

The Strategic Role of *Lembaga Adat Negeri* in the Fulfilment of Victims' Rights to Reparation in Post-Conflict Ambon

Yustina Trihoni Nalesti Dewi*

Faculty of Law, Soegijapranata Catholic University, Semarang, Indonesia

Jonathan Kwik**

Faculty of Law, Soegijapranata Catholic University, Semarang, Indonesia

Aholiab Watloly***

Department of Sociology, Faculty of Political and Social Sciences,
University of Pattimura, Maluku, Indonesia

Abstract

This article demonstrates the strategic position of Lembaga Adat Negeri in the fulfilment of the long-neglected right to reparation of victims in post-conflict Ambon. Lembaga Adat Negeri was chosen as the object of analysis due to their close cultural affiliation with the Ambonese society. Due to the important role of Lembaga Adat Negeri in local Ambonese governance, it is argued that they can assist in absorbing local aspirations and aid the reparation process. The enactment of Law No. 6 of 2014 concerning Desa provides Lembaga Adat Negeri with ever greater momentum to spearhead reconciliation based on Ambonese traditional values and contribute to the peaceful transition of the divided people, in particular by way of fulfilling the right to reparation of victims.

Keywords: Ambon, Lembaga Adat Negeri, Local Wisdom, Right to Reparation, Reconciliation.

How to Cite: Nalesti Dewi, Trihoni, Jonathan Kwik, and Aholiab Watloly. 2017. "The Strategic Role Of Lembaga Adat Negeri In The Fulfilment Of Victims' Rights To Reparation In Post-Conflict Ambon". *Udayana Journal Of Law And Culture* 1 (2): 157-180. doi:10.24843/UJLC.2017.v01.i02.p05.

DOI: <https://doi.org/10.24843/UJLC.2017.v01.i02.p05>

Copyright © 2017 UJLC. All right reserved

1. Introduction

The issue of reparations for victims of conflict in Indonesia has not yet attracted significant attention on the national level. Reparations are generally still viewed as privileges, instead of a legally enforceable right that victims can claim from the State. In the Indonesian legal landscape, gross human rights violations committed

* Correspondence: trihoni@unika.ac.id and trihoniharianja@yahoo.com.

** Correspondence: sjhckwik@yahoo.nl.

*** Correspondence: aholiabwatloly@ymail.com.

by the State or State actors more intuitively warrant reparations when compared to violations perpetrated by fellow citizens, as for example in horizontal conflicts. It is unfortunate to say that this general position has been translated into the applicable regulations and practice, as Indonesian national legislation guaranteeing the right to reparation is minimal and the knowledge of jurists on victims' rights to reparations are lacking. This situation has irrevocably caused victims to experience difficulties in defending their rights to reparation, a problem that to this day remains relatively unsolved.¹

The situation in Ambon, the capital city of Maluku Province (the Mollucas), is a telling example of legal discrimination caused by the inability of local victims to claim compensation or any form of remedy for the damage suffered during the 1999 Maluku sectarian conflict. In fact, the issue of reparations to Moluccan victims has, barring a few exceptions, been largely ignored. Important aspects such emotional aid, reconciliation, and an effort to rekindle the segregated Moluccan society have similarly received little to no attention. The limited efforts undertaken by the national government have received much criticism due to being unfocused, rife with corruption, and relatively incompatible with local needs. One reason posited for this chronic policy failure is the tendency of Indonesia to utilise an overly centralised top-down approach, which ignores the already-existing societal framework available at the local level for addressing issues of recovery, reparation, and reconciliation.

To fulfil this need for individual and collective reparation of Ambonese victims, it is suggested in this article that the Indonesian and Ambonese governments need to take into consideration local wisdoms and values when considering reparative and restorative policies. As will be discussed below, local Ambonese values are of significant importance for the Ambonese and should play a central part in the reparation process.

To address this issue, this article discusses in particular local institutions at the *desa* level, such as *Desa Adat* Institutions (*Lembaga Adat Desa*) and the crucial part they can play in fulfilling the long-ignored right of the Ambonese peoples. Attention is also given to the important role such agencies have fulfilled for local Ambonese societies up to this point since the relatively recent promulgation of Law No. 6 of 2014 on *Desa*.

This article provides a succinct contextualisation of the sectarian conflict in Ambon, the many socio-political factors that functioned as its catalysts, and preliminary peace efforts made post-conflict. In addition, an overview is presented of both domestic and international legal frameworks that have been adopted to

¹ Supriyadi Widodo Eddyono & Wahyudi Djafar, "Mendorong Kebijakan Pemulihan yang Efektif: Rekomendasi Pembaruan Kebijakan Pemulihan bagi Korban Pelanggaran HAM yang Berat Pasca-Pengesahan UU No. 31/2014 tentang Perlindungan Saksi dan Korban", *Seri Keadilan Transisional*, ELSAM, 1-2.

address the issue of reparation, both generally and in Ambon specifically. It then discusses traditional Ambonese values and how they shape the Ambonese mentality and social landscape since the city's inception, and the important role they play in maintaining social cohesion in Ambon. Further, it discusses *Lembaga Adat Desa*, specialised *adat* institutions which command much respect from the Ambonese peoples, and the powerful potential role they can play in augmenting the national reparation effort. The article closes with a conclusion and recommendations for both local and national policy-makers.

2. Result and Discussion

2.1. Contextualisation: The Conflict in Ambon

Ambon is the capital of the Province of Maluku and has long been the epicentre of culture and economy of Maluku, a set of islands rich in tradition and ethnicities. Despite this cultural diversity, Maluku is characterized by its local philosophy of peaceful cohabitation (*hidop baku bae*) as a sacred concept that binds its many peoples together. Throughout history, the Maluku Islands have primarily been known for their rich local wisdom and the dominant application of customary practices in everyday life. *Hidop orang basudara* (living in brotherhood),² for example, is a common customary value emphasizing the prevention of conflict and the importance of maintaining peaceful relations between the peoples of Maluku. The motto *hidop baku bae* (living in peace) is a key aspect of *hidop orang basudara* which refers to a dynamic, sacral process to reconcile and reunite warring peoples or parties in conflict. *Hidop baku bae* is a value created and maintained through continuous and consistent reinforcement by its adherents. These traditional values have, for the past centuries, been the cornerstones sustaining unity, social harmony, and solidarity between the Moluccan peoples.³ The deeply ingrained importance of reconciliation and harmony had been the driving force for Moluccans to actively engage as agents of peace-keeping not only within their own islands, but neighbouring regions as well.

Ambon, the capital city of Maluku since 1576, is a port town, a centre of trade, and a city of migrants.⁴ Ambon is a multi-ethnic town with inhabitants from varying ethnic, religious, and traditional backgrounds, and it too inherited these customary Maluku values. Ambonese immigrants originated from a multitude of regions, both inside and outside of Indonesia, creating a pluralist Ambonese society of Ambon Chinese, Ambon Portuguese, Ambon Arabs, Ambon Dutch, Ambon Javanese, Ambon

² Aholiab Watloly (i). *Maluku Baru, Bangkitnya Mesin Eksistensi Anak Negeri* (Yogyakarta: Kanisius, 2005), 211-214.

³ Aholiab Watloly, 'Bacarita Sejuta Rasa' in Jacky Manuputty, et al. (eds.), *Carita Orang Basudara* (Ambon: Lembaga Antar Iman Maluku, 2014), 377 – 384.

⁴ Lisa Taschler, "Justice in Maluku: Formal and Informal Justice Processes and their Role for Reconciliation in the Aftermath of the 199 – 2002 Conflict", Groningen, NOHA, 3.

Batak, Ambon Bugese, Ambon Manadonese, and many others.⁵ These migrant groups subsequently established their own communities in Ambon, giving rise to Chinese, Arabic, Javanese, Timor, Toraja, Bogor, Tapa, Kisar, and other districts. It is important to note that these migrant groups identified themselves not merely based on their original ethnic group, or as merely being Ambonese, but both simultaneously, in a so-called cross-cutting affiliation. This brief view into the formation of the city of Ambon emphasizes that Ambon, since its inception, had been a pluralistic culture which had always been open and welcoming to migrant settlers.⁶

In 1999, however, this peace was shattered when the Maluku sectarian conflict erupted. The first spark was lit by a political rivalry between Ambonese gangs in Jakarta, during the transition from the authoritarian regime of Suharto to the current one. These tensions spread to Ambon and triggered the first conflicts in January 1999. A relatively small incident between Muslim and Christian youths during the Feast of Eid in Batumerah triggered a widespread and rapidly expanding the conflict.⁷ The nature of the Ambonese society, which had been segregated based on ethnic and religious districts, fuelled the ongoing conflict. Circulating rumors concerning attacks on religious sites, such as the destruction of the Protestant Silo Church and the burning of the Al-Fatah Mosque, turned the two major religious groups of Muslims and Christians against each other. The collectives started identifying themselves by using headbands – white for Muslims and red for Christians – and grouped together to attack, kill, and exterminate members of the opposing faction. Christians criticized the Indonesian military personnel stationed in Ambon for taking no action to stop the conflict. Instead of preventing further conflict, Indonesian National Army (TNI) units from outside of Ambon and Maluku were deemed to discriminate in favour of the Muslim forces and were accused of joining the Muslims in slaughtering Christians.⁸ Eventually, ideas of an ethnic and religious genocide of Moluccan Christians surfaced and circulated via printed and electronic media.⁹

At first glance, the conflict in Ambon can be viewed as a purely religious one – that of Muslims against Christians. A holistic view of the situation, however, suggests that historic, cultural and political factors also played a decisive role in sparking and propagating the conflict. This can be noted from the propaganda spread by the Christian communities during the conflict. 'Indigenous' Moluccan Christians, which

⁵ The term 'Ambonese' refers to a cosmology of self through which Ambon becomes an intrinsic part of the 'inhabitants' collective self-image, beliefs, and ideals. As such, the term 'Ambonese' can be interpreted as a sociological description of a collective group of peoples inhabiting a common territory which they had built up together.

⁶ Aholiab Watloly, "Gambaran Umum Kota Ambon", manuscript presented to the Desain Ruang Publik berbasis Kearifan Lokal Kota Ambon FGD, Ambon, October 2016, 2-4.

⁷ C.J. Böhm, "Brief Chronicle of the Unrest in Maluku," Crisis Centre Diocese of Amboina 2006, unpublished, 11.

⁸ *Ibid.*, 11-12.

⁹ Tamrin Amal Tomagola, Cornelis Lay, Lies Marantika, Ricky Palijama & Yusup Madubun in Eddy O.S. Hiarij (ed.), *Format Ulang Birokrasi Kota Ambon* (Makassar: Ininnawa, 2008), 17.

had traditionally been the majority population in Maluku and were common holders of important administrative and bureaucratic positions in Central, South, and Southeast Maluku, felt threatened by the gradual demographic shift brought upon by the influx of Muslims post-1965. Many of these new inhabitants were Javanese Muslim political prisoners accused by Suharto's New Order of collaborating with the Communist Party (PKI), who eventually chose to remain in Ambon after their release. Muslims also arrived by virtue of the New Order's transmigration policy, in particular from the Muslim-dominant Buton, Bugis and Makassar regions of Indonesia, in addition to migrants who moved to Ambon out of their own initiative.¹⁰

Initially, the 'Indigenous Christian Ambonese' welcomed the Muslim migrants with open arms, as the newcomers only took part in low-wage manual labour.¹¹ Eventually, however, the Muslim immigrants became more educated and started to occupy important government and bureaucratic positions.¹² The immigrants' success in economy and commerce became further threats to the 'Indigenous Christian Ambonese' who were content with the status quo.¹³ Ambonese Christians felt further threatened by the creeping Islamisation of national Indonesian politics, going so far as to suggest that Indonesia might transition into an Islamic or Sharia state.¹⁴ The increasing influx of immigrants also eroded the *hidop orang basudara* value traditional Ambonese were so attached to.

This demographic shift caused a curious change in allegiances: Whereas originally, Ambonese Muslims felt more aligned to their ethnically similar Ambonese Christian peers, the arrival of outside Muslims induced the Ambonese Muslims to support the immigrants instead, in opposition to the Ambonese Christians. In effect, the ethnic bonds in Ambon had been replaced by religious ones. The Christians, who felt betrayed and deserted by their Ambonese Muslim brethren, found themselves without support in face of the growing threat posed by the Ambonese Muslims and immigrants.¹⁵

From the Muslim side, propaganda was fuelled mainly by reference to the social and political marginalisation they suffered for centuries since the Dutch colonial rule. The Muslims perceived that during the colonial era, the Ambonese Christians had always received powerful political and educational opportunities from the Dutch colonial rulers. Ambonese Christians were also given special treatment by the colonizers, who regarded them as 'upper-class citizens', as part of the Dutch *devide*

¹⁰ Böhm, *op.cit.*, 12.

¹¹ *Ibid.*,

¹² *Ibid.*,

¹³ *Ibid.*,

¹⁴ *Ibid.*,

¹⁵ *Ibid.*,

et impera policy.¹⁶ Suspicion was also directed at the Christians for not supporting the Indonesian Unitary Republic (NKRI). The Muslims were convinced that during the war of independence in 1945-1949, many Christians had supported the Royal Dutch Indies Army (KNIL).¹⁷ In fact, until this day, many Ambonese Muslims hold the belief that Ambonese Christians are part of the Moluccan separatist movement RMS (*Republik Maluku Selatan*). 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.¹⁸ One can interpret the Muslim sentiment, fuelled by social envy in the past, as a false assumption that opposing Ambonese Christians is a form of solidarity to all Muslims in Indonesia. As such, indigenous Ambonese Muslims in North Ambon easily chose for the above-mentioned 'religious alliance' over the ethnic one.¹⁹

Studies suggest that the conflict and violence occurring in Maluku was not self-contained. The humanitarian tragedies in Maluku were systematically incited and propagated by the agendas of military and political leaders in Jakarta, who wished to protect their political and economic interests.²⁰ The intensity of the conflict was maintained by repatriating a number of Ambonese gangs who had resided in Jakarta for an extended time, and whose gang rivalry and mentality continued to infect the local Ambonese peoples.²¹ The conflict further escalated with the sending of *Laskar Jihad* members from Java to Maluku.²²

Due to the introduction of these foreign elements into Maluku, the conflict continued to persist and escalate over a lengthy period of time. From January 1999 to October 2002, an approximated 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 reported destroyed or burned. The harrowing situation displaced 425.679 people, 80.686 of which were forced to leave their native districts.²³ Refugees were forced to seek shelter in schools and religious sites. During this time, Ambon segregated even further, with civilians grouping together almost exclusively by religion, creating an increasingly deeper rift in normal societal life. Civilians became accustomed to a life where markets, schools, hospitals,

¹⁶ Tamrin Amal Tomagola, *op.cit.*, 27.

¹⁷ Böhm, *op.cit.*

¹⁸ Richard Chauvel (dissertation) in George J. Aditjondro, "Orang-orang Jakarta di Balik Tragedi Maluku," <http://www.michr.net/orang-orang-jakarta-di-balik-tragedi-maluku.html>.

¹⁹ Böhm, *op. cit.*, 12-13.

²⁰ Chauvel, *op.cit.*

²¹ *Ibid.*

²² *Ibid.* *Laskar Jihad* literally translates to 'Warriors of Jihad', and is an Islamist and anti-Christian militia movement whose primary goal is the implementation of sharia law in Indonesia.

²³ 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 Displaced People in the Region of Maluku and North Maluku, April 2003, unpublished, 1.

offices, commerce, routes of transport, and entire populations were segregated by the firm line of Muslim versus Christian. A notable recorded exception is the military camp Halong, which featured a mix of Muslims and Christians among its 9.000 inhabitants. It is in Halong in particular where it was found that refugees, in contrast to other regions at the time, co-existed peacefully and even built a bond of mutual cooperation and assistance with each other.²⁴

Many efforts to resolve the conflict and provide humanitarian aid had been attempted by the Central Government, regional government, and religious leaders. International organisations focussed primarily on humanitarian support; unfortunately, operations were not coordinated with the local government, leading to the inefficient distribution of aid. Refugee policies were criticized for alleged discrimination and being a façade for hidden agendas. Both religious communities believed that the Central Government and international organisations, such as UN agencies and NGOs, were partial. These accusations eventually led to the burning of the United Nations Project Coordination Office on 25 April 2004, which supposedly was being used by ‘scheming Western States’ to support separatist movements and as an asylum for traitors and enemies.²⁵

During this time, the Central Indonesian Government was undergoing a transition from a centralised to a decentralised system on a national scale. As the transition of power from Jakarta to regional governments was incomplete at the time, Jakarta was still regarded as the prime initiative holder for the resolution of the Moluccan conflict. This limited the local bureaucracy’s power to take an active role in the Moluccan reconciliation process. The peace efforts which led to the First Malino Declaration in Poso, Sulawesi, on December 2001, and the Second Malino Declaration in Maluku on February 2002, were the first structural attempts by authorities to end the conflict. Although indisputably the starting point of the broader long-term reconciliation process,²⁶ the absence of any local participation during the preparation and signing of these two peace agreements inevitably led to the drafters being unable to properly take into account local needs and wants. Instead, they only focussed on the structural causes of the conflict.²⁷ The declarations merely touched upon material reparations, reconstructions, and emergency aid for refugees.

At that time, the peace process was progressing slowly and cautiously. The Indonesian word *damai* (peace) was considered a taboo word, and those who used

²⁴ Böhm, *op. cit.*, 13.

²⁵ Tamrin Amal Tomagola, *op. cit.*, 17.

²⁶ Cate Buchanan (ed.), “Pengelolaan Konflik di Indonesia – Sebuah Analisis Konflik di Maluku, Papua dan Poso, Lembaga Ilmu Pengetahuan Indonesia,” *Current Asia and The Centre for Humanitarian Dialogue*, Geneva 2011, 11.

²⁷ *Ibid.*

the term were instantly labelled as enemies and traitors by their communities.²⁸ Amidst such difficulties, seeds of reconciliation could be nevertheless found sprouting throughout the region. For example, the *Tim 20* (Team of Twenty), a small group consisting of ten Muslims and ten Christians in the village of Wayame, made diligent efforts to retain peace between Muslim and Christian communities based on the traditional *hidop baku bae* mantra, and underlined that the conflict was not one of religion against religion. They verified the truth of all possible provocative messages or information, and established local rules forbidding civilians from taking part in confrontations, abusing religious symbols, consuming alcohol, or spreading hateful comments about any religion. The *Tim 20* also established a market that accessible to both Muslims and Christians. This harmonious effort by both religions safeguarded the village's economy during the conflict erupting around Wayame. Later, the *hidop baku bae* Peace Movement succeeded in reuniting many warring parties around a common identity as mutual victims of conflict first and foremost.²⁹ From this small movement, large-scale reconciliation efforts surfaced throughout Ambon, based on initiatives by scholars, NGO activists, journalists, local leaders, and religious figureheads. It is interesting to note that, unlike the Indonesian word *damai*, Moluccans were accepting and welcoming of the phrase *hidop baku bae* as a motto for peace, even though the two terms carry virtually identical meanings.³⁰

The Maluku Media Centre (MMC), which accepted both Muslim and Christian journalists, trained journalists to spread ideas of pluralism and to avoid publishing any provocative messages. Equally crucial were the efforts made by Ambonese women, whose accomplishments were one of the most important steps taken during the peace process. Female Ambonese refugees, mutually concerned for the well-being and future of their children, the scarcity of food, education, health services and other basic needs, and the distribution of emergency aid to refugees, hosted cross-border meetings involving both Muslims and Christians. These meetings served as a medium for reconciliation between Muslim and Christian families and as a starting point for discussions between the religious groups. This interaction also enabled the Ambonese women to be better informed and subsequently prevent provocative actions from either side by acting as diplomats and messengers for both groups.³¹

The conflict in Maluku not only caused the widespread loss of lives and property, but also impacted long-term societal health. The Moluccan economy and commerce stagnated, leading to a large decrease in welfare and increases in unemployment. Education was dramatically impacted by the conflict: The displacement of many

²⁸ *Ibid.*, 23.

²⁹ Buchanan, *op.cit.*, 13.

³⁰ Aholiab Watloly et al (ii)., *Perdamaian Berbasis Adat Orang Basudara* (Yogyakarta: Kanisius 2016), 39.

³¹ *Ibid.*, 23.

teachers and lecturers along with their respective students and the systematic burning of schools threatened the well-being of Moluccan generations to come. Other societal harms incurred include the shutdown of all public and administrative services, including healthcare and the supply of medicine to Maluku.³²

2.2. Reparations in Ambon: The Current International and Domestic Legal Framework

Although some efforts had been made, during and shortly after the conflict, to provide compensation for losses and to support orphans whose parents were killed during the conflict, a comprehensive compensation scheme aimed specifically at survivors and victims or their families has yet to be established in Maluku. Current efforts can be said to be grossly insufficient compared to contemporary international standards concerning the rights of post-conflict victims to an effective remedy. The duty of each State to provide effective remedies to victims, including reparation, is a norm firmly established through international human rights instruments and was underlined on 16 December 2005 by the UN General Assembly through Resolution 60/147, wherein it “honour[s] the victims’ right to benefit from remedies” and “keeps faith with the plight of victims, survivors and future human generations”.³³ Remedies in international law are comprised of the right to know,³⁴ the right to justice,³⁵ and the right to reparation, the last of which are subdivided into restitution, compensation, rehabilitation, and satisfaction and guarantees of non-recurrence.³⁶ International norms also prescribe that such procedures must be effective and available to all victims seeking a remedy.³⁷ As explored briefly above, remedies in Ambon, unfortunately, remain inadequate, at the expense of all victimised peoples still awaiting an effective redress.

International developments on rights to reparations are sometimes cited as being inadequate in certain aspects, in particular from a practical point of view. State responsibility for violations occurring in times of conflict is more often ignored, in favour of a focus on gross human rights violations. This is unfortunate, as this lack of attention can have negative influences on victims’ capacity to recover after a conflict. Reparations are an integral part of transitional justice, noting in particular that justice cannot be attained without providing justice to victims, as well. Examples

³² KPP HAM, Laporan Komisi Penyelidik Pelanggaran Hak Asasi Manusia dan Mediasi di Maluku (2000) <http://www.oocities.org/toelehoe/komnasham290305.htm>.

³³ See General Assembly of the United Nations (UNGA) Res A/RES/60/147 (16 December 2005), Annex, § 3(d) and Preamble para. 11.

³⁴ See e.g. 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.

³⁵ See e.g. *ibid.*, Principles 1 and 19.

³⁶ UNGA Res 60/147, *op. cit.*, Annex, § 18.

³⁷ *Ibid.*, §§ 2(c) and 12.

from state practice show that implementation of these norms is challenging. In Indonesia, follow-ups to recommendations from the Truth Commission are often ignored and do not satisfy victims. In Sierra Leone and Guatemala, compensation is given only to ex-guerrilla fighters, not victims of the conflict. At the international level, International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) procedures acknowledge the right of victims to restitution, but only with respect to victims of property damage, and not to victims of genocide and torture. Simultaneously and paradoxically, these international tribunals continued to emphasise their high standards of protection for the rights of the accused. It is difficult to say that justice has been served when the human rights of the perpetrators are upheld, but not those of the victims.³⁸

Indonesian reparation beneficiaries are limited to victims of gross human rights violations, and even then, accesses to these remedies are often difficult or unattainable in practice. Current national norms on reparations provide a single form of reparation for victims: compensation from convicted perpetrators as part of a criminal procedure.³⁹ The lack of political willingness from the State for reparations is compounded by the absence of a clear and coherent framework that is consistent with international standards. The issue is exacerbated further by the requirement that cases containing elements of human rights violations are referred to special Human Rights Courts (*Pengadilan HAM*), which do not function effectively, as was the case with respect to the Court-ordered Reparations during the Tanjung Priok Cases. Here, the Court found the defendants guilty and ordered them to pay 1.15 billion rupiah (approximately \$110,000) to family members of 13 victims.⁴⁰ However, when the conviction was overturned on appeal in 2005, the Supreme Court rejected the prosecutor's appeal against this decision, stating that the massacre did not constitute a human rights violation, therefore the court order for reparations was cancelled.⁴¹

The Indonesian body for the protection of witnesses and victims (*Lembaga Perlindungan Saksi dan Korban* or LPSK) has also received critique for its inefficiencies, caused by an overreliance on procedures and formalities. In addition, the LPSK is burdened with limited funding. One method that has recently been applied to overcome these shortcomings is by shifting the focus of reparations from a centralized

³⁸ Johanna Herman, "The Right to Reparation in International Law for Victims of Armed Conflict" (book review) *Nordic Journal of Human Rights* 33, No. 2 (2015): 190-191.

³⁹ Supriyadi Widodo Eddyono & Zainal Abidin, *Memastikan Pemenuhan Hak atas Reparasi Korban Pelanggaran HAM Yang Berat* (Jakarta: Institute for Criminal Justice Reform, 2016), 13-16.

⁴⁰ Putusan No. 01/Pid. HAM/Ad Hoc/2003/PN.JKT.PST atas nama Sutrisno Mascung, dkk, 20 Agustus 2004, 143-145, 148.

⁴¹ ICTJ, IKOHI & KKPK, "Indonesia's Obligations to Provide Reparations for Victims of Gross Human Rights Violations," (December 2011) Policy Briefing, <https://www.ictj.org/sites/default/files/ICTJ-Indonesia-Reparations-Policy-Briefing-2011-English.pdf>.

framework to a decentralized one; in other words, by relying increasingly on initiatives from local governments and agencies. This shift is often celebrated, as local bodies are generally more knowledgeable about the specific needs of local groups, in particular, their culture and problems, due to their closer proximity to the people. An example of such local initiative is that of the Palu Local Government in Central Sulawesi for victims of human rights violations made in 1965, during and after the alleged communist coup: This initiative, formalized through Decree No. 25 of 2003 of the Mayor of Palu, provided a mandate for the Government of Palu to gather and verify data on gross human rights violations occurring in Palu during the period of 1965-1966, which approximately involved 768 victims. Almost all of these victims were found to be from a relatively lower economic class, which meant that this local initiative and the subsequent reparations programmes were of great benefit to them. Amongst others, victims received financial support, health insurance, and education scholarships as part of the programme. The restoration of the dignity, honour and reputation also provided opportunities for victims to start their lives a new, free of any discrimination and stigmatisation.⁴²

Moving on from Palu as an inspiration and an example that local initiatives have clear and tangible merit in fulfilling victims' rights to reparation, we turn to Ambon. Similarly, Ambon will benefit from the decentralization of policies to local governments and authorities. This concept is theoretically supported in law, as the National Law on *Desa* (*Undang-Undang Desa*) acknowledges the capacity and right of *desa* to play an active role in the resolution of conflict, although no specific provisions are given as to how the *desa* can apply this mandate. Nevertheless, governmental institutions of these *desa* can be further encouraged to allocate more attention and funding to the issue of reparations for victims of conflicts, as the issue of conflicts and reconciliation are important elements in current day Ambonese societies; in fact, one might say it is one of the points of priority in the Ambonese agenda. The fulfilment of the right to reparations is an integral part of successful reconciliation efforts, including in Ambon.

In 2003, a large reconstruction initiative for Maluku and North Maluku was launched through Presidential Decree No. 6 of 2003 involving an approximate budget of 1 trillion rupiahs. Unfortunately, this effort focused solely on physical reconstruction of buildings and infrastructure, and did not touch upon individual or collective reparations of victims.⁴³ The programme was also criticized for its lack of effectiveness, due to unclear accountability regimes and the lack of transparency

⁴² Prima Gumilang, "Kisah Wali Kota Pelaku Tragedi 1965 Minta Maaf ke Korban" CNN Indonesia (30 Juni 2016) <http://www.cnnindonesia.com/nasional/20160630112959-20-142052/kisah-wali-kota-pelaku-tragedi-1965-minta-maaf-ke-korban>.

⁴³ Current Asia & The Centre for Humanitarian Dialogue, June 2011, "Pengelolaan Konflik di Indonesia – Sebuah Analisis Konflik di Maluku, Papua dan Poso, Lembaga Ilmu Pengetahuan Indonesia," <https://www.hdcentre.org/wp-content/uploads/2016/07/64BahasaIndonesiaversion-June-2011.pdf>, 26 – 29.

in budgeting, which was, in turn, speculated to have encouraged corruption.⁴⁴ The handling of Ambonese refugees was also criticized for not being based on actual empiric data or reliable information. Since 1999, the Maluku Government employed a working group aimed specifically at refugees, in coordination with the Indonesian National Board for Disaster Management and Refugees (BAKORNAS PBP). However, only 10.000 of approximately 64.000 affected households received aid from this board, due to lack of data and corruption.⁴⁵

The approach taken with respect to refugees was almost strictly aimed at rebuilding and physical reconstruction, while equally important—or some might say even more crucial – aspects such as the rebuilding of trust between local inhabitants were given minimal attention.⁴⁶ As a result, many displaced persons and families were hesitant to return to their homes due to traumas, painful memories associated with their old homes, and the fear that new conflicts or even open hostilities might arise. Conversely, some families voiced their eagerness to return home, only to be rejected by the (new) local inhabitants. Issues also arose with regards to verification of claims from people who wished to 'return' to Ambon, ostensibly because they were displaced by the conflict. It was difficult to distinguish those who genuinely had been victims of the conflict from those who only pretended to be, in order to receive land and monetary aid from the State.

These issues illustrate a clear and pressing need for accurate and reliable data, ideally collected not from a centralized agency but from the local communities or villages, locally termed *desa*. Thus, we believe that local institutions at the *desa* level can play a strategic role in the fulfilment of the victims' rights to reparation, and that this role should be expanded upon and supported. This can be done through *inter alia* the *Lembaga Adat Desa*.

The *Lembaga Adat Desa* is a local body established as a companion to the local government and plays a role in applying *adat* laws and aiding the government in developing and sustaining local customs.⁴⁷ The recent adoption of a Law codifying the legal basis and competences of the *Lembaga Adat Desa* (Law No. 6 of 2014 on *Desa*) provides these institutions with an official legal mandate to take up the task of coordinating reparation efforts. The Law can be interpreted as the central government's recognition of and support to the importance of local values. In this new Law, local customs are given great emphasis and are viewed as crucial input factors for future rebuilding plans.⁴⁸ This is a logical step to take, considering above

⁴⁴ *Ibid.*, 273.

⁴⁵ *Ibid.*

⁴⁶ Jon Goss, "Understanding the Maluku Wars: Overview of Sources of Communal Conflict and Prospects for Peace," *Cakalele* 11, No. 7(2000): 7.

⁴⁷ Law No. 6 of 2014 on *Desa*, Article 95.

⁴⁸ *Ibid.*, 273.

all that the peoples of Ambon will be the primary executors and beneficiaries of such policies. In the context of customary law, the *Lembaga Adat Desa* can maintain its intended function as a guardian and overseer of *adat* law in Ambon, whilst in the context of reparative measures, the *Lembaga Adat Desa* can take up a coordinating role to ensure that reparative policies align with the needs, wants and values of local Ambonese peoples, in particular, those of the victims to whom the reparations are addressed.

2.3. Local Wisdom as a Basis for Reparations Programmes and Policies

Societal and legal life in Maluku is still heavily influenced by local customary law, which more commonly known in legal anthropology using its native term *adat*. Traditionally, Moluccan society is divided into smaller autonomous entities (*negeri adat*) based on *adat* law, each governed by their respective leaders (*raja* or king). This led some to describe Maluku as a 'land of kings' (*negeri raja-raja*).⁴⁹ Important to note here is the plural use of 'kings', emphasising that Maluku is comprised of many coexisting *negeri* ('states'). Each *negeri* is characterised by its respective claim to authority according to *adat* law, its own history, customary norms, tradition, and territory.⁵⁰ Simultaneously, however, they are bound together by common beliefs and mutual respect through the traditional philosophies of *pela* and *gandong*.⁵¹ This social framework had been the basis for the Moluccans to embrace their commonalities through a shared identity as *orang basudara* (brothers and sisters).⁵² This identity is often cited as the most important component to understanding the Maluku peoples existence and traditions.⁵³ The philosophy of *orang basudara* is not based on a foundation of an 'I-and-you' mentality (*aku dan engkau*), but rather one of 'I-and-me' (*aku dan diriku*), which results in a collective way of thinking, ingenuity, and common sense (*akal budi kolektif*).⁵⁴ The close bonds formed by *pela* and *gandong* compels the Maluku peoples to live in a social structure of mutual respect and love, akin to that between brothers and sisters, which is often referred to as *bae-bae orang basudara* (peaceful coexistence and mutual love and empathy).⁵⁵

Katong samua orang basudara (we are all brothers and sisters) is a key phrase and a direct product of the *hidop orang basudara* (living in brotherhood) mentality.

⁴⁹ Watloly in Jacky Manuputty, *et al.* (eds.), *loc.cit.*

⁵⁰ *Ibid.*

⁵¹ *Pela* (best translated to familial bonds) are deeply ingrained relations of mutual goodwill and friendship with common history and a tradition of peaceful coexistence as its foundation, leading to a commitment to live together in harmony, governed by agreements and declarations made binding by *adat* law. *Gandong* are ties and relations built from a genealogy continuously passed from one generation to the next, governed by *adat* law.

⁵² Karel Albert Ralahalu. *Berlayar dalam Ombak, Berkarya Bagi Negeri: Pemikiran Anak Negeri untuk Maluku* (Ambon: Ralahalu Institut, 2011), 246-247, 261, 263.

⁵³ Watloly in Jacky Manuputty, *et al.* (eds.), *op. cit.*, 366-368.

⁵⁴ Aholiab Watloly, "Gambaran Umum Kota Ambon", *op.cit.*,7.

⁵⁵ *Ibid.*

In past times, this phrase, alongside many others, contained a sacred and traditional weight. Currently, there are attempts to once again invoke the mentality to heal the shattered and divided Maluku. In the absence of this *hidop orang basudara* mentality. In past times, this phrase, alongside many others, contained a sacred and traditional weight. Currently, there are attempts to once again invoke the mentality to heal the shattered and divided Maluku. In the absence of this *hidop orang basudara* mentality or 'cosmology' and the derivative *katong samua orang basudara*, it has been shown that the Maluku society is unable to maintain its pluralist and accommodating nature.⁵⁶ No incident in Maluku's history establishes this better than the sectarian conflict.

The mantra *katong samua orang basudara* allowed the culturally diverse Maluku peoples to establish a strong common identity or belief that was the foundation for their collective building and development of the greater Moluccan society. *Katong samua orang basudara* gave all groups a sense of belonging, empathy, and social involvement: that in life, the most important thing for one (*beta*) is to look after the well-being of another (*ale*). This core morality of *ale rasa-beta rasa* (what you feel, I feel) contains both subjective (mental or emotional) and objective (physical, through deeds) elements.⁵⁷ It becomes an essential part of the Moluccan mindset, attained and developed since birth through both education and social interactions. It has the capacity to grow and develop into a common mentality or morality, and lead to shared experiences through deeds and interactions which strengthen the bonds between the peoples.⁵⁸

The mental element of *ale rasa-beta rasa* in the *hidop orang basudara* mentality embeds itself in the Moluccan peoples' lives through moral values such as truth, honesty, justice, goodwill, and social cohesion.⁵⁹ Such common values are enriched further by each individual's own senses of morality, care, and love. These mental components are expressed and given form in everyday life, through interactions and good deeds towards fellow Moluccans. Although some differences may be found between each individual, based on their own *adat* traditions and personal values, the *hidop orang basudara* values held by all Moluccans function as a commonality ensuring mutual respect and care.⁶⁰

The objective element of *ale rasa-beta rasa*, on the other hand, has been recorded through social and empirical studies in Maluku. Expressions and interactions

⁵⁶ Soumokil Tontji. *Reintegrasi Sosial Pasca Konflik di Maluku* (Universitas Kristen Satya Wacana, 2011).

⁵⁷ *Ibid.*

⁵⁸ Watloly (ii), *op. cit.*, 83-85.

⁵⁹ *Ibid.*, 366-368.

⁶⁰ *Ibid.*

using the mantras *hidop baku bae* and *hidop orang basudara* throughout Maluku's history continually mark the invocation of these local values, and prove that they are imbedded firmly in the social mindsets of the Moluccan people. It has been cited that *hidop orang basudara* provides Moluccans with a love for wisdom, a love for knowledge, and a love for peace. It has become a way of life and a 'primordial sentiment' that has become identical to the Moluccan tradition as a whole.⁶¹

As a consequence, members of Moluccan society who fail to grasp this local wisdom lose their connection with the Moluccan traditions and social framework, and it has been said that they, in turn, are less capable of adapting and embracing the general trend towards modernisation and globalisation. The loss of this local wisdom and philosophy reduces their opportunity to produce local-grown ideas and innovations. More importantly, the loss of these traditional values negatively impacts these individuals' character building and societal welfare in a changing world, in Indonesia in general and Maluku in particular.

The value of *hidop orang basudara* for local harmony and peace, as well as societal health, in Maluku is guarded and maintained by each individual *negeri* in Ambon. Each *negeri* propagates their own traditional values from one generation to the next in a hereditary fashion, making everyone a so-called *anak adat* (child of *adat*). These shifting generations are coordinated and preserved by *adat* assemblies referred to as *Soa*. Although each *Soa* is characterised by the particular *adat* traditions of their respective *negeri*, they have always remained open and welcoming towards migrants from other *negeri* or even from other islands.⁶² The new comers, who arrive, settle, and integrate into new *negeri* are locally coined *orang dagang* (people of the trade).⁶³ As a form of good will towards these *orang dagang*, migrant settlers are provided formal recognition and a status according to local *adat* law and their own *Soa* and *adat* frame works, to accommodate their different background.⁶⁴

Pela and *gandong* and the philosophy of *hidop orang basudara* and its derivatives – *hidop baku bae* and *katong samua orang basudara* – has been entrenched firmly in the hearts and minds of the Moluccan peoples, into a social harmony, and has become a driving force for culturally diverse peoples to embrace peace and meaningful cooperation.⁶⁵ It has functioned this way for centuries, and there is little doubt that it can once again become the driving force for the reunification of a now divided Ambon.⁶⁶

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, 3-6, 107-112; Watloly (i), *op. cit.*, 4.

⁶⁶ Diah Kusumaningrum, "Interdependence versus Truth and Justice: Lessons from Reconciliation Processes in Maluku" (2016) Vol.20/No.1 *Jurnal Ilmu Sosial dan Ilmu Politik* 34, at 39.

2.4. Potential of *Lembaga Adat Desa* in the Fulfilment of the Right to Reparation

As alluded to above, Ambonese refer to *desa adat* – communities with distinct legal and social identities, each with its unique *adat law* norms – as *negeri*.⁶⁷ Indonesian provisions on *negeri* provide that each *negeri* can establish specialised institutions called *Lembaga Adat Negeri* (local variants of *Lembaga Adat Desa*), which function under the local government and are responsible for all social and legal functions related to *adat law* in the relevant *negeri*.⁶⁸ These *Lembaga Adat Negeri* become the primary outlet for *adat* communities to develop and enforce their local *adat laws*. Through *Lembaga Adat Negeri*, *adat law* norms are implemented and legal traditions, such as *pela*, *gandong*, *badati*, *masohi*, and *maano*, are nurtured. The influence of *Lembaga Adat Negeri* is felt most significantly with respect to situations of conflict resolution, infringements of *adat law*, and *adat* litigations. Despite the fact that prevailing *adat law* does not affirm *Lembaga Adat Negeri* as autonomous institutions so much as a normative expression of social values, one tends to observe a high degree of obedience to judgments, decisions, and sanctions imposed through *adat law*. Compared to judicial rulings offered by State institutions (i.e., through the framework of national Indonesian law), dispositions based on *adat law* are more readily respected and accepted as binding by the local population.⁶⁹

In light of the importance of *Lembaga Adat Negeri* for the local populace, there is clear untapped potential for the *Lembaga Adat Negeri* to play a role in facilitating claims from victims of conflict to receive reparations, both on an individual basis and through collective claims. Collective reparation can be achieved by the *Lembaga Adat Negeri* due to its authoritative position as the primary forum for *adat law* claims and discussions, and its position as a social mediator and arbitrator. Given that the *Lembaga Adat Negeri* are closely related to local traditions and values, any potential these *Lembaga Adat Negeri* may hold in resolving the issue of reparation must be supported and reinforced by the principles of *hidop orang basudara*. The value of choosing this local philosophy as a starting point must not be underestimated: as explained above, *hidop orang basudara* is a common norm that has bound the many peoples of Maluku together in friendship and harmony in the past. This starting point, which is by nature communal or collective, does not mean that individual needs and claims will not be entertained; rather, it is merely a stepping-stone to a truly holistic fulfilment of the right to reparation, including

⁶⁷ *Negeri* is defined in Regional Regulation No. 8 of 2017 of the City of Ambon as units of society with clear territorial borders, governed by *adat law*, which are granted autonomy to govern their own peoples subject to overriding norms of Indonesian national law; see Article 1(12). In 2016, twenty-five *negeri* were recorded in Ambon, divided over five districts: Latuhalat, Seilale, Nusaniwe, Amahusu, Soya, Batumera, Hative Kecil Galala, Laha, Tawiri, Hative Besar, Rumatiga, Poka, Hunut Durian Patah, Passo, Halong, Naku, Kilang, Ema, Hukurila, Hatalai, Rutong, and Laehari.

⁶⁸ Regional Regulation No. 8 of 2017 of the City of Ambon, Article 79.

⁶⁹ Timo Kaartinen, "Perceptions of Justice in the Making: Rescaling of Customary Law in Post Suharto Maluku, Indonesia," *The Asia Pacific Journal of Anthropology* 15, no. 4 (2014): 334.

individual rights. Collective reparation contributes positively to reconciling conflict-torn communities by establishing a sense of mutual forgiveness and brotherhood within the population.⁷⁰

The newly adopted Law No. 6 of 2014 on *Desa* can be a tool to restore the confidence of the people of Maluku in reconciliation efforts. This Law was subsequently implemented in Ambon through Regional Regulation No. 8 of 2017 of the City of Ambon. This regulation provides a powerful legal basis for the *negeri* in Ambon which were expected to become more actively involved in restoration efforts. In this regard, *Lembaga Adat Negeri* functions as a complementary body to the *negeri* government by aiding local authorities in empowering, developing, and propagating *adat* law, and by formally recognising the important role *adat* law and traditions play for the local communities of each *negeri*.⁷¹

With regards to the specific situation in Ambon, each *negeri* in Ambon has its own governmental framework, with specific positions and bodies.⁷² A *Negeri* is governed by the *Raja*, *Saniri Rajapati*, *Saniri Negeri* and *Saniri Besar*.⁷³ This traditional structure of governance has existed in Ambon for centuries. However, as a result of the political shift brought upon by Suharto's New Order regime, in particular through Law No. 5 of 1979 on *Desa* Governments (*Pemerintahan Desa*), the role of the *Lembaga Adat Negeri* was drastically reduced. The imposed uniformity in the local governance framework weakened the *Lembaga Adat Negeri* significantly, rendering it no longer capable of effectively performing as a forum of communication between the local communities and as a forum for the settlement of disputes and societal problem-solving. The following are examples of the deteriorating effects of the Law on *Lembaga Adat Negeri*.

Traditionally, formal proceedings of dispute resolution, reconciliation, and mediation were conducted before the *Saniri Rajapati*.⁷⁴ Issues could involve, for example, land and family conflicts. The *Saniri Rajapati* functioned as forums to

⁷⁰ Taschler, *op. cit.*, iii.

⁷¹ Law No. 6 of 2004 on *Desa*, Article 95.

⁷² Regional Regulation No. 3 of 2004 of the City of Ambon.

⁷³ The *Soa* is an assembly attended by several *matarumah* (organisations of people with a common genealogical background), based on common territorial and genealogical roots. *Soa Parenta* are *matarumah* which, according to local *adat* law, are assigned the leading and coordinating role for discussions and meetings between local *mata rumah*. In addition to *negeri*, important terms with regard to Ambonese *adat* law are *kampong* and *petuanan*. *Petuanan* refers to the land or territory which is recognised as belonging to a specific *negeri*, while *kampong* refers to the society and peoples who inhabit a given *petuanan*. The *Saniri Besar* is an open assembly attended by all members of the *Saniri Negeri* and all adult members of the *Saniri Rajapati* (the executive governmental branch), for the purpose of public announcements and reports concerning policies taken by the *negeri* government. These policies can encompass public works, administrative issues, and public services.

⁷⁴ Ronald Alfredo, "Lembaga Adat "Saniri" Sebagai Forum Komunikasi Dalam Penyelesaian Masalah Publik di Ambon," *Jurnal Komunikasi KAREBA* 1, no. 3 (2011): 335.

discuss, debate, and map issues brought before them, and subsequently issued decisions based on these considerations. These decisions were executed by the *raja*, the head of the *negeri*, who contributed to local dispute resolution in accordance with prevailing laws and customs. These executing decisions from *raja* were traditionally obeyed and perceived as binding by local societies.⁷⁵ As such, Ambonese society had a functioning and authoritative means to resolve any social and legal issues through its own *adat* institutions. The Law of 1979 stripped away these competencies and instead imposed forums based on national law for local communities to utilise, which did not resonate as deeply as the firmly entrenched *adat* law-based ones. In addition, the more coercive nature of litigation through national courts, in sharp contrast with *adat* law litigations which emphasised harmony and reconciliation, played a role in deteriorating traditional Ambonese values.

Saniri Negeri is legislative bodies consisting of *Soa* representatives, heads of *adat* law, elders, representatives of the labour force, *kewang*, and other parties which assist the *negeri* government in drafting and adopting laws for the *negeri*. Previously, it assisted *raja* in performing their duties and filled a supervisory role, and was responsible for protecting local customs and *adat* law.⁷⁶ The Law of 1979 removed its function from the public sphere and instead replaced it with a so-called village council (*Lembaga Musyawarah Desa*). The Law of 1979 was very restrictive on local governance and provided little flexibility to deviate from the governmental structure it proscribed. This strict uniformity weakened or even nullified many pre-established frameworks and local expressions of democratic participation. This Law remained in force for 34 years and effectively killed the diversity of many *adat* communities in Indonesia, and made *adat* law-based governance impossible to sustain. Although an alternative council was established later through national law to replace the *adat* law institutions, it failed to achieve de facto legitimacy in the perspective of the local citizens, many of whom rejected the council due to their membership not being comprised of *Soa* representatives.⁷⁷

Efforts to revitalise the traditional *adat* framework gained renewed momentum with the enactment of Law No. 32 of 2004, which officially recognised the legal standing of the *adat* society. This once again opened an opportunity for *Lembaga Adat Negeri* to retake its original place as a forum for local dispute resolution. In 2005, the Province of Maluku followed up on this initiative by adopting Regional Regulation No. 14 of 2005 on the reestablishment of *negeri* as an *adat*-law governed societal entity under the Province of Maluku. Currently, the legal existence of the *desa adat* has been further reinforced by the aforementioned national Law No. 6 of 2014 on *Desa*. This law, in stark contrast to the Law of 1979, instead emphasises that each *desa* has historic and traditional rights that may be referred to when

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

organising its governance. It emphasises the importance of protecting and incentivising desaentities to create local communities which can democratically develop and expand. This Law therefore provides valuable legal legitimacy that can be embraced to restore and revitalize the many *Lembaga Adat Negeri* and their crucial societal role in dispute settlement and reconciliation. In association with religious leaders and peace workers, *Lembaga Adat Negeri* can take varied approaches to support reconciliation activities, e.g. by using religious and *adat* values, norms, ideas, discourses, and texts. They can employ traditional and religious concepts of apology and forgiveness as a focal resource for the reconciliation process. In light of the virtues of mercy and compassion, and the successful past practices of religious figures and leaders who committed to peace and humanity in Indonesia,⁷⁸ this approach may provide a valuable outlet to local reconciliation.

Throughout the twenty-five *negeri* in Ambon, the many *Lembaga Adat Negeri* should once again take up their strategic position in Ambonese society, a position they have held since long before the conflict, and will continue to hold even in the current post-conflict era. The *Saniri*, with its newly gained recognition and role in *negeri* governance, should continue to fulfil its reconciliatory role and contribute to the reparations of victims in Ambon. With *adat* law as its foundation, the *Saniri* is one of the cornerstones of Ambonese society which binds and holds its constituents together due to its close ties with the fundamental values of the Ambonese peoples, and thus presides in a prime position to receive and process the many aspirations in Ambon that have thus far been neglected. *Saniri* are comprised of local and *adat* figures who command respect and authority from the local peoples, and as such both enjoy the support and trust of locals, and possess sufficient capacity to enforce their decisions.⁷⁹ As in previous times, *Saniri* can use this authority to resolve interpersonal claims and conflicts within their respective *negeri* through interpersonal mediation or by providing a forum for reconciliation between groups or collectives, as well as aid in social (re)integration and the peaceful transition from a post-conflict society.

Lembaga Adat Negeri must continually be encouraged to take part actively in contributing towards Ambonese society, in the hopes of rebuilding and re-enforcing the important *hidop orang basudara* values which have eroded over the years. In the end, it is hoped that their active involvement can provide a meaningful and functional input towards the fledgling reconstruction and reconciliation effort. Currently, bodies such as the *Badan Pelestarian Nilai Budaya* (Body for the Development of Customary Values) and the *Lembaga Kebudayaan Daerah Maluku* (Institute for Moluccan Local Culture) are continuously involved in efforts to consolidate *Lembaga Adat*

⁷⁸ Sumanto Al Qurtuby, "Peacebuilding in Indonesia: Christian-Muslim Alliances in Ambon Island," *Islam and Christian-Muslim Relations* 24, No. 3 (2013): 349.

⁷⁹ *Ibid.*

Negeri with the local societies. The regional government of the Province of Maluku is also actively facilitating the activities of the *Lembaga Latupatti*, which is attempting to unify the *raja* of the many *negeri* to ensure a joint effort in promoting peace processes, based on *hidop baku bae* and *hidop orang basudara*.

3. Conclusion

Integrating the *hidop orang basudara* mentality into post-conflict reconciliation programmes in Maluku is an attractive way of approaching the issue of reparations in Ambon. *Hidop orang basudara*, with its emphasis on peace-building, unity, and a communal identity, is the ideal remedy to re-unify and mend the damaged Ambonese society, which currently experiences segregation, mistrust, and division. Reparations based on *hidop orang basudara*, based on the common notion that *katong samua orang basudara* (we are all brothers and sisters) can become a unifying ideology between the peoples of the many Moluccan *negeri*, and specifically those of the city of Ambon.

The importance of peace in the *hidop orang basudara* 'cosmology' can play a significant role and provide significant contributions to re-establish the harmonious coexistence of the Ambonese peoples, and in particular those of victims, by providing a safe haven where they can rebuild their lives. Each person raised in a Moluccan *negeri* is likely to innately retain the aspirations and core values of *hidop orang basudara*, which makes this approach tenable and possibly more effective and relatable than the top-down efforts which have been attempted thus far.

Reparation and reconciliation efforts with friendship and mutual respect as its core underlining values, as suggested in this article, must be spearheaded by each individual *negeri*. This is so taking into account the proximity of each *negeri* to its subjects and the unique values and wisdoms each *negeri* can inject into their specific reparation policies, further increasing compatibility with local traditions and aspirations. It is recommended that the local government of Ambon and the regional authority of the Province of Maluku continues their efforts to encourage reconciliation between the communities and groups in Ambon. Reconciliation and reintegration are important and effective methods to mend the damage done by the Moluccan conflict. Reconciliation, with its foundational premise of bridging the gap between the victims and perpetrators, promoting dialogue between these parties, and re-establishing peace and cooperation, is already in conformity with many *hidop orang basudara* values and will only be strengthened by the additional focus on Ambonese traditional wisdoms. Reconciliation traditionally also aims to change perceptions and stigmas carried by specific social groups, which once again is in line with *katong samua orang basudara*.

Local leaders, authorities, and important *adat* figures in Ambonese society who wish to engage in rebuilding the fractured ties between the Ambonese peoples are recommended to retain their integrity, honesty, and goodwill at all times. It is also essential that such figures fulfil the necessary qualifications to lead reconciliation efforts, in terms of knowledge on *adat* law, experience, charisma, authority, and knowledge on the history of the Ambonese people, both before and after the conflict. In particular, objectivity and impartiality are crucial for the successful rebuilding of peaceful co-existence and reconciliation in Ambon.

The adoption of the Law of 2014 is a manifestation of the State's recognition for the many different peoples in Indonesia, each with their own customary law and societal structures. This important milestone should not be wasted by the peoples of Maluku in their quest to reignite the previously-oppressed local governmental structures and dispute settlement mechanisms. The establishment and involvement of the *Lembaga Adat Negeri*, in particular, should be further incentivised to aid general reparatory efforts, in particular with respect to remedies for victims. *Lembaga Adat Negeri* is in a prime position to utilise their unique role within society to improve victims' rights to reparation. Due to their proximity to the people, *Lembaga Adat Negeri* can most effectively determine the proper form of reparation for each victim or group of victims, as well as the best way to provide satisfaction.

Reparations underlined by *pela* and *gandong* remain the dominant models in *adat*-based reparations programmes in the many Ambonese *negeri*. Despite the conflict that has ravaged the peoples of Maluku in the past, the ties that bind the people of Ambon still exist to this day and are still tangible in everyday life in Ambon. Now, it is time to reignite these feelings of solidarity and respect to reunify a divided people. It is our conviction that, when spearheaded by *Lembaga Adat Negeri*, *pela* and *gandong* and the common identity of the Ambonese people as *anak negeri* (children of the *negeri*) will be able to overcome the prejudice and hatred and de-escalate any potential conflict which may occur.

BIBLIOGRAPHY

Book

- Eddyono, Supriyadi Widodo & Zainal Abidin. *Memastikan Pemenuhan Hak atas Reparasi Korban Pelanggaran HAM Yang Berat*. Jakarta: Institute for Criminal Justice Reform. 2016.
- Hiarij, Eddy O.S. (ed.). *Format Ulang Birokrasi Kota Ambon*. Makasar: Inninawa. 2008.
- Manuputty, Jacky. *et al.* (eds.). *Carita Orang Basudara*. Ambon: Lembaga Antar Iman Maluku. 2014.
- Ralahalu, Karel Albert. *Berlayar dalam Ombak, Berkarya bagi Negeri: Pemikiran Anak Negeri Untuk Maluku*. Ambon: Ralahalu Institut, 2012.
- Watloly, Aholiab. *Maluku Baru, Bangkitnya Mesin Eksistensi Anak Negeri*. Yogyakarta: Kanisius. 2005.
- Watloly, Aholiab et al. *Perdamaian Berbasis Adat Orang Basudara*. Yogyakarta: Kanisius. 2016.

Journal

- Al Qurtuby, Sumanto. "Peacebuilding in Indonesia: Christian-Muslim Alliances in Ambon Island." *Islam and Christian-Muslim Relations* 24, no. 3 (2013): 349-367. <https://doi.org/10.1080/09596410.2013.785091>
- Alfredo, Ronald. "Lembaga Adat "Saniri" Sebagai Forum Komunikasi Dalam Penyelesaian Masalah Publik Di Ambon." *KAREBA: Jurnal Ilmu Komunikasi* 1, no. 3 (2011): 335-347.
- Goss, Jon. "Understanding the Maluku Wars: Overview of Sources of Communal Conflict and Prospects for Peace." *Cakalele* 11, no. 7 (2000);7-39.
- Herman, Johanna. "The Right to Reparation in International Law for Victims of Armed Conflict." (book review) *Nordic Journal of Human Rights* 33, no. 2 (2015): 190-192. <https://doi.org/10.1080/18918131.2015.1036512>
- Kaartinen, Timo. "Perceptions of Justice in the Making: Rescaling of Customary Law in Post-Suharto Maluku, Indonesia." *The Asia Pacific Journal of Anthropology* 15, no. 4 (2014): 319-338. <https://doi.org/10.1080/14442213.2014.927521>

Kusumaningrum, Diah. "Interdependence versus Truth and Justice: Lessons from Reconciliation Processes in Maluku." *JSP (Jurnal Ilmu Sosial dan Ilmu Politik)* 20, no. 1 (2016): 34-49. <https://doi.org/10.22146/jsp.17998>

Legal Document

Decree No. 25 of 2003 of the Mayor of Palu

KPP HAM. LAPORAN Komisi Penyelidik Pelanggaran Hak Asasi Manusia dan Mediasi di Maluku (2000) <http://www.oocities.org/toelehoe/komnasham290305.htm>

Law No. 5 of 1979 on *Desa* Governments (*Pemerintahan Desa*).

Law No. 6 of 2014 on *Desa* (State Gazette of the Republic of Indonesia 2014 No. 7, State Gazette Supplement No. 5495.)

Orentlicher, Diane, 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.

Regional Regulation No. 18 of 2008 of the City of Ambon on Guidelines for *Negeri* Governments.

Regional Regulation No. 3 of 2008 of the City of Ambon on *Negeri*.

Regional Regulation No. 8 of 2017 of the City of Ambon on *Negeri*.

General Assembly of the United Nations Resolution A/RES/60/147 (16 December 2005).

Other Document

Böhm, C.J. "Brief Chronicle of the Unrest in Maluku." Crisis Centre Diocese of Amboina 2006. unpublished.

Buchanan, Cate (ed.). "Pengelolaan Konflik di Indonesia – Sebuah Analisis Konflik di Maluku, Papua dan Poso, Lembaga Ilmu Pengetahuan Indonesia." Current Asia and The Centre for Humanitarian Dialogue, Geneva 2011.

Current Asia & The Centre for Humanitarian Dialogue. June 2011. "Pengelolaan Konflik di Indonesia – Sebuah Analisis Konflik di Maluku, Papua dan Poso, Lembaga Ilmu Pengetahuan Indonesia." (June 2011) <https://www.hdcentre.org/wp-content/uploads/2016/07/64BahasaIndonesiaversion-June-2011.pdf>.

Eddyono, Supriyadi Widodo & Wahyudi Djafar. "Mendorong Kebijakan Pemulihan yang Efektif: Rekomendasi Pembaruan Kebijakan Pemulihan bagi Korban Pelanggaran HAM yang Berat Pasca-Pengesahan UU No. 31/2014 tentang Perlindungan Saksi dan Korban." Seri Keadilan Transisional. ELSAM.

ICTJ, IKOHI & KKPK. December 2011. "Indonesia's Obligations to Provide Reparations for Victims of Gross Human Rights Violations." Policy Briefing. <https://www.ictj.org/sites/default/files/ICTJ-Indonesia-Reparations-Policy-Briefing-2011-English.pdf>.

"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 Displaced People in the Region of Maluku and North Maluku. April 2003. unpublished.

Soumokil, Tontji. "Reintegrasi Sosial Pasca Konflik Maluku." Dissertation, *Salatiga, Indonesia: Fakultas Ilmu Sosial dan Komunikasi, Universitas Kristen Satya Wacana*, 2011.

Taschler, Lisa. "Justice in Maluku: Formal and Informal Justice Processes and their Role for Reconciliation in the Aftermath of the 199 – 2002 Conflict." Groningen. NOHA.

Watloly, Aholiab. October 2016. "Gambaran Umum Kota Ambon." manuscript presented to the Desain Ruang Publik berbasis Kearifan Lokal Kota Ambon FGD. Ambon.

Case Law

Putusan No. 01/Pid. HAM/Ad Hoc/2003/PN.JKT.PST atas nama Sutrisno Mascung, dkk, 20 Agustus 2004.

Website Content/Internet

Aditjondro, George J. "Orang-orang Jakarta di Balik Tragedi Maluku." <http://www.michr.net/orang-orang-jakarta-di-balik-tragedi-maluku.html>

Gumilang, Prima. "Kisah Wali Kota Pelaku Tragedi 1965 Minta Maaf ke Korban." <http://www.cnnindonesia.com/nasional/20160630112959-20-142052/kisah-wali-kota-pelaku-tragedi-1965-minta-maaf-ke-korban>