

THESIS

THE INTERNATIONAL RULES OF LAW RELATED TO THE
INTERNATIONAL CRIMES
(CASE STUDY: TRAGEDY OF TAK BAI IN SOUTHERN THAILAND)

Submitted as a requirement to Obtain Bachelor Degree of Law

BY:

SETIA FELISIANY HADJU

05 140 181

SPECIAL PROGRAM
INTERNATIONAL LAW



FACULTY OF LAW
ANDALAS UNIVERSITY
PADANG
2009

No. Reg. 2860 /PK VII/06/09





Alumnae Number of University

Setia Felisiany Hadju

Alumnae Number of Faculty

a). Place/Date of Birth : Padang, February, 19th 1987. b). Parent's name : H.Yulianto Hadju and Hj. Rozalinda c). Faculty : Law. d). SP : Internasional Law. e). Registered Number: 05140181. f). Date of Graduation : July, 13th 2009. g). Graduation Tittle : Very Satisfy . h). IPK : 3,44. i). Time of Study : 3 Year 10 Month. j). Address : Jl. Mustika II Number 44 Pegambiran, Padang City

THE INTERNATIONAL RULES OF LAW RELATED TO THE INTERNATIONAL CRIMES (CASE STUDY: TRAGEDY OF TAK BAI IN SOUTHERN THAILAND)

SI Scripts by Setia Felisiany Hadju - 05140181 Supervisor 1. Prof. Firman Hasan, SH.,LLM. 2. Ferdi SH.,MH.

ABSTRACT

The Southern Thailand is a territory that is governed by a strict and dictates government with military troops as the security. The military under command of the government of Thailand create various problems; one of them is the violation of fundamental human rights. The emergency status which is applied in the Southern Thailand admits the Military to detain Moslem people as the minority without accusation. The Tragedy of Tak Bai in the Southern Thailand is one of tragedy as a form of refusing various violations in this territory. The Tragedy of Tak Bai died about 80 Moslem people with inhuman acts by the Military troops. This tragedy violate several International instruments such as The Universal Declaration of Human Rights 1948, Rome Statute of The International Criminal Court 1998 and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). The writer will conduct a normative-juridical research. It was got by analyzing relevant materials from Library Study, used the secondary data as the mainly source.

This Scription has been defended and declared in front of the reviewer team on Monday, July, 13th 2009.

Abstract has been agreed by reviewer:

Reviewer :

Table with 2 columns: Signature, Name. Row 1: 1. [Signature], H. Najmi, SH.,MH. Row 2: 2. [Signature], Syofirman Syofyan, SH.,MH.

Known by : Head of Special Program Prof. Firman Hasan, S.H, LLM

[Signature] Signature

Alumnae has been register to Faculty/University and receive the Alumnae number as follows:

Table with 2 columns: Alumnae Number of Faculty/University, Name, Signature.

CHAPTER I

INTRODUCTION

A. Background

The fundamental protection of Human Rights is the most crucial thing but really hard to reach in International society. Before World War II, the instrument of International Law that protected human rights was rarely exist.¹

It happened because at that time there was no maximum analysis about the regulation of Human Rights. However, the great number of victims as the result of the crimes to the human which were appear after World War II proves how important the regulation analyst about the protection of human rights to overcome the condition.

In fact, not all cases could be overcome by the regulation that already made. It shows us the asymmetrical between "das Sollen" and "das Sein" as the meaning of "what should be" and "facts in reality". The asymmetrical is become a dilemma including to the cases which appear but do not follow the right way.

The protection of Human Rights is had been regulated perfectly in International Law concerning to the Human Rights which especially regulate the individual and group protection from the human rights serious offence which is done by governmental instruments.²

The tragedy of Tak Bai in South Thailand is become an element to be discussed in the Commission of Human Rights of United Nations, which afterwards

¹ The opinion of Emilie M Hafner-Burton and Kiyoteru Tsutsui in Human Rights Journal 2007, *Komisi haNasional Hak Atasi Manusia*, p. 68

² Boer Mauna 2000, *Hukum Internasional*, Alumni 2000, p. 594

pushing up the governmental of Prime Minister Thaksin Shinawatra to investigate the tragedy. The governmental of Thailand is positively accepting the input, but it is only as a statement without acts as the application.³ The blurred information about the case is thrust the asymmetrical forward between the facts of the tragedy and acts that could be taken. International society which have to take acts by bringing the case into the International Criminal Court (ICC) can not do such an action because the Government of Thailand has equivocate that the termination will be done internally.

Tragedy of Tak Bai that happened on October 25th in 2004 and died almost a hundred of people was a bunch of violence and massacre to the Moslem's society as a minority in five provinces; Pattani, Yala, Narathiwat, Songkhla and Setun. Before it happened, on April 28th 2004, 106 Moslem's teenagers had been massacre by military institution and police due to their attack to the security places by using sharp's tools. In that tragedy, more or less 34 teenagers tried to protect their self in Masjid Krc Se, Pattani, were killed. This Masjid is a historical building from the 17th century and already damage by the military.⁴

The tragedy of Tak Bai is become an International's attention due to the inhuman acts such a massacre by military institution. About 1,300 people demonstrate at the tragedy were delivered by using six trucks with hands hang at their back and put in five lines in a truck. The violence is not just on that way because afterwards the truck also covered by heavy material for five to six hours in way to the Commando's camp of military IV in the south.⁵

³<http://www.kompas.com/04-12/20/soretan/1445593.htm>

⁴*Ibid*

⁵*Ibid*

CHAPTER IV

CLOSING REMARKS

A. Conclusion

1. That there are several forms of criminal actions to the humanity in tragedy of Tak Bai in Southern Thailand, as follows:

- a. Murder. The attacks that often happen at night create suspicion and misunderstanding between the Moslem and non-Moslem people in Southern Thailand. Based on the data, most of the victims are the Moslem people. And it makes this internal conflict separating the brotherhood based on the religion.
- b. The discrimination to the minority of Moslem people in Southern Thailand limit their rights to get good job, education and change to express their identity as a Moslem.
- c. The existence of emergency status in Southern Thailand make the Moslem people get detained easily without any reason of law by the military troops which are separated in the whole territories of southern Thailand.
- d. Inhuman treatment by military troops to the minority of Southern Thailand such as: torture, persecution, Enforced disappearance of persons, and et cetera.

REFERENCES

A. Books:

- Anak Agung Banyu Perwita, 2005, *Pengantar Hubungan Internasional*, P.T Remaja Rosdakarya, Bandung
- Bambang Sunggono, 2003, *Metodologi Penelitian Hukum*, P.T RajaGrafindo Jakarta
- Boer Mauna 2000, *Hukum Internasional (Pengertian, Peranan Dan Fungsi dalam Era Dinamika Global)*, Alumni, Bandung
- C.de Rover, 1998, *To Serve and To Protect (Acuan Universal Penegakan HAM)*, International Committee of The Red Cross, Geneve
- Francisco Forrest Martin, 2006 *International Human Rights and Humanitarian Law (Treaties, Cases, and Analysis)*, Cambridge University
- Geoffrey Robertson QC, 2000, *Crimes Against Humanity (The Struggle For Global Justice)*, Revised Edition, The New Press, New York
- Huala Adolf, 1996 *Aspek-aspek Negara dalam Hukum Internasional*, P.T Raja Grafindo Persada, Jakarta
- Huala Adolf, 2004, *Hukum Penyelesaian Sengketa Internasional*, Sinar Grafika, Jakarta
- I Wayan Parthiana, 2003 *Pengantar Hukum Internasional*, Mandar Maju, Bandung
- Johnny Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia, Malang
- Malcolm D Evans, 2003, *International Law Documents, Sixth Edition*, Oxford University Press
- Shinta Agustina, *Hukum Pidana Internasional dalam Teori dan Praktek*, Andalas University Press
- Sumaryo Suryokusuma, 2007, *Studi Kasus Hukum Internasional*, P.T Tatanusa, Jakarta
- Surin Pitsuwan, 1989, *Islam di Muangthai, Nasionalisme Melayu Masyarakat Pattani*, LP3ES