was not systematic, like followers. In the case of crimes against humanity as a form of violation of Human Rights which occurred in Moluccas as conducted by the group type (1) and (2) or by any groups or organization, in the author's view, the legal liability can be given to the leaders or to the board of officials while the sanction for the group or organization must be in the form of dissolution of the organization or group. Meanwhile, imprisonment can be charged to the actors, in this case the leaders or officials.

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