

PAPER NAME

ASLI Conference.pdf

WORD COUNT

5608 Words

CHARACTER COUNT

30798 Characters

PAGE COUNT

11 Pages

FILE SIZE

1.0MB

SUBMISSION DATE

Jan 11, 2023 5:59 PM GMT+7

REPORT DATE

Jan 11, 2023 5:59 PM GMT+7

● 14% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

- 14% Internet database
- 2% Publications database
- Crossref database
- Crossref Posted Content database
- 4% Submitted Works database

● Excluded from Similarity Report

- Bibliographic material
- Quoted material
- Cited material
- Small Matches (Less than 10 words)
- Manually excluded sources

³ **15th Asian Law Institute Conference**
Theme: Law into the Future: Perspectives from Asia.

CERTIFICATE OF APPRECIATION

Presented to

Dr Yustina Trihoni Nalesti Dewi

of

Soegijapranata Catholic University

for attending and presenting a paper in the

15th Asian Law Institute Conference


held at the

Seoul National University School of Law

10th & 11th May 2018



⁸ Associate Professor Gary F Bell
Director
Asian Law Institute
National University of Singapore



⁹ Professor Hong Sik Cho
Dean
Seoul National University
School of Law

³ *Law into the Future: Perspectives from Asia*

15th Asian Law Institute Conference

Hosted by Seoul National University (SNU) School of Law
10 & 11 May 2018, Thursday & Friday

COVER PAGE FOR PAPER SUBMISSION

¹ **Collective Reparation Program for Victims of Conflict:**

A Case Study of Peace-building Efforts within Post-Conflict Ambon

Yustina Trihoni Nalesti Dewi

Soegijapranata Catholic University

trihoni@unika.ac.id

² **Note:**

Please note that ASLI will distribute the papers electronically to conference participants only for the sole purpose of discussion. Hard copies of individual papers will not be printed and distributed. Printing stations will be made available if you need to print the presented papers. However, we do discourage the printing of too many copies, so as not to waste paper. Kindly note that neither the soft copies nor hard copies of individual papers will constitute publication; papers will not be published by the conference organisers or made available to individuals or libraries. Presenters will retain copyright of their papers and are free to submit them for publication elsewhere. No papers must be cited without prior permission from the authors.

Submissions may be made separately to the ASLI flagship journal, the *Asian Journal of Comparative Law*. Please refer to their website at <http://law.nus.edu.sg/asli/asjcl.html>. The decision to publish will be made independently by the journal's editorial boards, not the conference organisers or ASLI.

For ASLI Secretariat Use Only

Date of Presentation (delete where applicable):	³ Thursday, 10 May 2018 Friday, 11 May 2018
Panel Assigned:	

I. Introduction

Ambon, a city having plural ethnic and religious communities that lived in harmony, brothers side by side, for decades, unexpectedly became an extraordinary arena of violence, which because of their different religious identity could reciprocally kill, destroy and humiliate. What happened to Ambon that is always known as *Ambon Manise* (Sweet Ambon)? In accordance with such a name, Ambon before the conflict always portrayed a harmonious, peaceful, and happy life. *Ambon Manise* is a slogan that was much attached and became a communal self-image that morally ethical governed the view of living together in community. Ambon's local wisdom reflecting the *manise* life, since the beginning, always teaches how to live in brotherhood through the internalization of *Hidop Orang Basudara* values in *Pela* bond (brothers due to binding oath) and *Gandong* (brothers because of the same gene). *Pela* and *Gandong* bond in the *Hidop Orang Basudara* habitus have been being enlivened by generations so they could ward off any effort of destroying Ambon's harmony as a habitat of life.

However, the efficacy of *Hidop Orang Basudara* and *Pela-Gandong* local wisdoms in countering conflicts should be examined when only because of a minor dispute between two youths from different communities, Christians and Muslims, Ambon was then dragged into a high-mass and massive escalation conflicts. A small incident on Eid al-Fitr commemoration at Batumerah, between Muslim and Christian youths had sparked widespread and enlarged conflicts.¹ Ambonese people who once lived peacefully, suddenly found themselves having to fight, a situation that forced them to be conflict actors and victims of the conflicts at a time. Because of the anger and hatred coming from nowhere, Ambon was then completely segregated and devastated. In the period of 1999-2002, thousands of people died, injured and physically disabled, 80% of public facilities and homes were destroyed, thousands of people also became refugees and homeless losing land they occupied for life and lost property. Even the suffering and impact of the conflicts remain existing today.

The suffering of the Ambonese communities added by unobviousness of the reparation program for the conflict victims are still felt to date. A lot of excuses and interpretations saying that happenings in Ambon were horizontal conflicts between two religion communities had obscured the issue of victim reparation. A reparation is considered as a recovery effort that is obliged to conduct by the State's only if the State has committed misconduct and violated the citizens' rights. Therefore, in horizontal conflicts the State's obligation to make reparations will not be a must. If the State was finally conducted a reparation it does not arise because of the State's obligation as the consequences of wrongdoing acts but it is only part of the State's routine task to organize and manage the life of its people.

This paper will give arguments of the State's obligation to make reparation of the conflicts in Ambon both because of the omissions and commissions act committed by the State in the conflicts which, on the other hand, entails the rights of the victims to fulfill. Furthermore, it will analyze the collective reparation forms which belong to Ambonese rights in which these reparation forms have not yet been established and are still growing in the context of society and international law.

II. Ambon Conflict

¹ C.J.Böhm msc, *Brief Chronicle of the Unrest in the Moluccas*, CRISIS CENTRE DIOCESE OF AMBOINA,

Daily Report of Ambon Conflicts, Unpublished, 2006, p. 11

1 Ambon is the capital of the Province of Maluku and has long been an epicenter of culture and economy, rich in local wisdom and customary practices. 1 Ambon is a multi-ethnic migrant town with inhabitants from varying ethnic, religious, and traditional backgrounds. 1 Ambonese immigrants originated from a multitude of regions, both inside and outside of Indonesia, creating an Ambonese society that is pluralistic in nature and was welcoming to diversity². In the past, migrants 1 subsequently established their own communities in Ambon after settling, giving rise to districts inhabited by groups of Chinese, Arabic, Javanese, Timor, Toraja, Bogor, Tapa, Kisar and other ethnicities. These migrants 1 identified themselves not merely based on their respective ethnic group or merely being Ambonese but are simultaneously in a so-called cross-cutting affiliation³.

In 1999 the Maluku sectarian conflicts erupted and quickly widespread to cause sufferings and damages in Maluku. A small spark in the form of political rivalries between Ambonese gangs in Jakarta eventually 1 spread to Ambon and triggered the first conflict in January 1999 after a relatively small incident between Muslim and Christian youths on the Feast of Eid day at Batumerah⁴. Due to the segregated nature of Ambonese society, this conflict quickly spread and culminated in a widespread civil war between religious factions, predominantly that of Muslims against Christians.

The Ambon conflict was not propagated by religious tensions and hate alone. Many historical, 1 cultural and political factors also played a decisive role in fuelling the conflict. Some studies alleged that the conflicts and violence occurring 1 in Maluku were systematically incited and propagated by military and political leaders' agendas in Jakarta for political and economic motivations. Moluccas Christians, who were traditionally majority in that area, were threatened 1 by the gradual influx of Muslims post-1965. Many of these new inhabitants were Javanese Muslim political prisoners 1 accused by Soeharto's New Order of collaborating with the Communist Party (PKI). Muslims also arrived by virtue of the New Order's transmigration policy, in particular 1 from the Muslim-dominant Buton, Bugis and Makassar regions, in addition to the migrants coming to Ambon because of their own initiative⁵. The Christian Ambonese initially welcomed the migrants as low-waged manual workers but the Muslims gradually raised their economic and political standing and started to occupy important government and bureaucratic positions⁶. This presented a threat to the Christians who were content with the status quo.

Propaganda and hate speech spread during the conflict reflected the underlying complex political and economic strife between the groups. On the one hand, Christians spread the fear of the Islamisation of national Indonesian politics and the threat of a transition into an Islamic or Sharia state⁷. Indonesian National Army (TNI) soldiers were accused of taking no action to stop the conflict and allegedly even supporting the Muslims when slaughtering Christians. On the other hand, Muslims propaganda primarily political and educational opportunities from the Dutch colonial

² Aholiab Watloly, 'Gambaran Umum Kota Ambon', Manuscript presented to the Desain Ruang Publik berbasis

Kearifan Lokal Kota Ambon FGD (Ambon, October 2016) pp. 2-4.

³ *Ibidem*, pp. 2-4

⁴ C.J. Böhm, 'Brief Chronicle of the Unrest in Maluku' (Crisis Centre Diocese of Amboina 2006, unpublished)

p. 11

⁵ Böhm, *op.cit.*

⁶ Böhm, *ibidem*

⁷ Böhm, *ibidem*

rulers. ¹ Suspicion was also directed at the Christians for not supporting The Royal Dutch Indies Army (KNIL)⁸.

The conflict persisted and escalated ¹ over a long period of time. From January 1999 to October 2002, approximately 15,000 individuals were reported dead and 8,000 injured and 187 schools, 103 public offices, 39 medical facilities, 13 hospitals, 23,600 houses, and 144 churches and mosques were destroyed or burned. The war displaced 425,679 people, 80,686 of which were forced to leave their native districts⁹. Refugees had to seek shelters in schools and religious sites. During the time Ambon was even furtherly segregated. Civilians were grouped based on the identitis of religion, market, schools, hospital, office, commerce, route of transport. The whole population was separated by a firm line of Muslims versus Christians.

III. Ambon Conflict is A Human Rights Violation

The question that frequently arose was whether such a conflict was a violation against human rights? By narrowing the notion of human rights violation as a violation of the citizens' fundamental rights the occurrence of massive atrocities in Ambon should be then seen as a violation against their fundamental rights. The further question was who had violated the human rights in the conflict? The State made excuses to dodge from its responsibility as the perpetrator of human rights violations by considering it as a horizontal conflict. To dismiss such opinion a research then needed to be carefully conducted.

The plural and segregated citizens of Ambon city since the days of the Dutch Colonial Government coupled with the arrival of immigrants and the formation of ethnic and religious based villages had factually created vulnerability¹⁰. The segregation existing since the independence of Indonesia until the end of the New Order Government was left to remain without adequate handling efforts even though the potential of vulnerability had been predictable from the beginning. ⁶ The enactment of the Law Number 5 of 1974 on the Principles of Regional Government reinforced by the Law Number 5 of 1979 on Village Government that unifies regional governments had furtherly sharpened the sentiments of different groups of the Ambonese society. The enactment of the two Acts had gradually eliminated the local sacred values as the unifying factor of various groups within Ambonese society and it was to be one of the forms of violation against people's customary rights. Both Laws caused Ambon local wisdom implemented in government order had been shifted by the concept formulated by the Central Government. This minimized the power and authority of the country's kings who were previously very authoritative and charismatic in ruling the local governments. This condition, in the conflictual atmosphere, would further exacerbate and increased the risk of friction among the communities because there were no leaders who were traditionally respected by generations. Eventually the sharpening of religious violence occurred in Ambon in 1999 although a number of studies showed that the violence was not solely due to

⁸ Böhm, *op.cit.* ¹ This unfounded perception ignores the fact that Ibrahim Ohorella, Muslim raja of Tulehu, had hosted numerous RMS meetings, directed his subjects to attend an RMS proclamation of independence in Ambon, and stockpiled sago rations for the RMS armed forces before Tulehu was occupied by the TNI. See ¹ Richard Chauvel (dissertation) in George J. Aditjondro, 'Orang-orang Jakarta di Balik Tragedi Maluku', available at: <http://www.michr.net/orang-orang-jakarta-di-balik-tragedi-maluku.html>, accessed 15 February 2017.

¹ Anonymous, 'Refugees Of Maluku And North Maluku And Their Problems', Background Paper for Lobbying Material, Session of UN Commission for Human Rights at the Agenda of Internally Dispacped People in the Region of Maluku and North Maluku (April 2003, unpublished), p. 1.

¹⁰ *Ibid*, pp 11 - 12

religious sentiments¹¹. Many people believed that the human tragedy at Mollucas was systematically triggered by the agendas of military and rulers in Jakarta who wanted to protect their political and economic interests. The intensity of the conflict was maintained by returning Ambon's thugs who had long roamed in Jakarta and brought the issue of rivalry among them to increase the heat at their homeland. The escalation of conflict increased after the actors behind the conflict brought thousands of *Laskar Jihad* (Jihad soldiers) members from Java¹². The presence of *Laskar Jihad* in Ambon, in the context of State's responsibility, made it obvious that the issue was to be the State's obligation to overcome the problems so that the chaotic situation would not increasingly rampant. However, the absence and silence of the State made dragging on the conflict caused more victims and this could be seen as one of the forms of human rights violations happening in Ambon.

Based on international law a State has an obligation to make reparations when it does wrongful acts. This obligation has become a principle of international law affirmed by the Permanent Court of International Justice (PCIJ) in the often-quoted *Chorzow Factory* case: "[i]t is a principle of international law that the breach of an engagement involves an obligation to make a reparation in an adequate form." The PCIJ also established that the ultimate purpose of reparations is to achieve *restitutio in integrum*: "so far as possible, wipe-out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed¹³. In the opinion of the International Court of Justice (ICJ), this obligation of a state *vis-a-vis* another state also exists in the relationship between State and individuals. Therefore, this obligation is incorporated into the confines of international human rights law. Once a state's responsibility for acts or omissions amounting to human rights violations has been established, that the state has the duty to repair the harm inflicted against individuals¹⁴.

This thought leads to a conclusion that the States misconduct or wrongdoing to take appropriate action in Ambon conflict has raised State's responsibility to pursue peace-keeping, peace-making and peace-building. In reconciliation context one of the most urgent and significant things to do is to make reparations to the victims. Reparations can be individual or collective.

IV. Collective Reparation as a State's Obligation to Conflict Victims in Ambon

It is clear that violations against human rights and against fundamental freedom, especially massively committed, is naturally impossible to be repaired. In such instances any remedy or redress stands in no proportional relationship to the grave injury inflicted upon the victims. It is nevertheless an imperative norm of justice that the responsibility of the perpetrators be clearly established and that the rights of the victims be sustained to the fullest possible extent.¹⁵ In this light, reparations are an imperative part of doing justice to all victims of gross human rights violations. Not

¹¹ Tamrin Amal Tomagola, Cornelis Lay, Lies Marantika, Ricky Palijama, & Yusup Madubun, *Format Ulang Birokrasi Kota Ambon*, Eddy O.S.Hiarj (editor), 2008, Ininnawa, Makasar, p. 17

¹² George J. Aditjondro, "Orang-orang Jakarta di Balik Tragedi Maluku", a library research and interviews with some informants both from in and out Mollucas, <http://www.michr.net/orang-orang-jakarta-di-balik-tragedi-maluku.html>, accessed on 15 February 2017

¹³ Permanent Court of International Justice, *Chorzow Factory* case, 1928 Ser. A. No. 9, § 47

¹⁴ International Commission of Jurists, *The Right to a Remedy and to Reparations for Gross Human Rights*, Geneva: Practitioner's Guide, Series 2, 2006, p. 9.

¹⁵ Final Report submitted by Mr. Theo Van Boven to the 45th Session of the United Nations Commission on Human Rights, UN Doc. E/CN.4/Sub.2/1993/.

only do reparations aim at restoring the victim's dignity, but also at promoting peace and reconciliation.¹⁶

Friedrich Rosenfeld states that "collective reparations [are] the benefits conferred on collectives in order to undo the collective harm that has been caused as a consequence of a violation of international law."¹⁷ From that sense Rosenfeld identifies that there are four elements in collective reparations:

- 1) Benefits which can take place in a variety of different forms. These benefits encompass symbolic (public apologies, memorials) or material reparations (development programmes).
- 2) The beneficiaries are collectives or groups.
- 3) They aim at redressing a 'collective harm' which victims who 'share certain bonds, such as common cultural, religious, tribal, or ethnic roots' suffered.
- 4) The harm resulted from a violation of international law.

In international law the collective reparation is not solely a product of jurisprudence. Both the UN 2005 Basic Principles¹⁸ and the Updated Set of Principles to Combat Impunity¹⁹ have supported the provision of reparations both individually and collectively. Similarly to the Rome Statute of 1999, it has also contributed to the "number of victims and the scope" make this form of reparations "more appropriate"²⁰

To further discuss the reparation problems, the concept of the victim is very important to be clarified. The 1985 Declaration²¹, defines the victims as follows:

A Victim is a person who, personally or collectively, has suffered losses, including physical or mental injury, emotional suffering, economic losses or considerable destruction of his/her fundamental rights, caused by acts or omissions that constitute a serious violation against International Human Rights Law or International Humanitarian Law²².

There are some important things that need to be underlined from the passage above. First, the loss can be suffered by an individual or a group (e.g. a customary group). These provisions are essential elements that can be rediscovered in almost all modern instruments relating to remedies²³. Although heavy damages towards the environment, for example, do not inspire a particular person, the damages can affect all the people who live in the area, and if they happen the community have the rights

¹⁶ T. van Boven, 'Reparations: a requirement of justice', in: *Memoria del Seminario: El Sistema interamericano de protección de los derechos humanos en el umbral del siglo*, Costa Rica: CDIH 1999, p. 668, dalam Diana Contreras-Garduno, "Defining Beneficiaries of Collective Reparations: The experience of the IACtHR", *Amsterdam Law Forum*, Vol 4:3, hlm. 42

¹⁷ F. Rosenfeld, *Collective Reparations for victims of armed conflicts*, International Review of the Red Cross 2010, p. 732.

¹⁸ International Commission of Jurists 2006, supra note 18. Preamble: Noting that contemporary forms of victimisation, while essentially directed against persons, may nevertheless also be directed against groups of persons who are targeted collectively.

¹⁹ Principle 32, ECOSOC, E/CN.4/2005/102/Add.1, 8 February 2005, at: <http://daccessddsny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement> (accessed on 10 August 2012).

²⁰ Rule 98(3) of the ICC Rules of Procedure and Evidence reads as follows: "The Court may order that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate."

²¹ See and compare with ResVCAP §§ 1-3

²² PRPBB § 8 ("[V]ictims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.")

²³ See PRPBB § 8, 13; Boven93 ¶ 14 (5-6); ResVCAP §§ 1-2

to demand remedy for the damages suffered. The scope of the definition of victim is extended by the addition in the same paragraph saying:

The term "victim", if necessary, may include direct family or persons directly affected by the victim, and persons who suffer harms when helping a suffering victim or who are in an attempt to prevent people from being victimized²⁴.

This is a substantial innovation because the rights of getting reparation is not "directed exclusively to the person who is directly victimized". This addition will be crucial when dealing with cases in which the immediate victims, who are in fact entitled to reparation, are no longer able to claim their rights because they have been killed or disappeared. By extending the rights of reparation to the victim's family and the direct dependents, the perpetrator cannot avoid the fulfillment of the right to reparation simply by 'removing' the victims directly.

Second, the above definition encourages a broad interpretation of what is meant by 'loss'. Beside physical, mental, emotional, and even economic losses (such as loss of income due to an offense) there should be other basis for reparation. This is significant because in practice, most of the losses suffered by victims are also mental or psychological, such as post-traumatic stress disorder. The act of torture that leaves no long-term physical torture (clean torture) like waterboarding nevertheless leaves deep mental injuries. Therefore, we can see that the extent of the concept of 'loss' is a very meaningful development to secure the victims' rights.

Reparation does not just end in the victims. Reparation also has a scope of application beyond the satisfaction and circumstances of the victims themselves. This is the responsibility of the last form of reparation, non-repetition. Non-repetition is a preventive effort that is forward-looking. The positive effect of non-repetition is clear that is if the incident does not happen again the harm and damages suffered by the victims will not be experienced either by the victims or the following generations in the future. This can be more broadly achieved by improving the sociopolitical conditions that have caused or triggered past gross violations, such as segregated social environments or authoritarian governments. The improvement of sociopolitical conditions has doubled positive effects: (a) to eliminate fear and paranoia that the incidents might repeat and (b) to remove the stressors, trauma, or bitter memories of the victims²⁵. Other forms of reformation that can be undertaken to avoid repetition are government system reformation, such as legal or constitutional reform or the replacement or dismissal of actors occupying public positions, either partially or wholly (lustration). However, Hayner says that a lustration is a fairly extreme policy and has some disadvantages: the legal protection of those who are dismissed is sometimes unclear and the information on which lustration is based is possibly from past intelligence reports that are often inaccurate or false.

The pro-victim principle can manifest in various forms but the basic values contained therein are always the same that is a remedy should be provided and executed on the ground that the victims are subjects, not objects. In other words, the victims should not be seen as passive persons that need to be helped but they should be viewed as active persons having their own interests, wishes, and dignity who need

²⁴ PRPBB § 8. Translated by Ihdhal Kasim in Boven02, xiv ("Where appropriate, and in accordance with domestic law, the term "victim" also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.")

²⁵ See Ferstman 55

to be involved to jointly achieve adequate healing. This philosophy should be applied and enforced in the fulfillment of all forms of remedial treatment.

International instruments suggest that the victims should not only be given an active role in the judicial process but also in the context of other remedial efforts. According to Orentlicher, "victims and other social sectors should be given meaningful roles in the design and implementation of remedial programs"²⁶. This is particularly important in sociopolitical reformation efforts aiming at avoiding the recurrence of the same event in the future. Such sociopolitical reformation was often made on the basis of public consultations and data gathered from the field, for example those conducted by truth commissions. The involvement of victims in the public consultation process will provide a new perspective on sociopolitical weaknesses that deserve improvement in the future²⁷. In short, involvement in the remedial process is one way to avoid objectifying victims and ensuring their participation in remedial mechanisms.

Although the concept of collective reparation remains unclear in international law it is a reasonable choice in the context of reconciliation of Ambon. Several attempts to provide collective compensation for the victims suffering or to help children whose parents were killed during the conflict had been committed shortly after the conflict there was no a single comprehensive reparation program specifically addressed to survivors, victims and their families. About the victims' reparation rights the facts in the field is still very limited compared to the international standards.

According to the international law each state is required to provide an effective remedy, including a reparative policy or program for post conflict victims. In Resolution 60/147, for example, the General Assembly of the United Nations emphasized the importance of "respecting the rights of victims to get healing"²⁸ In international law, broadly speaking, remedies for post-conflict victims include the right to know²⁹, right to justice³⁰, and the right to get reparations. While the reparative policy itself includes the right to restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition³¹. It should be emphasized that all remedial procedures provided by the State must be effective, non-discriminatory and open to anyone in need of remedy³².

Factually it is hard to implement reparations in practice. The follow-up actions by the State as recommended by the truth commission were still far from the victims' expectation³³. Lack of attention given to post-conflict victims also occurred to the victims of the Ambon conflict over years, especially regarding with remedy and reparations. There are many victims that should be given remedial treatments in order to reduce their burden of life and even to bring them back to their normal life as

²⁶ Orentlicher Prinsip 32: "victims and other social sectors should be given meaningful roles in the design and implementation of the remedial programs"

²⁷ Orentlicher Prinsip 35: "Institutional reforms aimed at preventing a recurrence of violations should be developed through a process of broad public consultations, including the participation of victims and other sectors of civil society."

²⁸ UNGA Res A/RES/60/147 (16 December 2005), Preamble para. 11: "*Recognizing* that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms the international legal principles of accountability, justice and the rule of law (...)"

²⁹ Diane Orentlicher, Updated Set of principles for the protection and promotion of human rights through action to combat impunity (8 February 2005) E/CN.4/2005/102/Add.1, Principle 2

³⁰ *Ibid.*, Principle 1 and 19.

³¹ UNGA Res 60/147, *op. cit.*, Annex, § 18.

³² *Ibid.*, §§ 2(c) and 12.

³³ Johanna Herman, "The Right to Reparation in International Law for Victims of Armed Conflict", *Nordic Journal of Human Rights*, Volume 33, 2015 - Issue 2, pp 190 - 191

before. To ensure that victims and their families had accesses to reparations because of the tragedies that occurred during the conflict and to confirm the rule of law in Indonesia central and local authorities should take full and effective reparations measures in accordance with international human rights law and standards as a priority agenda. The program should be designed through consultation with victims as well as other relevant groups.

The impact of the conflict had increased poverty and unemployment due to the cessation of a lot of economic activities. The number of abandoned children increased whereas education withdrawal happened because of the shortage of teachers beside a lot of schools/colleges were burned and destroyed. All of these impacts affect the quality of human resources in the future. The non-functioning of public service facilities such as public health centers that are destroyed and the lack of supply of medicines with the disruption of transportation are also of particular concern³⁴. The situation described above shows the importance of collective reparations that can together be felt by all community groups as the victims of the conflict.

The handling of refugees and relocation that were instantly done regardless of their impacts had led to other problems. This resulted sharp segregation matters. At the present time to know Ambonese's religious affiliation can be simply done by knowing where they live. This segregation factually creates prejudices and cultural isolation so that the intensity of exclusivity of each side remains and the friction that arises in the midst of society often get mass justification³⁵. In the context of collective reparations, to overcome the existing segregation matters can be done by building heterogeneous and integrative-inclusive settlements, resulting in a melting social life within an intermingling community between two different religious groups. In this way it can minimize the cultural tensions that often arise. If this is difficult, to build a public space that is accessible for both communities of different religious affiliation might be a reasonable alternative option.

The weakness of reconciliation in Ambon occurs because in the process it is very vulnerable because it is not based on cultural process and does not involve conflicting parties ie the grassroots of Muslim and Christian groups, whereas the source of conflict is the sentiment of living values of the two religions. With this kind of reconciliation, various conflict resolution agreements are more formal, 'black on white'. A top down approach, especially repressive or security in reconciliation efforts in Ambon, did not meet expectations at all. This is because the conflict has a very complex dimension of conflict, so that conflict resolution efforts can not only be limited to efforts to stop violence and merely spin-offs, but also require social reconstruction and strengthening of local identity. Thus the reconciliation of initiatives and initiatives from elite government officials in its implementation on the ground becomes difficult. The non-involvement of conflict actors makes them apathetic and does not care about the non-contextual peace agreement.

The ideal collective reparation is to involve community participation and be undertaken at the full initiative of the underworld who still adhere to local customs and be aware of the importance of local culture in safeguarding and ensuring the integrity of society, because when the role of religion is incapable of resolving conflict, local wisdom effectively unifies a dispersed society based on the religious

³⁴ KPP HAM, 'LAPORAN Komisi Penyelidik Pelanggaran Hak Asasi Manusia dan Mediasi di Maluku', available at: <http://www.oocities.org/toelehoe/komnasham290305.htm>, downloaded 25 February 2017.

³⁵ Suharno, Samsuri, Iffah Nur Hayati, "Pengembangan Model Resolusi Konflik Untuk Masyarakat Multikultural (Studi Implementasi Kebijakan Resolusi Konflik di Sampit, Poso, dan Ambon)"

community ". This local wisdom is rooted and usually not only socially oriented, but also sacred-oriented so it is more effective in resolving conflicts because it is easily accepted by the community and avoids latent or continued conflicts. Local wisdom which is a culture that refers to ⁵ cultural richness, which grows and develops in society, is recognized, trusted, and recognized as an important element capable of strengthening social cohesion amongst citizens will be the universal human language for the conflicting parties. Culture must overcome religion, so that every cultural process and recognition of cultural values in conflict resolution should be put forward, so that the involvement of adat leaders and other cultural actors is a key precondition that should be put forward.

A crucial collective reparation is a public policy that affirms the whole process of community-based reconciliation so as to avoid the denial of denial as there is no room for state involvement in the enforcement of the rules of the peace treaty. Thus the need for a reconciliation process to be "wrapped" in public policy, such as District Regulations at the Regency / City level or at the provincial level). In doing so, reconciliation by emphasizing the recognition of the identity and existence of one party against another culturally done party must involve the state in political policy to ensure the enforcement of such recognition in real terms with the juridical enforcement framework. Agreements sourced from community initiatives based on religious and cultural values are the main source of material in the formulation of public policy. The public policy is implemented in a participatory and inclusive manner by involving the parties directly involved as the main actors. Implementation can take the form of law enforcement, inclusive education, equal socio-economic development and by minimizing socio-economic-political disparities between the parties.

V. Conclusion

An ideal victim-based reconciliation model should be in addition to prioritizing the initiative and willingness of the conflict itself in accordance with the values believed to allow the parties to recognize each other's existence and be able to co-exist peacefully, there should also be efforts by the Government to facilitate the identification of material losses resulting from the conflict , then formulating reparations, both in the form of compensation and restitution, which includes also law enforcement of criminal acts that cause physical, psychological, or life-loss. It can be illustrated that reconciliation in Ambon has not focused on reparations as one of the keys to conflict resolution and reconciliation. For the fulfillment of reparations for individual victims and community groups, Ambon City Government must reform and revitalize institutional capacity in accordance with local wisdom. Local wisdom and values of the Ambonese community as part of the Maluku community have a central role in the reparations process. With increasingly strengthening local customs and institutions in the structure of government and society.

● 14% Overall Similarity

Top sources found in the following databases:

- 14% Internet database
- 2% Publications database
- Crossref database
- Crossref Posted Content database
- 4% Submitted Works database

TOP SOURCES

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	repository.unika.ac.id Internet	8%
2	Multimedia University on 2020-11-08 Submitted works	3%
3	libprint.trisakti.ac.id Internet	<1%
4	amsterdamlawforum.org Internet	<1%
5	download.atlantis-press.com Internet	<1%
6	jurnal-perspektif.org Internet	<1%
7	Universitas Katolik Indonesia Atma Jaya on 2019-09-12 Submitted works	<1%
8	sal-e.org.sg Internet	<1%



law.nus.edu.sg

Internet

<1%

● Excluded from Similarity Report

- Bibliographic material
- Cited material
- Manually excluded sources
- Quoted material
- Small Matches (Less than 10 words)

EXCLUDED SOURCES

abacademies.org

Internet

19%