

## Abstrak

Pada tahun 1999 pasca jajak pendapat di Tim-Tim terjadi peristiwa yang diduga merupakan pelanggaran HAM berat, yang menyebabkan DK PBB mengeluarkan Resolusi nomor 1264 dan Resolusi nomor 1272. DK PBB kemudian membentuk Komisi HAM PBB yang melakukan investigasi atas peristiwa di Tim-Tim. Komisi HAM PBB telah mengidentifikasi sejumlah nama perwira dan perwira tinggi tentara yang diduga harus mempertanggungjawabkan peristiwa pelanggaran HAM berat yang diduga terjadi di Tim-Tim. Indonesia segera menetapkan UU No. 39 tahun 1999 tentang HAM, yang diikuti dengan UU No. 26 tahun 2000 tentang Pengadilan HAM. Beberapa orang diajukan untuk diadili di Pengadilan HAM Ad Hoc, termasuk AJOS. UU No. 26 tahun 2000 ditetapkan setelah terjadinya peristiwa pelanggaran HAM berat yang diduga terjadi di Tim-Tim, agar para perwira dan perwira tinggi yang namanya sudah diidentifikasi Komisi HAM PBB tidak diadili di ICC. Penggunaan asas retroaktif dalam peradilan di Pengadilan HAM Ad Hoc kemudian menimbulkan pendapat pro dan kontra. Romli Atmasasmita berpendapat bahwa penggunaan asas retroaktif adalah untuk menghindarkan dilakukannya peradilan di ICC, dan apabila Indonesia menolak Resolusi DK PBB No. 1264 dan Resolusi No. 1272, maka Indonesia dapat dikenai embargo ekonomi. Timbul pula perbedaan pendapat di antara para Hakim Agung tentang novum yang diajukan.

**Kata kunci** : pelanggaran HAM berat, Resolusi DK PBB, asas retroaktif, dan novum.

## Abstract

In 1999 after the referendum in East Timor in an event which is thought to be serious human rights violations, which led to UN Security Council issued Resolution No. 1264 and Resolution No. 1272. The UN Security Council then formed UN Human Rights Commission to investigate the events in East Timor. UN Human Rights Commission has identified a number of names of officers and senior officers of the soldiers suspected of serious human rights violations that allegedly occurred in East Timor. Indonesia immediately applied Law No. 39 of 1999 on Human Rights, which was followed by Law No. 26 of 2000 on Human Rights Court. Some people put forward for trial in the Ad Hoc Court of Human Rights, including AJOS. Law No. 26 of 2000 is set in the aftermath of serious human rights violations that allegedly occurred in East Timor, so that the officers and senior officers whose names have been identified by the UN Human Rights Commission is not on trial at the ICC. The use of the retroactive principle of justice in the Ad Hoc Court of Human Rights then raises opinion of the pro and contra. Romli Atmasasmita argued that the use of retroactive principle is to avoid doing justice in the ICC, and if Indonesia refused UN Security Council Resolution No. 1264 and Resolution No. 1272, the Indonesian economy can be embargoed. Dissenting opinion also arise between the Supreme Court Justices about novum that proposed.

**Key words** : serious human rights violations, UN Security Council Resolution, retroactive principle, and novum.