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Sovereignty and Responsibility in Indonesia

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Abstract

The conventional narrative about Indonesia and human rights protection shows that state security has triumphed over human rights and security. More recently, the literature has taken on a more positive outlook that acknowledges the progress that has occurred since the Reformation in 1998. Both of these accounts are incomplete and portray only one part of the story. This thesis aims to provide a new and more balanced perspective on Indonesia's orientation toward human rights by investigating how Indonesia has understood and interpreted the idea of sovereignty and responsibility over time. By posing the question in relation to the historical development of responsible sovereignty, it is possible to assess the contemporary potential for Indonesia to implement Responsibility to Protect (R2P).

This thesis used social constructivism as a theoretical framework. Social constructivism provides the historical and discursive tools to understand how the ideas of sovereignty and responsibility have emerged and evolved in the course of Indonesian history through a dynamic social process of norm localization. To explain the dynamic in the construction of meanings and understanding of sovereignty and responsibility in Indonesia since the early independence, this thesis adopts a qualitative research method. In particular, this thesis focuses on the language used by various actors to explain and justify their conducts. By utilizing this framework of analysis, this thesis investigates the dynamic process of norm localization by which sovereignty and responsibility norms have been understood by Indonesian society, adapted to local context or contested by local values, and then implemented within Indonesian society over historical periods in Indonesia.

This thesis found that Indonesia's conceptualization of sovereignty has always had an account of responsibility, however, the balance between the rights and responsibilities of the sovereign has varied during the post-independence era in Indonesian history. Human rights have been part of Indonesian politics since independence, but human protection or protection of civilians from violence only emerged in a short period in the early 1950s and then gained momentum back after 1998. Indonesia's discursive engagement with sovereignty and responsibility for human rights protection was carried out through a complex process of norm localization, which is shaped not only by the normative context but also by material power and interests within domestic society. The ideas of popular sovereignty and responsibility for

human protection were modified by the Indonesian government and other relevant actors in each historical period to make them congruent with Indonesian national values. By understanding this historical and social construction of sovereignty and responsibility, it is understood that the recent (and partial) endorsement of R2P by the Indonesian Government is possible because the framework resonates well with the idea of responsibility that has been part of Indonesian politics since independence. However, the potential for Indonesia to implement and mainstream R2P in a comprehensive manner is limited because Indonesia prefers to focus on prevention measures only and put careful approach to the responsive measures that allow for military intervention.

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List of Abbreviations

ABRI	*Angkatan Bersenjata Republik Indonesia*, The Armed Forces of the Republic of Indonesia
AGO	Attorney General's Office
AICHR	ASEAN Inter-governmental Commission on Human Rights ()
ANNI	The Asian NGO Network on Nationaln Human Rights Institutions
APODETI	Associacao Popular Democtarica de Timor
APR2P	Asia-Pacific Centre of the Responsibility to Protect
APSC	ASEAN Political and Security Community
ASEAN	Association of Southeast Asian Nations
BAKIN	*Badan Koordinasi Intelijen Negara*, State Intelligence Coordinating Agency
BPUPKI	*Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan Indonesia*, Investigating Committee for Preparation for Indonesian Independence
CAT	Convention against Torture
CEDAW	Convention on the Elimination of Discrimination against Women
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CiRES	Centre for Risk Studies
CRC	Convention on the Rights of the Child
CSIS	Centre for Strategic and International Studies
CSPS UGM	Centre for Security and Peace Studies Gadjah Mada University
DOM	*Daerah Operasi Militer*, Military Operations Area
DPA	*Dewan Pertimbangan Agung*, National Advisory Council

DPR	*Dewan Perwakilan Rakyat*, House of Representative
DPRGR	*Dewan Perwakilan Rakyat Gotong Royong*, House of Representatives of the Mutual Cooperation
ELSAM	*Lembaga Studi dan Advokasi Masyarakat*, Institute for Policy Research and Advocacy
F-PDKB	*Fraksi Partai Demokrasi Kasih Bangsa,* The Love Nation Democratic Party Fraction
F-PDU	*Fraksi Persatuan Daulat Ummah*, The United Party of The People Fraction
F-PG	*Fraksi Partai Golongan Karya,* Functional Group Party Fraction
FRETILIN	Frente Revolucionaria de Timor Leste Independente
GAM	*Gerakan Aceh Merdeka*, Free Aceh Movement or GAM
GANEFO	The Games for Emerging Forces
Gerwani	*Gerakan Wanita Indonesia*, The Women's Movement of Indonesia
GOLKAR	*Golongan Karya,* Functional Group
HRWG	Indonesian Human Rights Watch Group
IBRA	Indonesian Bank Restructuring Agency
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
IHL	International Humanitarian Law
IMF	International Monetary Fund
Imparsial	The Indonesian Human Rights Monitor
INTERFET	International Force East Timor
KAA	*Konferensi Asia Afrika*, The Asian African Conference

KMB	*Konferensi Meja Bundar* The Roundtable Conference
Komnas HAM	*Komisi Nasional Hak Asasi Manusia*, Indonesian National Human Rights Commission
KontraS	*Komisi untuk Orang Hilang dan Korban Kekerasan*, Commission for Disappearances and Victims of Violence
KOTA	*Klibur Oan Timur Aswain*, Sons of the Warriors
KOTER	*Komando Teritorial*, Army Territorial Command
KPP HAM	*Komite Penyelidikan Pelanggaran Hak Asasi Manusia,* Committees of Investigation of human right violations
LIPI	*Lembaga Ilmu Pengetahuan Indonesia*, The Indonesian Institute of Sciences
Mahmilub	*Mahkamah Militer Luar Biasa*, Supreme Military Court
MoFA	Ministry of Foreign Affairs
MPR	*Majelis Permusyawaratan Rakyat,* People's Consultative Assembly
MPRS	*Majelis Permusyawaratan Rakyat Sementara*, Provisional People's Consultative Assembly
NASAKOM	*Nasionalis Agama Komunis*, Nationalism Religious Communism
NATO	The North Atlantic Treaty Organization
NEFO	The New Emerging Forces
NGO	Non Government Organization
NHRI	National Human Rights Institute
OHCHR	Office of the High Commissioner for Human Rights
OLDEFO	The Old Established Forces
ORBA	*Orde Baru*, New Order
P4	*Penataran Penghayatan dan Pengamalan Pancasila*, Upgrading on the Guidance for the Perception and Practice of *Pancasila*

Parkindo	*Partai Kristen Indonesia*, Indonesian Christian Party
Partai IPKI	*Partai Ikatan Pendukung Kemerdekaan Indonesia*. The League of Supporters of Indonesian Independence Party
Partai Masyumi	*Majelis Syuro Muslimin Indonesia*, Council of Indonesian Muslim Association
Partai NU	*Partai Nahdatul Ulama*, Islamic Scholars Party
Partido Trabalhista	Labor Party
PDI	*Partai Demokrasi Indonesia* or Indonesian Democratic Party
Pemuda Rakyat	People's Youth
PKI	Partai Komunis Indonesia, Indonesian Communist Party
PMRI	Permanent Mission of the Republic of Indonesia
PNI	*Partai Nasional Indonesia*, Indonesian National Party
POLRI	*Kepolisian Republik Indonesia,* Indonesian National Police
PPKI	*Panitia Persiapan Kemerdekaan Indonesia,* Preparatory Committee for Indonesian Independence
PPP	*Partai Persatuan Pembangunan,* United Development Party
PRRI	*Pemerintahan Revolusioner Republik Indonesia,* Revolutionary Government of the Republic of Indonesia
PSI	*Partai Sosialis Indonesia*, Indonesian Socialist Party
R2P	Responsibility to Protect
RANHAM	*Rencana Aksi Nasional Hak Asasi Manusia*, National Action Plan of Human Right
RUSI	Republic of the United States of Indonesia
SISHANKAMRATA	*Sistem Pertahanan dan Keamanan Rakyat Semesta*, The Total people's defence and security system.
TNI	*Tentara Nasional Indonesia,* Indonesian National Army

TRIKORA	*Tiga Komando Rakyat*, People's Triple Commands
UDHR	Universal Declaration of Human Rights
UDT	Uniao Democratica Timorense
UN	United Nations
UN OSAPG	United Nations Office of the Special Advisor for the Prevention of Genocide
UNAMET	United Nations Mission in East Timor
UNAMIR	United Nations Mission In Rwanda
UNCI	United Nations Commission for Indonesia
UNGA	United Nations General Assembly
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSG	United Nations Secretary General

Introduction

1. Research problem

This thesis aims to provide a new perspective on Indonesia's orientation towards human rights and the Responsibility to Protect (R2P) by investigating the dynamic of Indonesia's understanding of sovereignty and responsibility over time. Human rights are inherent rights that each individual is entitled by reason of his or her human dignity (Office of the High Commissioner for Human Rights (OHCHR) 2016: 19). These rights include economic rights, political rights, civil rights, the right to development, and so forth. While recognizing the interdependent and indivisible nature of human rights, this thesis will not cover all of these rights. This thesis instead focuses on the specific right of human protection; that is the right to security from violence.

By limiting the focus to the right to security from violence, it does not mean that the other rights are not important. This thesis is building on the argument from Henry Shue, who categorizes the right to individual security as one of the 'basic rights' that needs to be fulfilled before securing other human rights (1980: 20; Vincent 1986: 112). Basic rights define 'the line beneath which no one is to be allowed to sink' (Shue 1980: 18; Vincent 1986: 112). Therefore, the right to security, which includes 'the right to life, not to be subjected to murder, torture, mayhem, rape, or assault', is fundamental and becomes the minimum requirement for the enjoyment of a life with dignity (Shue 1980: 20-21; Vincent 1986: 14). Indeed the international community has codified this range of rights as core values for several key instruments of international human rights, such as the 1948 Universal Declaration of Human Rights (UDHR), the 1949 Geneva Convention, Genocide Convention, the 1966 International Covenant on the Civil and Political Rights (ICCPR), the 1985 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), the 1998 Rome Statute, and so forth. The critical position of this right directed the international society to put it at the beginning of the UDHR as appears in article 3 that states 'Everyone has the right to life, liberty and security of person' (United Nations 1948). It also stipulated in Article 6(1) of the ICCPR that 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life', and article 7 that, 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment' (United Nations 1966). Furthermore, Article 7 of the Rome Statute categorizes the acts of murder, persecution, torture, extermination, and enforced disappearance 'that are committed as part of a widespread or systematic attack directed against civilian population' as crimes against humanity that directly threaten individual life and liberty (United Nations 1998). These

provisions affirm that international society has confessed the prominence and fundamental position of the right to individual security for ensuring the dignity of human beings. The ICCPR even categorizes this right as one of the non-derogible rights. This right to security as fundamental to the norm of human protection also has a strong correlation with the emerging norm of the responsibility to protect (R2P). Fulfillment of the right to security becomes a prerequisite for enjoying other important rights required for each human being to live with dignity. By assessing Indonesia's commitment to the basic right of human protection we can also develop a deeper understanding of Indonesia's conception of sovereign responsibility.

The ongoing discourse on Indonesia and human rights protection can be categorized into two different positions. The first position views Indonesia negatively because it has a serious problem in dealing with human protection particularly in relation to minority rights and self-determination. The second position views Indonesia positively by acknowledging the progress in advancing human protection. These two points of view, however, are overly deterministic, as they tend to over simplify the situation. As a consequence, these accounts are incomplete and portray only part of the story. This research aims to develop a richer and deeper analysis of Indonesia's complex relationship with human rights.

The general point of view mostly held by international non-government organizations and human rights advocates describes Indonesia as sacrificing the basic right to security as a consequence of the preference of the government for a realist conception of sovereignty (Burke 2001; Eldridge 2002; Lubis 1993; Mohamad 2002; Robinson 2003; Azhar 2014; Amnesty International 2017; Human Rights Watch 2017). This conception guarantees the right of sovereign states to claim supreme authority to exercise power domestically and maintain equal independence internationally among other sovereigns (Franklyn 1973: 41; Jackson 1999: 10; Keren and Sylvan 2002: ix; Devetak 2007: 124). According to this narrative, the Indonesian government has used violent means and undermined core human rights principles for the purpose of consolidating its nation and state-building efforts to achieve stability, strength and unity (Burke 2001: 218; Eldridge 2002: 3). Human rights have been viewed by the regime as a menace to national sovereignty and jurisdiction (Lubis 1993: 4; Mohamad 2002: 246). This kind of argument was at its height concerning the allegations of genocide or crimes against humanity in East

Timor (Robinson 2003: 4; Wheeler and Dunne 2001: 811; Kiernan 2008: 107; Thaler 2012: 214).[1] It was not easy for international community to persuade the Indonesian government to open the gate for international missions to restore security and provide humanitarian assistance in the post-ballot East Timor as this intervention were apprehended by the government at the time as a apparent menace to its sovereignty and national interest (Nair 2000: 103). Only with the heightened pressure from the international community, did the Indonesian government give consent to intervention from multinational forces under the United Nations Security Council (UNSC) mandate (Wheeler and Dunne 2001: 818).

Even in the wake of the New Order's authoritarian government in 1998 and the onset of democratization, human rights defenders have highlighted the continuation of the violations of human rights and unremedied violence in Indonesia (Azhar 2014: 228; Hicks and McClintock 2005: 1; Human Rights Watch 2015: 1; Yuliarto and Prajarto 2005: 293; Robet 2008: 11).[2] Human rights cases have related to land grabbing for big business interests, the repression of the rights of women, and discrimination against indigenous and minority people. A lack of serious efforts from the government to solve these problems is considered to perpetuate these violations (Azhar 2014: 228; Wilson 2015: 1317). As reported by human rights organizations in 2017, issues of freedom of religion, freedom of expression, and the ongoing practice of violence by security forces have emerged as prominent violations (Amnesty International 2017: 187; Human Rights Watch 2017: 325; KOMNAS HAM 2017:1). A study conducted by the Asia-Pacific Centre of the Responsibility to Protect (APR2P) categorises Indonesia as a moderate risk country due to records of sectarian conflicts in certain regions, acts of terrorism, and secessionist conflict in West Papua (APR2P 2017: 9-10).

The negative image of Indonesia's performance in regards to human rights also results from the slow progress of the settlement of past human rights abuses. The Indonesian National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia* or KOMNAS HAM) stated that the government has

[1] Geoffrey Robinson in 2003 wrote a report on *East Timor 1999 Crimes against Humanity, A Report Commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR).*

[2] Haris Azhar is a former coordinator of Indonesian non-governmental organization (NGO) KontraS (*Komisi untuk Orang Hilang dan Korban Kekerasan/*Commission for Disappearances and Victims of Violence). Robertus Robet wrote this book to represent ELSAM's (*Lembaga Studi dan Advokasi Masyarakat*/ Institute for Policy Research and Advocacy) viewpoint regarding the politics of human rights protection in Indonesia. Neil Hicks and Michael McClintock published a report from Human Rights First (formerly the Lawyers Committee for Human Rights, an international NGO working for advancing human rights and justice in the United States and abroad).

not resolved seven cases of past human rights infringements (2014: 30). They are the 1965-66 massacres, mysterious killings in 1982-85, Talangsari case in 1989, disappearance of democracy activists in 1997-98, Trisakti incident in 1998, and Semanggi incident in 1998. Some scholars even categorize the events of 1965-66 as *politicide*, with more than 500,000 loss of life due to their alleged political views (Cribb 2001: 2019; Kiernan 2009: 252). KOMNAS HAM had submitted its reports regarding these seven cases from to the Attorney General Office in 2012, which has authority to conduct further investigation and bring the case to the court. So far, however, this submission has resulted in no follow up from the Attorney General.

The inaction of the State in resolving past human rights violation cases has become a point of concern for human rights organizations as this failure to act demonstrates the existence of a practice of impunity at the government level. KontraS (Azhar 2014: 228) criticized on the unfinished legal process of human rights violations, viewing this lack of action as a threat to the promotion of human rights in the Reformation era. Other human rights advocates in Indonesia, such as ELSAM (*Lembaga Studi dan Advokasi Masyarakat* or Institute for Policy Research and Advocacy), HRWG (Indonesian Human Rights Watch Group), and *Indonesian Imparsial*, also assert similar concerns over the slow progress of successive governments to settle past human rights violations. ELSAM argues that the completion of past human rights violations is an absolute requirement on transitional projects for the purpose to prevent the birth of new generations of human rights violators (ELSAM 2016: 2).

In contrast to these negative evaluations above, certain actions on behalf of successive governments since the onset of *Reformasi* in the post-authoritarian era have received positive recognition as sign of democratic progress. Indonesia has been recognized as 'Asia's emerging democratic power' after succeeding in handling the economic crisis in 1997 that paved the way for consolidating its democracy (Acharya 2014: viii; Subekti 2015: 132). Reformation in 1998 enabled Indonesia to develop with a healthy economic growth and a relatively stable political system, which advocates a commitment to good governance, democracy, and human rights (Agusswandi 2010: 21; Tamara 2009: 10). The Aceh settlement in 2005 following decades of conflict, and the enactment of decentralisation are regarded as a demonstration of Indonesia's commitment to find a peaceful mechanism to pacify regional dissents. Free and fair elections in national and regional levels also give the right to citizens to take part in political life and facilitate regular leadership transition (Subekti 2015: 123). In addition, press freedom

and growing strength of civil society continue to play important roles for articulating the people's voice and providing a balanced perspective towards government policies and actions (Aguswandi 2010: 22).

The Indonesian Institute of Sciences also argues that Indonesian democracy is developing a stable pathway towards the improvement in human rights conditions (2015: 4). This Institute is also projecting Indonesia to become 'the center of excellence for democracy and human rights in Southeast Asia' (2015: 54). Some observers have recognized the aspiration of Indonesia to play role as a promoter of democracy, both at the regional and international levels. This role is evident in its active contribution to mainstreaming human rights in Association of Southeast Asian Nations (ASEAN), promoting democratisation in Myanmar, and socialising democracy through the Bali Democracy Forum (Karim 2017: 385; Sukma 2011: 110). Moreover, it is argued that the new identity of Indonesia as a democratic country has brought changes in foreign policy that aspire to promoting human rights and democracy as important agendas in the regional society (Wirajuda 2014: 2).

Scholars present a mixed picture on Indonesia's alignment with the norm of sovereignty that emphasizes more on responsibility as the core value of responsibility to protect (Pohlman 2010a; 2010b; CSIS 2011; Alexandra 2012). Responsibility to Protect affirms a global commitment aimed at strengthening states' and international society endeavour to live up their responsibilities by protecting people from 'genocide, war crimes, crimes against humanity, and ethnic cleansing' (United Nations General Assembly 2005: 30). In this regard, Indonesia aligns the norm of sovereignty with responsibility which becomes the core value of R2P. Regarding Indonesia's position toward R2P, Annie Pohlman (2010a), for example, recognizes that the Reform era brought important headway in strengthening human rights protection, improving rule of law and developing civil society and admits that Indonesia has a strong commitment to promote R2P. Pohlman, however, draws attention to the slower pace of reforms in the security sector and in addressing past grave human rights abuses as an impediment to the current progress (2010a: 7). Elsewhere, Pohlman voices a more critical assessment of the lack of the government's willingness to resolve past gross violations of human rights. She expresses concerns that this culture of impunity will potentially hamper Indonesian efforts to promote and implement R2P (Pohlman 2010b: 1). The Centre for Strategic and International Studies (2011) and Lina Alexandra (2012) present less critical views by acknowledging that the government has fully supported the national obligation to R2P and the capacity building pillars of R2P. They recognise, however, that the government has been more cautious with the third pillar on the role of international

society to take an action decisively in the situation where a state is unable to perform its protection responsibility. Alexandra finds that civil society, by contrast with the government, has a more receptive attitude towards the norm. Therefore the synergy between the government and civil society is an important modality for the effective implementation of R2P (Alexandra 2012: 71).

Overall, these two points of view regarding the human rights in Indonesia have made significant contribution to understanding the practice of human rights in Indonesia. However, they are incomplete in assessing the real human rights situation in Indonesia. This thesis will propose a different argument to both of these general views. The first group of scholars, mostly inspired by a liberal perspective, assumes that the corelation between sovereignty and human protection is merely the problem of choice between upholding sovereignty (and undermining human rights) or protecting human rights (and violating sovereignty). They cast these two norms as if they were in competition with each other, as in a zero-sum game, in which respect for sovereignty means dismissal of responsibility to give protection to people's rights. The second group of scholars sees the recent endorsement of human rights and R2P by the Indonesian Government through the diplomatic rhetoric in the United Nations, ASEAN and other forums as a sign of significant progress in Indonesian adherence to sovereign responsibilities regarding human protection. While these two opposing points of view are relevant to a general understanding, they are insufficient to fully capture the way that international norms of sovereignty and responsibility have been internalized and experienced in Indonesia over time as part of a complex localizing process. Trough localization processes, the Indonesian case also demonstrates a different path to the dominant liberal narrative regarding conservative Asian countries. The mainstream narrative usually views Asian countries as skeptical norm-takers or less enthusiastic participants in the norm diffusion activities, especially in regards to human rights norms. This thesis, however, shows Indonesia as an active norm-taker that has internalized a substantial part of the human rights and R2P agendas, albeit in a modified and partial form. This thesis follows a perspective which acknowledges that sovereigns have always had an account of responsibility, but the place of human protection in this account has varied over time and from one state to another (Deng et.al 1996: 32; Bellamy 2011: 10; Glanville 2014: 3). Moreover, this thesis is inclined to present a comprehensive assessment regarding the evolution of the Indonesian understanding of sovereignty and responsibility over time to have a better understanding of the Indonesia's relationship with human protection.

a. Research question

This thesis aims to elaborate the historical construction and reconstruction of the ideas of sovereignty and responsibility for human protection within Indonesian society over time. Furthermore it also aims to assess the commitment of Indonesia in implementing and mainstreaming R2P. This thesis poses the following research question:

> How has the Indonesian state understood and interpreted its sovereign responsibility in relation to the evolving norm of human protection?

By analysing this question, it is possible to assess the preparedness and commitment of Indonesia to implement and mainstream the R2P norm.

2. Literature review and contribution to knowledge

This section explores and reviews existing literature on the topic ragearding sovereignty and responsibility to protect human rights in order to inform the current research project. Knowing and mapping out what other scholars have done in the key areas of sovereignty and responsibility places this thesis within specific body of knowledge. On that basis, the thesis will add to scholarly and policy debates on sovereignty and responsibility for human protection in international society and in Indonesia in particular.

a. Literature on sovereignty and responsibility

Within the study of International Relations, debate about norms occupies an important position. It is believed that norms will condition the states and other actor's behavior in international relations. This thesis adopts Katzenstein's definition of norm as 'collective expectations for the proper behaviour of actors with a given identity' (1996: 5). This thesis will focus on the norm of sovereignty and how it influences the proper behaviour of states in international society; and in particular, how contemporary articulations of sovereignty as responsibility have shaped the Indonesian state's conceptualization and commitment to human protection.

Sovereignty is considered as an important norm in international relations. It lays a foundation for the development of the modern state system (Biersteker 2013: 245; Devetak 2007: 124; Reus-Smit 2001: 519). Despite its salient position in organizing social and political life, sovereignty as a concept does not have a single meaning or usage (Glanville 2014: 35; Jackson 2007: 5). There is a variety of ways in which the term of sovereignty is understood and used. It is not only common in academic works, but in the empirical world as well, since states demonstrate the use of different meanings of sovereignty at different times (Malmvig 2006: 2; Jackson 2007: 5). It is essential to understand that the distinct usage and meaning of sovereignty will lead to different consequences, both normatively and practically. Concern over this issue has become a central focus for debates among scholars in political science and international relations (Reus-Smit 2001; Malmvig 2006; Jackson 2007; Glanville 2014; Johnson 2014). While this thesis will attempt to investigate the specific conception of sovereignty in Indonesia, which may have changed over time, as a provisional definition, this thesis views sovereignty as a general understanding about authority to exercise power in the community and in relations to other sovereigns.

Responsibility is also considered as another important norm and principle in international relations. In view of this norm of responsibility, the state tries to maintain its behaviour in accordance with prevailing norms in society, both domestically and internationally, in order to be considered as a responsible government. Responsible governments have duties to give protection to its people rights, to distribute economic resources and to provide social services to its people in a just and fair manner (Deng 2010: 355). Although precisely how each state interpret these responsibilities will vary, and often leads to contestation and criticism.

The endorsement of Responsibility to Protect (R2P) during the 2005 World Summit confirms that states, individually and collectively, bear responsibility to give protection to the people from atrocity crimes (UNGA 2005: 30). With the robust endorsement from the majority of UN member states, R2P became one of the important norms in international society. Literature in the study of International Law recognises 'state responsibility' to be a legal provision, which is codified in some instruments of international law.[3] When state responsibility deals with the law of human rights, '…the law of state

[3] International Law Commission 2001 Responsibility of States for Internationally Wrongful Acts, 2001 Article 1 stated, "Every internationally wrongful act of a State entails the responsibility of that State" (United Nations 2005). The adoption of Genocide Convention, Rome Statute for the International Criminal Court and numbers of human rights and humanitarian laws affirm the principle of state responsibility as a legally binding provision for states.

responsibility is applicable to the violations by a state of internationally-recognized human rights, because such action constitutes an infringement of an international obligation' (Bing Cheng 1953 cited in Sujatmoko 2005: 3). To understand the development of this norm in the context of Indonesia and international society, this thesis views this responsibility as a dynamic concept or norm. In doing so, the thesis acknowledges that the meaning of responsibility (what kind of responsibility and to whom it is attributed) may vary, depending on the inter-subjective understandings attached to the practice or concept at a certain time. My explanation of responsibility will cover both internal and external dimensions which transform over time, as my historical chapters will show.

The debate on the meaning of sovereignty and its correlation to responsibility can be broadly categorised into two approaches. The first approach views sovereignty merely as rights possessed by a leader or state largely unconstrained by the notion of responsibility. This classical approach of sovereignty as an unconditional authority of a state refers to the idea of absolute sovereignty presented by Jean Bodin and Thomas Hobbes (Devetak 2007: 124). Bodin was the first thinker to use the word of sovereignty to define 'a supreme power over citizens and subjects, and it was unrestrained by the laws' (Jean Bodin in Dunning 1896: 92; Franklin 1973: 41-42). Bodin and Hobbes focus more on the internal sovereignty, while Vattel presents the idea that states also enjoy external sovereignty. Vattel argues that natural law bound states to respect other independent states' sovereignty and the equality of sovereign states becomes the fundamental principle of international law (Vattel cited in Devetak 2011: 111; Hinsley 1986: 195). In reference to both conceptions, Hinsley describes sovereignty as 'the idea that there is a final and absolute political authority in the community' (1986: 17) and 'no final and absolute authority exists elsewhere' (1986: 26). This kind of understanding entitles the sovereign to exercise supreme power and authority in domestic jurisdiction and to be independent of foreign authorities (Jackson 1999: 19; Moses 2014: 16). Since the seventeenth century, this meaning of sovereignty has become the prominent interpretation.

The second approach perceives sovereignty as having inherent duties and responsibilities. More recent literature on sovereignty advocating this approach challenges the traditional conception of sovereignty on the basis that it imposes absolute limitations and restrictions on sovereign power (Reus-Smit 2001; Dunne and Hanson 2012; Malmvig 2006; Jackson 2007; Johnson 2014). This literature presents the changing nature of sovereignty in the correlation with the evolving human rights norms. Reus-Smit (2001: 519) asserted that the development of the sovereignty norm is related closely to the increasing

role of human rights in international society. Reus-Smit, Dunne and Hanson suggest that human rights provide an important normative basis to justify the discourse and practice of sovereignty. Human rights constitute contemporary discourse about legitimate and appropriate conduct of state (Reus-Smit 2001: 519-520; Dunne and Hanson 2012: 69). Helle Malmvig (2006: 22) elaborates that sovereignty is a discursive construction that entails different meanings and usage in order to justify practices of intervention for the purpose of protecting civilians.

Robert Jackson in his book *Sovereignty: Evolution of an Idea* (2007) describes the gradual transition of the discourse of sovereignty, which previously endorsed the idea of supremacy, authority, and independence notions of sovereignty to the current idea that sovereignty entails duty to respect human rights principles (Jackson 2007: 4). James Turner Johnson (2014) examines the historical idea of sovereignty and emphasises emerging moral dimensions of the idea and its implications toward its citizens and in its relations with fellow states. He argues that the sovereign ruler has the responsibility to advance the common good of its political community, which is rooted in the classical idea of a just war (Johnson 2014: 5). Jo-Anne Pemberton (2009) carried out a re-examination of the development of sovereignty; in contrast to the common understanding that sovereignty is imbued with supreme and absolute authority, she argues that the conception of sovereignty has an ethical imperative to uphold humanity obligations. The legitimacy of sovereign states depends upon its ability to advance the wellbeing of the people (Pemberton 2009: 6).

Within the second approach to sovereignty, contemporary discourse on sovereignty emphasises the changing nature of sovereignty and advocate the concept of sovereignty as responsibility and the Responsibility to Protect (R2P). First articulated by Francis Deng et al (1996: 211), this idea suggests that sovereign states are responsible for ensuring a minimum standard of security and common good of its people and be accountable to domestic constituents and international community. Deng argues that to be eligible as a legitimate member of international society, a sovereign state has the obligation to provide protection to its people and it has accountability towards the international community as well (Deng 2010: 354). Bellamy contends that this is not a new idea since the idea of sovereignty has almost always had responsibilities to its domestic constituents and its sovereign fellows as well, which means that sovereign rights are only eligible for states that respect its people's rights (2011: 10). (2009: 13). He acknowledges Francis Deng and Roberta Cohen's idea of sovereignty as responsibility presented in the 1990s as a new life for the mutual correlation between sovereignty and responsibility (Bellamy

2009: 33). He argues that R2P has emerged to reduce the discord between the conventional conception of sovereignty and the idea of sovereignty as responsibility (Bellamy 2009: 33). Cooper and Kohler (2008: 3) present a similar argument that R2P represents the endeavour to shift the balance between sovereignty and common humanity. Similarly, Luke Glanville (2014: 2) attempted to reframe the ethical debate about rights and responsibility of sovereign states. Following the idea that sovereignty has been socially constructed and reconstructed along history (Devetak 2007: 127; Reus-Smit 2001: 526; Sikkink 1993: 412), he verifies that the concept of sovereignty and responsibility have been subject to negotiation over time (Glanville 2014: 5). He contends that the conventional story about sovereignty and responsibility should be revised and argues that historically, responsibility has been used as a basis for justifying sovereign authority (Glanville 2011: 237; Glanville 2014: 6).

The above literature mostly discusses the development of sovereignty and responsibility in relations to human rights norms at an international level and within Western societies. Only limited pieces of literature explore the topic of sovereignty within a non-Western setting, moreover in an Indonesian context. Taking a legal perspective, Jimly Asshidiqqie (1994) assesses the legislative policy regarding the formulation of the idea of popular sovereignty within the three Indonesian constitutions and how these ideas had been implemented in political and economic policies (1994: 5). He argues that the idea of popular sovereignty in the 1945 Constitution is a balanced combination from various ideas of popular sovereignty developed in Western societies and Indonesian cultural traditions. In the implementation of the 1945 Constitution, political policies shifted over time from the individualistic to the collectivism. In contrast, in terms of economic policies, the pendulum swung from collectivism to individualism (Asshiddiqie 1994: 6). Elsewhere, Asshidiqqie argues that Indonesia embraces a unique conception of sovereignty by combining the conceptions of sovereignty of the people (democracy), sovereignty of the law (nomocracy), and sovereignty of God (theocracy) (2007: 149). Following Asshiddiqie's point of view, Rudy (2013) suggests that the 1945 Constitution embraces popular sovereignty, constitutionalism, and rule of law that gave birth to what is called a state law based on constitutional democracy. This constitutional democracy also incorporates the sovereignty of God as its foundation (Rudy 2013: 260). Other scholars focus on an idea of popular sovereignty in Indonesia that is implemented indirectly through the existence of representative institutions of People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* – MPR) and House of Representative (*Dewan Perwakilan Rakyat* – DPR) (Purnama 2007: 265) and directly through holding direct elections for national and local leadership (Sinaga 2013: 27).

More recent literature discusses the idea of sovereignty in Indonesia era with respect to territorial sovereignty. John G. Butcher and R.E. Elson (2017) explore Indonesia's understanding of sovereignty at the New Order era as the right to exercise authority over its territory. In order to deter any external threats towards its territorial integrity, the Indonesian government carried out diplomatic efforts to secure its sovereignty by proposing a new concept of the nation as an 'archipelagic state' that gives authority to Indonesia to exercise absolute sovereignty over its water surrounding Indonesia's islands (Butcher and Elson 2017: 425). The authors present in-depth analysis on the argument supporting each claim by the state. They also detail the process of negotiation from 1958 to 1982 for the adoption of the concept of 'archipelagic state' in the 1982 United Nations on the Law of the Sea (Butcher and Elson 2017: 425). This book shows how Indonesia gained a success as a norm maker by proposing a new concept that makes a radical change to the existing international navigation and maritime regime. Other literature includes Aaron L. Connelly (2015) who assesses the foreign policy of the current President Joko Widodo to strengthen state's sovereignty and realise the vision to become a maritime nexus. To this end, the government will establish a maritime defense force and diplomacy to secure its sovereignty. Connelly (2015: 6) asserts that inspired with the idea of archipelagic state, President Jokowi is convinced that Indonesia's dignity and prosperity depends on smart management of its insular waters.

Notwithstanding the abundant literature addressing the developing relationship between sovereignty and responsibility, so far few scholars have examined my specific research question on the construction of sovereignty and responsibility in Indonesia and how it influences Indonesia's orientation towards human protection and the R2P[4]. Nevertheless, the previously mentioned texts on the relationship between sovereignty and responsibility are relevant to this current study, as they provide a solid framework with which to assess the coexistence of sovereignty and responsibility. The work of previous scholars discussed above also contributes to understanding that the international norm is a dynamic concept, which undergoes changes and transformation over time and contexts. While a number of studies relating to the sovereignty in Indonesia have been undertaken in the past, the focus of this earlier work was based predominantly on a legal perspective, rather than a political perspective.

[4] This literature will be explored in the next section.

These findings, however, have an important contribution in highlighting the evolving debate on sovereignty in the country.

Overall, the literature on sovereignty in Indonesia discussed above adopts a different focus to that of my current study, paying greater attention on the domain of authority and the scope of authority covered by the sovereign. The domain of sovereignty relates to the idea of who is the sovereign (God, state, or people) and the relationship between the sovereign and the subject. The scope of sovereign concerns the decision-making authority in all aspect of the life of the state (including the social, political, and economics). In contrast to the existing literature on sovereignty in Indonesia, my research will focus more on the normative quality of the sovereign, which is measured from the degree of rights possessed or claimed by the sovereign and the nature of responsibility assigned to the sovereign. In that regard my research will investigate how Indonesia constructs the meaning and usage of the sovereignty norm, whether it is understood merely as the sovereign's right to exercise power over its people or whether it is understood as comprising responsibilities to its population. Furthermore, this study will explore the construction of the sovereignty norm from the beginning of independence to the current time in order to have better understanding on Indonesia's contemporary orientation to human protection and R2P as perceived and practiced by the government.

My proposed study is important considering the position of Indonesia as the third largest democratic country in the world. Indonesia has gained this recognition in light of its success in replacing authoritarianism with a democratic political system. Democracy and human rights are the embodiment of sovereignty as responsibility. It is interesting to evaluate whether Indonesia has been truly upholding the norms of sovereignty as responsibility both domestically and internationally, in the past and the present. This study is important because it may be useful as a benchmark to examine the application of this norm in other post-authoritarian countries. What has happened in Indonesia provides a model for understanding the practice of sovereignty as responsibility and R2P in post-colonial countries, especially post-authoritarian states. By proposing a new standpoint to understand the history of ideas and norm in non-Western societies and post-authoritarian states, this research serves as an important endeavour to enrich, broaden, and update understanding within the existing studies of sovereignty and responsibility for human protection.

b. Literature on human rights protection and R2P in Indonesia

As explained in the Research Problem, there is considerable literature exploring human rights issues in Indonesia and some emerging literature that discusses the Responsibility to Protect in Indonesia. The works that assess human rights protection in Indonesia, most present the view that the Indonesian government has prioritised power-based sovereignty at the expense of human rights (Burke 2001: 218; Eldridge 2002: 3; Lubis 1993: 4; Mohamad 2002: 246). These authors consider Indonesia as a country that understands and interprets sovereignty according to a traditional Westphalian conception where sovereignty provides the highest authority in the country to exercise power, without due regard for human rights of its citizens (Hadiprayitno 2010: 397; Huikuri 2017: 74; Hicks and McClintock 2005: 1; Jetschke 2011: 261; Robet, 2008: 145). In accordance with this view, in order to maintain sovereignty, as well as national and regime security, the government tends to ignore or deny the responsibility to protect human rights (Amnesty International 2013: 2; Hicks and McClintock 2005: 1; Human Rights Watch 2015; Robet 2008: 145). In the context where the ideal of national security remains dominant, the struggle for human rights struggle confronted with the discourse of weakening the state (Jetschke 2011: 261; Robet 2008: 65). Human rights have been viewed as a menace to national sovereignty and jurisdiction; and inconsistent with the idea of nation-state conceieved by the government (Lubis 1993: 4; Mohamad 2002: 246).[5] Indonesian leaders, such as Soeharto, emphasised that Indonesia is not a right-based society, and human rights should only be recognised together with human duties. In addition, with the diversity of the Indonesian people, human rights are not accepted if the result is disharmony (Lubis 1993: 10, 12).

According to the perspective that views a trade off between sovereignty and human rights, Hadiprayitno (2010: 397) argues that there is lack of willingness from the government to enforce the human rights law as effective instrument for protecting people's rights. The continued delay of Indonesia to ratify the Rome Statute can be seen as evidence of a lack of willingness to strengthen the enforcement mechanism for human rights protection. Huikuri argues that Indonesia's emphasis on sovereignty and national jurisdiction is the main reason for escaping from the International Criminal Court jurisdiction (2017: 74). Other scholars find evidence of Indonesia's lack of attention to human

[5] Todung Mulya Lubis is a human rights advocate who works for LBH (*Lembaga Bantuan Hukum Indonesia*/Indonesian Legal Aid Foundation).

rights in the slow progress of successive government to settle past gross human rights violations (Firdiansyah 2016: 20; Kimura 2015: 76). There is another possibility that these weak human rights performance were caused not by Indonesia's unwillingness, but by its inability to act (United Nations Human Rights Committee, 2013: 2; US Department of State 2013: 1).

On the other side, some scholars express a more optimistic view with regard to human rights protection in Indonesia. Their argument is mostly derived from the progress that has been achieved by Indonesia with the birth of Reformation. As noted above, Indonesia is currently recognized as the third largest democratic country following a transition from authoritarianism (Acharya 2014; Diamond 2012). Reformation (or *Reformasi* in Indonesian) has enabled Indonesia to develop a democratic political system by bringing up democracy, human rights and good governance as important pillars to become a democratic, just and prosperous society (Carothers 2009: 6; Kingsbury 2005: 7; Tamara 2009: 9).

Based on the evaluation of the Indonesia's enjoyment of political freedom and civil liberty, Freedom House (2017: 1) rated Indonesia as a partly free country during the transition period from 1999 to 2005 and improved to be a fully free country from 2006 to 2013. The rating has slightly decreased to 'partly free' since 2014 until recently, due to the enactment of the Mass Organization Act (Mujani and Liddle 2015: 210; Freedom House 2017: 1). Compared to other countries in the region, Freedom House argues that Indonesia has a better record than Thailand or the Philippines. Philippines has been rated as partly free, with a lower score than Indonesia. Even Thailand has been categorized as not free since 2015 (Freedom House, 2017: 1). A survey of domestic constituents conducted by the authors found positive views from domestic constituents that give strong support for democratic values and the believe that Indonesia has high performance in democracy (Mujani and Liddle 2015: 210). Avery Poole (2015: 155) also observed that domestic actors aspire to make democracy and human rights core values in Indonesian political system.

The positive discourse on human rights also stems from the Amended 1945 Constitution in 2001 that strengthened the commitment to re-establishing the political system towards a more democratic direction that upholds the popular sovereignty and the rule of law. The amended constitution stipulates more detailed provisions regarding human rights protections. Septika presented progress in human rights from the commitment the government to implement the constitutional mandate regarding human rights protection by ratifying eight main human rights instruments and embodying the principles into

national laws and regulations (2016: 662). Adnan Buyung Nasution argued that the strengthened mandate of KOMNAS HAM and the establishment of Human Rights Court enabled to process and bring into justice any violation of human rights (2003: 8). With these new legislations on human rights, Nasution expressed optimism that they would bring an improvement in human rights protection (2003: 8). Septika (2016: 662) asserts that these changes reflect the strong commitment of the government to implement state's responsibility to provide protection to the people, as a constitutional mandate. Rizal Sukma argued that Reformation has placed democracy and human rights as central agenda in domestic politics and foreign policy as well (2011: 113). It can be concluded that these literatures highlight progress on human rights promotion in Indonesia rest their argument on the positive impact of Reformation and democratisation that has taken place since 1998.

This optimistic perspective over simplifies the real situation and remains incomplete in assessing the complex relationship between Indonesia and human rights. Instead, I will argue that human rights have been part of Indonesian politics since independence; improvement to human protection (protection of citizens from violence) emerges only in a short term in the early 1950s and then finds its momentum back after 1998. While the incorporation of human rights in general is apparent in the institutionalisation of human rights principles in the Indonesian 1945 Constitution, the specific matter of human protection remained absent. This research seeks to demonstrate that the Indonesian conceptualization of sovereignty has always been attached to responsibility; however the weight of responsibility attributed to protecting the security of the people rather than the regime, has varied throughout Indonesian history. Furthermore, this research will focus on understanding the ideas that have guided the conduct of Indonesian government and other relevant actors in embracing certain conception of sovereignty and responsibility.

Research on the relationship between sovereignty, responsibility and R2P in Indonesia has not been widely undertaken. Most of the existing researches pay more attention on discussing ASEAN, while to date only four papers have addressed Indonesia (Pohlman 2010a; 2010b; CSIS 2011; Alexandra 2012). More studies have been conducted to explore the regional context of R2P in ASEAN. There is a common understanding among researchers to portray Southeast Asian countries as sceptical constituent toward R2P (Capie 2012; Anthony 2012; Kraft 2012). David Capie (2012: 76) contends that most Southeast Asian governments are wary of the potential threat that human security poses to sovereignty and regime security, therefore they only partially support R2P when it can be reconciled with their

national interest. Mely Caballero Anthony (2012) presents the same argument with Capie that R2P is only partially supported in this region. Southeast Asian countries demonstrate strong support for the prevention pillar of R2P, but still worry about the third pillar of R2P which embraces possibility to take military intervention (Anthony 2012: 114). Herman Kraft (2012) presents a less optimistic point of view on the ASEAN Inter-governmental Commission on Human Rights (AICHR) role in promoting R2P in the region. With the broad and ambiguous function of AICHR, Kraft argues that it seems difficult to use it as an effective instrument to mainstreaming R2P (2012: 28).

Despite the common assumption among researchers to describe ASEAN countries as reluctant actors to R2P, Charles T. Hunt (2009: 9) argues that Southeast Asian countries have been very supportive of efforts to bring R2P from principle into practice, in particular by strengthening the collective mechanisms through the UN to protect civilians. Alex J. Bellamy and Mark Beeson (2010: 275) contend that although sovereignty is still considered as the basis of regional order, there has been a gradual change to perceiving sovereignty as having certain responsibilities and duties to the population. Bellamy and Drummond (2011: 196) find significant progress in that the R2P norm has been localised by accommodating the R2P intervention and ASEAN's non-interference principles. The coercive element of R2P has had limited appeal while at the same time non-interference has been softened to accommodate limited pressure in addressing humanitarian issues (Bellamy and Drummond 2011: 196). Bellamy argues further that East Asian countries, including ASEAN countries, have gradually accepted R2P-related norms, in particular the idea of responsible sovereignty and this ideational transformation has been one of several factors contributing to the decline of mass atrocity cases in the region (2014: 19). Rizal Sukma (2012) tried to identify more specific mechanisms to incorporate the R2P norm within the institutional framework of ASEAN. He positively suggests the potential of ASEAN Political and Security Community (APSC) for promoting R2P in ASEAN (Sukma 2012: 149).

Those writings on R2P in ASEAN remain relevant and contribute to this research as a source of general understanding of the perspective of the countries in the region towards the norms of sovereignty and responsibility. Some of these literatures on R2P in ASEAN specify Indonesia's position on R2P as part of their analysis (Bellamy and Davies 2009; Bellamy and Drummond 2011; Capie, 2012; Sukma 2012). Four papers on R2P in Indonesia that I have considered in Section 1 (Pohlman 2010a; Pohlman 2010b; CSIS 2011, Alexandra 2012) have strong relevance for this current study; however, they present an incomplete story of Indonesia and R2P. As such, some important questions remain unanswered. None

of them incorporate an analysis of Indonesian understandings of sovereignty and responsibility as the basic norms of R2P. Moreover, by gaining a wider understanding of the historical and social context, it becomes possible to make a comprehensive assessment of the potential implementation of R2P in Indonesia. The CSIS and Alexandra's studies that address R2P in Indonesia draw their evidence mostly from the statements of Indonesian leaders in public forums and interview with numbers of civil society regarding their opinion towards R2P and provided a limited assessment of institutional changes regarding human rights protection in Indonesia. In the current research, I will argue that the recent endorsement of R2P by the Indonesian Government will be limited unless the norm is adopted by elites across a broad range of policy areas (development, policing, security), advocated by civil society, and debated in the media and other public spheres.

c. Contribution to knowledge

The underlying objective of this research is to fill a gap in the literature by exploring and explaining the important questions of how Indonesia has understood and constructed the meaning of sovereignty and responsibility over time. This assessment provides an account of the historical and social context of Indonesian politics to have a better understanding of the contemporary potential for R2P implementation. This research will also look at factors that influence the evolution of Indonesia's commitment to sovereignty as responsibility and the R2P norm.

Therefore, my research aims to deliver an important contribution to the existing scholarly and policy debates on sovereignty and responsibility to protect by:

a) Filling a gap in the literature regarding the coexistence of sovereignty and responsibility in International Relations by broadening the scope of research to address this as a dynamic process in Indonesia;
b) Challenging the existing narrative about Indonesia and human rights protection by presenting a different account of Indonesia's orientation towards sovereignty and responsibility for human protection; and
c) Providing a better explanation of the contemporary potential for R2P implementation in Indonesia by understanding the historical construction and reconstruction of the idea of sovereignty and responsibility within Indonesian society over time.

3. Framework of analysis

This thesis aims to elaborate the historical construction and reconstruction of the idea of sovereignty and responsibility within Indonesian society over time in order to assess the Indonesia's commitment towards human protection and the contemporary orientation of R2P in Indonesia. There are several theoretical frameworks in International Relations that have the potential to yield analytical tools that can be applied to address the research questions. Realism provides a useful framework of analysis to explain a state's conduct in connection with the sovereignty and human rights norm. The core assumption of realism, however, is based on the power relations among the states in an anarchical system; it treats norms merely as one of the instruments utilized by states to pursue their national interest (Krasner 1999; Snyder 2004: 55). Liberalism also offers a useful framework to analyse the importance of norms in domestic politics and international relations. Liberalism, however, conceives the actor's behaviour towards norms in a rational calculation of cost and benefit (Dunne and Hanson 2012: 69). It therefore has limitations in presenting a comprehensive understanding of the historical construction of norm that is shaped by both material and ideational structures within a certain place and timeframe.

Acknowledging these limitations, this thesis uses social constructivism as a analytical framework to address the research question. Differing from realism and liberalism, social constructivism adopts the stance that an actor's behaviour is shaped not only by the material structure, but also the normative structure (Wendt 1995: 71; Checkel 1998: 326). At the level of the state, the structure of ideas and norms constitute the identity and the interest of the state and then guide a state's practice based on the logic of appropriateness (Wendt 1995: 72; Ruggie, 1998: 864). This logic of appropriateness will help me to analyze how the norms of sovereignty and responsibility were perceived by Indonesia and how this perception of sovereignty have influenced the practice of Indonesia in performing its responsibility to give protection to its people.

In addition, social constructivism provides an analytical framework to understand change and transformation in international relations (Checkel 1998: 325; Ruggie 1998a: 25). It views a social reality as a social construct and it becomes the subject of contestation and negotiation among relevant actors. Consequently, social reality undergoes changes across time and space (Biersteker and Weber 1996: 18; Pouliot 2004: 323). Following this assumption, this thesis follows that the idea that

sovereignty and responsibility as perceived by the Indonesian society is not a fixed and natural concept, but a social construct resulting from negotiation among relevant actors which is shaped by the existing social and historical context. Therefore those norms of sovereignty and responsibility have undergone changes and transformation and they evolve over time within the history of Indonesia.

Furthermore, social constructivism helps me to investigate the diffusion of norms within the domestic and international community, understood through norm socialisation and norm localisation approaches. In this thesis, I will explore how the sovereignty and responsibility norms have emerged and evolved through a dynamic social process called norm localisation within Indonesian politics. Constructivism views norms as fluid and flexible concepts, which 'embrace different meanings, accord to various contexts, and are subject to framing by different actors' (Krook and True 2012: 105). Through the process of norm localisation, local actors actively construct or reconstruct international norms to make them congruent within the existing local normative framework (Acharya 2004: 245). The localisation process helps to create links between international norms and domestic principles and shapes the expectations and parameters for appropriate policy and action in responding to any situation (Vaughn and Dunne, 2015: 30, 36). Utilising this framework of analysis, this thesis will investigate the dynamic process of norm localisation by which the sovereignty and responsibility norms have been understood by Indonesian society, adapted to the local context or contested by local values, localised and then implemented within Indonesian society over time.

In our article on "Bandung 60 years on: revolt and resilience in international society", Richard Devetak, Tim Dunne, and I (2016) elaborated the historical construction of the idea of sovereignty in the so-called non-aligned world, including Indonesia, during the post-1945 international order. This article argued that the dominant conception of sovereignty was manifested in the spirit of anti-colonialism, self-determination, and peaceful coexistence. This spirit was expressed in the Final Communiqué of the 1955 Asian-African Conference in Bandung (Devetak, Dunne and Nurhayati, 2016: 2). The article responded to Hedley Bull's examination of the risk to international order posed by the 'revolt against the West' (Bull 1984: 221). One section of Chapter 2 of this thesis will build upon, and further develop, this argument by foregrounding the conception of norm localisation to explore in more detail the Indonesian discursive engagement with the evolving conception of sovereignty and human rights during the Asian-African Conference.

In order to assess the factors influencing the localisation process of sovereignty and responsibility in Indonesia, I combine the arguments from Acharya (2004) and Krook and True (2012). According to Acharya, norm localisation is facilitated by the possibility of the development of new norms to improve the legitimacy and authority of domestic actors and institutions, the availability of credible local actors, the strength of prior norm, and the strength of local identity (2004: 247-249). Krook and True argue that the dynamic life-cycle of norms is determined by the internal (meaning and content of norms) and external (interaction with the environment) sources of norm diffusion and development (2012: 109). By combining these points of view, it aims to gain better understanding of the dynamic process of localisation of sovereignty and responsibility to protect human rights norms within Indonesian society over time.

To address the research question, this thesis proposes an argument that the Indonesian state has understood sovereignty as always having account of responsibility, but the place of human protection in this account has varied over the historical development of Indonesia. The variation in the Indonesia's conception of sovereign responsibility is not only influenced by the material structure (such as the existence of any threat or pressure), but it is also conditioned by the changing normative discourses within both domestic and international society, and Indonesia's changing identity from authoritarian to democratic state. This thesis will particularly draw upon the dynamic process of norm localization in order to investigate the way sovereign responsibility and human protection norms have been understood by Indonesian government and society, adapted to local context or contested by local values and then implemented within Indonesian society over time.

4. Overview of the thesis

Chapter 1. Theoretical framework. Chapter 1 will present the analytical framework to be used in this research project. It will describe dominant International Relations theories that provide analytical tools to understand the development and the implementation of norm in international relations and assess each potential to help me to answer my research questions. Then I will describe the research method I use in conducting my project.

Chapter 2. Sovereignty and responsibility in the early independence of Indonesia (1945-1965). In this chapter, I will assess the historical and social construction of sovereignty and responsibility in the beginning of the emergence of Indonesia as a new sovereign state. This early conception plays an important role because it lays the foundation for building the idea of what kind of country Indonesia should become, as a sovereign state. Referring to the process of norm localisation, this period deserves interpretation and analysis because it reflects the emergent phase of the norm of sovereignty in the newly decolonised Indonesia. This period was marked by lively debate among Indonesian founding leaders to localise the international norm of sovereignty and achieve congruence with an existing understanding of statehood within Indonesian society. This early period comprises three important historical moments: 1) the formulation of 1945 Constitution during serial meetings of BPUPKI (*Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan Indonesia* or Investigative Committee for the Efforts of Indonesia's Independence); 2) 1955 Asian African Conference; and 3) the implementation of Guided Democracy.

Chapter 3. Sovereignty and responsibility in the New Order era (1966-1998). Chapter 3 will assess the historical and social construction of sovereignty during New Order era under Soeharto's presidency. This period is characterised by an authoritarian political system that in turn, influences the way the government shapes its conception of statehood and the understanding of sovereignty. The period of 1970 when Indonesia integrated East Timor forms the key historical moment of exploration in this chapter. This period in history provide a focal point for elaborating the dominant meaning of sovereignty and responsibility developed and sustained during the New Order era, which was highly influenced by the evolving understanding of sovereignty and responsibility for human protection in both the international and domestic societies.

Chapter 4. Sovereignty and responsibility in the Reform Era (1998–present): Indonesia's transition toward democratic political system. The post-1998 period is another key historical moment relevant to the study of sovereignty and responsibility in Indonesia. The decade of 1990s saw normative transformations in the international realm, which affected the guiding principle for states and other actors in their interactions with each other, including Indonesia. This normative changes facilitated the redefinition of sovereignty to promote the conception of sovereignty as responsibility. At the national level in Indonesia, the year of 1999 marked a significant transformation within Indonesian domestic politics, moving from an authoritarian to a democratic rule. It is important to assess whether

this transformation brought a significant change in Indonesian perceptions and practices toward sovereignty and responsibility for human rights protection at the level of state and society.

Chapter 5. Indonesia's orientation towards the Responsibility to Protect. The last analysis chapter in this thesis will examine the contemporary Indonesian understanding of sovereignty and responsibility to better understand its relationship to the emerging pertinence of R2P. The 2005 World Summit marked the formal affirmation of states to take responsibility to give protection to the people from mass atrocities. It is important then to assess how Indonesia, as one of the states that support R2P at the 2005 World Summit, understands and accepts R2P. This chapter also explores the preparedness and commitment of Indonesia to implement and mainstream the norm.

Conclusion. The final chapter of thesis will summarize the analysis presented in the previous chapters to identify the dynamics involved the construction of meaning and understanding of sovereignty and responsibility in Indonesia since the early independence to the current democratic era. In concluding, this chapter also points out the key contribution of this thesis to the existing scholarly and policy debates on sovereignty and responsibility to protect. This chapter also suggests some important issues that emerged in the analysis to be examined in the future research.

Chapter I. Theoretical Framework

This thesis aims to provide a new perspective to understand Indonesia's orientation toward human rights, especially the individual right to security from violence and how this orientation influences Indonesia's perception and commitment to R2P. To achieve this objective, I explore and explain the important questions of how Indonesia has understood and interpreted the meaning of sovereignty and responsibility for human protection over time. It tries to analyze how the sovereignty norm has emerged and evolved throughout the course of Indonesian history. It will assess how Indonesia perceived this norm and then how it influenced the behaviour of Indonesia in performing its responsibility to give protection to its people. This asessment is essential to give an account of the historical and social context of Indonesian politics in order to have better understanding of the contemporary potential for the implementation of R2P principle. In this thesis, I want to present an analysis about the normative evolution of human rights in a complex society. Accordingly, I need theories to help me explain how human rights norms emerge and develop in international society, how they get diffused in domestic society, how they interact with wider regime in global norms and ideas, and what is going on in the conversation of norms in international society and in Indonesia in particular.

This chapter will describe a theoretical framework that is useful to answer the research questions and describe the method operated to collect and analyze data to support the research arguments. It will describe three dominant perspectives in International Relations which have the potential to provide an analytical framework capable of explaining how actors understand and put into practice certain norms. They are realism, liberalism, and social constructivism. It will start with explaining the main assumption and proposition of each perspective and how they understand norms. It then assesses each theory's potential in helping to understand and analyze Indonesia's changing position toward sovereignty and responsibility to protect human rights.

1. Realist ideas about norms

In this section, I explore the potentiality of realism to provide a useful framework in assessing normative evolution in a complex society by investigating how Indonesia has understood and practiced norms of sovereignty and responsibility over time. Since realism focuses on power, especially material

power, it seems to have limited capacity to explain the diffusion of a shared norm and how that norm has a 'power' to shape actors' interests and behavior. Nevertheless, realism's strength has been to remind us that there is more to politics than norms. As will appear in my discussion in Chapter 3 about the establishment of the New Order regime in the late 1960s, for example, it is quite clear that the realist analysis of power can help me to understand why the human protection norm, especially the right to security from violence, did not evolve in this period.

To begin with, it is important to identify the main assumptions of realism. Realist scholars place consistent emphasis on power relations among states. According to realists, as the most important actors in world politics, states in a condition of anarchy always behave similarly, regardless of the type of political system (Snyder 2004: 59). They are always concerned with maximizing power measured in material capabilities, especially in terms of military strength (Donelan 1990: 26; Mearsheimer 1990: 12). Realism recognizes the existence of norms, but believes they do not have a prominent role in directing the conduct of actors in international politics (Donnelly 2005: 48). International politics are instead characterized by the struggle for power among self-interested states (Morgenthau 1985: 39; Snyder 2004: 55). In anarchical conditions, each state must rely on self-help to defend its security or form an alliance to maintain the balance of power among states (Donelan 1990: 30). Within this environment, norms are not considered as an important variable to explain the behavior of states (Goertz and Diehl 1992, 634).

The realist approach values norms as merely part of an instrument or means utilized by any actor, in particular powerful actors, to pursue their interests or to influence and apply pressure on others (Krasner 1999: 3). In other words, a norm will be valued as an important aspect if it can help states to achieve their interest or to enhance their power. Even E.H. Carr and Morgenthau recognize that when states comply with the universal moral law, it is just a mask for their efforts to achieve their underlying material and selfish interests (Carr and Morgenthau cited in Dunne & Hanson 2013: 63). From a realist viewpoint, norms can be implemented effectively if there is an enforcement mechanism or if it gives benefit to the state. In other words, states would change their behavior towards norms when there is pressure upon them or when it fits with their interest.

Given this situation, it is not surprising that smaller powers often have suspicion of universal moral law since it is assumed to represent and serve the interest of powerful states and consequently it only

benefits the dominant power (Donnelly 2005: 47; Mearsheimer 1994/5). As a result, weak states often express criticism towards norms, in particular human rights, by claiming they are simply utilised by the powerful as an instrument to pursue their interests such as facilitating trade and investment or bringing about a political environment favorable to their interests (Dunne and Hanson 2013: 63).

Realist place great emphasis on sovereignty and the rights claimed by states. Sovereign states claim an exclusive authority over the people within a given territory and the right to act independently in international affairs (Donnelly 2005: 47; Steans and Pettiford 2001:29). A realist conception of sovereignty entitles sovereign states the right to claim supreme authority in the exercise of power domestically and internationally. For realists this does not carry inherent responsibilities beyond the provision of territorial security and the state's self-preservation.

This internal or domestic conception of sovereignty derives from the perspective of classical realist scholars such as Jean Bodin and Thomas Hobbes. Bodin was the first thinker to use the word of sovereignty to define 'a supreme power over citizens and subjugated peoples, and it was unrestrained by the laws' (Bodin in Alan James 1986: xi; Dunning 1896: 92; Franklin 1973: 41-42). Bodin argued that a leader has authority above all positive and customary law, possesses absolute law-making power, and becomes the source of all laws applicable in the country (Bodin in Engster 1996: 469). Hobbes also advocates absolute sovereignty and further asserts that it cannot be divided into multiple political bodies because a divided sovereignty would lead to anarchy and civil war within the state (Hobbes in Hurtgen, 1979: 62). For this reason Hobbes argued for a single, unitary source of political power and authority.

The flip side to the conception of internal or domestic sovereignty is the rule of non-intervention. Sovereignty also comprises a conception of international or external sovereignty, meaning that a state has the right not to have its territorial sovereignty transgressed. States cannot intervene in the domestic affairs or jurisdiction of other sovereigns (Devetak 2011: 122). Moreover, as Emer de Vattel and others have argued natural law binds states to respect the sovereignty of other independent states as legal equals (Vattel in Devetak 2011: 121). As supreme authority inside a territorial state, the sovereign recognises no superior external authority (Vattel in Devetak 2011: 111; Hinsley 1986: 194). As such, the principle that states enjoy equal sovereignty has become the basic principle of modern international law (Hinsley 1986: 195). In reference to both conceptions, F.H. Hinsley defines sovereignty as 'the

idea that there is a final and absolute political authority in the community' (1986: 17) and 'no final and absolute authority exists elsewhere' (1986: 26). This meaning of sovereignty as an absolute right and authority, backed up by non-intervention principle, prevails as the dominant interpretation of sovereignty and the foundation upon which modern international relations take place.

Realism remains useful in explaining why sovereign states often give minimum levels of attention or priority to the responsibility to protect its people. This realist point of view can help this thesis to explain certain occasions when the Indonesian government views sovereignty merely as the right possessed by the state or the leader to act in the interests of regime preservation rather than any responsibility to protect its people. As a result of this view of sovereignty, the government does not consider protection of human rights as a priority. The limitation of realism, however, is that it does not help to understand the conditions under which human protection norms might have evolved; it is much better at explaining why it does *not* evolve or why obstructions occur in the evolution of such norms.

The Realist assumption on the zero-sum relationship between sovereignty and responsibility to human protection was illustrated in some reports released by international non-government organizations and scholars that argued that Indonesia sacrificed people's rights as a consequence of the government's preference for a realist conception of sovereignty. According to this realist-based narrative, in the process of nation building and state building, the Indonesian government has used violent means and undermined human rights principles in order to become a state that is stable, strong and united (Burke 2001: 218; Eldridge 2002: 3). Many critics adopt the view that the Indonesian government ignores or denies its responsibility to give protection to the rights of its people in order to maintain sovereignty, national and regime security (Amnesty International 2013: 2; Robet 2008: 145; Jetschke 2011: 261). This realist conception was illustrated in the statement of Benny Moerdani, then the chief of the Indonesian Armed Forces, in responding to the demontrations conducted during the visit of American Ambassador John Monjo in 1991:

> Don't dream about having a state of Timtim (East Timor). There is no such thing … There have been bigger rebelions; there have been greater differences of opinion with the government than the small number calling themselves Fretilin, or whoever their sympathizers are here. We will crush them all! This is not in order to crush East Timorese but to safeguard the unity of Indonesian territory physically and in other ways (Moerdani quoted in Schwarz 1994: 215; Jetschke 2011: 140).

From this perspective, the Indonesian government views human rights issues as menacing its sovereignty and self-preservation, and inconsistent with the government-envisioned idea of a unified nation-state (Lubis 1993: 4; Mohamad 2002: 246). This point of view was most applicable in conceptualising allegations of genocide or crimes against humanity in East Timor committed by the government of Indonesia (Robinson 2003: 4; Wheeler and Dunne 2001: 811; Kiernan 2008: 107; Thaler 2012: 214). From a realist perspective, the sovereign authority holds an exclusive monopoly over domestic affairs, especially human rights issues, and should not be subject to international concern and scrutiny. The Indonesian government has thus expressed suspicion towards critiques or concerns raised by other states on human rights issues, describing this citicism as an unwarranted intervention in Indonesia's domestic affairs and as disrespectful to its sovereignty. Furthermore, the government has perceived such situations as manifestations of the ambition of powerful states to exert illegitimate pressure upon a powerless country, which is not compatible with the principle of sovereign equality among independent states.

In terms of understanding norms, realism's potential for providing an analytical framework for this current research is limited as it considers norms as unimportant variables in explaining actors' behavior. According to the realist approach, norms only matters when powerful states enforce them or if they can be diverted to serve the interests of a regime in self-preservation or in maximizing state power and security. As a result, it overlooks the importance of normative power within international affairs. Specifically, it has limitations in capturing the importance of normative structure in constituting actors' identity and influencing actor and state interests and behaviors. This thesis, on the other hand, believes that norms play a far more important role in conditioning an actors' identity, interest and behavior. It adopts a theoretical framework in which the development of norms may be traced. In this regard, realism does not provide a sufficient framework to analyze the significance of normative structures to understand the changing Indonesian position towards sovereignty and responsibility over time.

Realism cannot provide a sophisticated explanation of the changing understanding and conception of sovereignty and responsibility within Indonesian society. Using realism as a framework of analysis would present an image that the Indonesian orientation towards sovereignty and human rights is a consequence of the self-interested nature of the state under the conditions of anarchy in international politics. Indonesia would be represented as being obsessed with its survival and preoccupied with its

position in an international hierarchy and distribution of power. In this context, Indonesia is said to have an interest in building a strong, stable and united state in order to survive in this international anarchy. Therefore, it prioritizes a power-based sovereignty to ensure national order, regime preservation, and territorial integrity. According to realism, any changes to the Indonesian position by demonstrating greater attention to human right would be explained as a consequence of external pressure from certain powerful state or because of shifting distributions of power. This thesis instead adopts the position that the conceptions of sovereignty and responsibility are not only influenced by the material structure (i.e. the existence of any threat or pressure) but are conditioned by the normative structure of international relations as well. This normative structure encompasses the changing discourse of norms relating to sovereignty and responsibility within both domestic and international society, and the state's changing identity from authoritarian to democratic state.

2. Liberal ideas about norms

The second theory that has potential to help answer the research questions is liberalism. Liberalism acknowledges that an individual has juridical equality and other civic rights that should be respected by the state (Doyle 2011: 55; Donelan 1990: 10; Dunne and Hanson 2013: 65). The state is established as a necessary means of preserving this liberty either from foreign threats or selfish and aggressive individuals (Dunne 2001: 163; Kant cited in Doyle 1986: 1160). In this regard, Immanuel Kant advocates a republican government whose authority is derived from representation and organized by general law and non-despotic administration (cited in Doyle 1986: 1160; Richardson 2007: 44).

Compared to realism, liberalism pays more attention to the existence of norms. It assumes that as a rational beings, humans have the ability to comprehend moral principles and live according to the common rules. The relations between people are governed on the basis of legal norms, moral principles and according to what is 'right' and 'just' (Steans and Pettiford 2001: 53-54). Therefore, norms exist to restrict actors' behavior including individual, state and the others. Nowadays the UN has been actively promoting human rights as a legal obligation of states and recognised that these rights should not be confined within national borders (Charvet and Kaczynska-Nay 2008: 82; Steans and Pettiford 2001: 53).

In terms of sovereignty and responsibility for human protection, liberalism adopts a different position to that of realism. Although liberalism also recognizes sovereignty as a defining characteristic of the state, it does not view sovereignty as an absolute or unconditional power of the state, as perceived by realists (Jeans and Pettiford 2001: 57). Instead, the state is established to reconcile order and justice, or to achieve balance between security and equality within a particular community (Dunne 2001: 163). Although the state is necessary to provide a regulatory framework for meeting the best interests of all citizens, state intervention should be kept to a minimum. This derives from the assumption that an individual has certain rights to freedom that should not be impeded by the state (Dunne and Hanson 2013: 65). From this perspective, a state is an institutional structure built to organize common life and to guarantee individual rights.

Regarding state responsibility, Locke advises that the government should be morally obliged to serve the people through protecting their life, liberty and property (Locke 1993: 185). In his famous book, *Second Treatise Concerning Civil Government*, he argued that state authority and power should be limited through check and balance mechanisms and the rule of law. Montesquieu and John Stuart Mill similarly expressed concern about the danger of unchecked power, and therefore suggested constitutional constraints on government through a rule of law and the separation or distribution of powers either into branches of government or among a number of actors (Montesquieu and Mill cited in Vincent 1987: 78). Liberalism thus promotes the design of institutions that will provide some guarantee of government accountability to the people and will limit the government's power to erode individual liberty (Charvet and Kaczynska-Nay 2008: 2).

In line with this idea, Boutros Boutros-Ghali in his *Agenda for Peace* (1992), has argued that absolute and exclusive sovereignty results in limited respect for human rights and democratic principles. Liberal scholars believe that liberal democracy will check the power of the leader and ensure that human rights are respected in order that a more peaceful world order is achieved (Burchill 2005: 66; Jeans and Pettiford 2001: 56). According to Kant and Doyle, the best way to ensure a long lasting peace in the international order is to spread the liberal democratic form of government throughout the globe because this form of government is more inclined to conduct their relations on a peaceful basis and uphold international law (Goldstein 2004: 117; Snyder 2004: 56-57).

Based on those propositions, liberalism is useful and relevant to this thesis because it helps to understand the importance of norms in domestic and international politics, in particular the notion that human rights should be integral to a state's conception of responsibility. As a part of natural rights, human rights have become an important norm to impose limits of state power and authority (Burchill 2005: 67). The state has a duty and responsibility to respect human rights. Human rights are promoted universally through the work of international human rights regimes, especially in the United Nations system. Through the existence of these regimes and organisations, it is assumed that individual rights could be more guaranteed and secured on the assumption of the presence of international monitoring and enforcement mechanisms based on international human rights law provisions.

Employing liberalism as an analytical lens leads to focus on Indonesia's domestic institutions in the attempts to understand its conceptions of sovereignty and responsibility. Liberalism assumes that the behavior of the state depends on the domestic institutions and characteristics (Moravcsik 1997: 517; Slaughter 1995: 537). In explaining the changing behavior of Indonesia in understanding and practicing international norms of sovereignty and responsibility, liberalism will present an explanation that those changes were caused by regime transformation from authoritarian regime to democratic one. According to this perspective, during the New Order era, the authoritarian administration under Soeharto embraced the realist conception of power-based sovereignty that prioritized order and security of the regime over the security of the people. This situation shifted through the political reformation in 1998 that ended the New Order regime and replaced with the Reform regime. With the establishment of the Reform Order, there has been a lot of progress in the human rights promotion and protection domestically and internationally.

Although realism and liberalism provide some useful contributions to understanding sovereignty and responsibility, they also have shortcomings in recognising the dynamic evolution of these ideas. Both realism and liberalism tend to assume that human nature is unchanging, and therefore cannot contribute to explaining how human beings or agents experience changes in accordance with the social and political conditions of any given historical period. On the other hand, according to Steans and Pettiford, people are a product of their society (2001: 12, 83). Actors are created and produced by their cultural environment. This thesis assumes that the relevant historical agents involved in constructing the idea of sovereignty and responsibility in Indonesia have changed their conception and understanding in

accordance with the development of social, cultural and political conditions both domestically and internationally.

Realist and liberal assumptions on the nature of human beings lead them to believe that their ideas can work universally, while this thesis assumes that social context conditions the way ideas operate. Realist conviction on interest, which is understood as a fixed preference (maximizing power under constraints), is problematic because interest is the product of identity and social/cultural values within the state (Jetschke 2011: 22). Liberals assume that the relationship between sovereignty and human protection is merely the problem of choice between upholding sovereignty and protecting human rights, based either on a rational calculation of costs and benefits, or a moral choice between right and wrong. While realists perceive these two norms as if they were in conflict with each other, as in a zero-sum game, in which respect for sovereignty means dismissal of responsibility to protect human rights. In contrast to this position, this thesis will follow the perspective that acknowledges that sovereigns have always had an account of responsibility, but the place of human rights in this account has varied over time and from one state to another (Bellamy 2011: 10; Deng et.al 1996: 32; Dunne and Hanson 2012: 69; Dunne and Wheeler 1999: 1; Glanville 2014: 3).

Both realism and liberalism tend to follow the logic of consequences where the action of actors is explained on basis of power maximization or on preferences subject to cost and benefit calculation. In contrast, this research exercises the logic of appropriateness where actors are seen as rule-following and concerned with whether their actions are appropriate and legitimate (Barnett 2011: 155). In line with this proposition, this thesis will acknowledge that actors do not merely see norms as useful things. Instead, they are willing to conform to norms because they are considered appropriate, right and legitimate within a given circumstance. This thesis also employs the logic of argumentation that acknowledges the active role of actors in communicative action in persuading other actors about their validity of claims based on existing norms and values (Nau 2012: 48). In addition, both realism and liberalism cannot help to understand how the ideas of sovereignty and responsibility have been constructed and evolved through processes of norm socialization and norm localization. For this we must turn to social constructivism.

3. Social constructivist ideas about norms

To analyze how Indonesia has understood the meaning of its sovereign responsibility in relations to the evolving human rights norm, this thesis will focus on examining the ideas that guide the conduct of the Indonesian government and other relevant actors in embracing certain conceptions of sovereignty and responsibility for human protection. Accordingly, I require a theoretical framework that positions ideas, including norms, values, and beliefs, in a central position to understand social reality. These ideas form an important variable to understand actors' behavior. In addition, this research will investigate the evolution of human protection, as a central human rights norm, within Indonesian society. To understand the evolution of norms, it is important to employ a theory that provides analytical tools to understand how the norms emerge and develop in international society, how they are diffused in domestic society, as well as dominant discourses of norms in the international and domestic society.

Social constructivism provides the most suitable theoretical framework above all others. First, social constructivism places the role of norms in an important position in its analysis of social reality. In examining the historical evolution of sovereignty and human rights in Indonesia, this thesis emphasises the importance of norms to understanding the process. A norm is understood 'as a standard of appropriate behaviour for actors with a given identity' (Finnemore and Sikkink 1998: 891; Katzenstein, 1996: 3). Constructivists put forward an argument that an actor's behavior is shaped by the material and the normative or ideational structures (Wendt 1995: 71; Checkel 1998: 326). State behavior is therefore rule-governed and based on the logic of appropriateness, which justifies state actions to be consistent with the existing rules and norms (Checkel 1998: 333; March & Olsen 1989: 160). For a constructivist, norms do not merely regulate or restrict the behavior of the state, as perceived by realism and liberalism, but norms constitute a state's identity and interests (Wendt 1995: 71; Finnemore 1996; Katzenstein 1996: 3; Checkel 1998: 326; Reus-Smit 2004: 22). By describing expectations and defining appropriate or inappropriate behavior, norms shape ideas of who actors are (identity), what actors want (interest), and how actors behave (action/behavior) (Ba and Hoffmann 2003: 210; Sterling-Folker 2006: 117; Klotz and Lynch 2007: 8).

Reus-Smit advances the argument that normative and ideational structures shape an actor's identity and interest through imagination, communication and constraint. Imagination refers to how actors see any possible conduct in pursuing their interest. Communication describes how actors justify their action by

referring to existing norms. Constraint means that norms place a limitation on an actor's behaviour to maintain consistency with existing values and principles (Reus-Smit in Burchill et.al 2005: 198). From this point of view, in the case of East Timor, for example, the prevailing social understanding about sovereignty developed at both a domestic and international level during the 1970s-1980s enabled Soeharto to imagine a strong state, employing Leviathan logic which allows a state to act as a strong entity. This view of the state had implications for emphasising sovereignty and downplaying responsibility for human rights protection, as insignificant to the state. Soeharto's regime justified its policy on the basis of the norm of traditional sovereignty that coincided with the existing local norm of the '*integralistic* state' which emphasised the effective control of the state toward its people. The cultural and historical context, however, changed in 1999 and the traditional notion of sovereignty was no longer seen as appropriate and legitimate. This changing normative structure imposed constraint on the government's security-based integration policy in East Timor. In addition, the regime transformation in 1998 provided an enabling environment for the new administration to shift its policy toward East Timor by organising a referendum for the East Timorese people for exercising their self-determination right under the supervision of the United Nations.

Second, social constructivism provides a useful theoretical framework to explain and understand change and transformation in international relations (Checkel 1998: 325; Ruggie 1998a: 25; Fierke in Dunne, Kurki and Smith 2013: 189). Constructivism helps to understand that the idea of sovereignty and responsibility perceived by the Indonesian society is not a fixed and natural concept, or as a taken for granted reality, but as a social construct shaped by social and historical context (Klotz and Lynch 2007: 9; Biersteker and Weber 1996: 11; Pouliot 2004: 323). As a social construct, it becomes the subject of contestation and negotiation among relevant actors and consequently it undergoes changes across time and space (Biersteker and Weber 1996: 18). Constructivism gives attention to the sources of change through understanding how ideas and identities are created, how they evolved and how they shape the conduct of actors, including the way actors interpret and respond to different situation (Wendt 1995: 74). In understanding change and transformation of social reality, it emphasises the capacity of the normative structure to shape how political actors define themselves and their interests, and thus modify their behaviour (Wendt 1995: 72; Ruggie 1998a: 15; Walt 1998: 41). It believes that an actor's identity and interests may change over time, thus producing shifts in the behaviour, and, in turn, can bring changes in international politics (Walt 1998: 44; Fierke in Dunne, Kurki and Smith 2013: 189).

The thesis argues that the ideas about sovereignty and responsibility undergo changes and transformation as they evolve over time within the history of Indonesia. In understanding history, constructivism aims to reveal normative variation over time (Reus-Smit 2008: 411); in particular, variation in understandings of sovereignty, responsibility and human rights. Variation is explained through the analysis of 'culturally and historically specific contexts of argument and justification' (Reus-Smit 2008: 414). Justification in this case means any effort to associate action or behaviour with standard of justice or with the acceptable and appropriate manner (Finnemore in Reus-Smit 2008: 410).

Following this framework of analysis, this thesis examines differences in the conception of sovereignty and responsibility adopted in different historical period in the Indonesian history. For instance, there are different understanding of sovereignty and human rights held in the Old Order era (1945-1967) and the New Order era (1968-1998) on the basis of their different cultural and historical context. In justifying the particular meanings of sovereignty and responsibility, Soekarno (the Indonesian President in the Old Order era) and Soeharto (the Indonesian President in the New Order era) presented arguments consistent with ideas about sovereignty and responsibility held by other relevant actors at their time. Inter-subjective meaning was built on shared knowledge and beliefs prevailing in society at that time, both in the domestic and international level (Searle 1995: 24; Ruggie 1998b: 870). These shared knowledge and values provided a framework of an appropriate conduct and behaviour during Soeharto era, which can be differed from what is considered as an appropriate, acceptable and legitimate in the Soekarno era.

Third, social constructivism helps to explore how the concepts or ideas of sovereign responsibility and human rights have emerged, evolved, and diffused through a dynamic social process within Indonesian politics. Scholars have devoted considerable attention to understand how norms emerge, are diffused, and give effect to domestic and international policy and political behaviour (Walt 1998: 44). This norm diffusion framework can help me to explain actors' behavior toward international norms. These studies can be classified into three approaches of norm diffusion.

The first approach of norm diffusion focuses on the international process. Finnemore and Sikkink (1998) explore the social construction of norm and norm influence in bringing about changes in international politics through the mechanism of the norm life-cycle that includes three stages. These

stages are called norm emergence, norm cascade, and internalisation (Finnemore and Sikkink, 1998: 895). Risse and Sikkink (1999: 18) present a theoretical framework of the norm socialisation processes that explains how international norms are internalised and implemented in domestic society. They propose a spiral model of domestic changes and integrate the 'boomerang effect' from Keck and Sikkink (1998: 12-13). In terms of the socialisation process of human rights norms, this model identifies five state responses to human rights pressures: 'repression, denial, tactical concessions, prescriptive status, and rule-consistent behaviour' (Risse and Sikkink 1999: 20). They acknowledge the role of transnational advocacy network in facilitating that socialisation process (Risse and Sikkink 1999: 18; Price 2003: 583).

The second approach of norm diffusion pays attention to domestic processes by arguing that the implementation of international norms is influenced by the domestic political context. The diffusion and institutionalisation of international norms in domestic politics can be determined by the structural condition and the strength of the norm in domestic society (Cortell and Davis 1996: 471; Cortell and Davis 2000: 66); the type of domestic political institutions and the norms' congruence with domestic political cultures (Checkel 1999: 85; Checkel 1997: 478); the identity of the target states (Gurowitz 2006: 305) and the organizational culture within certain national society (Legro 1997: 32). While the first approach emphasises the role of international actors in socializing the norms, this second approach focuses on the role of domestic actors to give response to the spreading of international norms (Checkel 1999: 85). According to Zimmermann (2016: 100), the domestic political contexts and the cultural match work as 'local filters' that would determine the adoption or rejection of international norms within the country in concerned.

The third approach to norm diffusion considers the mutual constitution of domestic and international realms in the process of norm diffusion and implementation. The previous approaches assume that norms spread in a linear route, from international to the domestic stage and from norm emergence to diffusion and internalisation. The first approach treats norms as static and the local actors as passive recipients of the international norms. This third approach, on the other hand, proposes a more dynamic process of norm diffusion and development. It is believed that norms are not static but continue to evolve after being articulated, through the dynamic process that is determined by the external and internal dimensions of norm diffusion and development (Krook and True 2010: 111-112). Norms are fluid and flexible concepts, which 'encompass different meanings, fit in with a variety of contexts, and

be subject to framing by different actors' (Krook and True 2010: 105). Wiener (2004) argues for a critical or a reflexive approach to see norms as flexible, contestable and mutable. Hence, in her words, 'the interpretations of the meaning of norms change over time and contribute to social change' that necessitates all involved actors to undertake institutional adaptation (Wiener 2004: 202). Through the process of norm localisation, local actors actively construct or reconstruct international norms to make them congruent with the existing local normative framework (Acharya 2004: 245). The result is not a simple choice of adoption or rejection of the new foreign norm, but rather the possibility of the emergence of a new locally modified norm (Krook and True 2010: 112; Acharya 2004: 243; Zimmermann 2016: 106). Acharya further argues that localised norms may feed back into the global level through the process of norm circulation (Acharya 2013: 471). Overall, the localisation process helps to create linkage between international norms and domestic principles. It also shapes the expectation and parameter for appropriate policy and action in responding to certain situations (Vaughn and Dunne 2015: 30, 36). In line with reflexive and critical approaches to constructivism, Jason Ralph argues for a pragmatic form of constructivism that treats norms as flexible and contingent. This approach aims to assess the norm for its practical usefulness, that is, whether or not certain interpretations of a norm ameliorate the targeted social problem (2018: 186). Instead of viewing the different interpretations as non-compliance, it allows for 'the alternative voice to have a say regarding how the norm is implemented if the norm is to remain useful in reconciling evolving communities of practice' (Ralph 2018: 187; Wiener 2004: 200). In this regards, Jennifer Welsh (2013) further enriched the reflexive and critical approach by adding the variable of power in the process of norm contestation. She argues that 'the relative power of actors in the negotiation and implementation of norm may privilege particular outcomes' (Welsh 2013: 382).

To analyse how Indonesian state has understood and interpreted sovereign responsibility towards the evolving human rights norms, this thesis will particularly draw upon this third approach of the diffusion of norm, which places greater emphasis on the dynamic process of norm localization. It is assumed that sovereignty and human rights norms are not static but dynamic concepts which undergo change and transformation in different time and circumstances (Krook and True 2012: 105). Therefore, it is important to explore the 'political processes by which norms are contested and contingent; politically defined and redefined in history' (Katzenstein 1996: 2). Utilising this framework of analysis, this thesis will investigate the dynamic process by which the sovereign responsibility and human rights

norms have been understood by Indonesian society, adapted to local context or contested by local values, localised and then implemented within Indonesian society over time.

It is crucial to describe multiple processes involving elites, the general population, national institutions and international institutions and how these and other relationships have formed the context within which discourses of sovereignty and human rights have evolved. According to Acharya (2004: 250), the initiator for the spread of international norms may come from external or internal actors, motivated by various factors. At the beginning, local actors may express suspicion towards the new international norm as they worry whether those norms could potentially undermine local beliefs and practices or improve the legitimacy and effectiveness of the existing institutions. According to Acharya (2004: 251) and Zimmermann (2016: 105), this leads to the dynamic process of framing, grafting, and pruning of the international norms to be adjusted and adapted continuously to meet local beliefs and practices. These processes are mutually constitutive and orient to various outcomes of norm resistance, localisation or displacement (Acharya, 2004: 250). Norm resistance occurs when the external norms are rejected and the local institutions prevail. Norm localisation is measured in the creation of modified tasks and instruments to implement a localised norm. Norm displacement or adoption happens when the new international norm and institution remove the local norm and institution entirely (Acharya 2004: 250-254). Zimmermann (2016: 105) uses the term norm translation to describe the response by national national actors in responding to the international norms. In addition, she identified three stages of norm translations. They are translation into domestic discourse, translation into law, and translation into implementation (Zimmermann 2016: 106).

The historical construction of the idea of sovereignty and responsibility in Indonesian can be understood by looking at how local agents within Indonesian society actively frame, graft, and prune the international norms of sovereignty and responsibility for human protection. These norms are adjusted continuously to the local beliefs and practices emanating from Indonesian values and traditions, which mostly originate from Javanese and Malay values and traditions. Those processes led to the establishment of a localised norm of popular sovereignty based on the *Pancasila*[6] which

[6] *Pancasila* (*panca* means five and *sila* means precepts or foundation) is the Indonesian national ideology that consist of: 1) Belief in God Almighty, 2) Just and civilized humanity, 3) Unity of Indonesia, 4) Democracy lead by wisdom in deliberation of representatives, and 5) Social justice for all Indonesian people (Bahar et al 1995).

influenced the practice of Indonesian government in exercising its authority, performing its functions and fulfilling its responsibilities along the historical periods.

Finally, constructivism provides a framework of analysis to explain the relevant factors influencing the dynamic process of norm localisation. According to Krook and True, the dynamic norm life cycle is determined by the internal (meaning and content of norms) and external (interaction with the environment) sources of norm diffusion and development (2010: 109). In this process, actors actively attempt to define, frame and translate the meaning of norms for domestic constituents. At the same time, actors also try to attach or align a new norm to the existing norm, sometimes preferring to frame a new norm to be fit with or in support of the goal of the other norm (Krook and True 2010: 111). These processes provide opportunities for innovations, demonstrated in the rise of new localised norms, but on the other side, may misconstrue the meaning and implementation of the new norm (Krook and True 2010: 109). According to Acharya, norm localisation is facilitated by the possibility of new norms to improve the legitimacy and authority of domestic actors and institutions; the availability of credible local actors; the strength of prior norm; and the strength of local identity (Acharya 2004: 247-249). This thesis will combine these points of view to assess the factors influencing the dynamic process of the localisation of sovereignty and responsibility within Indonesian society over time.

4. Historical construction of sovereignty and human rights

To understand the historical construction of sovereignty and human rights in Indonesia, this research will draw on the existing conceptual and theoretical frameworks developed by experts and scholars on the coexistence of sovereignty and responsibility for human rights protection, and the understanding that norm is a dynamic concept, which undergoes changes and transformation in different time and circumstances.

Certain scholars have developed useful theories to investigate the historical construction of sovereignty and responsibility. Kathryn Sikkink (1993) and Christian Reus-Smit (2001) explore the historical construction of sovereignty and responsibility by emphasizing the impact of human rights on state sovereignty. They argue that the development of the sovereignty norm is closely connected to the increasing role of human rights in international society. Sikkink also emphasizes the important role of transnational non-state actors in advancing human rights principles to transform the understanding of

the scope of sovereignty in the modern world (1993: 412). Reus-Smit (2001) suggests that human rights provide an important normative basis to justify the discourse and practice of sovereignty. They constitute contemporary discourse about 'legitimate statehood and rightful state action' (Reus-Smit, 2001: 519-520). Dunne and Hanson explain that debate on human rights has changed the meaning and understanding of state sovereignty through the internalisation of human rights standard in domestic affairs and the projection of human rights in foreign policy and practices (2013: 69-72).

Using a constructivist perspective, Kathryn Sikkink (1993) investigates how human rights norms have reshaped the understanding and practice of sovereignty. She contends that the doctrine and practice of sovereignty is not absolute. This is evident in the reality that since the seventeenth century constraints existed on how a ruler could treat their people (1993: 413). The transnational network of human rights monitoring is an important constraint on the practice of sovereignty. She argues that, 'human rights policies and practices are contributing to a gradual, significant, and probably irreversible transformation of sovereignty in the modern world' (Sikkink 1993: 411). She focuses on the role of external human rights networks in advocating international mechanisms to monitor the situation of human rights in the member states and in giving pressure to repressive states. In so doing, she also outlines a series of state responses to the pressures from human rights networks, starting from denial to the acceptance of human rights norm. By doing so, she demonstrates that states gradually accept the legitimacy of human rights and modify their understanding and practice of sovereignty (Sikkink 1993: 415). This model of the transnational network in promoting international human rights norms was further developed by Thomas Risse and Kathryn Sikkink (1999) by introducing a model of norm socialisation processes, as explained in the previous section.

Christian Reus-Smit (2001: 526) suggests that the meaning and implication of sovereignty vary across historical and social context, reproduced through routinized communicative action and social practice. Using constructivism, Reus-Smit treats sovereignty as 'a practically constituted institution', which is developed through constitutive processes manifested in the debate and negotiation concerning the basis for state legitimacy and the appropriate conduct of the state both in domestic and international levels (Reus-Smit 2001: 526). He traces the historical construction of sovereignty by outlining the communicative processes carried out from the seventeenth century to the post-Cold War era to illustrate that human rights are embedded in the evolution of the conception of 'legitimate statehood'

(Reus-Smit 2001: 529). Human rights increasingly constitute the ideals of 'moral purpose of the state' that become the justificatory foundation of sovereignty (Reus-Smit 1997: 583; 2001: 537).

While the above-mentioned scholars discuss the historical construction of sovereignty by observing the increasing relevance of human rights in the development of the discourse of statehood, other scholars connect the social and historical construction of sovereignty with the development of the specific norm of Responsibility to Protect (R2P). Alex J. Bellamy suggests that R2P provides a means for connecting the gap between the conventional sovereignty conception and the idea of sovereignty as responsibility (2009: 33). He contends that this is not a new idea since the idea of sovereignty has usually included responsibilities to its domestic constituents and its sovereign fellows as well (Bellamy 2009: 13). He acknowledges the idea from Francis Deng and Roberta Cohen about the sovereignty as responsibility that a sovereign power has responsibility to provide protection to the population and it has accountability toward international community as well (Bellamy 2009: 33; Deng 2010: 354).

Luke Glanville (2014) revisits the ethical debate about rights and responsibility of sovereign states. Following the idea that sovereignty has been socially constructed and reconstructed along history (Bellammy 2009; Reus-Smit 2001: 526; Sikkink 1993: 412), he verifies that the concept of sovereignty and responsibility were subject to negotiation over time (Glanville 2014: 5). Using interpretive, discursive and historical methodology in understanding the development of sovereignty, Glanville found that 'the historical development of the rules of sovereignty has tended to be marked by tensions and contestation between the need to secure the rights of individuals and the need to respect autonomy and self-government of nation-states' (2014: 23). This tension and contestation develop at international and domestic level as well. He argues,

> Sovereign authority has been understood to involve varied and evolving responsibilities since it was articulated in the sixteenth century. Responsibilities have almost always been found at the heart of both the justification for sovereign authority and the construction of its meaning and content (Glanville 2011: 234; 2014: 2).

With this finding, he concludes that the acceptance of the R2P norm by the United Nations member states recently does not represent a radical shift in world politics. He contends that it merely enforces the enduring idea of responsible sovereignty to which individual state should observe and adhere (2014: 225).

This research will follow the arguments from the above-mentioned scholars, which acknowledge that while sovereigns have always had a narration of responsibility, the place of human rights in this account has varied over time, contingent to the evolving cultural, social, and political context. This evolving cultural, social and political context covers the interplay between cultural values, social institutions and political factors that constitute the understanding and practice of sovereign statehood in Indonesia over time. In the past, for instance, the conception and practice of sovereign statehood were influenced by the dominant Javanese political culture based on paternalistic and family principles. Economic development, increasing levels of education, intensified transnational communication and social interaction have enabled Indonesian society to transform into a modern society and encouraged reform towards a democratic political system. These developments have encouraged both elites and the wider community to accomodate the international norms of sovereignty as a responsibility and human rights protection as proper standards in exercising state power and authority. Since the initial independence of Indonesia (1945), sovereignty has been constructed to include a responsibility to protect the people that is manifested in the conception of statehood as a unitary republic that uphold the principle of popular sovereignty and *Pancasila* democracy. The conception of sovereignty and responsibility, however, has undergone dynamic changes along the course of Indonesian history. It means that the idea of how a sovereign state of Indonesia should perform its responsibity to give protection to its people is a dynamic discourse constituted by the continued changing of social and political environment, both in domestic and international levels.

In the early independence era, although Indonesia aspired to give protection to the people, its conception of responsibility was oriented to the sovereign, and not to the individuals. Over time, however, with the emergence of the Universal Declaration of Human Rights in the 1948 and the development of liberal democracy in domestic politics following independence, Indonesia upheld a constitutional democracy and respect for human rights. Nonetheless, the evolving social and political contexts towards the end of the 1960s drove Indonesian leaders to orient its sovereign responsibility to the state rather than extending the rights to individuals. This particular meaning of sovereignty and responsibility remained intact during the New Order era. With the significant normative transformation in international society and domestic society in the end of 1990s, the conception of sovereignty has been reconstructed to entail responsibility for human protection.

In order to explain this process of change in detail, this thesis will use the theoretical framework of norm localisation developed by Acharya (2004; 2013), Krook and True (2012) and Zimmermann (2016) mentioned in the previous section. The relevant actors in Indonesia actively frame and translate the international norm of sovereignty and responsibility for human rights protection to be adjusted with the local norms to make them easier to be understood and accepted by domestic constituents, while at the same time it enables the Indonesian state gain positive recognition in the international community.

5. Research Method

In order to gain a comprehensive understanding regarding the construction and reconstruction of the idea of sovereignty and responsibility for human protection in Indonesia over time and assess the commitment of Indonesia to implement the responsibility to protect norms, this study adopts a qualitative research method. In particular, this thesis wants to look at the language or the discourse that was used by various actors to understand how they shaped the norms that guide their behavior and their action.

To do so, this thesis refers to Quentin Skinner's idea to understand how actors, especially politicians and other public figures, use language to explain or justify their conduct (2000: 145). It is believed that an actor's behavior is shaped not only by material structure but by a normative structure as well. Therefore, actors are always concerned that their actions are perceived as appropriate and legitimate (Barnett 2011: 155). Actors, especially leaders or public figures, attempt to legitimize their conduct 'not only to fulfill their conscience', but also to make actors 'feel secure to be able to defend their behavior and action' (Claude 1966: 368; Wheeler 2000: 5). To legitimize or justify their conduct, actors use particular language or discourse to communicate plausible normative reasons (Skinner 2002: 156; Wheeler 2009: 9). However, according to Skinner, 'the range of legitimating reasons that any actors can invoke is limited by the prevailing morality within their society' (2002: 156; Reus-Smit 2008: 409; Wheeler 2000: 9). In consequence, the choice of actions available for actors are limited or constrained by norms and rules prevail within the society they live at that time (Skinner 2002: 156; Reus-Smit 2008: 409; Wheeler 2000: 9).

The changing normative context will change the range of possible actions available for actors. With the changing of normative context, a particular form of action cannot be exercised anymore because it

cannot be legitimized by the current normative structure (Skinner 2002: 156). In addition, the emergence of a new norm can change the normative structure, enabling actors to do a certain action or new practice previously inhibited by the old norm (Wheeler 2000: 9).

This thesis investigates how far the evolving norm of human protection belongs to the legitimate range of reasons that inhibit or enable certain understanding and practice of sovereignty in Indonesia. It assesses how far the norm of human protection has become an attribute of morality that constrains or enables various actors in Indonesia, especially the leaders and other public figures, to construct and then exercise a particular conception of sovereignty. By focusing on the language used in the construction of sovereignty and responsibility for human protection, this thesis tries to discover how these norms varied across different actors along the history of Indonesia. It is conducted through assessing and interpreting relevant texts based on documents and statements produced by relevant stakeholders as well as the political debates that shape the context.

To understand how sovereignty and responsibility norms evolved in Indonesia, this research traces and analyses the evolution of the sovereign statehood idea from the early independence era (1945 – 1965) including the Bandung Conference 1955; the New Order era (1966 – 1998); and the Reform era (1999 – present). This series not only encompasses the key periods in the evolution of Indonesia in understanding and practicing sovereignty and responsibility, but it also corresponds to the critical periods in the evolution of the norms of sovereignty and responsibility in the broader setting of the international community. This series of contexts illustrates changes in actors' behavior in giving meaning to, as well as framing, and justifying particular conceptions of sovereignty and responsibility to human rights protection within particular historical and social contexts. In the following chapters, I will aim to reveal what reasons and arguments the Indonesian government and other public figures used in advocating and institutionalising certain meanings of sovereign responsibility and human rights, and what domestic and international contexts limited and shaped the discourse of those norms within Indonesian society. It will elaborate on how the government and other relevant actors present and maintain a conception of sovereignty and responsibility that is considered as appropriate and legitimate to both domestic and international audiences. This can be done by elaborating the reasoning process, which includes instrumental calculation and moral argument, employed by the government and civil society in justifying their interpretation of sovereignty and human rights conceptions in every

historical period. For instance, during the New Order era, the government presented an argument to have a strong state to better cope with the internal security challenges arising from the emergence of local rebellion. The government advanced its conception of sovereignty as a right to do whatever was necessary to secure the national integration, although as a consequence, it would undermine its responsibility to protect the people in the targeted region. This particular conception of sovereignty was considered legitimate and appropriate within the prevailing discourse of sovereignty that emphasized the principles of non-intervention and territorial integrity that flourished during the Cold War. In the post-Cold War period, the discourse of sovereignty has evolved to accommodate sovereignty as responsibility. Human rights protection is increasingly becoming a standard of legitimate statehood (Reus-Smit 2001: 519). The protection of basic rights has modified the argument about the morality and legitimacy of the state, to the point that the failure of the state to provide people's rights would jeopardize its international legitimacy (Vincent 1986: 127). Consequently, international society has a legitimacy to scrutinize the domestic conduct of states in regards to human rights (Vincent 1986: 152; Wheeler 1992: 478). In this evolving international context, Indonesia has adapted to this normative development such that is now considered to be a legitimate sovereign state within contemporary international society. This changed understanding of sovereignty dominated the debate among the members of MPR (*Majelis Permusyawaratan Rakyat,* People's Consultative Assembly) during the series of its meetings in 1999-2002 and resulted in the amendment of the 1945 Constitution. This series of historical moments reflects how different actors understood the meaning and instrumentality of sovereignty and human rights norms at different time and circumstances. By tracing this process of ideational competition over time within international society and especially within Indonesian society, this method reveals that present understandings of sovereignty, responsibility, and their relationship to be socially constructed. In addition, based on this analysis, it is possible to assess the preparedness and commitment of Indonesia in implementing and mainstreaming the R2P norm. This research will evaluate whether the ongoing process of normative and institutional reform to improve human rights protection in the domestic realm is in line with and adopts the R2P norm. In addition, it will also examine Indonesia's engagement in the discourse of R2P in international and regional forums such as the UNGA and ASEAN.

To identify the general pattern of collective understanding of the norms, this research assesses and interprets texts produced by relevant stakeholders who work or have a concern with the construction and practice of the sovereignty and human rights norms. I investigate what language, term or

conception is employed to articulate the idea of sovereignty and responsibility for human rights protection mentioned in relevant primary sources, including government archives, constitution, laws, regulations, speeches or statements of key individuals, reports of NGOs and media in each historical period. In the study, I focused on resources collected from Indonesian Government offices including speeches and archives from Indonesia's Presidents, Foreign Ministers, the members of Parliament, and other Indonesian Government authorities such as Indonesian National Army (TNI), Indonesian National Police (POLRI), and National Committee of Human Rights (KOMNAS HAM). To have comprehensive understanding of Indonesian conception of sovereignty and responsibility to protect human rights in Indonesia, I have analysed data from several non-governmental organizations. They were: KontraS (*Komite untuk Orang Hilang dan Korban Tindak Kekerasan*/Commission for the Disappeared and Victims of Violence), ELSAM (*Lembaga Studi dan Advokasi Masyarakat*/Institute for Policy Research and Public Advocacy), CSIS (Centre for Strategic and International Studies), *Imparsial,* The Indonesian Human Rights Monitor, HRWG (Indonesian Human Rights Watch Group), The Habibie Centre, CiRES (Center for Indonesia Risk Studies) and the CSPS UGM (Centre for Security and Peace Studies Gadjah Mada University). In addition, I collected and analysed important resources from Office of Indonesian National Archives, Indonesian National Library, Asian-African Conference Museum, as well as reports from national and international media.

This research not only aims to assess the texts themselves, but also to assess the political debates which shaped the contexts. In analysing the contemporary understanding of the norms within Indonesian society, this study also gathers the perception and interpretation of R2P that circulates in the government and other public institutions and networks (military, police, civil society groupings, and media). I have conducted interviews with relevant persons from government and civil society who work for and have concern on human rights issues. There are eight respondents from five governmental offices, one commissioner of KOMNAS HAM, seven interviewees from academic and research institutions, and nine respondents from seven non-government organizations. Through this interview, I gathered the the various opinions, perceptions and aspirations of particiants regarding the idea of sovereignty and responsibility for human rights protection, and at the same time, I could explored the social, political and historical context that influence the development of sovereignty and responsibility norms in Indonesia. In the process of data analysis, I conducted comparison and verification of the findings from the interviews with the data and other relevant information from the primary and

secondary documents collected in the previous research stage. It is important to find the coherence, to check the validity and reliability of the data to maintain logic and systematic analysis and conclusions. In addition, secondary data was examined, accessed from various sources such as books, journals, and some reports published by institutions that have concern on the issue of sovereignty and responsibility for human rights protection.

Chapter II. Sovereignty and responsibility in the Early Independence of Indonesia

This chapter will explain how Indonesian society constructed the concept of sovereignty and responsibility at the beginning of its nation-state building efforts. This early period plays an important role as it lays the foundation for building the idea of a sovereign state for the 'newborn' country of Indonesia. This period deserves interpretation and analysis because it reflects the emergence phase of the sovereignty norm in the newly decolonised Indonesia. How was sovereignty understood at that time? Was it interpreted as an absolute right and authority of the state, or as a responsibility to achieve common good and human rights for its people? What normative and material structures shaped this conception of sovereignty? Addressing these questions will help shed light on how the relationship between sovereignty and responsibility shaped the Indonesian state during its early independence.

1. The Discourse of sovereignty during the BPUPKI and PPKI Meetings in 1945

The idea of sovereignty in this period was shaped by the international society's endorsement of both individual rights and the self-determination of nations and subjects to form an independent sovereign state. First advocated by Woodrow Wilson in 1918, this principle of self-determination became an important motive for drawing new nation-state boundaries since the end of World War 1 (Hannum 1993: 4). In 1941, this principle was affirmed as one of the important principles of international justice stipulated in the Atlantic Charter, which formed a historical document in the establishment of the United Nations, later in 1945. The self-determination of peoples is admitted as an important principle (article 1.2) of the United Nations Charter. Furthermore, the Westphalian idea of sovereignty was formalised by recognising the right of statehood, embracing self-government and non-interference. As a sovereign, a state has undivided jurisdiction over all persons and property without external limits placed upon the decisions and actions of the state within its own territory (Smith 1998: 1). This principle is clearly stated in the article 2(4) of the Charter 'All members shall refrain in their international relations from the threat of the use of force against the territorial integrity or political independence of any State' (Charter of the United Nations 1945). This provision affirms that within its boundary, a state enjoys absolute sovereignty over its population and territory. Any interference by outsiders without its consent will be regarded as illegitimate (Esman and Telhami 1995: ii). Elsewhere in the charter, there is a commitment by member states to 'promote and encourage respect for human rights and fundamental freedom for all without distinction as to race, sex, language, or religion'

(Article 1.3 of the Charter of the United Nations 1945). Within this framework, sovereignty was constructed in uneasy tension with human rights and fundamental freedom (Glanville 2014: 141). The practice of sovereignty within this period was characterized by an emphasis on the conception of exclusive territorial jurisdiction rather than on human rights protection (Donnely 2014: 225; Walling 2013: 244).

At the national level, the discourse about sovereignty began to emerge at the beginning of 20th century, later known as the era of national awakening. The discourse of sovereignty was marked with the slogan to achieve "A sovereign, independent, just and prosperous Indonesia" (Hatta 1953: 441). It was articulated by nationalist movements across the nation to end the Dutch occupation and colonialism, which they asserted brought suffering and misery to Indonesian people for more than three centuries. The idea of sovereignty was intertwined with nationalist ideas as a result of an inter-subjective understanding developed between the newly educated society in Indonesia and political activists and scholars in Asia and Europe (Anderson 1998: 32). Most of the Indonesian nationalist activists were educated in the Dutch system, whether in Indonesia or in the Netherlands, which enabled the exchange of knowledge with other nationalist movements from all over the world. Soekarno was one of the important nationalist leaders who established the *Partai Nasional Indonesia*/PNI (Indonesian Nationalist Party) in Bandung in 1927 with the goal to attain the complete independence of Indonesia (Koentjaraningrat 1985: 83). While Tan Malaka, Suwardi Surjaningrat, Semaun, Sukiman Wirjosandjojo, Soepomo, Mohammad Hatta, and Sutan Sjahrir were some of the prominent Indonesian nationalists who actively promoted the vision of independence Indonesia overseas during their study in the Netherland (Drakeley 2005: 56-57; Feith 1982: 44; Kartodirdjo 1062: 83; Noer 1990: 41). Under these circumstances, these activists formed their basic understanding of the ideas of nationalism and sovereignty and other conceptions of the politics of modern statehood. This experience enabled nationalist leaders from the colonised country of Indonesia to become familiar with Western norms and values (Kahin 1952: 50). Their acquaintance with the Western Enlightenment ideals opened up their minds of the contrasting reality of repressions by the Dutch colonial administration toward the local people (Kahin 1952: 55). Their hybrid educational and historical experiences had significant influence their worldview and their vision about sovereignty. It also shaped the way they interpreted and implemented international norms, in particular, by synthesising or localising those norms with local values and experiences.

The defeat of the Dutch and the arrival of the Japanese who moved in to occupy the archipelago intensified this struggle against colonialism in the 1940s. Some leaders began to think about the possibilities of building a new sovereign state with territorial boundaries based on those established by the Dutch colonial administration. Moreover, the Japanese started to mobilise support from the local people (Bourchier and Hadiz 2003: 3). This cooperative relationship, however, was not long lasting, as the real motive of Japan was to gain support for their war effort against the Allied Powers. The colonial government conscripted hundreds of thousands of Indonesian for military duty and sent them to other Southeast Asia countries (Dahm 1971: 95; Feith 1962: 6-7; Schwarz 1999: 4). Under these conditions, the nationalist activists began to advance the will of the people to dismantle the Japanese occupation and establish Indonesia as a sovereign and independent state.

The vision of building a new sovereign state gained momentum in 1945 with the intensification of aspirations for independence among the movement leaders. The idea of what kind of country Indonesia, as a sovereign state, should become, was intensively debated within the meetings of the Japanese sponsored committee of the *Badan Penyelidik Usaha-usaha Kemerdekaan Indonesia* (Investigating Committee for Preparations for Indonesian Independence) or BPUPKI in May – July 1945. The discussion was continued within the meetings of the *Panitia Persiapan Kemerdekaan Indonesia* (Preparatory Committee for Indonesian Independence) or PPKI in August 1945.

The discourse within the Meetings of the BPUPKI and the PPKI was marked by the emergence of diversity of ideas and perspectives from Committee members. In general three main perspectives emerged within the debate in the Committees: the first perspective, represented by Soepomo and Soekarno, promoted an organic and integrated state, the second perspective, represented by Hatta and Yamin, gave more attention to the people (a people's right-oriented), and the third, represented by Agoes Salim and Wakhid Hasyim, emphasised the importance of upholding an Islamic perspective. These three perspectives will be discussed in detail below.

a. The Integralistic Perspective

The first perspective was led by Soepomo who was educated in Leiden and inspired by Spinoza, Muller, and Hegel. He proposed a conception of *integralistic* state described as a strong state who has authority and responsibility to not only protect individual or group interests, but to protect all people as

an organic unity (Bahar 1995: 33; Riyanto 2003: 80). Soepomo was inspired by both the Germany model of an organic state in which the leader and people were politically unified, and the model of Japanese state which upheld the family principle where the Emperor and the people were unified under his 'divine inspiration' (Yamin 1959: 112; Nasution 1992: 92). Under the family principle, both the individual and society as a whole had obligations to achieve unity and harmony, and were thus inseparable. As an expert in *Adat* (custom) law, Soepomo suggested adapting the family principle to the distinctive nature and pattern of Indonesian society (Bourchier 2007: 122). Soepomo thus sought to establish the principle of the integrity or unity between the government and the people under the spirit of *gotong royong dan kekeluargaan* (cooperation and family spirit) (Bourchier 2007: 122; Butt and Lindsey 2012: 9; Elson 2008: 159). In this case, Soepomo sought to localise the international norm of sovereignty in line with the existing local norm and values of *gotong royong* and *kekeluargaan*. In this model, democracy was welcome but not in a majority voting system. Soepomo asserted that democracy was applied according to the principles of *musyawarah* (mutual consultation) and *mufakat* (consensus) that constitute the genuine characteristic of Indonesian democracy. Overall, the *integralistic* state promoted by Soepomo for Indonesia was unique and different from the *integralistic* state adopted in both Germany and Japan (Bahar 1995: 33-36).

In respect to the responsibility of the state to give protection to the rights of citizen, Soepomo emphasised the value of *kekeluargaan* (family), which encompassed all aspects of human life including the relations between the government and the people. As a big family, citizens were expected to live in harmony with one another (Riyanto 2003: 80). The state must be sensitive to the community's sense of justice and, on the other hand, the people may not merely advance their own rights but should instead prioritise duty as members of the family of Indonesia (Yamin 1959: 314; Nasution 1992: 95). According to this ideal, Soepomo believed there was no need to put limits on state power or to guarantee individual rights, because the individual was an organic and inherent component of the state (Butt and Lindsey 2012: 9; Bahar 1995: 276).

Concerning the idea of external sovereignty, Soepomo understood sovereignty as independence from colonial occupation. As a sovereign state, Indonesia had an authority to execute governmental functions free from foreign interference. He rejected colonialism and imperialism and instead suggested promoting the value of cooperation between states based on equality. When describing the requirements of statehood, Soepomo iterated that a state must have population, a definite territory and a

sovereign government (Bahar 1995: 31). A sovereign government must abide by international law and should acquire recognition by other states (Bahar 1995: 31).

A similar perspective came from Soekarno. As the most prominent advocate of Indonesian independence, Soekarno aspired to establish an independent and sovereign Indonesia without delay. Soekarno also referred to international law to assert the requirements for statehood and he was convinced that Indonesia had all of these requirements, which meant that Indonesia was more than ready to become independent and build a new sovereign state (Bahar 1995: 68). Soekarno perceived sovereignty as independent from colonial domination. As a sovereign state, Indonesia would have the capacity to defend the integrity of its territory, and the capacity to establish peaceful relationship and cooperation with other states. Soekarno pointed the Atlantic Charter in 1941 in his demand for Indonesian right to self-determination (Bahar 1995: 252). He demanded the right for independence based on the vision of justice and humanity that had always been the spirit of the Indonesian movement and revolt against the Dutch imperialism (Bahar 1995: 236, 252).

In line with Soepomo's idea about the internal sovereignty, Soekarno stated that the Indonesian state was not a state for a particular individual, or one group but for all people. He underlined that the proposed constitution would be formulated on the basis of the sovereignty of the people, not the individual, upholding the spirit of one for all and all for one. In addition, similar to Soepomo, he advocated the Indonesian state to be built on the principle of *permusyawaratan perwakilan* (mutual consultation and representation) (Bahar 1995: 76). In his speech within the BPUPKI meeting on 1 June 1945, Soekarno proposed Pancasila to become the *grundnorm* or *staatsidee* (philosophy of the state). It consisted of five principles: Indonesian nationalism, internationalism or humanism, *mufakat* (consensus) in democracy, social welfare, and belief in God. The principles of *gotong-royong dan kekeluargaan* (cooperation and family) formed the core values of Pancasila. Soekarno thus envisaged these values as the basis of the Indonesian constitution (Bahar 1995: 77; Yamin 1959: 61-80; Nasution 1992: 10). This conception can be understood as the effort of Soekarno to synthesise and localise the Western values of nationalism, humanism, and democracy with apparent Indoesian national values of family principle and cooperation that emphasized harmony and compromise (McVey 1996: 18).

In another speech, Soekarno explained why he did not include articles on human rights or rights of the citizen such as the right of to convene and assemble in the constitution. Soekarno referred to Rousseau,

Montesquieu, Hobbes, Locke and Kant and their ideas about the rights of the citizen based on individualism and liberalism. Soekarno perceived individualism and liberalism as discordant with the characteristics of the Indonesian people and prevailing local values and norms (Soekarno Speech cited in the Bahar 1995: 254-260). Individualism was viewed as the basis for economic liberalism, which gave freedom to some to oppress other human beings. This oppression, he claimed, became the source of capitalism and imperialism in Europe and America (Yamin 1959: 292; Nasution 1992: 94). Moreover, as a person experienced the direct negative impact of imperialism, Soekarno did not want to use individualism as the basis for the constitution of Indonesia, instead he proposed 'social justice'. As a result, he proposed to devise the Constitution on the basis of the sovereign of the people, not sovereign of the individual (Soekarno Speech cited in the Bahar 1995: 253-260).

b. The Democratic Perspective

The second perspective that arose during the time period came from Mohammad Hatta and Mohammad Yamin who embraced democracy. Hatta emphasised that the best format of state organisation for Indonesia was a democratic constitutional state in the form of a republic based on the popular sovereignty (1957: 252). All laws and regulations must rest on the justice and truth that exists within the people. Hatta referred to the conception of popular sovereignty presented by Rousseau, but he emphasised the importance of adapting it to the characteristics of the Indonesian society. If Rousseau relied on the principle of individualism in accordance with the characteristics of the French society, Hatta emphasized the importance of collectivism (Hatta 1957: 252). The sovereignty of the people realised in Indonesia must be derived from the Indonesian character that evolved from indigenous Indonesian democracy, a democracy that is intended to realise the principle of humanity and social justice (Hatta 1983: 106; Lubis 1993: 59). These ideals of social democracy were based on five indigenous elements: general meeting, mutual consultation, mutual cooperation, the right to joint protest, and the right to withdraw from the power of the leader (Yamin 1959: 299; Nasution 1992: 123). Hatta, however, later amended the traditional mass protest and removal from the leader's authority with the modern principles of freedom of expression, freedom of movement, and the right to assemble (Feith and Castles 1970: 39-40; Hatta 1957: 252; Hatta 1966: 23-24; Lubis 1993: 59; Noer 1991: 155).

In response to the idea of *integralistic* state, Hatta proposed a rights-oriented approach by advancing the importance of guaranteeing people's rights within the constitution. What Hatta himself was consistently opposed to individualism, he expressed his concern that the main consideration should not be the contest between individualism and collectivism (Bahar 1995: 262). Hatta insisted on including provisions on the people's rights in order to prevent the possibility of the emergence of an excessively powerful or authoritarian state (Bahar 1995: 262). He argued that both the state and government have responsibility to the people and there should be a mechanism to defend the rights of the people against the tyranny of rulers. The rights proposed by Hatta were the freedom of expression and the right to assemble and convene (Bahar 1995: 263-263). These rights were subsequently accommodated in the article 28 of the 1945 Constitution. Hatta's point of view was shaped by the combination of three influential values: collectivist values rooted in Indonesian villages, Islamic values, and the Western values of nationalism, democracy and humanism (Hatta 1960: 6; 1966: 24).

Although he held a different point of view to that of Soepomo and Soekarno on the matter of the sovereignty in domestic sphere, Hatta expressed similar views on the external dimension of sovereignty. Hatta stated that 'free Indonesia has to become a national state, one and indivisible, free from foreign colonial domination in whatever form, political or ideological' (Hatta in Feith and Castle 1970: 34). His vision of an independent Indonesia was firmly entrenched in his long struggle as a nationalist activist who consistently promoted the vision not only in Indonesia but in international forums.

In endorsing Hatta's idea, Mohammad Yamin stated that Indonesian sovereignty had two dimensions: internally to protect the people and internationally to promote an equal relationship with other states. Indonesian sovereignty and independence should be based on universal humanity and internationalism for all nations. As a sovereign state, Indonesia resisted colonialism and other form of external subjugation (Bahar 1995: 15). Regarding the form of the state, Yamin proposed a unitary republican state. 'In this policy in achieving the unity of our country and our people, it should be our aim to preserve our territorial integrity, and must be prepared to safeguard every inch of our territory' (Yamin in Feith and Castles 1970: 439; Bahar 1995: 23). To avoid any absolutism, he put forward the idea that state actions should be subjected to judicial review and there would be a clear separation of powers. In this context, Yamin made a sharp distinction between state and society, recognised individual interests and rights, and emphasised the importance of a limited government and institutional controls over

political authority (Bahar 1995: 23). Learning from other state's constitutions, he insisted that the right to freedom should be incorporated within the constitution, regardless of the basic philosophy of any states (Lindsey 2008: 232; Bahar 1995: 293-5).

c. The Islamic Perspective

The third perspective proposed an Islamic state for the new independent state of Indonesia. Based on the reality that Muslims formed more than 80 percent of the population, certain figures put forward strong arguments in favour of sharia law within the new independent state. The question of whether Islam would form the basis for the new republic was an important debate during the drafting process of the constitution. Islamic groups were represented by an ad-hoc committee, which submitted a draft preamble of the constitution to include the words '... *dengan kewajiban menjalankan syariat Islam bagi pemeluknya* (with the obligation to carry out Islamic sharia for its adherents)' later known as the 'seven words' that formed the first principle of their version of Pancasila[7] (Bahar 1995: 266; Indrayana 2008: 10; Nasution 1992: 10). This draft, referred to as 'the Jakarta Charter', became a symbol of aspirations of an alternative Indonesian state based on Islamic law. The final version of the Pancasila removed those first 'seven words' (Bahar 1995: 266; Indrayana 2008: 10). Delegates formed a "gentlemen's agreement" to remove the stipulation of sharia law based on deep consideration that it would cause the followers of other religions within the society to refuse the new state. The nationalist and other leaders who ideologically opposed to the imposition of Islamic law also raised their objections (Bahar 1995: 266; Butt and Lindsey 2012: 228; Darmaputera 1988: 151; Indrayana 2008: 10-11; Ricklefs 2008: 249).

d. Conception of Sovereignty and Responsibility within the 1945 Constitution

After a lively debate during the meeting, Indonesia's first constitution was finally ratified on 18 August 1945, a day after the Proclamation of Independence was declared by Soekarno and Hatta on behalf of

[7] While Soekarno was the first leader to introduce the principles of Pancasila in his speech during the Meeting of BPUPKI on 1 July 1945, the Ad-hoc Committee reformulated the content to the current form of Pancasila, which consists of: 1) Belief in God Almighty, 2) Just and civilised humanity, 3) The unity of Indonesia, 4) Democracy guided by wisdom in consultation and representation, and 5) Social justice for whole Indonesian people (Yamin, 1959: 153-154; Nasution, 1992: 11).

Indonesian people. At the same time, the Preparatory Committee for Indonesian Independence elected Soekarno as the first president and Mohammad Hatta as the first vice-president.

The conception of statehood and sovereignty aspired to by Indonesian society can be found in Article 1 of the 1945 Constitution:

> 1. The State of Indonesia shall be a unitary state which has the form of a republic.
> 2. Sovereignty shall be vested in the people and shall be exercised in full by the Majelis Permusyawaratan Rakyat (MPR or the People's Consultative Assembly) (Indonesian Constitution, 1945)

This formulation of popular sovereignty was the result of compromise between the *integralist*, democratic and Islamic perspectives among the BPUPKI members. The Constitution did not uphold the idea of authoritarian sovereignty promoted by the *integralist* camp nor an Islamic state suggested by the Islamic camp. Instead the Constitution was built on the norm of sovereignty of the people, as advocated by the democracy camp. In this case, however, it was not popular sovereignty as envisioned by Rousseau, but the adaptation of democracy to include deliberation of representatives, which will be exercised by the MPR as the embodiment of the people. This focus on deliberation confirmed that Indonesian conception of popular sovereignty was formulated through the norm localisation process, where national leaders played an active role in adjusting the international norm of popular sovereignty to be congruent with the promoted national values of *kekeluargaan, musyawarah dan perwakilan* (family principle, consensus and representation).

This localisation of the sovereignty norm manifested further in the conception of a strong state, based on a paternalistic and communal spirit that was assumed to be more appropriate to indigenous values. The 1945 Constitution granted significant power to the president, including legislative power (Elson 2008: 172). This early construction of the sovereignty norm was influenced by several conditions. First, Indonesia's experience of massive exploitation and domination during the colonial period gave rise to a perceived need to establish a strong state that could counteract the threat from outsiders. This vision could be achieved through establishing unity between the State and its people under a strong authoritative presidential regime (Lubis 1993: 59; McVey 1996: 18). Second, uncertain international politics resulting from the end of the World War II set a condition for the founders to act quickly and decisively in preparing the independence with all basic requirements, including a constitution.

Therefore, there was agreement among the BPUPKI and PPKI members that the drafted constitution would become a simple and temporary constitution in order to be prepare as a new independent state (Indrayana 2008: 4). In these circumstances, the *integralistic* perspective gained wider support from BPUPKI and PPKI members who advocated a strong executive body. The democratic camp such as Hatta and Yamin who advocated a limited government, had to compromise their ideals when faced with the majority voice that upheld the executive-weight political system.

However, it would be misleading to conclude that the conception of sovereignty envisioned in 1945 did not include the idea of responsibility of the state to its people. This responsibility norm can be found in the 1945 Constitution, as mentioned in the preamble, the main body, and in the annotation of the Constitution. The fourth paragraph of the Preamble of the 1945 Constitution stated that:

> Furthermore, to form a Government of Indonesia the government of the state of Indonesia shall (1) protect the whole Indonesian nation and their entire homeland; (2) improve the public welfare; (3) advance the intellectual life of the people; and (4) contribute to the establishment of a world order based on freedom, perpetual peace and social justice (Indonesian Constitution 1945).

From this paragraph, it is understood that the founders formulated sovereignty not only oriented toward the state, but towards the people. Indonesia Constitution elucidated that the state had a legal responsibility to ensure protection for its people. The responsibility norm already existed in the Preamble of the Constitution 1945, recognised as the ultimate vision and goal of the formation of the Indonesian state. This was further explained in the Annotation of the Constitution that 'the state shall give protection for all of the Indonesian people and shall strive for achieving prosperity for all the people' (Indonesian Constitution 1945). However, this responsibility norm was oriented towards protection of the people as a collective and did not view human rights as an individual right.

The principle to perform the responsibility to protect the people was formulated in seven articles regarding human rights within the 1945 Constitution. The scope of human rights recognized in the Constitution included the following rights:

1. the right to have equal status before the law and in government (article 27.1)
2. the right to work and a decent living for humanity (article 27.2)
3. freedom of association and assembly and freedom of expression (article 28)
4. freedom of religion and belief (article 29)

5. the right to education (article 31)
6. the right to access natural resources (article 33)
7. the right of the poor and unfortunate children to be protected by the government (article 34) (Indonesian Constitution 1945).

This formulation of responsibility of the state conformed to the ideas of Hatta and Soekarno that the sovereignty of the people to be implemented in Indonesia should encompass both the political and economic fields (Asshidiqqie 2010: 124; Lubis 1993: 57). Again, this conception of human rights only incorporated minimum individual rights, and did not mention the rights to security against violence that is categorized as a basic right by the UN for every human being to enjoy a dignified life.

From the dialogue and debate within the BPUPKI and PPKI meetings, it is clear that the discourse of sovereignty was dominated by appeal to the right for self-determination. Having experience more than three centuries of colonialism, the Indonesian people did not have any opportunity to participate in decision-making regarding the arrangement of power and authority within their territory. Moreover, oppressive colonial rule caused suffering and poverty for the majority of the people. It was not surprising that the nation's founders put forward a strong aspiration for independence. These leaders used the language of right to justify its claim for sovereignty, as clearly expressed in the first paragraph of the Preamble of the Constitution that 'Independence is the inalienable right of all nations, colonialism must be abolished in this world as it is not in conformity with humanity and justice' (Indonesian Constitution 1945).

The proclamation of independence was regarded as the culmination of the people's political aspiration to attain sovereignty of the Indonesian state. As an independent and sovereign nation, the Indonesian people have the right to be free from colonisation by other nations. At the same time, Indonesia has the right to determine the arrangement of the state's authority and determine the future of the nation (Juwana 2006: 28). As stated by Soekarno in the BPUPKI meeting, political independence and sovereignty was seen as a golden bridge to the prosperity and progress of the nation. He had in fact propounded that idea since 1933 in his treatise entitled *"Mencapai Indonesia Merdeka"* (To Achieve an Independent Indonesia) (Soekarno 1933; Bahar 1995: 65). Under these historical conditions of colonialism, sovereignty in this period was understood as the right and authority of the state to govern its population and territory without outside intervention.

At the same time, with the adoption of the principle of popular sovereignty and human rights provisions within the 1945 Constitution, it is evident that the nation's founders had a vision of a modern Indonesia that was not constructed merely on the basis of state sovereignty, but through dedication to the people as well. The constitution included both democracy and human rights protection (Asshiddiqie 2010: 57; Humah 2007: 88; Noer 1990: 225; Tarling 1998: 10). As mentioned by Vice-President Hatta in the mid of 1946, "we all aspire to build a strong democratic government who was respected by the people, and at the same time who responsible to the people" (Speech by Hatta cited in Elson 2008: 188). All of the respondents in my interview conducted for this current research also confirmed this understanding that responsibility was embedded in the idea of sovereignty as formulated in the 1945 Constitution. Therefore, responsibility has a constitutional basis. I would like to stress that the responsibility attached to the sovereignty articulated in the constitution was not responsibility to protect individuals from violence, but responsibility to protect all Indonesian people, to protect the nation as a whole. Obviously this is relevant and this is important as it confirms that the relationship between sovereignty and responsibility in Indonesia begin in 1945. Responsibility was, however, attributed to protecting the nation and the people as a collective and that did not necessarily include basic rights to human protection or any commitment to them.

It is worth noting that at the time of transition or revolution from Indonesia as an occupied nation to the newborn state, the founders had to make a crucial choice in circumstances that often beyond their knowledge or control. The Indonesian leaders at that time prioritised the assertion of independence and sovereignty of the state, and building a strong state in order to have enough power to counter the immediate internal and external threats and to defend its survival (Hatta 1966: 10). On the other hand, the provisions related to the rights of the people were not formulated in a detail (Lubis 1993: 59). Moreover, it did not address individual rights, in particular the right to security from physical violence and physical integrity. In the early years of Indonesia's emergence as a nation state, the first priority was on political liberation, in which the nation and its people as a collective escaped from the colonialism and imperialism. In this context, when deciding on sovereignty and rights, the final decision focused on sovereignty as freedom from foreign interference and the collective freedom manifested in establishing a new nation-state instead of individual human rights.

The early independence era showed a dynamic practice and meaning of sovereignty due to the evolving socio-political contexts in the domestic and international sphere. After proclaiming its independence, the government of the young republic had to handle two distinct and difficult tasks in practicing its sovereignty. The first task was related to the external dimension of sovereignty. Indonesia had to achieve international recognition to assert its equal status with other sovereign states and to secure autonomy to manage its domestic affairs (Cribb and Brown 1995: 18; Feith 1962: 10-11; Tarling 1998: 10; Utami 2016: 142). In his effort to gain support and recognition from international community, Soekarno consistently referred to the existing international norm of self-determination. Soekarno urged the United Nations to support Indonesian independence by connecting to the norm of self-determination in the Atlantic Charter. He used that document to legitimise his demand for "the right of all people to choose the form of government under which they may live" (*Sydney Morning Herald* 25 September 1945).

The second task of the new republic related to the internal dimension of sovereignty to perform its responsibility to advance the common good of the people. Without these, the government would have little basis for its legitimacy to demand citizens' loyalty. Challenged with these difficult situation compelled the government to place priority on securing international recognition. This brought about difficult consequences, undermining the domestic appeal for social and economic wellbeing (Cribb and Brown 1995: 18; Elson 2008: 210). The energy and attention of the nation were focused on the external aspect of sovereignty, in particular in defending political sovereignty from the Dutch ambition to re-occupy the nation. Within this environment, while the discourse about popular sovereignty was not entirely muted, it was dominated by the idea of the right for national self-determination and anti-colonialism. On 27 December 1949, the Roundtable Conference (*Konferensi Meja Bundar* or KMB) in The Hague finally resolved this external sovereignty issue by affirming the formal transfer of sovereignty from the Dutch to the Republic of the United States of Indonesia (RUSI).

The KMB brought significant consequences to Indonesia. It changed the form of the state from a unitary system to federalism. The new Constitution of the RUSI embraced a parliamentary democracy and a comprehensive assurance of human rights. This federal constitution was nevertheless described as reflecting more the interests of the Dutch and the United States of America rather than Indonesian interest (Asshiddiqie 2010: 38). The nations leaders believed that the adoption of a federal system was

part of the Dutch attempt to weaken Indonesian territorial integrity (Cribb and Brown 1995: 33; Indrayana 2008: 5).

With the spirit of rejecting federalism and a return to the unitary state, on 17 August 1950, the new unitary Republic of Indonesia abolished and replaced the federal state. A new constitution was enacted that maintained a strong commitment toward democracy in the form of parliamentary democracy. Most importantly, the 1950 Provisional Constitution included most of the human rights provisions of the Universal Declaration of Human Rights 1948. These were incorporated within thirty-seven articles. Among these human rights, the right to individual security was specified in two provisions:

> All person within the territory of the State is entitled to equal protection of person and property (Article 8, the 1950 Constitution).
>
> No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment (Article 11, the 1950 Constitution).

The adoption of the right to individual security here demonstrated a strong commitment of the leaders in this era to promote the idea of government responsibility for protecting fundamental rights, including the rights to individual security. It can be said that there was significant progress in the institutionalisation of human protection in the constitution. The adoption of a comprehensive human rights principle both in the 1949 Constitution and the 1950 Constitution reflected the awareness of Indonesia to adhere to the important normative transformation unfolding in the international realm as part of its efforts to be recognised and accepted as a member of international society (Lubis 1993: 49). The 1950 Constitution more clearly expressed the sovereignty of the people than its predecessors and it laid the constitutional basis for respecting human rights (Nasution 1992: 28). Within this period, the conception of sovereignty and responsibility were constructed as complementary norms, laying an important foundation to promote the wellbeing of the people. It was within this domestic context that the Bandung Conference took place in 1955.

2. The 1955 Bandung Conference

This section of the chapter will analyse the Bandung Conference as one of the important historical moments in the development of sovereignty and responsibility norms within Indonesia in particular, and within the other newly independent nations in general. It will describe how these emerging nations

tried to localize and negotiate the international norms of sovereignty by expressing a different interpretation of the norms as part of their effort to adjust them to local beliefs and practices. This process was deeply conditioned by the evolving domestic and international context. Therefore, this section will start by exploring the domestic and international circumstances which influence the way these nations understood the norm of sovereignty and then analyse the meaning and content of the norm discussed and negotiated during the conference.

a. Evolving discourse of sovereignty within domestic and international society

The Bandung Conference can be regarded as continuation of Indonesia's struggle against colonialism and imperialism in its efforts to defend and uphold its sovereignty. Therefore, the conception of sovereignty brought in the Bandung Conference by the Indonesian leaders was interpreted as the right of the nation and people to self-determination. The language of human rights was used as an effective justification and political legitimacy for its claim to discredit colonialism and build a sovereign and independent state (Eckel 2010: 111; Reus-Smit 2001: 536). At the same time, it was also a manifestation of the Indonesian commitment towards human rights as stipulated in the 1950 Constitution.

As widely recognised, KMB in 1949 made an important contribution to the attainment of formal sovereignty through *de jure* recognition of Indonesia. Indonesia was then recognised by other states and on 30 September 1950, was admitted as a member of the United Nations. These two events are regarded as two important attributes of a sovereign state to be recognized as a full member of international society in the postwar world (Tarling 1998: 10).

Despite international recognition, Indonesia had to struggle to assert its sovereignty both internationally and domestically. Regarding the external aspect of sovereignty, Indonesia had to confront the continued insistence of the Dutch to maintain its power by preserving its sovereignty on West New Guinea. While at the same time, this newborn state had to assert its sovereignty domestically by delivering the benefit of its proclaimed independence to the people. Unfortunately the responsibility to advance the economic condition was undermined by the heavy burden of the duty to pay the Dutch debt. It was further exacerbated by the reality that its modern sectors of economy remained under the Dutch and other Western domination (Cribb and Brown 1995: 65; Utami 2016: 143).

This situation revealed the ongoing influence of colonialism which greatly impeded the autonomy and independence of Indonesia. As a result, the government gave priority to removing the legacy of colonialism and to asserting full political, economic, and moral sovereignty over their territory over West New Guinea. The Indonesian Prime Minister Sastroamidjojo (1953-1955) raised the question at the United Nations of West New Guinea as a matter of self-determination. Although he failed to urge the UNGA to pass a resolution on West New Guinea, this endeavor achieved a moral victory. More than half of the UN members supported Indonesia's position on the West New Guinea (Cribb and Brown 1995: 66; Penders 1979: 349; Reinhardt 1971: 47).

Indonesia's anti-colonial vision of sovereignty gained momentum with the evolving international discourse of self-determination. With the end of World War II international society witnessed the rising claim of self-determination and efforts to dismantle old colonial empires in Asia and Africa. Colonial powers demonstrated a lack of willingness to grant or liberate their colonies immediately, despite the strong appeal and struggle for independence among the Asian and African colonies. This resistance from colonial powers became one reason why the issue of colonial oppression and imperialism emerged as a pertinent topic during the Asian African Conference held in Bandung in 1955 (Makcie 2005: 36-37).

The dangerous atmosphere caused by the Cold War contestation aggravated this situation. In 1954-1955 the Cold War was at its height in Asia (Mackie 2005: 16). Unfortunately, the Asian nations had little or no voice in the decision-making relevant to the crisis situations. The key decisions were still being made in London, Washington or Moscow without any consultation with the affected countries in Asia and elsewhere.

The above domestic and international circumstances encouraged Indonesia to lay a base for welding solidarity among the new emerging countries and colonised nations to formulate a united approach to preserve their independence and sovereignty (Cribb and Brown 1995: 67). At the 1954 Colombo Conference, Indonesia proposed the idea to hold the Asian African Conference and underlined the urgency to coordinate a strategy for confronting the highly dangerous Cold War atmosphere. At the same time, these newly independent nations, representing two thirds of the world population, increasingly demanded that their voices be heard and their interests represented to the world (Mackie

2005: 46; Penders 1979: 521; Sastroamidjojo 2015: 35). Particularly, it was the time to raise their voice against domination and colonialism that were perceived as impediments to the enjoyment and realisation of their sovereignty.

b. Discourse of sovereignty and responsibility within the 1955 Bandung Conference

The Asian African Conference hosted by Indonesia in Bandung in 1955 represents an important historical moment. This was the first meeting of the newly independent nations of Asia and Africa to deliberate and discuss on the salient subjects of common concern and interest (Soekarno 1955; Devetak, Dunne and Nurhayati 2016: 4). The symbolism of such a meeting was very powerful as it represented the awakening of Asia and dismantling of old colonial empires (Mackie 2005: 14). The conference provided the basis for establishing the Non-Aligned Movement fighting for political independence from the Cold War competition. It also pioneered the partnership of the Group of 77 expressing the interests of developing countries in reducing their dependency on the industrialised countries (Cribb and Brown 1995: 67). The conference also had a significant meaning in building solidarity between the newly decolonized states to promote the ideas for a more equitable and peaceful inter-state relations (Sastroamidjojo 1955; Tan and Acharya 2008: 3-4).

This gathering raised anxiety among the leading powers, in particular the United States and the European countries. They worried that the participating countries of the Bandung Conference would form a new force against the two existing power blocs and dismantle the extant international order (Devetak, Dunne and Nurhayati 2016: 8; Wight 1991: 85). They also feared that this new assembly of nations would deviate from the primary objectives of the United Nations. In particular, they feared that norms of universal human rights would be subverted due to a perceived relativist view of human rights (Ministry of Foreign Affairs 1955-1: 7-8). Those concerns were proven to be unfounded as the Conference only sought to remove the structures and practices of colonialism and racism. This did not mean rejection of and withdrawal from the prevailing international order (Devetak, Dunne and Nurhayati 2016: 2). Instead, the Asian-African Conference showed precisely the agency of participating countries in the development of international normative structures by deepening and broadening the international norms of sovereignty and human rights (Acharya 2014: 407; 2016: 350; Burke 2010: 18; Eckel 2010: 112).

This thesis concurs with those who admitted that the Bandung Conference marked a significant contribution to the evolution of international norms relating to sovereignty and responsibility – in particular the responsibility to protect human rights – as two compatible and interconnected norms (Acharya 2014, 2016; Bull 1984; Burke 2010; Devetak, Dunne and Nurhayati 2016). The Bandung Conference has been regarded as a historical moment that played an important role in the development of sovereignty and responsibility norms within both Indonesian society and international society. The discourse on sovereignty became one major issue that emerged at the Conference. It was set forth previously by the five sponsoring states as one of the chief purposes of the conference, namely 'to consider problems of special interest to Asian and African people, e.g. problems affecting national sovereignty and of racialism and colonialism' (Ministry of Foreign Affairs 1955). During the Conference, sovereignty became an important issue addressed by ten of twenty-five speeches from the Head of Delegations. And human rights were mentioned in eleven speeches (Burke 2010: 18). Some of these speakers clearly stated that sovereignty entailed responsibilities both to the domestic society and to the wider international society.

Soekarno in his opening speech on 18 April 1955 equated sovereignty with freedom and independence. At the same time he underlined that a sovereign bear responsibility.

> As a sovereign and independent state, we are masters in our own house. For many generations our people have been the voiceless ones in the world. … Then our nations demanded, nay fought for independence, and achieved independence, and with that independence came responsibility. We have heavy responsibilities to ourselves, and to the world, and to the yet unborn generations. What was the meaning and content of independence? The responsibilities and burdens, the rights and duty and privileges of independence must be seen as part of the ethical and moral content of independence… Responsibility to preserve and stabilize peace in the world…the liberation of man from his bonds of fears, human degradation, and poverty; the liberation of man from the physical, spiritual, and intellectual bonds which have stunted the development of humanity's majority (Speech of Soekarno 1955).

Ali Sastroamidjojo in his speech also interpreted sovereignty as independence and freedom from colonial rule. He perceived colonialism as one source of conflict causes international tension. He countered the super powers' strategy of building armed strength and military pacts for assuring world peace, by proposing the Asian and African conception as an alternative to attaining genuine peace. In contrast to the super powers' approach, Sastroamidjojo emphasised that

> …the principle of mutual respect for each other's national sovereignty and each other's territorial integrity; abhorrence of aggression; non-interference in each other's internal affairs;

> equality and mutual benefit … as the 'condition sine qua non' for achieving peace in the world (Speech of Ali Sastroamidjojo 1955).

Another source of conflict according to Sastroamidjojo was racism, which was contrary to the fundamental human rights and equality of humankind as enshrined in the United Nations Charter. Sastroamidjojo also promoted the discourse of sovereignty entaling responsibility for the future of humanity of all people (Sastroamidjojo 1955; Penders 1979: 523).

Other heads of delegations at the Bandung Conference also conceptualised sovereignty in similar terms. Mohammed Ali from Pakistan underlined the essential principles for the maintenance of peace that included the equal sovereignty and territorial integrity of all nations, non-interference, and right of self-determination (Ministry of Foreign Affairs 1955c: 6). Gamal Abdel Nasser from Egypt pointed out that the fundamental principle of sovereignty included: first, political independence, territorial integrity, and non-intervention; and second, the right to freely choose the political and economic system. At the same time, Nasser also emphasised that all sovereign states had international obligations and responsibilities to protect human rights as mandated by the Charter of the United Nations and the Universal Declaration of Human Rights (Ministry of Foreign Affairs 1955b: 4-5).

The Asian African conference made important contributions to the advancement of the values of sovereignty, anti-colonialism, non-intervention, human rights, peace, justice and international cooperation. The account above demonstrates that its participants constructed sovereignty and human rights as two set of interconnected values. They expressed a strong commitment to fundamental human rights, sovereignty, and territorial integrity of all nations as firmly stated in the first and second principles of the Declaration on The Promotion of World Peace and Cooperation of the Final Communique 1955. The issue of sovereignty became the central issue to the people of Asia and Africa who were deeply concerned that their quest for independence had not yet resulted in full and complete sovereignty. The issue of human rights brought about a strong debate within the conference because a large part of the country was still concerned with the performance of human rights in their respective countries. Nonetheless, the participating countries envisaged to respect universal human right. As such, the discourse advanced in the Bandung Conference illustrates the acceptance of a collective understanding of the positive and integral relationship between sovereignty and human rights (Acharya 2014: 409). These two norms were understood as compatible norms, as enshrined in the argument put forward by Soekarno and Nasser.

3. The *Konstituante* and the Guided Democracy

This section will explore the construction of sovereignty and human rights in the *Konstituante* (Constituent Assembly) and during the period of the Guided Democracy. Discourse developed within the meeting of the *Konstituante* was characterised by firm aspirations for democracy and human rights. The discourse, however, changed dramatically with the declaration of the Presidential Decree in 1959 that inaugurated the establishment of the Guided Democracy. Discourse and practice of sovereignty during the Guided Democracy era was characterised by an authoritarian politics under the dominant leadership of President Soekarno. Within this period, the meaning of sovereignty changed alongside the changing domestic and international political landscapes.

a. Discourse of sovereignty and responsibility within the *Konstituante*

Beside the reception of Bandung Conference, the general election to elect the members of the House of Representatives and the Konstituante represented another important event of 1955. The election was regarded as the most democratic election ever carried out in Indonesia, with 48 political parties competing to win the people's support, and approximately 91 per cent of registered voters participating in the election (Feith 1962: 429). It resulted in the emergence of four dominant political parties: PNI, PKI, Masjumi, and NU[8] (Barton 2010: 481; Feith 1962: 434; Teik 1972: 229). With this result, the election did not provide a definitive single majority. It continued a struggle for power among political and social forces with different ideological streams, which impacted on the performance of parliamentary government. This was reflected in the rapid succession of seven cabinets within nine years from 1950 to 1959.

One important result of the election, however, was the establishment of the *Konstituante* as the manifestation of the sovereignty of the people. Indonesian citizens elected the members through the 1955 general election and gave a mandate to the *Konstituante* to formulate the new constitution to replace the 1950 provisional constitution (Legge 1977: 155; Manan 2010: 129).

[8] PNI (*Partai Nasional Indonesia*/Indonesian National Party), PKI (*Partai Komunis Indonesia*/Indonesian Communist Party), *Masjumi* (*Madjelis Sjuro Muslimin Indonesia*/Indonesian Islamic Council Party, represented modernist Islam), and NU (*Nahdatul Ulama/Muslim Teachers' Party,* represented traditionalist Islam).

The 1950 Constitution and the 1955 Bandung Conference expressed strong commitment to the compatibility between sovereignty and universal human rights. This commitment continued to evolve during the meetings of the *Konstituante* that started from 1956 to 1959. There was a general consensus that all political parties have a commitment to establish a democratic state based on the rule of law and respect for fundamental human rights. This discourse demonstrates that Indonesian leaders recognised those political values as relevant and important to the nation. This fact illustrates that universal human rights have always had a place in the Indonesian understanding of statehood and sovereignty.

Despite recognition of the importance of the value of human rights, during the meetings, the members of the Constituent Assembly advocated different perspectives in line with their ideological standpoints: nationalist, Islamist and Social-economic (Lubis 1993: 62; Nasution 1992: 32; Zainu'ddin 1968: 253). This difference reflected the ideological polarization that resulted from the 1955 election. This cleavage also reflected the continuation of an unfinished debate about the conception of the state that emerged during the formulation of the 1945 Constitution. The longest and the most difficult discussion among the three ideological groups concerned the *dasar negara* (philosophy of state). The long debate on the *dasar negara* had significant impact on debate over the conception of the state, reflected in their proposed models of Islamic state, integralistic state, and constitutional state (Nasution 1992: 88).

Interestingly, the three groups demonstrated the highest level of consensus on the topic of human rights compared to the others. Most factions advocated human rights as an important value to be upheld by the state and therefore should form an essential part of the constitution (Nasution 1992: 146, 174). They admitted that human rights in essence were a universal guarantee for human beings. Anwar Sutan Amirudin (PPTI-Tarikhah Unity Party- from the Islamic group) for example, argued that

> Human rights are a gift from the God. Human being cannot limit it, except when demanded by public interest. However, such limitation could not be made arbitrarily to achieve the Government's goal, for in that case the Government would lose its legitimacy (cited in Nasution 1992: 147).

The members of *Konstituante* achieved consensus and submitted a report to the plenary meeting that confirmed 35 rights to be incorporated in the new constitution, including rights to security from violence. This report adopted the provision of fundamental rights from the Universal Declaration of Human Rights and previous constitutions of Indonesia (Nasution 1992: 254). These human rights

provisions were adopted in a specific Chapter of 'Fundamental Rights and Rights and Obligations of Citizens' (Nasution 1992: 239, 254).

Confrontational debates between parties with different ideologies caused difficulty in deciding the *dasar negara* or the philosophy of state. Consequently, it was difficult to reach a compromise (Lubis 1993: 62). The balance of power between the contrasting ideological groups hindered the achievement of the two-thirds majority required to ratify the new constitution (Nasution 1992: 41; Zainu'ddin 1968: 253). In these circumstances, forced by the intensified economic and political instability, the President and the military grew impatient and brought up a different conception of the state different to what had been developed within the Constituent Assembly, by proposing the idea of forming a strong government (Manan 2010: 129). In the last session in 2 June 1959, the *Konstituante* had prepared a report as the result of the meetings. Nevertheless, they could not make a decision yet regarding the most important issue, which was the *dasar negara* (Nasution 1992: 47).

b. Guided Democracy and the shifting understanding of sovereignty

Meanwhile, the national political situation faced instability due to the ineffectiveness of the cabinet programs and the emergence of discontent and a series of revolts in some outer islands[9] (Feith 1962: 525; McVey 1996: 19). This instability raised a question toward the legitimacy of the government and even toward the nature of the Indonesian political system. Soekarno and the PKI began to attack the parliamentary system as a key factor responsible for the growing difficulties (Dahm 1969: 331; Sastroamidjojo 2012: 404). Similarly, the army also blamed liberalism for leading the country toward anarchy (Elson 2008: 255).

In response to the instability, Soekarno announced his *Konsepsi* (Conception) in February 1957. He was convinced that to overcome prevailing problems, the system should be replaced with a system that suits the personality of the Indonesian nation (Dahm 1969: 331). He discredited liberal democracy by arguing that it was not fit since it was imported from outside. In his efforts to make his ideas accepted

[9] This outer island revolts were in part triggered by the resignation of Hatta from his post as the vice president in December 1956. Hatta, who came from Sumatra, was perceived as a symbol of solidarity of the outer islands towards Java (Elson 2008: 254; Feith 1962: 525; McVey 1996: 19).

by the people, Soekarno constructed the discourse that a system of guided democracy was the most suitable for Indonesia claiming it was based on the essence of Indonesian traditional value (Elson 2008: 302; Zainuddin 1968: 255).

The President's *Konsepsi* triggered diverse reactions from the society. Masjumi strongly opposed it, while the PKI and the army provided strong support. It also triggered further regional resentments. In March 1957 the regional commanders in East Indonesia announced the establishment of Permesta (Sastroamidjo 2012: 406). It followed with the establishment of the PRRI in Central Sumatra and North Sulawesi in February 1958. They were joined by many civilian politicians from Masjumi and the PSI who were opposed to the growing communist influence (Sastroamidjojo 2012: 406). Due to their anti-communist rhetoric, the rebels received monetary, weaponry and military aid from the US, Britain, Australia, and Japan (Barton 2010: 482; McDonald 2014: 33; Nasution 1995: 286; Tresno 2008: 87).

With the increasing distrust towards the cabinet and heightened political disorder, on March 14, 1957 Prime Minister Sastroamidjojo returned the mandate of the cabinet to the President. On the same day Soekarno, backed by the army, declared the enactment of Martial Law, which granted Soekarno and Nasution (the chief of army) legal authority and political dominance (Sastroamidjojo 2012: 409). Under martial law, the army launched a campaign against political parties, arresting political leaders, and banning activities of the Masjumi, PSI, Parkindo and IPKI (Lev 1996: 188; Nasution 1992: 309).

As Indonesia began to unravel politically and economically, and the Constituent Assembly faced a deadlock in its efforts to formulate a new constitution, Soekarno built an image of a dangerous and critical situation that demanded of him a solution. In his attempt to justify his return to the center of political power, he started to share the idea that the glory of Indonesia could only be achieved if he took the lead in guiding the state-building process. He then issued a Presidential Decree in July 5th, 1959 to establish Guided Democracy[10]. He dissolved the Constituent Assembly and reinstituted the 1945 Constitution[11]. In Soekarno's view, Guided Democracy was the most appropriate form of democracy

[10] Some scholars argue that the army was the main advocate of the Guided Democracy (Church 1995: 49; Lev 1966; Lubis 1993: 63; Nasution 1992: 284)

[11] The idea to return to the 1945 was proposed by the army in August 1958 to the President, followed by rumours of a possible military coup. 1958-1959 was a time when military regimes were being established in many countries of Asia and Africa, and multiparty, parliamentary politics were being transformed into charismatically led movement regimes (Feith 1982: 49). Moreover, in November 1958 General Nasution announced the 'middle way' to define the role of TNI in the

for Indonesia as it was based on Indonesian characteristics. He argued that the increasing instability within Indonesian politics was caused by the implementation of a Western style parliamentary democracy that was inappropriate for Indonesian society (Church 1995: 49; Nasution 1992: 300; Tresno 2008: 84).

In his address of August 17, 1959, known as the 'Political Manifesto,' Soekarno restated the principles of the Indonesian revolution:

> Thus the political-economic-social ordering is actually the main power – the highest holder of power – of our national life. Every person, every citizen, every group...should be subordinated to the authority of this highest power… It is clear that the highest authority is not a person, not the President, not the Government, not a council, but a concept of life which animates our Revolution. In brief, and to put it simply, everything that is the ideal of the 1945 Revolution, that is the highest authority, that is the Tjakrawati[12]... We must direct and subordinate all the layers of our national life to the realization of the ideals of the Revolution. And whoever refuses to be directed there, or whoever does not want to be subordinated, is an obstructer of the Revolution (Soekarno cited in Benda and Larkin 1967: 248-249; Weatherbee 1966: 21).

With this manifesto, Soekarno declared to the reinstitution of the 1945 Constitution:

> The 1945 Constitution is the genuine reflection of the identity of the Indonesian nation, who since ancient times based their system of Government on *musyawarah* (deliberation) and *mufakat* (consensus) with the leadership of one central authority in the hands of a *sesepuh* –an elder- who did not dictate, but led, and protected. Indonesian democracy since ancient times has been Guided Democracy, and this is characteristic of all original democracies in Asia.
>
> Yes, indeed, without concealing anything we have made a complete divorce from western democracy, which is free-fight-liberalism, but on the other hand since ancient times we have flatly rejected dictatorships. Guided Democracy is the democracy of the family system, without anarchy of liberalism, without the autocracy of a dictatorship… (Soekarno cited in Benda and Larkin 1967: 249; Simon 2000: 154).

The conception of guided democracy confirms that the way the Indonesian leaders constructed the international norm of sovereignty and responsibility was carried out by localising and synthesising international and national norms and values within a specific historical context.

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national politics. With this middle way, 'TNI would not resort to a *coup d'etat*, but it would not leave the government to civilian politicians; it wished to participate in the government' (Lev 1966: 192, 225; Nasution 1971; Nasution 1992: 306; 320).

[12] *Tjakrawati* is a Javanese conception of an ideal ruler, the universally honoured monarch who is seen to be the centre of universe as well as of his realm, originated from Buddhist conception of *chakravartin* (Willner 1984: 74).

Over the next six years, Indonesian political power rested in a competitive alliance between the army and Soekarno, with the loyal support of the PKI (Rinakit 2005: 23). In this system of centralised government, the president had enormous power. In 1963, he was even declared by the MPR[13] as a president for life (Reinhardt 1971: 56). Although in his Manifesto he argued that Guided Democracy would not lead to a dictatorship, in reality this system reflected the ambition of Soekarno to become the most powerful person in the country (Weatherbee 1966: 32). The Sultan of Yogyakarta perceived Guided Democracy as 'Soekarno's attempt to build a political system which would enable him to remain in power while avoiding responsibility and accountability' (Elson 2008: 308). Those who showed their resistance radically or overtly could be treated abusively. By claiming that the Revolution had not yet been realised, Soekarno silenced critics by jailing them and marking them as his enemies (Soedjatmoko 1963 cited in Feith 1982: 49). The President took control of all political parties, reserving the right to dissolve them if he found it necessary. Masjumi and PSI were the first political parties that were banned by the government because they did not follow the path proposed by the President (Simon 2000: 155). This period of Guided Democracy showed a significant shift in the understanding of sovereignty that affirmed the right of the sovereign to authorize its power over the other governmental branches and over the people as well. This reconstruction of sovereignty was resulted from the attempts of the political leaders in localizing the sovereignty norm to be adjusted to the national contexts and interests.

Within this period, Indonesia's interpretation of the international system and function of sovereignty were not only shaped by historical experience but also influenced by its evaluation of the security environment. Soekarno condemned the influence of Westerners with continued attempts to exercise control over Indonesia, as manifested in Indonesia's earlier experiences during the revolution and the outer islands rebellions, that impeded Indonesian independence (Tan 2007: 153; Weatherbee 1966: 23). Soekarno coined the term *nekolim* to identify this new version of colonialism and imperialism that was no longer exercised in the physical occupation of any territory but through the extended domination of economic system and sphere of influence (Legge 2003: 386). Soekarno did not view the Cold War as the central dividing struggle. Instead, he believed that the conflict between the new emerging forces (NEFO) for freedom and justice and the old established forces (OLDEFO) of domination was the real

[13] The members of the MPR were appointed by the President.

source of international tensions (Legge 2003: 386; Leifer 1983: 58). The OLDEFO was represented by Western and other advanced industrial countries, while 'the NEFO are composed of Asian nations, African nations, Latin American nations, socialist nations, and progressive groups in capitalist countries' (Soekarno 1963 cited in Weatherbee 1966: 69).

Assertive foreign policies predominated the Guided Democracy with the vision to achieve a worldwide reputation. Beginning with the success of hosting the Bandung Conference in 1955, Indonesia adopted an active role in a global movement against colonialism and imperialism. In his 1960 speech to the UN on "Building the World Anew", Soekarno claimed to represent the NEFO, underlining the necessity to build a new UN which reflected a decolonizing shift in the balance of power as post-colonial countries outnumbered the colonial and Western countries[14] (Cribb and Brown 1995: 85).

There are two important cases which clearly illustrated the practice of sovereignty and responsibility in this period. The first case is the West New Guinea issue. Jakarta framed its policy towards West New Guinea as a struggle to defend its territorial integrity from the Dutch efforts to prolong their colonialism (Elson 2008: 335). It was considered a matter of national pride and the continuation of the anti-imperialist struggle (Zainu'ddin 1968: 264). The liberation of West Irian had been agreed by all political factions. Soekarno insisted that, 'Until West Irian return to Indonesia, our national struggle is not yet complete, and the Indonesian safety remains under threat' (Sukarno 1954 cited in Elson 2008: 240). D.N. Aidit, the leader of the PKI said that, 'West Irian became an integral part of Indonesia in the juridical, geographic, sociological, historical and political matters' (Elson 2008: 240). Hatta stated that, 'Conflict between Indonesia and the Netherland would not be resolved until the return of West Irian to Indonesia' (Hatta in Noer 1991: 581). In line with the discourse, Indonesia intensified efforts to take control over the West Papua. Following several failures to reach a diplomatic settlement, including negotiation with the Netherlands and bringing the West Irian issue onto the UN agenda, Indonesia decided to change the strategy by combining diplomatic and revolutionary methods (Elson 2008: 288; Reinhardt 1971: 69), as proven to be effective in Indonesia's struggle to achieve sovereignty in 1949.

[14] In 1963, Indonesia withdrew from the United Nations, accused it as the organisation of the status-quo forces when the UN accepted Malaysia as its new member. It also withdrew from the International Monetary Fund. Finally Indonesia, in collaboration with other new emerging forces in Asia, Africa and Latin America, established a Conference of New Emerging Forces (CONEFO) as an alternative of the UN, with the build a new world order without any domination and exploitation.

The National Defense Council then formulated TRIKORA (*Tiga Komando Rakyat*/People's Triple Commands) which was announced by the President in December 1961[15]. It included a preparation for a military confrontation to liberate the occupied territory (Noer 1991: 585; Reinhardt 1971: 70; Zainu'ddin 1968: 266). Indonesia received financial aid from the Soviet Union to improve its military capabilities. Alarmed by this close relationship and the increasing influence of the PKI, the United States decided to change its policy and placed pressure on the Netherlands. The US and the UN supervised the negotiation between Indonesia and the Netherlands in 1962 with the result in favor of Indonesian interests. The agreement mandated that the UN would administer West Irian until December 31, 1962, and then jointly with Indonesia until May 1, 1963 after which Indonesia would govern the territory. Before 1969, Indonesia was to provide an opportunity for the population to determine whether or not they wished to remain with Indonesia (Legge 2003: 403; Noer 1991: 585; Reinhardt 1971: 72). In 1969 the United Nations supervised the Act of Choice, or a referendum, which resulted in a unanimous vote for integration. Soon after, the region was renamed as *Irian Barat* (West Irian) and became the 26th province of Indonesia.

From this account, it is clear that Indonesia's discursive engagement with sovereignty in this Guided Democracy period was characterised by the Westphalian conception of sovereignty. Sovereignty was legitimised on the basis of the state's supreme authority and its claim to be capable of restoring domestic order and defending its national interest and territorial integrity within an anarchic and unfriendly world.

The second major case illustrating the practice of sovereignty and responsibility during the period of Guided Democracy was the tragedy of G30S (*Gerakan 30 September* or the Thirtieth September Movement), which occurred in 1965 and led to the ending of Guided Democracy. Rivalry and tension between the army and PKI became critical when PKI called on the President to form and arm the Fifth Armed Force composed of laborers and peasants (Mortimer 1982: 68).[16] ABRI and the President rejected this idea. At the same time, there was a rumor circulating that the army formed a General Council which would carry out a *coup* to topple Sukarno's regime on the anniversary of ABRI (5

[15] It was triggered by the Dutch actions in West Papua such as: built Dutch defences, introduced a Papuan Council, flag and national anthem (Zainu'ddin 1968: 266).

[16] PKI named it as the Fifth Armed Force since Indonesia has had four forces already within the ABRI: Army, Air Force, Navy, and Police.

October 1965) (Caldwell and Utrecht 1979: 128; Mortimer 1982: 68). On the evening of September 30, 1965, six senior Army Generals were kidnapped and killed by the G30S led by Lieutenant-Colonel Untung, Commander of Soekarno's Personal Guard. General Nasution, the Defense Minister, escaped but his daughter and his aide, Lieutenant Tendean were killed (Zainu'ddin 1968: 272).

There are different interpretations and explaination of this event. The first version according to the Cornell Paper stated that this event was caused by the internal military cleavages, between the senior and junior officers (Anderson and McVey 1971; Dinuth (ed.), 1993). The second version presumed that the main mastermind of the 1965 G30S was President Soekarno (Dake 1973; Said 1992). The third version argued that the mastermind of the incident was Liutenant General Soeharto (Wertheim 1970). The forth version came from a former US intelligence official, Peter Dale Scott, who stated that the 1965 G30S event, which in turn overthrew President Soekarno, was orchestrated by the CIA (Central of Intelligence Agency) (Scott 1999). The dominant interpretation in Indonesia claimed that the PKI was the primary director of the coup and sought to build a communist state in the country (Goodfellow 1995: viii; Notosusanto and Saleh 1990; Suwirta 2000: 63).

Regardless of the different interpretations of the incident, what followed next was arguably the most consequential. The military, led by Commander of the Strategic Reserve, Lt. General Soeharto, moved quickly to take a counter-action. On 11 March 1966 the President signed an Order commanding Soeharto on behalf of the President 'to take all necessary steps to insure security, calm, and stability of the government and the progress of the revolution' (Mody 1987: 65; Weatherbee 1966: 84). The move was considered as the climax of tensions between TNI and PKI (Weatherbee 1966: 84; Zainu'ddin 1968: 273). The official Indonesian view declared PKI to be behind the coup. The main figures of the G30S were hunted then captured. Some PKI figures were tried in the Supreme Military Court (*Mahkamah Militer Luar Biasa* or Mahmilub), some were sentenced to death (Mody 1987: 10). The head of the PKI, DN Aidit who was accused of designing this coup with the chairman of the PKI Special Bureau, Sam Kamaruzzaman fled to Central Java, but was later arrested and killed (Caldwell and Utrecht 1979: 133).

The military led large-scale arrests and murders of the PKI members or anyone considered sympathetic or related to the PKI, or communist-identified organizations. There are different data on the numbers of the victims. Some reports say the numbers killed range from 40,000 to 500,000 or even 800,000 people

in various regions, especially on the island of Java and Bali. Tens of thousands of people were dumped on Buru Island, employed, without trial (Cribb 1990: 12; 2001: 219; Green 1990: 61; Pohlman 2013: 3; Simon 2000: 177).[17]

The mass killings of 1965-66 became an important case that exposed the limited consideration of human protection in Indonesia. While there are different versions to explain the causal factors and disputes over the level of mass killing that followed, in the context of the thesis, this tragedy is evidence of the neglect of the Government to carry out its responsibility to protect the basic right to individual security from act of violence. This tells us that the dominant discourse of sovereignty as an absolute right of the ruler prevailed during the period of Guided Democracy and the government's anti-colonialist stance opened up the space for the logic of security to take primacy. This logic of security allowed the execution not only of several generals but also the massacre of a large section of the population who held different ideological stances. In the name of sovereignty, in the name of necessity, any political act could be justified in spite of the rhetorical concern of the rights of individuals.

4. Conclusion

This chapter is critical in providing a fundamental idea of the vision for developing and governing Indonesia as an independent and sovereign state. This chapter illustrates the importance of understanding the construction of sovereignty and responsibility through a historical lens, as the starting point of Indonesia as a newborn state in the aftermath of the Second World War. From this historical analysis, this chapter explored the political discourse focusing on the idea of sovereignty and its dynamic meanings from the first time the idea was articulated in 1945, at the time of independence to the mid-1960s, when the new regime develop different conception of sovereignty and responsibility. This chapter shows how Indonesian leaders localized the international norms of sovereignty and responsibility for human rights, including human protection such that they became congruent with the ideas about statehood and the prevailing local state-society relationships.

[17] The birth of the Reformation and the enactment of the Human Rights Law open the space for addressing this dark point of Indonesian history (more explanation will be presented in Chapter 4 and 5 of the thesis).

With the proclamation of independence on 17 August 1945, Indonesia expressed its strong aspiration of achieving sovereignty. The founding leaders at the time aspired to develop a strong sovereign equipped with an exclusive right and authority to govern its people and territory independently, free from outside intervention. Although responsibility to protect human rights was admitted and recognised in the constitution, it was only accommodated at a minimum standard. In the process of constructing Indonesia's conception of sovereignty, leaders tried to integrate their conception with the prevailing shared knowledge and beliefs from both international and domestic societies. This process reflects the norm localisation process and at the same time it ilustrates how Indonesian public figures used a particular language to justify their conception of sovereignty and responsibility that were appropriate with the international and national normative structures. As explained above, in proposing the conception of sovereignty, the founders recognised the preexisting conception in international society that was characterized by an emphasis on exclusive territorial jurusdiction rather than on human rights protection. Sovereignty was framed as the right to statehood with self-government and freedom from outside interference as key principles. At the same time, to make this international norm accepted by the population, the Indonesian leaders also attempted to adjust it to the local values and beliefs derived from an understanding of collective Indonesian traditions. In addition, this early conception was also shaped by its historical experience as a colonial nation and the need to have an enough power to counter the immediate domestic and international threats and to defend the survival of the newly formed nation. In sum, in the very early phase of Indonesia's historical journey, the founders decided to prioritise sovereignty over human rights provisions.

In contrast to the initial discourse, the 1950 Constitution marked the culmination of sovereignty as responsibility by the adoption of democracy and comprehensive human rights provisions, including the right to individual security from violence. The Asian African Conference hosted by Indonesia in 1955 exhibits an important historical moment in the development of sovereignty and responsibility within Indonesian society and certain nations in the international society as well. The discourse advanced at the Bandung Conference illustrates the acceptance of a collective understanding that sovereignty and human rights were understood as compatible norms. One important initiative to emerge from the Bandung Conference was the effort to advance the right of self-determination as the precondition for enjoying thoroughly of other fundamental human rights. It represented the agency of these countries to justify their struggle to dismantle colonialism and imperialism by using the language of human rights as an appropriate normative basis. For Indonesia itself, the Bandung Conference illustrated the

realisation of the conception of sovereignty and responsibility envisioned in the 1950 Constitution which were constructed as complementary norms and it laid important foundation to promote human rights.

The unfolding domestic politics in Indonesia after the Bandung Conference brought about changes in the meaning of sovereignty. The political instability of the 1950s was perceived by President Soekarno as the result of the adoption of a liberal political system. Therefore he advocated the new system which he claimed to reflect Indonesian tradition, namely Guided Democracy, and reenacted the 1945 Constitution. This period of the Guided Democracy showed a significant shift in the understanding of sovereignty, placing more emphasis on the right of the sovereign to exercise its power over the other governmental branches and citizens. Within this period, Indonesia's interpretation of the international system and function of sovereignty were not only shaped by its historical experience of colonialism but also by its evaluation of its security environment. Soekarno asserted the idea of neocolonialism and new imperialism to criticize the other states' continuing attempts to impose control over Indonesia. Therefore, Indonesia's discursive understanding of sovereignty in this period was dominated by a conception of sovereignty as authority; in the context unstable domestic politics, sovereignty became a basis for defending Indonesia's national interest and territorial integrity in potentially hostile world.

This chapter also has shown that, like any country, Indonesia has a story to tell about the evolution of human rights. It started with the right to national self-determination, national liberation, decolonisation, territorial integrity, and sovereign equality. All of these factors correlated with collective rights of the people, and of the nation as a whole. Human rights discourse slowly entered and was accommodated to suit particular Indonesian' conditions understood by the leaders who claimed that the first thing to do was to consolidate Indonesia's sovereignty as a post-colonial state, placing emphasis on certain rights but not others. The language of rights was used, but the referent was the state rather than the individual. The state did not define its responsibilities in terms of the protection of human rights; it defined them instead terms of territorial integrity, national interest, and security. There was a human rights story, but at this stage, it did not include the basic right to security for individuals. Protecting this basic right remained latent in the 1945 Constitution.

The story of the progressive extension of human rights to include protection against violence was manifested with the enactment of the 1950 Constitution. The eventual incorporation of comprehensive

human rights principles within the 1950 Constitution demonstrated the acceptance of an understanding of rights that had been shared by the liberal framer of the Universal Declaration of Human Rights. It continued to come forward in the 1955 Bandung Conference and the *Konstituante.* Nonetheless, President Soekarno's evaluation of its security environment both in domestic and international societies enabled the leader to change the course of history by promoting a traditional understanding of sovereignty. The language of rights was used to justify the revolutionary idea of the leader by claiming the inherent rights of the state to take necessary action to ensure its self-preservation or survival.

This chapter provides an important basis for understanding the development of sovereignty norm in Indonesia, since it represents the rationale for establishing Indonesia as a sovereign and independent state. It affirms a genuine vision of building Indonesia as a sovereign, united, just and prosperous nation taking place in the midst of multiple internal and external challenges. The conception of sovereignty and responsibility of the state enunciated within the 1945 Constitution and the basic philosophy of *Pancasila*, will later be regarded as the formation of the noble ideals of the nation. It provides a policy direction for the state organisers in the era that followed Guided Democracy. An analysis of Guided Democracy is also relevant in that Soeharto claimed his regime and policies that followed were efforts to repair the social, political and economic damage caused by the failure of Guided Democracy. Soeharto consistently justified his policies through attempts at implementing the 1945 Constitution and Pancasila in a clear and consistent manner.

Chapter III. Sovereignty and responsibility in the New Order era (1966-1998)

This chapter will explain how Indonesia reconstructed the concept of sovereignty and responsibility in the New Order era under the leadership of President Soeharto. This era represents an important phase in the reconstruction of sovereignty and responsibility in Indonesia because it demonstrates the changing interpretation and implementation of these norms during Indonesia's longest-serving regime. The chapter enquiries into several related questions: How was sovereignty understood at that time? Was it interpreted as an absolute right and authority, or as a responsibility to achieve common good and human rights for its people?

After exploring the reconstruction of meaning and content of sovereignty during this period, the analysis will be directed to assessing the policy to integrate East Timor under Indonesian sovereignty. The East Timor case is important to show how the relationship between Indonesia and East Timor captured a potential for normative transformation regarding sovereignty and responsibility within Indonesian society.

1. Discourse of sovereignty and responsibility at the international level

The period extending from the 1960s to the 1980s at the international sphere represents continuity of popular sovereignty as a basis for legitimacy of a state. Within popular sovereignty, two seemingly opposed ideas were joined together: the right of self-government and the related principle of non-intervention, and the rights to life and liberty (Glanville 2011: 248). It represented the difficult relationship between the traditional conception of sovereignty and the commitment to human rights protection. In Bull's (1995: 80) and also MacFarlane and Sabanadze's term, it demonstrates 'the normative tension between 'the order cluster' (sovereignty, non-intervention, and territorial integrity) and 'the justice cluster' (the rights of individuals and groups and self-determination)' (2013: 610). It is argued that a sovereign state enjoys the rights to govern their territory and population without external interference (Jetschke 2011: 37). It can be said that sovereignty gives exclusive authority to the state to govern its domestic affairs, such as making and enforcing the rules and regulations, defining and defending territorial boundaries, and formulating the social and economic policies, without any outside interference (Bartelson 2006: 466). A sovereign state even has the monopoly to exercise violence to enforce the rule of law (Hobbes 1651 [2007]: 83; Weber 1978: 54). This norm has been enshrined since

Westphalia and was then affirmed in the UN Charter. This norm was also endorsed by the International Court of Justice by stating that 'no state has a right to intervene in another state and that intervention … has no place in international law' (The Judgment of the 1949 Corfu Channel Case, in MacFarlane and Sabanadze 2013: 617).

On the other side, the idea of human rights protection also emerged as a gradually accepted norm by international society. The United Nations declared in its Charter that promotion of human rights was one of the organization's chief objectives. The commitment of the UN member states was further confirmed through the Universal Declaration of Human Rights in 1948. Although this Declaration does not legally bind the states for implementing its obligations, it has significant meaning in establishing the normative structure for states, insisting that they bear a duty to give protection to the rights of their people. The stronger commitment of international society to human rights was expressed in the codification of two important international covenants that, together with the UDHR, are often referred to as the International Bill of Rights. They are the International Covenant on Economic, Social, and Cultural Rights and the International Covenants on Civil and Political Rights. In addition, the Genocide Convention affirmed the international commitment to prevent and punish genocide and the 1949 Geneva Convention sought to regulate the conduct of war by protecting certain fundamental human rights. There are three further international treaties which enlist the duties and responsibilities of states towards their populations: the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of Discrimination against Women (CEDAW), and the Convention against Torture (CAT).

These trends towards sovereignty and human rights reflected the normative tension between the pluralist approach that emphasises on sovereignty and non-intervention and the solidarist approach focusing on human rights that characterized the post-World War II period. Referring to Richard Falk, the international community faced two opposing imperatives: the ethical imperative to establish a future world order in which sovereignty would not be a shield for abusive regimes and the structural imperative to maintain order and stability based on sovereign states as primary organisational units (Falk 2004: 36; Jetschke 2011: 37). However, as the Cold War intensified, the tension between order and justice were suspended by the polarisastion of international community. The idea to strengthen and enforce human rights during this period did not put significant challenge against non-interventionist conception of sovereignty (Bellamy and Dunne 2016: 4; Glanville 2011: 236). Although human rights

protection had been increasingly accepted as an international concern, its implementation and enforcement mechanisms remained in the domestic jurisdiction (Donnelly 2014: 229). Since this responsibility lay within the domestic jurisdiction, no foreign state dared to check or question the human rights performance of other states, given that it would violate the sovereignty of targeted state.

In this period, while international mechanism to maintain order, peace and security were well established within the UN system (Thakur 2008: 395), international mechanism to enforce human rights had not been effectively developed (Dunne and Staunton 2016: 40). In addition, Cold War contestation led the Great Powers to adopt an interpretation of sovereignty that enabled them to pursue their national interests by securing spheres of influence (Bellamy and Dunne, 2016: 4; MacFarlane and Sabanadze, 2013: 616). This opened up space to legitimize intervention in their spheres of influence (Bellamy and Dunne 2016: 4; MacFarlane and Sabanadze 2013: 616). In consequence, it opened up the space to loosen the meaning of intervention for securing Great Power's sphere of influence, or in different circumstances, *not* intervene in allied regimes despite human rights abuses (Simon, 2000: 7). Promoted by the Great and Middle Powers, non-intervention became the normative basis for weak states to protect themselves from any potential intervention and became a means of mediating moral diversity in the society of states (Welsh, 2011: 1193). Some states with weak capacity to protect their population's rights might hide behind relativist approaches to human rights, and justify their conduct in limiting certain aspects of rights in the name of local tradition or values (Goldstein and Pevehouse, 2014: 265). This leads to the situation that on the one hand, the sovereign state emerged as the most capable entity to protect human rights, while on the other hand, equipped with the monopoly claim to legitimate force, the state has become the potential violator of human rights (Jetschke, 2011: 35). There are several cases of gross human rights abuses that have occurred without provoking a significant response from the international community to sanction the perpetrators, or to stop the abuse and help the victims. Only in a few cases did the international community try to intervene to end massacres and genocide (Dunne and Staunton, 2016: 42). Although these interventions claimed to be based on humanitarian purposes, these acts provoked heated debates as they were also seen as unlawful and posed challenges to the international order.

It can be concluded that during the period from the 1960s to 1980s the dominant discourse on sovereignty was characterised by an emphasis on the right of the sovereign to exercise its power and authority within the domestic jurisdiction, guarded with the non-intervention and non-use of force

towards other sovereign states. This period, however, also witnessed the consolidation of human protection norms (Dunne and Staunton 2016: 38). The idea that a sovereign bears responsibility towards its people was acknowledged in this period, in accordance with the growing acceptance of human rights principles as important responsibilities of sovereign states. Albeit unevenly, there was an emerging consensus within the society of states to set standard and expectation of appropriate behavior for a responsible sovereign state to observe and adhere to the human rights norms. Nevertheless, with the heightened tensions of the Cold War, when the international society had to choose between order and justice, they chose order as their priority (Bellamy and Wheeler 2011: 512; Dunne and Staunton 2016: 40).

2. Discourse of sovereignty and responsibility at the domestic level

The above-mentioned international discourse influenced Indonesia's discursive engagement with sovereignty and responsibility. The difficult relationship between sovereignty and responsibility did not ease with the increasing importance of the human rights norms. It had not set aside the dominant position of sovereignty guarded by non-intervention principle. Within these circumstances each sovereign state had discretion to interpret and determine the notion of responsibility to promote human rights values, adjusted to conform with the specific domestic context (Donnelly 2014: 229). Acharya calls this process as norm localization (2004: 251). This normative structure enabled Soeharto to imagine a strong state emphasising the sovereign's rights while relegating responsibility to a secondary consideration. The case study of East Timor that will be analysed in this chapter, in particular, represents Indonesia's understanding of sovereignty. This understanding was strongly influenced by those dynamic contestations between sovereignty and responsibility norms taking place in the domestic and international stages.

At the beginning of the transition period from the Guided Democracy (1959-1965, which was called as Old Order by Soeharto) to the New Order (1966-1998) there was a discourse to construct the idea that a sovereign state has both rights and responsibilities towards its population. The New Order regime built its legitimacy on the objective of restoring the ruined order of the previous regime while simultaneously to promote human rights and the rule of law. On 5 May 1966 the army issued a statement, signed by high ranking military officers such as Nasution and Soeharto, that they had a commitment to correct any deviation from the 1945 Constitution, especially to return the power of

MPR as the real locus of people's sovereignty (Abdullah 2009: 348). Furthermore, the regime established initial intention to advocate human rights and the rule of law. Soeharto promised to devise a guideline to implement Pancasila, the 1945 Constitution, and human rights provisions, which would be designed by an ad hoc committee of the MPRS (Provisional People's Consultative Assembly) (Lubis 1993: 6). The MPRS discussed a draft of the Legislation for Completing the Explanation of 1945 Constitution and the Composition of the Division of Powers of State Institutions. They also discussed a legislative draft on Human Rights and the Rights and Obligations of Citizens. With the existence of both legislation drafts, it is possible to suggest that Indonesia was beginning to change its conception of sovereign responsibility. Respect for human rights was incorporated into the duties of the Indonesian state after experiencing hard times under the President Sukarno leadership. With the emergence of this discourse, some scholars argued that the early period of transition was considered as a democratic period (Humah 2007: xviii; Lubis 1993: 6).

Unfortunately, the discussion of the legislation drafts stalled as the consequence of the withdrawal of support from GOLKAR[18] and the military, and the replacement of the members of MPRS (Humah 2007: xviii). This important occasion signified the beginning of the centralization of power in the hands of the new leader Soeharto who replaced Sukarno with the promise to correct the deviation of the ideal moral purpose of the state declared in the Proclamation of Independence. The rhetoric of human rights, in fact, was very much part of the new administration's official language, however, the human rights charter failed to be concluded (Lubis 1993: 7). The speed to finalize the legislation drafts was less rapid compared with the process of consolidation of the New Order regime. This situation paved the way for the construction of a power-based sovereignty as a predominant feature of the New Order political system, despite gestures to human rights protection.

[18] GOLKAR is abbreviation of *Golongan Karya* (Functional Group), established in 1964, officially a social-political force but in fact it operated as the strongest political party during the New Order era. It worked as a government and the military political vehicle to mobilize support to win the elections. Evidently, GOLKAR had always won the elections during the New Order era with more than 60% of the votes (Antlov and Cederroth 1994: 6; Azwar 2009: 66; Suryadinata 1992: 28; Suryadinata 1997: 272).

a. Sovereignty based on the *Pancasila* and *integralist* perspective

The architecture of the New Order political system was formulated within the second Army Seminar in SESKO AD (*Sekolah Komando Angkatan Darat* or Army Staff and Command School) in Bandung on 25-31 August 1966 (Mody 1987: 128; Said 1987: 27). The Seminar set up a long-term perspective of Soeharto and the army in general, by specifying the need to create a stable political system that was free of ideological conflicts. They believed that stability and national security was very important for the success of economic development (Mody 1987: 128). The Seminar also defined the role of the military in national defence and politics, later widely known as *dwi fungsi* or dual function of ABRI[19], the Indonesian Armed Forces (Caldwell and Utrecht 1979: 164; Said 1987: 27). The military was perceived as the only component in the community capable of saving the country and maintaining national integration and at the same time had administrative and technical skills necessary to attain economic and political modernization (Berger 1997: 323; Murtopo cited in Rinakit 2005: 30; Said 1987: 28). Although ABRI had dominant control on politics, Soeharto retained the formal institutions such as political parties, but made them more simplified. Soeharto moved slowly to build a new Indonesia, which would become a kind of corporate entity, designed to reduce competition, ensure stability, and strengthen the rule of top-down politics (Elson 2008: 369; King 1982: 114; Mas'oed 1989).

In contrast to the previous administration that allowed ideological competition within society, Soeharto in his speech in August 1967 said that the discourse on ideology was not relevant because Indonesia has already had Pancasila as the state ideology. Elsewhere, Soeharto stated that Pancasila was the source of all ideas about what was considered to be true in the community as the embodiment of Indonesian national identity and was able to bring tranquillity and prosperity of the material and spiritual (Elson 2008: 364). The MPRS Resolution No XX/1966 stated that Pancasila will be a 'source of all law' and the Preamble of the 1945 Constitution which contains Pancasila 'cannot be changed by anyone ... because to change the Preamble of the 1945 Constitution meant to dissolve the State' (MPRS, 1966: 9). In 1978 the MPR set out 'to defend the 1945 Constitution and to implement it in a genuine and consistent manner' (Elson 2008: 366). For this reason, Soeharto was convinced that the

[19] *Dwi fungsi* was developed from General Nasution's conception of "middle way" (1958) to clarify the position of ABRI in the society, 'not just the "civilian tool" nor a "military regime", but as one of many forces in the society, which works together with other people's forces' (Nasution 1971: 103; Rinakit 2005: 19; Said 1987: 22).

Government should always obey the law and remain committed to the constitutional system, not slide towards absolutism as the Soekarno regime did (Bourchier 2007: 254).

By maintaining the 1945 Constitution, nonetheless, President Soeharto employed the same constitutional structure as his predecessor. The 1945 Constitution was reaffirmed as the source of political legitimacy because it suited Soeharto's political purposes, and because he believed a primary need of the Indonesian state was to have a strong government. The 1945 Constitution, which was formulated in a simple form and intended to be a temporary constitution, gave a considerable power to the president and became a suitable vehicle for strong presidential rule (Kingsbury 2005: 41). As explained in the Chapter 2, the 1945 Constitution was strongly influenced by the *integralist* idea and the Javanese conception of power that advocated strong leadership because the essence of the nation was concentrated in the leader (Anderson 1972; Nasution 1992: 97; Robison 1982: 134). Thus, there was not total discontinuity in the structure of political order from the Guided Democracy and New Order (Leifer 1983: 111). This Pancasila democracy was described by Antlov as the manifestation of an authoritarian political system where

> An opposition is not necessary since decisions are made in consensus. Political unity and order is more important than pluralism and accountability. The leader is the paternal figure that maintains political order, economic prosperity and social harmony (Antlov in Indrayana 2008: 83).

Within these circumstances, it can be said that New Order's idea of sovereignty was similar to Supomo's *integralist* idea in 1945, as described in Chapter 2, which perceived that the sovereignty of the people would be constructed in a similar way to sovereignty of the state. Hazairin (1985: 21) explained that within the Preamble of the 1945, the terms nation, people, and state were used as synonyms; therefore sovereignty of the people should not be differentiated from the sovereignty of the state. This sovereignty conception became the unique characteristic of Indonesia. It derived from the Indonesian political culture based on the communal and cooperative values. Within this conception, the government would always fulfill its responsibility to serve public interest (Hazairin 1985: 50; Bourchier 2007: 255-256). It was also believed that the leadership had identical soul with the subjects where the boundaries between state and society disappeared (Besar 1972: 498; Bourchier 2007: 275; Elson 2008: 367). Because the leader was united with his subjects, the will of the people in Indonesia was therefore not understood in terms of the will of the majority as in Western societies, nor the will of minorities who speak on behalf of the collectivity as communist society believed it. Rather, the will of

the Indonesian people found expression in the will of the MPR (Besar 1972: 534; Bourchier 2007: 257).

Soeharto reconstructed the *organicist* ideas and perceived the state and the people as a single organic entity in which Indonesian society was characterized by harmony and unity (Berger 1997: 341; Eldridge 2002: 129). This idea is coincided with the concept of leadership in Javanese culture, which is based on the moral concept that serves to organise family relationships that should be guided by solidarity, not equality. This kind of moral guidance was socialised effectively through education system and it was taught as a compulsory subject of *Pendidikan Moral Pancasila* (Pancasila Moral Education), which emphasised the following values:

> *Bapak* (father) is the central figure in a family that is regarded as reliable patron who should be honored and followed, whose whim and wish is a command, and who cares for his subjects (*anak buah*)… To be in the care of somebody places the recipient under a moral obligation (*utang budi*), a debt of gratitude. And to neglect such a debt is morally defective… Transfering to the state level, the Government of Indonesia is portrayed as the umbrella that shelters the whole territory and all the population. This protection obliges and urges the people to work hard and support the State by submitting to (*tunduk*) and obeying (*patuh*) all the regulations emanating from the legitimate government. It is believed that if all Indonesian nationals fulfill their obligations to the state, the state shall also fulfill its obligation, which is to guarantee the rights of each national. And the good Indonesian national will always give precedence to his obligations over his rights (Pendidikan Moral Pancasila 1990 cited in Mulder 1994: 61-62).

Soeharto's version of an *integralist* Indonesia intensified from the early 1970s when he commenced efforts to realise his ambition for a centralised administration (Anderson 1990: 7). Under the Law No. II/MPR/1978 the Government organised a political indoctrination to socialise the values of *Pancasila*, named as *Penataran Penghayatan dan Pengamalan Pancasila* or P4 (Upgrading on the Guidance for the Perception and Practice of *Pancasila*) in order to strengthen the vision of Indonesia to all citizens, especially for the government officials (Budiardjo 1225; Elson 2008: 375; Weatherbee 1985a: 188). *Pancasila* was considered as the sole foundation of national identity and the essence of Indonesian political culture. This value was based on the dominant Indonesian traditional ethos that includes the principles of *musyawarah* (mutual consultation) and *mufakat* (consensus). According to Soeharto, '*Pancasila* is the only worldview that can unite us all. It is also a totality and integrity of the personality of the nation' (Soeharto cited in Abdullah 2009: 384). Furthermore, Soeharto argued that *Pancasila* had became a philosophy of life,

> Pancasila conceives human beings as having two sides to their nature, as a person and as a member of the society. The two exist side-by-side and are inseparable. There is always a balance. There is always a harmony between the individual and the common good, between the socialist aspect and religious aspect of life (Soeharto cited in Abdullah 2009: 385).

To consolidate its power, the New Order regime tightened its structure of control through an extensive surveillance and security system. It operated a strictly controlled political system that put limitation on the existence of political party. Ali Moertopo, the important political adviser to the President Soeharto, argued that political parties could be the obstacles to development since they create political instability (Moertopo 1983: 200; Bourchier 2007: 300). Therefore, the number of political party was reduced. Since 1973 there have been only two political parties: the PPP (*Partai Persatuan Pembanguan* or United Development Party) that represented Muslim community and the PDI (*Partai Demokrasi Indonesia* or Indonesian Democratic Party) that represented the nationalist group, and one functional group named as GOLKAR. GOLKAR was originally an umbrella group for various anti-communist organizations sponsored by the military and it worked effectively as political vehicle for Soeharto in securing his dominant position during the New Order era (Abdullah 2009: 373; Kingsburry 2005: 9). The other two political parties (the PPP and the PDI) were circumscribed by laws and regulations that limited their ability to function as effective opposition parties (Budiardjo 1986: 1223). They were prohibited from criticising Pancasila and the President (Antlov and Cederroth 1994: 9).

The 1985 Law of Civil Society Organizations stipulated that all organizations embrace Pancasila (Budiardjo 1986: 1225; Elson 2008: 375). The reasoning for this law according to Soeharto was that 'the adoption of Pancasila as ideological principle will facilitate the prevention of conflict among various political groups, which may cause clashes detrimental to national unity and integrity' (Soeharto cited in Weatherbee 1985b: 135). Soeharto's government had further de-politicised Indonesian society by imposing firm control on mass media. Consequently, news and information services mostly reflected the government views (Church 1995: 51). The political architecture, founded on the *Pancasila* as a single ideology and mixed with *integralist* idea, became the basis for legitimacy and popular widespread support for the New Order regime (Berger 1997: 344; Budiardjo 1986: 1225).

Nonetheless, the conception of sovereignty based on the Pancasila and integralist perspective triggered the development of a different discourse in the society. The Islamic communities were among the opponents to the 1978 MPR Decree concerning the Guidelines for the Perception and Practice of

Pancasila and the 1985 Law that requires all organizations to carry out Pancasila as a single ideology. The Muslim scholars in Tanjung Priok of Jakarta and Talangsari of Lampung often called for the rejection of the single principle of Pancasila and other authoritarian policies of the government (KOMNAS HAM 2014: 121; 168). As explained above, the government did not allow the development of different discourse and criticism of Pancasila and considered it as a threat to the unity of the nation so that must be disciplined. The act of curbing carried out repressively by the security forces in Tanjung Priok and Talangsari had caused systematic violence which caused dozens of people to die and experience injuries and acts of torture during the period of detention and examination (KOMNAS HAM 2014: 145; 175-176). KOMNAS HAM (2014) in its investigation report concluded that there were crimes against humanity in the case of the 1984 Tanjung Priok incident in Jakarta and the 1989 Talangsari incident in Lampung.

b. Responsibility based on the Javanese culture

Soeharto claimed that his administration was intended as a correction of the mistake of the previous government, mainly the Old Order or Guided Democracy, but in fact, both regimes can be characterized as authoritarian regimes (Indrayana 2008: 84). Both emphasized the power-based conception of sovereignty, which had the consequence in undermining the importance of the state responsibility towards its population. Furthermore, it is widely known that both Sukarno and Soeharto were influenced by the Javanese worldview. However, it would be a mistaken to infer that no inherent sense of obligation and responsibility existed in the traditional Javanese worldview; this sense of obligation was and is an obligation to power itself. The well-being of the community depended on the centre's ability to concentrate power. For this reason, the leader must has capacity to concentrate and maintain the power, otherwise he will loose its power indicated with the declining of order and stability of the state (Anderson, 1990: 31). Therefore the accumulation of power at the center of the state does not contradict to the wellbeing of the collective entity; indeed, the two were mutually related. The safety and prosperity of the nation depended 'on the concentrated energy of the center itself, not on the activities of its individual components' (Anderson, 1990: 62). In this regard, the proper conduct of the leader was not directed by a motivation to fulfil the need of the subjects, but by the desire to secure power, and by an obligation to power itself (Anderson, 1990: 63). The sign of the concentration of power was reflected in the attainment of *tata tentrem karta raharja* (order, peace, prosperity, good

fortune), while the decay or disruption of the community functioned as an external sign of the decline of power (Anderson 1990: 62).

In this regards, any challenges to the peace and order in the form of critique, disorder or conflict would be taken seriously because it touched on the fundamental category of leader's legitimacy. Such a challenge would demonstrate a decline in the leader's legitimacy; it would be interpreted as a sign that he is not able to keep control, which would be considered an intolerable insult. The legitimacy of a leader is derived from charisma or *wahyu*, which is a 'divine mandate to rule' (Mulder, 1994: 69). Relatedly, the people have a moral duty to accept and comply with the leader, who holds a responsibility to provide a protective shield for those unified beneath it. If there is disunity or conflict, the ruler has the right to enforce conformity and unity. Moreover, it is necessary to eliminate disloyalty, silencing critics and subversive actors, denying them justice or access to resources (Mulder, 1994: 69).

These conceptions of power and obligation in Javanese culture, combined with the conception of sovereignty based on the *integralist* perspective, gave justification for rulers to strengthen their sovereign rights rather than their obligations and responsibilities to take care of their subjects. Indeed, it is even the duty of subjects to obey the ruler. In Javanese culture, the world is perceived as an uncertain place, and it needs a strong leader to control and keep the world in predictable condition. Moreover, subjection to the leader is preferable if the risk is conflict and chaos.[20] Therefore, subjects have a moral duty to obey the ruler by emphasizing *rukun* (living in harmony) and avoiding confrontations that can cause disorder (Mulder, 1994: 70-71).

The New Order regime took advantage of this Javanese understanding of power and leadership in its efforts to justify its authoritarian political system which prioritised its sovereign rights and authorities rather than responsibilities towards its population. To secure its claim as a restorer of order, the New Order regime had to demonstrate its capability to maintain *tata tentrem karta raharja* (order, peace, prosperity, good fortune). Moreover, Soeharto envisioned stability, order and security as the objective of the Indonesian development project, that is, '…to make people feel physically secure and have peace

[20] This Javanese conception has similarity with Hobbes's conception of sovereignty. The state is formed in order to provide peace and security for its subjects by ending the danger of natural condition and protecting people from outside threats. The subjects exchange obedience with protection. That purpose can be attained only if there is a concentration of political power in the hand of a strong sovereign leader (Tuck, 1991: 153).

in mind, free from fear of threats without and from worrying over disturbance within' (Sebastian 2006: 67). To realise this vision, the role of the armed forces was dominant. Based on the historical sensitivity to threats on Indonesia's territorial integrity, the Indonesian military was conditioned to use force against any domestic challenges to the state. This gave rise to a securitized readiness of the military to employ coercion to dismiss any disturbance and to suppress political dissent in enforcing order and stability (Sebastian 2006: 14; Simon 2000: 15).

The mysterious killings that occurred in 1982-1985, known in Indonesia as Petrus or Penembakan Misterious (mysterious shootings), reflect the application of a conception of responsibility that undermined the individual rights for security from violence. With the prescription of direct shooting, numbers of criminals, thugs, and recidivists in some cities were found killed, on average with deadly gunshot wounds to the head and several others on their necks. The Commander of Military District VII Diponegoro initiated the policy as a crime eradication operation and as a form of 'shock therapy' with the aim of reducing crime rates in Yogyakarta. He claimed that the operation had succeeded in reducing the crime rate which is why it was later implemented in several large crime-prone cities (KOMNAS HAM 2014: 62). KOMNAS HAM recorded the number of victims reached 621 while KontraS recorded 731 victims (KOMNAS HAM 2014: 78). KOMNAS HAM categorized these series of gross violations of human rights which include crimes of murder, torture, forced disappearance, and arbitrary deprivation of physical freedom as a crime against humanity (KOMNAS HAM 2014: 44; 68-75).

The existing understanding of sovereignty in international and domestic societies at the time paved the way for Soeharto to define sovereignty as a principle endowing the leader with the power and authority to rule Indonesia's people and territory, and legitimacy on the basis of a system of laws in which human rights were secondary to order, stability and security. Within this conception, the post-1945 responsibility to protect human rights was regarded as incompatible with collectivism and the family principles that were perceived as the core Indonesian. Jamie Mackie and Andrew MacIntyre (1994: 28) and David Reeve (1985: 25) showed that the culture of individual rights was weak across most Indonesian cultures, not just Javanese culture. These traditions subordinated individual rights to the interests of the family or broader community. As such, the idea that the state has responsibility to protect individual rights was considered an alien idea by government officials and military officers (Mackie and MacIntyre 1994: 28). For scholars such as Mackie and MacIntyre, Indonesia's poor

human rights record during the New Order period is explained by Soeharto's redefinition of sovereignty on the basis of integralist and Javanese principles. This situation reflects the way the Indonesian leaders localized the norm of sovereignty and responsibility to be adjusted and modified to find to suit local norms and interests.

Regarding human rights principles, Soeharto frequently reiterated that Indonesia was not a rights-based society. Human rights were only recognized together with human duties (Lubis, 1993: 10). Soeharto argued that personal freedom was not absolute, but limited by the public interest. It was based on the view that since most of our lives depended on others, then society's life was much more important, though the individual was not overlooked. The prosperity of society was more important than personal prosperity (Elson, 2008: 385). According to the Pancasila Moral Education, a compulsory subject in the school curriculum, the subordination of individual to community and state was derived from the assumption that 'all rights come with obligations to others, to society and the Indonesian state' (Mulder, 1994: 58). It justified a specific Indonesian interpretation of human rights and at the same time denied the universal claim of basic human rights as a valid statement about human dignity. It meant that harmony in social life would occur like in family life, with the belief that the attainment of the common good would guarantee the achievement of all individual objectives (Mulder, 1994, 58). The obsession with social and political harmony and economic development put constraints on discussions about human rights. Considering the diversity of the people in Indonesia, human rights would not be accepted if they brought disharmony.

There were some arguments to prevent the development of human rights discourse during the New Order era. According to Pratikno et al. (1994), human rights were seen as an issue that emerged and developed in the outside world (Western). The government did not accept the universal application of human rights and argued for adjusting those rights to the local contexts (Pompe 1994: 85). Indonesia was among the proponents of a relativist perspective on human rights. Together with Singapore, China and other Asian countries, Indonesia advocated Asian values in understanding human rights by prioritizing on economic and social rights rather than civil and political rights. In his speech in 1967, Soeharto emphasised that political rights had to be understood within *Pancasila* Democracy, that was based on the ideas of *kekeluargaan dan gotong royong* (family principle and cooperation) (Soeharto 1967 cited in Lubis, 1993: 173; Bourchier 2007: 262). In addition, the government also resisted the idea of individual rights because it conflicted with collectivist and family principles (Pratikno et. al

1994: 41). Instead of upholding individual rights, it emphasised collective responsibility, meaning that Indonesian citizens are obliged to submit to (*tunduk*) and to obey (*patuh*) the state, and to put collective interest above individual interest (Mulder 1994: 62). In his 1975 state address, Soeharto stated that 'the attitude and the character of *manusia Pancasila (Pancasila*-ist human being) is reflected in their true devotion to God Almighty, their willingness to work together, their readiness to sacrifice for the common goodness' (Soeharto 1975 cited in Abdullah 2009: 386). Concurring with Pratikno et al. (1994), Todung Mulya Lubis argued that human rights values did not develop quickly in Indonesia and other Asian countries due to the view of the nation as a big family in which it is deemed inappropriate to ask about rights (1993: 10). The stronger opposition to human rights argued that they are in conflict with Pancasila, which recognises that individual rights are situated within the family principle and mutual-cooperation (Soediman 1970: 75; Bourchier 2007: 262). There was a persistent hesitation and suspicion not just towards human rights, but to liberalism more generally, from 'whoever intended to introduce liberalism in Indonesia, would be considered as betraying Pancasila and the 1945 Constitution' (A.H. Nasution 1989 cited in Lubis 1993: 7).

The emphasis on collectivism and family principle was founded on the *integralistic* perspective which had been reproduced by the New Order administration. It was believed that the state would become the leading agent to achieve common good for all people. Brigadier General (Retired) Abdul Kadir Besar explained the *integralistic* perspective on government responsibility in the following terms

> Pancasila as an integralistic ideology is deeply paternalistic and the government has the duty to protect all parts of the national family equally. The emphasis is on government duty towards individuals and groups rather than on individual rights. Checks on government power are unnecessary because this would hinder government ability to fulfill its protective duties towards all (Ramage in Pratikno et. al. 1994: 42).

This understanding of human rights was consistent with the conception of the *integralistic* state that became the dominant perspective within the discourse of sovereign statehood in Indonesia's early independence and period of the Guided Democracy. Accordingly, Soeharto's regime did not advocate a conception of sovereignty that entailed responsibility to respect individual rights. Human rights, especially individual rights, became irrelevant since it was believed that all of the state's policies and actions were undertaken in the name of collective or national interest, and the state's actions were inviolable, otherwise it would endanger order and stability (Pratikno et. al. 1994: 41).

The minimum notion of responsibility within the conception of sovereignty upheld by the New Order regime had serious consequences for violations of the basic right of individuals to enjoy security against violence. This situation was illustrated by Amnesty International as follows:

> Indonesia's New Order Government has been responsible for human rights violations on a staggering scale since a military coup brought it to power in 1965. Hundreds of thousands of civilians have been killed; prisoners, both political and criminal, have been routinely tortured and ill-treated; scores of prisoners have been shot by firing-squad, some after more than two decades on death row… Throughout the country, serious human rights violations have been part of the official response to the political opposition and 'disorder', and the means of removing perceived obstacles to economic policies. This response has been known in Indonesia as the 'security approach' (Amnesty International 1994: 1-2).

With this understanding of sovereignty and responsibility, Jakarta embraced the use of force as a means to achieve its goal of preserving sovereignty through the maintenance of order. Moreover, Indonesian leaders aware that its sovereign legitimacy would be recognised by international society if they could control internal order and stability. With this recognition, Indonesia had access to participate in the international system (Lewis, Sampford, and Thakur, 2008: 2). Throughout Indonesia's history as an independent state, sovereignty has always been challenged by external or internal disturbances. Indonesia's claim of sovereignty was unsettled by its former colonizer, the Dutch, who wanted to reoccupy the newly declared independent state, as has already been explained in the previous chapter. Moreover, some regional dissentions shook the stability of the sovereignty of the Republic of Indonesia.

During the New Order era, three significant challenges to Jakarta's claim of sovereignty over the archipelago emerged. The challenges came from the outlying provinces of Aceh, West Papua, and East Timor. The Indonesian Government faced difficult situation in making decision and policy in maintaining its sovereignty and territorial integration, while at the same time they should obey the international norm of human rights and self-determination. Specific policies undertaken by the Indonesian Government in these regions manifested how Indonesia reconciled various pressures to uphold these three contested norms in any certain occasion.

These three cases have similarities and differences in representing the practice of sovereignty implemented by Jakarta over its population in these regions who claimed the right to self-determination. Aceh was one of the strongest supporters of the independence of Indonesia. However,

the firm bond of Islam in the lives of the people of Aceh encouraged the desire to impose Islamic law and it manifested in the establishment of *Darul Islam* in the 1950s (Aspinall 2002: 4). Sukarno sent troops and in 1958 Aceh was defined as a Special District with broad autonomy regarding religion and customary law (Priyambudi 2001: 442; Schulze 2004: 1). The conflict re-erupted in 1979 as the consequence of the New Order policy to abolished Aceh's Special District status (Miller 14). The grievance among the Acehnese was worsened by economic marginalization and inequality in contrast to the wealthy centre. Despite being one of the biggest contributors of oil and gas revenues to Jakarta, Aceh was among the poorest regions in Indonesia. This situation encouraged Tengku Hasan di Tiro to declare GAM (*Gerakan Aceh Merdeka*/Free Aceh Movement) in the 1976 (Adam 2007: 111; Ansori 2012: 32). Jakarta responded by applying the Military Operations Area (*Daerah Operasi Militer* or DOM) until the end of the Soeharto regime. It is estimated that during the DOM period (1976-1998) 1,300 civilians killed, 2,000 people disappeared, and 3,000 were tortured and became refugees or displaced persons (Priyambudi 2001: 442).

The other conflict occured at the eastern end of the archipelago in West Papua or Irian Barat. As explained in Chapter II, the Dutch desire to delay the handover of West Papua was assessed by Sukarno as 'a continuation of Dutch colonialism' (Chauvel and Bhakti 2004: 3). Therefore, effort to restore Papua to Indonesian sovereignty was an integral part of the anti-colonial struggle for Indonesian self-determination against the Dutch colonial rule (Gruss, 2005: 101; Saltford, 2000: 72). In this case Jakarta gave meaning to the principle of national sovereignty so as to maintain its national integrity and unity. Jakarta also faced challenges from some Papuan people who also made a claim of self-determination (Hedman, 2007: 7). The challenges came from the Netherlands and Papua was resolved by organizing a Free Act of Choice referendum supervised by the United Nations (Trajono, 2010: 16). The results confirmed Indonesia's claim over Papua with the United Nations General Assembly adopting Resolution 2504 (XXIV) to recognize Papua as part of Indonesian territory (UNGA, 1969). Jakarta asserted that critics who posited Papuan self-determination against Indonesian rule were not relevant, because Papuan rights had been protected (Permanent Mission of the RI to the UN, 2003: 42). However, at a later stage, with the fear of separatism, the Indonesian government often used what they called a 'security approach' to retain sovereign rule over Papua (Trajono, 2010: 14). This triggered the emergence of resistance and anti-Indonesian sentiment from local Papuans who then encouraged the international community to highlight and criticize the human rights situation in Papua (Chauvel and Bhakti, 2004: viii; Janki, 2010: 2).

Another important case regarding the practice of sovereignty and responsibility was reflected in the policy of Jakarta to incorporate East Timor under the sovereignty of the Unitary Republic of Indonesia in 1976. The remainder of this chapter will focus on East Timor as a case study because of its uniqueness compared to Aceh and Papua. In contrast to Aceh and Papua who have common historical memories under Dutch colonization, East Timor was under Portuguese occupation. However, in response to the evolving situation in the region, Indonesia decided to integrate East Timor to become the 27th province of Indonesia. This policy received supports and then recognition by the Great Powers such as the US, UK, and Australia, however other states and also the United Nations consistently questioned Indonesian policy. Aceh had never been put in the UN agenda and the process of Papua's return to Indonesia had been supervised and approved by the UN. In contrast, in the case of East Timor, the UNGA every year from 1976 to 1982 adopted resolutions demanding Indonesia to withdraw from the territory. For the following years, it did not discussed in the UNGA anymore because there were negotiation processes between Indonesia and Portugal under the good offices of the UNSG to resolve the East Timor question. Within these circumstances, it can be said that East Timor question represented the most arduous struggle for Indonesia in practicing its sovereignty claim. This claim was motivated by both imperatives to succeed in the state-building process and its morality to become a responsible government within the eyes of the international community. Therefore, it is important to further explore and analyse the East Timor question in the next section.

3. East Timor conflict during the New Order Era

East Timor forms a notable part in the history of Indonesia. Indonesian policy in East Timor during 1975-1976 represented Indonesia's emphasis on the priority of sovereignty over human rights and self-determination norms. This behaviour can be understood by assessing the discourse and practice of sovereignty during the New Order period. This assessment can be done by tracing the objective standpoints and the normative claim the regime made to explain and justify their conduct in order to be considered legitimate. It is necessary to comprehend the conception of Indonesia's identity and the conception of the state's moral purpose in interaction with the broader context of geopolitical events as well as the normative and ideational structure in international society. This allows us to understand any

kinds of pressure and opportunities encountered by the government and thus any available policy options.

The conception of identity constructed by the Soeharto regime was claimed to bring about improvement in state's economic and political policies. This national identity led Soeharto to become a close friend of the Western powers. By destroying the Communist party, Indonesia gained the trust of the West that Indonesia was an anti-Communist power. It also developed military-led modernization as a viable path to reinforce political proximity to the West (Jetschke, 2011: 65). To strengthen its Westernized state identity Indonesia supported international human rights norms, participating in debates during the drafting of international covenants for human rights in 1966 (Jetschke, 2011: 65). However its attempts to conform to the model of a good state in international system were considered as mere rhetoric, as it was not always manifested domestically. The dominant role of military in the political system had directed Indonesia to be an authoritarian state and gave leeway for Soeharto's regime to repress domestic opposition, including suppress pro-independence forces in East Timor.

a. The Beginning of the East Timor conflict

The United Nations granted the status of 'non-self-governing territory' to East Timor under the 1960 UNGA Declaration on the Granting of Independence to Colonial Countries and Peoples. It recognised East Timor's right to self-determination (Strating 2014: 471). Nevertheless, Portugal did not recognise this right and continued its administration over East Timor. Only with the Flower Revolution in Portugal in 1974, were the East Timorese granted the chance to exercise their self-determination right in a referendum to be carried out on 13 March 1975.

To prepare the process, Portuguese Government established close cooperation with the Government of Indonesia. They indicated that the integration of East Timor with Indonesia would be an acceptable possibility, provided that it was conducted on the basis of the willingness of the East Timorese people. In his meeting with Indonesian Foreign Minister Adam Malik in Lisbon 14 October 1974, the President Costa Gomes proclaimed that full independence for East Timor was 'unrealistic', while Prime Minister Goncalves described it as 'nonsense' (Alatas 2006: 2). In the meeting with the Portuguese Minister of Inter-territorial Affairs, Dr. de Almeida in Jakarta, President Soeharto assured him that Indonesia did

not have any territorial ambitions in East Timor and was firmly in opposition to all forms of colonialism as laid down in the 1945 Constitution (Alatas 2006: 3).

Meanwhile, the East Timorese people began to form political parties in the territory. The important parties were: *Uniao Democratica Timorense* (UDT) which supported independence; *Frente Revolucionaria de Timor Leste Independente* (FRETILIN) which aspired to independenc and radical political and social change; *Associacao Popular Democtarica de Timor* (APODETI) and *Klibur Oan Timur Aswain* (KOTA) favored integration with Indonesia; and *Partido Trabalhista* (Labor Party) initially favored independence but then decided to integrate with Indonesia (Alatas 2006: 4-5; Caldwell and Utrecht 1979: 175; CIIR/IPJET 1995: 23-24; Leifer 1976: 348). Disputes and tensions among the parties and civil war erupted in the middle of 1975, taking the lives of about 2,000 people (Dunn 2003: 182; Taylor 1991: 48; Jetschke 2011: 82). FRETILIN emerged as the dominant political forces in the territory.

The growing strength of leftist political orientation in East Timor's political map alarmed Indonesia, a country that had just undergone its own traumatic ideological conflict, mainly triggered by the failed coup striven by the PKI. This alarm grew as it became clear that Portugal, distracted by its own internal political turmoil, had not enough capacity to control political events in East Timor (Clark 1980: 7; Nair 2000: 118). The Portuguese Mission to the United Nations had written a letter to the United Nations Secretary-General admitted that his Government could not deal effectively with the situation in East Timor (Alatas 2006: 18). This alarm was intensified by the fall of Cambodia, South Vietnam and Laos to communist forces during 1975. Alongside these fears were concerns that a viable and independent East Timor might encourage regional secessionist movements within Indonesia (Caldwell and Utrecht 1979: 170; Cribb and Brown 1995: 133; Leifer 1976: 348).

FRETILIN declared the independence of the People's Democratic Republic of East Timor on 28 November 1975. Right after FRETILIN's declaration, the APODETI, UDT, TRABALISTA and KOTA declared independence and signed the Balibo Declaration on 30 November 1975, which expressed the will to integrate into Indonesia (Clark 1980: 8; Tomodok 1994: 307). Responding to this situation, Indonesia sent troops on 7 December 1975. On 17 December 1975 a provisional government was established in Dilli (Clark 1980: 9; Fernandes 2010: 163). These four parties submitted the Petition of the will for integration of 31 May 1976 to the President Soeharto (Leifer 1976: 354). The petition

urged the Government of Indonesia to accept and legalise the East Timor integration into the Republic of Indonesia, fully without referendum (Ministry of Information 1976: 13). The government responded by enacting the Law No. 7/1976 on the Legalisation of the Integration of East Timor into the Unitary State of the Republic of Indonesia and the Formation of the Province of East Timor.

b. The contesting claims regarding East Timor

Indonesia referred to its policy towards East Timor as integration. It was an integration or reunion of brothers who had long been separated by the dark history of European colonization. Both the Indonesian Government and pro-integration East Timorese justified this policy in part based on the cultural and historical ties dated to the Majapahit and Sriwijaya Kingdoms that had united Nusantara (to use the ancient name for the archipelago spreading from Aceh to Papua) (Machmud, 1976: 10; Suryadinata, 1996: 7; Strating, 2014: 483). On the other side, the FRETILIN and other East Timorese asserted that they had close cultural ties with Melanesian and Pacific communities. They argued that different colonial experience for four centuries strengthened East Timor's distinctive national and political identity that distanced them from the Indonesian experience (Strating, 2014: 471). The pro-independence people such as Ramos Horta continued to voice this idea to persuade the international community in the United Nations and European Community to support their claim for self-determination (Gunn 2001: 5; Strating 2014: 489).

Regarding the claim for self-determination, in its deliberation to the Indonesian Parliament on 5 July 1976, the Government of Indonesia explained that

> When Portugal declared its plan to decolonize East Timor, Indonesia welcomed it and supported that plan. ... Indonesia fully respected the international norms and from the beginning, Indonesia was always keen to support the decolonization process to be proceed in an orderly and peaceful manner. The Government emphasized that Indonesia did not have any territorial ambitions (Ministry of Information 1976: 32).

Nonetheless, the United Nations did not recognise the integration of East Timor to Indonesia and this issue was discussed in the annual UNGA sessions. In the United Nations session in 1982, FRETILIN argued that the annexation of Indonesia be in violation of East Timor's self-determination; while the Government of Indonesia presented argument that they were invited by East Timorese representatives to integrate the territory into Indonesia (Cribb and Brown 1995: 133; Robinson, 2003: 16; UNGA

1982: 4). Therefore Indonesia insisted that 'the status of East Timor as an integral part of Indonesia was not negotiable and that the discussion of the question by the Committee on Decolonization constituted interference in the internal affairs of Indonesia' (UNGA 1982: 5; Jetschke 2011: 83). Through the 1982 General Assembly Resolution, the General Assembly called for the Secretary General to initiate consultation between the parties (Jetschke 2011: 87). The consultative meeting in 1985 resulted in an enhancement of understanding of each other's position and the resolution of some humanitarian issues (Alatas 2006: 34). From this situation, the Western friends became confident that the Timor question would soon disappear from the United Nations agenda (CIIR/IPJET 1995: 3).

The Government of Indonesia also justified its action towards East Timor in the name of self-defence, claiming the need to counter the destabilizing threat posed by FRETILIN to national security and regional stability (Cotton, 2001: 129; Machmud, 1976: 11; Strating, 2014: 480). The Indonesian army, as expressed by Lieutenant General Ali Murtopo, saw the declaration of independence by FRETILIN as a social and political threat to the security of the outer islands that could trigger revolt and rebellion in other regions in Indonesia (Caldwell and Utrecht, 1979: 168). Similarly, Soeharto argued that this fact would not only threaten the peace and order of Indonesia, but also to the region (Caldwell and Utrecht, 1979: 169). In consideration of national security, Jakarta decided to conduct an intelligence operation under the Operation *Seroja* code on 31 August 1975 (Hamam, 2005: 97; Pour, 1993: 381; Tanudirjo et al 2011: 529).

In contrast to the Indonesia's language of integration, the other parties and observers called this situation an invasion or annexation. Some reports stated that the Indonesian army invaded East Timorese territory after FRETILIN declared the independence of the Democratic Republic of East Timor on 28 November 1975 (Budiardjo, 1986: 1235; Cribb and Brown, 1995: 133; Simons, 2000: 62-63). To forestall recognition by the rest of the world, Indonesian forces mounted an open attack on the capital, Dili, and thereafter extended their control to all major towns. During *Komodo* Operation and *Seroja* Operation, thousands of Timorese, both civilians and members of FRETILIN armed forces, died in the attack and subsequent pacification operations (Cribb and Brown, 1995: 133; Simons, 2000: 64).

Studies reported that to pacify the civil war in the region, Indonesian troops unleashed a war of devastating proportions. For several years, the army relentlessly bombed the resistance groups and forced the people of East Timor to leave the mountains (Budiardjo 2007: 1235; Simons 2000: 65). This

policy led to the killing of tens of thousands of lives and the disappearance of hundreds of people during the conflict since 1975 (Dunn 2003: 283; Kelly et al 2001). The Indonesian foreign minister Mochtar Kusumaatmajda admitted that at least 120,000 East Timorese had died by 1982, from being killed in battle, living in concentration camps, diseases, and so forth (Simons 2000: 78). In 1985, Amnesty International reported that human rights violations were continued to occur in East Timor in the form of 'disappearance, extrajudicial execution, arbitrary detention on political grounds without legal safeguard, and torture of individual in the custody of armed forces' (Amnesty International Report 1985: 216 Jetschke 2011: 136).

c. Discourse of sovereignty and responsibility in East Timor case

The Indonesian policy to integrate East Timor through the mobilization of large-scale armed forces was a reflection of the government's preference to adopt a realist conception of sovereignty and undermined its responsibility to give protection to the rights of the East Timorese people. The political and normative contexts both in domestic and international societies provided an enabling condition for adopting this policy.

As explained in the previous section of this chapter, the New Order period was characterized by an authoritarian political system that influenced the way the government shaped its conception of statehood and how it understood sovereignty. The New Order had a vision to build a strong, autonomous, and prosperous state. This identity constituted their understanding of sovereignty as a power-based sovereignty. This had the consequence of undermining the importance of the state's responsibility towards its population. In this context, in the interest to safeguard sovereignty and national security, the ruler had no objection to using violence against its own citizens. Claiming a monopoly over the legitimate use of physical force (Weber 1978: 54), it was easy for the state or the leader to misuse this legitimacy in securing its own agenda and set aside its responsibility to give protection to individual rights.

In addition to the realist perspective of sovereignty, according to Soeharto's Javanese conception of sovereign power, the charisma and reputation of the leader can be seen from his capacity to maintain *tata tentrem karta raharja* (order, peace, prosperity, and good fortune) (Anderson 1990: 62). Accordingly, the leader would not tolerate any disturbance, disorder, or conflict either within its

territory or in its borders. He had to pacify challengers by asserting control over them, by force if necessary. Jakarta then constructed the unstable situation in East Timor as an imminent challenge to the charisma and reputation of the Government. As a result, the government took decisive action to extinguish sources of instability and insecurity. Within this normative context, the policy to integrate East Timor under Indonesian sovereignty in 1976, along with the security approach used to maintain order in East Timor reflected Indonesia's emphasis on the norms of sovereignty and the strong state at the expense of human protection norms. In this case, the interpretation and application of the sovereignty norm gave the state a right to preserve its national integrity and security as it saw fit, neglecting its responsibility to protect the individual right to security against violence and the right to self-determination of East Timorese.

Within this authoritarian regime, the military gained a dominant role and position in the political system and continued to have a dominant voice in decision-making processes. The unprecedented situation in East Timor after the Portuguese decision to decolonize the region raised the perception of East Timor as a vulnerable area, with the potential to emerge as threat to the stability of Indonesia's border. This perception reflected the government's preference to adopt a security approach in its ongoing state-building process. From the early stages of its administration, the Soeharto government was inclined to use repressive methods in attaining its political objectives, as shown in the incident of 1965 and the following policy to use anti-communist pretext as an effective instrument to eliminate anti-government forces. Furthermore, Soeharto did not hesitate to use repression as an instrument for maintaining security and political order. Within this period, the military would occasionally suppress perceived sources of instability, including instability derived from regional resistances such as East Timor independent movement (Tajima, 2008: 455).

It is worth noting that the Indonesian government also understood that they had a responsibility to perform. The government used the language of responsibility when they decided to accept East Timor. President Soeharto in his State Address on 16 August 1976 said

> The people of East Timor have made the decision about their own future, namely integration with the people and state of the Republic of Indonesia. There is no other way, therefore, but to accept with full responsibility such an integration (Alatas, 2006: 27).

In explaining its policy to the House of Representative, the Government stated that

> The policy was not based on territorial ambition but merely on humanitarian responsibility, responsibility towards its history, responsibility towards the foundation and idealism of independence, responsibility towards justice and humanity, and responsibility based on heartfelt goodwill of the Indonesian people as the manifestation of the Pancasila and 1945 Constitution (Ministry of Information 1976: 15).

However, that language of responsibility had a different understanding with the general understanding held within the international human rights framework. It was not 'responsibility towards justice and humanity' that aimed to give protection to each individual to enjoy the right to life and the right to security from violence as basic rights that could not be sacrificed in the name of securing other rights including collective right (for instance security of the state or nation). Nonetheless, at that time, the government of Indonesia preferred to give the meaning of responsibility for humanity that exclusively applied only to the pro-integration East Timorese who were perceived as being under threat of pro-independence forces. In contrast, they perceived pro-independence East Timor as a threat, making it legitimate to pacify them by force if necessary. Jakarta saw civil war and the emergence of a left-wing group in East Timor as an imminent threat on its border. Perception of threat as the source of instability provided a sufficient or legitimate reason for pacifying and eliminating the pro-independence people. In this case, the collective rights of Indonesian people, and the sovereignty and self-determination of Indonesian people were seen as much more important than the dissenting East Timorese.

The East Timor integration or invasion could take place because there was an enabling normative structure in the international society of the 1970s and 1980s where sovereignty and non-intervention were held to be higher values than human protection. Although human protection has been increasingly consolidated, its implementation and enforcement has remained within the domestic jurisdiction (Dunne and Staunton, 2016: 38). With the heightening of Cold War tensions, when there is any situation to choose between order and justice, international society has historically preferred to advance order rather than justice (Bellamy and Wheeler, 2011: 512; Dunne and Staunton, 2016: 40). The dominant powers tend to adopt a broader interpretation of sovereignty that enabled them to secure their interest in widening their sphere of influence (Bellamy and Dunne, 2016: 4; MacFarlane and Sabanadze, 2013: 616). Therefore, the East Timor integration or invasion happened since there was an enabling normative structure at the height of the Cold War where prominent actors, in particular the major Western countries including the United Kingdom, United States, Canada, and Australia, interpreted and adjusted the self-determination norm according to their respective national interests (Aaron and Domm, 2000: 34). The United Kingdom and the United States immediately recognized the

incorporation of East Timor under Indonesia's sovereign jurisdiction. The Eastern Bloc countries perceived the similar position (Schwarz, 1999: 195). The Soviet Union and China, as the leading communist powers at the time, did not voice their strong challenge to Indonesia's action either (Nevins, 2008: 27). East Timor was a remote and little-known territory and the crisis came up when the Great Powers were more focused on the geopolitical rivalry of the Cold War (CIIR/IPJET, 1995: 1).

Indonesia and Western countries shared a common perception and understanding in dealing with East Timor issue; they had a similar position to view the incorporation of East Timor into Indonesia as a reasonable solution and as an established fact (Abdullah, 2009:491; Jetschke 2011: 85). One explanation to this trend is because Indonesia secured position as important friend and ally of Western countries at the height of the Cold War to contain communism in Southeast Asia. Within the context of the Cold War, Western powers were reluctant to oppose the anti-communist Indonesia (Strating 2014: 477). In addition, the US also had strategic interest to use the Ombai and Wetar Straits as an alternative route for the US nuclear submarine from the Pacific Ocean to the Indian Ocean (Lynch 2006: 1; Taylor 1991: 135). Therefore, these states have provided economic, military and political supports to Jakarta (Wheeler and Dunne, 2001: 810). The US even doubled its military aid to Indonesia in October 1975 (Aaron and Domm 2000: 27). According to Nevins, the US provided 90% of total weapons needed by the Indonesian army in the beginning of Indonesian military operation in East Timor (2008: 26). Significant support also came from other Asian neighbors (Amnesty International 1994: 9).

The complicity of Australia and the US position and interest directed their attitude towards East Timor issue (Leifer, 1976: 353). Based on the meeting between Prime Minister Whitlam and President Soeharto in Central Java in September 1974, the Indonesian Government concluded an understanding that Australia appreciated Indonesia's concern about the territory (Permadi, 2007: 194; Suryadinata, 1996: 54; Wheeler and Dunne, 2001: 810). Considering the socio-economic conditions of East Timor at the time, Australian had a concern about the potential instability if it emerged as a new country. This attitude was seen as support for Soeharto to choose integration as the most realistic policy option (CIIR/IPJET, 1995: 29; Aarons and Domm, 2000: 17). In his visit to Jakarta to accompany the US President Gerald Ford meeting with President Soeharto, the Secretary of State Henry Kissinger told the press 'the US understands Indonesia's position on the (Timor) question' (Budiardjo and Liong, 1984: 9; Wheeler and Dunne, 2001: 809). CIA sources mentioned that 'According to a reliable source, Indonesia will not initiate large-scale military action against Portuguese Timor until after President

Ford completes his visit (to Jakarta) on December 7th' (Simons, 2000: 63). Similar attitudes came from the Soviet Union, Japan, and India who accommodated Indonesia's action.

The situation changed when, on 12 November 1991, the Indonesian military fired on pro-independence demonstrators in Dili, later known as the Santa Cruz massacre. It stimulated criticism and condemnations from international human rights organizations and other governments (Tajima, 2008: 456; Thaler, 2002: 213). Faced with intense international pressure, Soeharto deposed two generals and brought other soldiers involved in the incident to court. It was a significant change in his policy which normally gave the military free choice to handle security challenges as they pleased. Responding to intense international pressure Soeharto established the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia* or KOMNAS HAM) in December 1993 (Tajima, 2008: 456).

It is important to note that in 1990, following the political openness declared in 1989, the New Order regime had started to use the language of human rights, as expressed in the President Soeharto's State Address on 17 August 1990. In his speech, he stated

> The concept of human rights that we embrace is the elaboration of the principle of Just and Civilized Humanity, which is inspired by the other precepts of Pancasila. The concept of human rights that we embraced was derived from the nobility of human dignity as a whole, in addition to the dignity of one by one. Therefore, our human rights notion is not individualistic, which neglects the interests of society, nation and state (KOMNAS HAM 1997: ix; Dwipayana and Sjamsuddin (Eds.) 2003: 331).

On the one hand, this statement can be seen as a turning point in the narrative of human rights during the New Order era. Previously, the regime did not admit the importance of human rights, viewing them as foreign ideas that were incompatible with Indonesian culture and society. With the President's statement, human rights were now being understood as part of the nation's values and as expressed in the principles of *Pancasila.*

However, on the other hand, the President's statement did not significantly change the discourse and practice of human protection in Indonesia. The President's conception of human rights was still consistent with the *integralist* perspective of statehood that privileged the collectivity above individuals and allowed the leader to compromise individual rights in the name of maintaining order and stability. Besides, Indonesia and other countries in the region proclaimed an ASEAN Declaration on Human

Rights in 1993 that confirmed the region's unique conception of human rights that did not acknowledge the separation between economic and social rights with civil and political rights or the principle of comprehensiveness. At the same time, they declared that they 'will strive for human rights without sacrificing domestic stability and harmony' (ASEAN Declaration on Human Rights, 1993; Pompe, 1994: 88). Interestingly, these countries presented their approval of universal human rights declared in the Final Declaration of the Vienna Conference (Pompe, 1994: 88).

This kind of understanding was manifested in the practice of human protection, which marked with the continued occurrence of human rights abuses in the 1990s, in particular, related to the rights to security from violence. Reports from international human rights NGOs and scholars presented a situation where the Indonesian government still used the security approach and other repressive measures in the name of maintaining order and stability. Political killings, disappearances, arbitrary arrest and detention, imprisonment of prisoners of conscience, and torture were among the repressive measures carried out by the government in dealing with the political opponents, workers demonstrators, human rights defenders, and alleged separatist movement in Aceh, Papua and East Timor (Amnesty International, 1994, 1997a; Human Rights Watch, 1997; Ford, 2011; Simon, 2000). Amnesty International published a report critically evaluating the use of the 1963 Anti-Subversion Law as an effective legal instrument for detaining and punishing political opponents and other parties who had a different perspective with the regime (Amnesty International, 1997b: 2; Simon, 2000: 8).

This domestic normative development, however slowly it occurred during the New Order era, was influenced by the significant normative transformation that was occurring in international society with the end of the Cold War. There was a transformation in international norms and global issues where the issues of democracy, human rights and good governance gained attention. One important normative transformation was related to the norms of sovereignty and human protection that was marked with the emergence of 'international norm in favour of intervention to protect civilians' (Kofi Annan cited in Wheeler and Dunne, 2001: 806). Within this circumstance, the international community raised criticisms over the violence and violations of human rights committed during the integration of East Timor. The United Nations issued a warning and resolution over the poor performance of human rights in East Timor. This led the international community to take greater efforts to address the East Timor conflict in order to realize its right to self-determination (Amnesty International, 1994: 12; Schwarz, 1999: 223).

4. Conclusion

The conceptualization of sovereignty and responsibility in the New Order is worthy of elaboration and assessment because this regime covers the longest part of post-independence Indonesian history. The dominant conception of sovereignty in this impacted significantly to the way the regime tried to reconstruct the norm of sovereignty to be upheld in the Reformation era. The East Timor case study represents how the government developed policies that were strongly influenced by the dynamic conception of sovereign responsibility to human rights protection norms stipulated at both the domestic and international levels.

At the international level, the traditional notions of sovereignty and non-intervention prevailed. While human rights were increasingly adopted as an international norm, their implementation domestically remained subject to internal political pressures and interests. Each sovereign state retained discretion to interpret the notion of responsibility to promote human rights according to their particular domestic context. With the heightened tensions of the Cold War, the dominant powers adopted an interpretation of sovereignty that enabled them to secure their interests and to broaden their sphere of influence. Consequently, several cases of gross human rights abuses occurred without provoking reaction from the international community. These cases did not result in the imposition of sanctions against the perpetrators or attempts at ending the abuses and offering help to the victims.

At the national level, Indonesia was characterized in this period by an authoritarian political system. The New Order construction of sovereignty was congruent with the national ideology of Pancasila and the *integralist* perspective. It provided justification for the leaders to equate the sovereignty of the people with the sovereignty of the state, since the state and the people were understood as a single organic entity characterized by harmony and unity, but represented by the sovereign authority. Consequently, when the government talked about sovereignty the referent object was the government, not the people or the individuals. It manifested in the adoption of a power-based sovereignty that emphasized the right of the sovereign to exercise power rather than its responsibility towards the people.

The New Order regime also localized the conception of responsibility to cohere with the conception of obligation in traditional Indonesian values that was strongly influenced by the conception of leadership

in Javanese culture. Within Javanese culture, the responsibility of the leader was directed to the sovereign itself, which involved the responsibility to concentrate power. The concentration of power was reflected in the leader's ability to attain order, peace, and prosperity. With this attained, the people's welfare could be fulfilled. Using this normative argument, the New Order government emphasized collective responsibility, meaning that in the name of collective interest, the state would be ready to sacrifice individual rights. At the same time, Indonesian citizens were therefore obliged to obey the state and to prioritize collective interest to maintain stability. Only in the early of 1990s did the discourse of human rights start to develop within the New Order administration, by conceding that human rights also had a place in Indonesia's national ideology, Pancasila. It confirmed that Indonesia's interpretation of human rights would be adjusted to the local context by referring to the second principle of Pancasila: just and civilized humanity, and in the context of an integralist conception of state sovereignty. Although this could be seen as a sign of progress, it affirmed the Indonesian position to consistently adopt a cultural relativist position on human rights.

The policy to integrate East Timor under Indonesian sovereignty in 1976 represented Indonesia's emphasis on the norm of sovereignty over human rights norms. This situation reflected Indonesia's strong privileging of the sovereignty norm over the human rights and self-determination of East Timorese. This integration policy was made possible because prominent actors, in particular, the major Western countries, permitted the self-determination norm to be adjusted to particular geopolitical circumstances and to contain self-determination claims in their own territories. Meanwhile, in the domestic realm, this policy can be explained by an understanding of the dominant perspective of the New Order regime, which emphasized the concept of security and order as a prerequisite for development that would bring about the prosperity of the nation. This justified the use of force to solve various problems. The regime did refer to human rights, but was always clearly marginal in the context of Indonesia's developmental political project. In the New Order era, human rights were difficult to develop because the advancement of human rights was perceived as an impediment to the achievement of the strong and prosperous state promoted by Soeharto administration. The momentum for significant change came after the fall of Soeharto's administration and it will be explained in the next Chapter IV that assesses the development of sovereignty and responsibility in the Reform Era.

Chapter IV. Sovereignty and responsibility in the early Reformation Era (1998–2005)

The previous chapter explains how Indonesian society reconstructed the meaning and usage of sovereignty and responsibility during the New Order era. The Suharto regime had a vision of Indonesia becoming a strong, autonomous and prosperous country. It influenced the way the government constructed its sovereignty more in alignment with the traditional meaning of sovereignty that prioritized the right of the state to control people and territory rather than its duty to protect the rights of its population. The case study of East Timor's integration demonstrates the policy chosen by the government which put the security of the state ahead of the enjoyment of the rights of the East Timorese people to self-determination.

This chapter aims to assess the post-New Order era, better known as the *Reformasi* era that started with the fall of the Soeharto regime in 1998. That year marked a significant turning point within Indonesian domestic politics; the start of a transformation brought a significant change in Indonesian perception and practice toward sovereign responsibility in relation to evolving human rights norms. Chapter 4 discusses these significant domestic changes, as well as important international changes with regard to the evolving discourse of sovereignty and responsibility. It is acknowledged that the international context was a strong influence on the democratic transition and the promotion of human rights in Indonesia. Nevertheless, the evolving discourse of democracy and human rights in the domestic context cannot be ignored.

1. The end of Cold War and the normative transformation in international society

The end of the Cold War brought significant changes in international politics, not least the transformation from a bipolar to a multipolar system, and the marked increase in integration and interdependence in the economic, social, and cultural domains. Within this context, a new pattern of social relationships emerged in which a state no longer acts as an autonomous entity over its territory. Non-state actors enhanced their influence over socio-political processes both in domestic and international affairs.

Some argued that with the end of the Cold War, the process of globalization would mean the eclipse of the sovereign state (Agnew 2009: vii; Devetak 2007: 121). Others suggested that a normative transformation was affecting the rules and principles that guided state interaction with each other (Held 1991: 22; Krasner 1995: 120; Ohmae 1996: 2). For example, in the post-Cold War era, human rights have transcended into a global norm which constitutes a set of rules and expectation that states should respect and protect the rights of its people to be considered as a legitimate sovereign state within the contemporary international society (Reus-Smit 2001: 250). Hence, it is argued that international society has started to view violations of human rights are perceived as threats to the maintenance of international security and peace. This development changed the conceptual meaning of sovereignty and responsibility and allowed them to be perceived and reconstructed as complementary (Finnemore 2008: 198; Walling 2013: 10). It necessitates state to improve its capacity to provide safety and fundamental rights for the people. If state unables to meet this responsibility, it will encourage international community to interfere to assist the victims of a failed-state (Lupel 2009: I; Smith 1998: 4). This situation directly challenges the conventional understanding of sovereignty and it necessitates a rethinking of the sovereignty to be better cope with the evolving challenges.

a. The emergence of internal conflicts around the world

One of the critical challenges was the emergence of internal conflicts in many parts of the world, including the former Yugoslavia, Rwanda, Sudan, Sri Lanka, Somalia, Liberia, Haiti and Indonesia. The end of the Cold War signalled a change in the character of war and violence. According to Wallensteen and Sollenberg, among 111 armed conflicts broke out during 1989-2000, only seven conflicts were inter-state conflicts, while the rest were internal conflicts (2001: 629). These internal conflicts brought back the significance of nation-building, self-determination and inter-ethnic conflict within plural and multiethnic societies. Identity politics became the primary cause or at least the main trigger of these conflicts manifested in the fierce competition among communities with different identities over tangible and intangible resources within their countries. Domination by one ethnic community over the political institutions, national identity and economic distribution triggered grievances that manifested in political violence among different identity groups (Gurr 1993: 198; Gurr 2000). These situations drove marginalized groups to raise questions about the initial social contract in building their state, which was envisioned to achieve wellbeing and prosperity for all population.

This kind of internal conflict, usually called a civil war, can bring serious consequences to the populations and lead to humanitarian crisis (Kaldor 1999; Leader 2000). This situation raises a question of state ability to effectively cope with and solve ethnic conflicts or civil war within their territorial jurisdiction. When the government is unable to exert its control to manage conflicts within its territorial jurisdiction, this condition poses a serious challenge to the claim of sovereign rule of the existing government (Cederman, Wimmer and Min 2005: 93). Thus the government that is supposed to provide protection to the citizens is not able to perform its role effectively. This potentially leads the affected state to be categorized as a 'failed state' (Rotberg 2002: 87). A different situation emerges when the government becomes a party to the conflict; in their efforts to maintain regime security they sacrifice human rights and in doing so undermine their responsibility to give protection of their citizens' rights. In extreme cases, governments may use mass murder, ethnic cleansing or genocide to silence and annihilate their opponents. Instead of performing its primary duty as a security provider, the government emerges as the principal source of insecurity for the people by committing gross and systematic violations of the rights of its people.

b. The need to redefine the concept of sovereignty

The prevalence of internal conflicts in the post-Cold War world encouraged the emergence of human security as an idea and a practice. Human security broadens the idea of security from merely concern with any threats from weapons to the security as a universal concern, interdependent and people-centered conception (United Nations Development Program 1994: 22-23). As underlined in Human Security Report 2005, "While national security focus on the defense of the state from external attack, human security is about protecting individuals and communities from any form of political violence" (Human Human Security Report 2005 cited in O'Hagan 2007: 333).

This new conception of security which focuses more on people as the referent for security rather than on the state, initiated momentum for rethinking the norm of sovereignty and non-intervention. The genocide in Rwanda in 1994 and in Srebrenica in 1995 triggered the critical rethinking. These tragedies reflected the ineffectiveness of international response to prevent mass atrocities and to provide protection to the civilian populations when sovereignty and non-intervention were treated as inviolable rules. The UN peacekeeping operations were there, but they were under-capacity and only assigned with limited mandates to fulfill its duty in the areas (Dunne, Hanson and Hill 2001:103; Grunfeld and

Vermeulen 2009: 233; O'Hagan 2007: 334). Other humanitarian crises also seized the concern of international society; the Kosovo crisis and the East Timor security problems following the self-determination vote in August 1999. These failures in the international responses to humanitarian crises prompted the UN to search for more effective mechanisms to prevent the occurrence of massive human rights abuses when the respected state does not have the capacity or willingness to take timely action.

Based on the experience of Sub-Saharan Africa, Francis M. Deng et al. (1996) argued for the need to redefine the idea of sovereignty by promoting the concept of sovereignty as responsibility. As an agent and a manifestation of the sovereignty of the people, the state has responsibility to improve the living conditions of citizens and should be accountable for its mandate, both internally and externally (Deng 2006: 220; Solomon 2005: 1). When the state cannot, or is unwilling to carry out its responsibility, the responsibility should be delegated to international community to intervene to provide protection to the people affected (Deng et.al 1996; Deng 2010; Hopkins 1995: 96). The other supportive idea came from the founder of *Medicins Sans Frontieres*, Bernard Kouchner, who called for a 'right to intervene' to protect populations and deliver humanitarian assistance (Abbott 2005: 2; Evans 2006: 706; O'Hagan 2007: 333).

The UN Secretary General Kofi Annan conveyed his deep concern and called for more decisive action from international community. In 1999, he presented the need to rethink the sovereignty conception, as Francis Deng had done a few years earlier. There are two concepts of sovereignty, Annan argued, state sovereignty and individual sovereignty (Annan 1999: 1). He explained that

> States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty-by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties-has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them. (Annan 1999: 1).

In his Millennium Report of 2000, the UN Secretary General encouraged the international society to respond to the dilemma of humanitarian intervention in the face of existing conception of state sovereignty, posing the question:

> If humanitarianism is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica –to gross and systematic violation of human rights that offend every precept of our common humanity? (Annan 2000: 34).

c. Responsibility to Protect

The debate of sovereignty and human rights encouraged international community to re-evaluate how the problem had traditionally been presented. The International Commission on Intervention and State Sovereignty (ICISS), led and funded by Canada, formulated a new concept of responsibility to protect (R2P). ICISS proposed 'three elements of responsibility: responsibility to prevent, responsibility to react and responsibility to rebuild' (Evans, Shahnoun et.al 2001: XI). The responsibility to prevent is directed to deal with the causal factors of internal conflicts. The responsibility to react deals with responsive actions including military intervention in extreme situations. Finally, the responsibility to rebuild provides assistance for recovery and reconstruction after the conflict or intervention (Evans, Shahnoun et.al 2001: 17).

This new idea, however, received limited attention from international society as it has more concerned with the counter-terrorism agenda manifested in the war in Iraq. Third World countries even perceived this new idea as a reflection of the great powers' intention to advance interventionism (Bellamy 2009: 617; Welsh 2013: 369; 2014: 127). States also gave different responses to the emergence of this new norm. Support came from UK, Germany, Australia, Norway, Tanzania, while other countries part of the Non-Aligned Movement demonstrated a cautious view in responding to R2P. Surprisingly, the members of the UN Security Council showed less enthusiasm to adopt any version of the principle that would reduce their unilateral right to decide when to use force (Hehir 2010: 221). Despite this setback, the discourse on the idea and norm of responsibility to protect continued to resonate. By 2005, the majority of UN member states adopted R2P at the World Summit. As reflected in the 2005 World Summit Outcome Document, member states of the UN affirmed, 'the responsibility of each state to give protection to its people from the four R2P crimes'[21] (Pillar I). International community can offer assistance to help state build its protection capacities (Pillar II). Nevertheless, in the situation of state failure in performing its protection role, the international community would ready to undertake responsibility in a 'timely and decisive manner' (Pillar III) through the UNSC and in compliance with the Charter of the United Nations (UNGA 2005: 30). Their acceptance of states responsibility is not merely stem from the recent commitment to the recent R2P norm, but it rooted from the basic idea of

[21] R2P focuses on four atrocity crimes namely ethnic cleansing, genocide, crimes against humanity, and war crimes (UNGA 2005: 30).

statehood and the prevailing and enduring state responsibilities and obligations. With the effective implementation of the responsibility to prevent, in particular, it is hoped that international society would have a greater capacity to avoid humanitarian crises arising from mass atrocities.[22] While some literatures recognize the 2005 World Summit Official Document establishes a significant normative achievement for R2P (Bellamy 2009: 622; Evans 2006: 714; 2008: 3; Thakur and Weiss 2009: 24), others saw it as a normative decline as the 2005 World Summit Official Document adopted a narrower scope for the norm applicability and did not create a new legal obligation for human protection (Hehir 2010: 221; Mills 2015: 35; Newman 2013: 236; Newman 2009: 93; Welsh 2013: 369).

2. Political reform in Indonesia

May 1998 is an important milestone in the history of Indonesia when Soeharto resigned from the presidency after 32 years in power. Soeharto's resignation gave birth to the era of Reformation that aimed to revise the path to attain national ideals and to build a democratic political system. The student movement called for a reform agenda including the following: national leadership succession; amendments to the 1945 Constitution; elimination of the military's dual function; strengthening of the rule of law; and a clean government free from collusion, corruption, and nepotism. This call for reform was due to the many problems and deviations that had taken place during the New Order regime under President Suharto. Some of the problems were the authoritarian system of government, the widespread practice of corruption, collusion and nepotism, and the fragile economic conglomeration that led to injustice and social inequality.

Having inherited such complicated problems, with the establishment of the *Reformasi,* the Government began efforts to make improvements in various fields. In the political field the Habibie administration started to liberate the political system. The press, mass media, and mass organisations were no longer subject to restrictions, and political prisoners were released (Crouch 2010: 24). President Habibie revoked five packages of political legislation that sustained an authoritarian political system and the Parliament managed to establish three new political laws concerning the political party, elections, and

[22] Although the emergence of R2P as an evolving norm is considered in this Chapter, the analysis about Indonesia's orientation and commitment towards RtoP will be explained in the Chapter 5.

the composition and position of the MPR, DPR and DPRD (legislative bodies) (Juwana 2003: 647-648). These new laws were in recognition and realisation of the right to enjoy freedom of expression, and freedom to associate and assemble as enunciated in the Constitution. The new laws opened up the gate for genuine political participation for the people and facilitated the emergence of new political parties. In the first election of the Reform era 48 political parties competed for central and local parliamentary seats, compared with just two political parties and one functional group during the New Order era.

An important agenda of the *Reformasi* was to improve human rights protection. During the 32 years of New Order administration there had been many violations of human rights.[23] With the presence of the *Reformasi*, the demands for human rights improvements became louder, called for by human rights defenders who were members of NGOs, as well by the press and other media (Nasution 2003: 5). Responding to this demand, the government created three important legal frameworks for ensuring human rights promotion and protection. The first legislation was the MPR Decree No. XVII/MPR/1998 on Human Rights.[24] The Decree establishes the Indonesian Human Rights Charter and describes the basic framework of the Indonesian perspective on human rights. The second legislation was Law No. 39 of 1999 on Human Rights. This Law affirms the responsibility of the state to respect and protect human rights. In addition, it gives a stronger mandate and authority to the National Commission of Human Rights (*Komisi Nasional Hak Asasi Manusia* or KOMNAS HAM), which was established in 1993 during the New Order era to undertake research, education, monitoring and investigation of human rights (KOMNAS HAM 2015: 1).

The third legislation to ensure the responsibility of the state to protect human rights was Law No. 26/2000, which established a Human Rights Court. This Law was enacted by the Government in response to strong domestic and international pressure regarding the worsening situation in East Timor after the announcement of the referendum result. The UN Security Council released Resolution No. 1264/1999 condemning the human rights violations in East Timor and demanded that the perpetrators be accountable for their actions in court. Faced with this pressure, the government established the

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[23] Some of the human rights violations during the New Order were mysterious killings, military operations in Aceh, and disappearance of activists.

[24] The success of establishing this MPR Decree, which includes a Human Rights Charter, is regarded as a "redeemer" of the MPRS's failure at the beginning of the New Order to establish a Human Rights Charter, as explained in Chapter 2.

Human Rights Court to dismiss the notion that Indonesia was unable or unwilling to prosecute the suspects or defendants of gross human rights violations (Tim Imparsial 2015: 51). According to this Law, in the case of a gross violation of human rights that happened before the enactment of this Law, the government should form the Ad Hoc Human Rights Court to address such violations in East Timor after the 1999 referendum.

The next section will analyse constitutional reform and security sector reform as part of efforts to transform Indonesia from an authoritarian political system to a more democratic state. A focus on these constitutional and security sector reforms does not intend to undermine the importance of other reform agendas; however, by assessing these reforms on the constitution and the security sector, the thesis will gave a clearer indication as to whether there was a changing in the understanding of sovereignty and responsibility in Indonesia.

a. Constitutional reform

Constitutional reform is an important means by which to assess the evolution of sovereignty and responsibility in Indonesia because the constitution is the blueprint for constructing the rules of the statehood. It enshrines the basic principles of the state and is the basic framework for the relationship between the state and society and among governmental institutions. The constitution reflects how the nation understands and gives meaning to the norms of sovereignty and responsibility of the state to its people. The main objective of constitutional reform was to put limitations on the state's power and authority in order to prevent the state and the government exercising power arbitrarily. The reform was conducted by amending the 1945 Constitution.

The 1945 Constitution, as explained in Chapter 2, was drafted before independence in a precarious situation at the end of the World War II. It was designed as a simple and temporary constitution to be reformulated after independence had been reached. The political context at the time led to an executive-heavy system that was easily misused by the authorities. As explained in the previous chapter, it was evident that during the Guided Democracy and the New Order eras, the regimes misused the constitution in order to secure power and authority. Those regimes took advantage of the simplicity of the 1945 Constitution as a basis of legitimacy to prioritise their sovereign rights to exercise power over the people, rather than responsibility to achieve common good and ensure protection of individuals.

Aware of that advantage, the New Order administration positioned the 1945 Constitution as a sacred document that could not be changed. Any discourse about the amendment of the 1945 Constitution became taboo because it could bring about disruption of political stability in the administration of government (Mahkamah Konstitusi 2010a: 37).

Therefore, it is understandable that constitutional reform was a primary agenda of the reform movement. The demand to amend the 1945 Constitution was essentially a demand to establish a fundamental framework for a better life in the nation. In other words, it was an effort to rewrite a 'social contract' between the citizens and the state to attain the moral vision of the state of Indonesia, which is to establish a democratic, just and prosperous nation-state. The main objective of this amendment was to put limitations on the state's power and authority in order to prevent the state and the government to exercise power arbitrarily. The amended constitution would give some restrictions on the rights of the sovereign and remind the sovereign that they have more responsibilities to perform. The People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR) organised the amendment of the constitution from 1999 to 2002. The main agendas were imposing limitation to the executive power, reconstructing the idea of the people's sovereignty, strengthening a checks and balances mechanism, and adding more human rights provisions.

The First Amendment, made in the MPR Annual Session of 1999, aimed to put limitations on presidential powers, which had been large and uncontrolled. At the same time, the MPR formulated provisions to strengthen the position of the House of Representatives (DPR) as a legislative body. These provisions were crucial to guarantee the sovereignty of the people. With this amendment, sovereignty was thereafter exercised by three branches of power based on the *Trias Politica* principle, enabling the formation of an accountable and responsible government (Mahkamah Konstitusi, 2010b: 255). The duration of presidency was limited to a maximum of two periods and the president and vice-president would be elected directly by the people, not by the MPR.[25]

Regarding reconstruction of the idea of sovereignty, a long MPR debate focused on the effort to reformulate Article 1 (2) 'Sovereignty shall be vested in the people and shall be fully exercised by the

[25] Previously, president and vice-president were elected by the MPR and during the New Order era, Soeharto was always re-elected since the Soeharto's cronies and his military allies dominated the MPR.

People's Consultative Assembly or MPR' (Indonesian Constitution, 1945). All factions in the MPR agreed on the concept of sovereignty of the people in order to create a democratic government; however, they could not agree on how to exercise such sovereignty. Most factions acknowledged the need to review the full authority of MPR in exercising sovereignty, as this could be interpreted by the MPR as being able to do anything under the pretext of being the embodiment of the people. There was even some fear of generating a 'leviathan' that would take over sovereignty from the people (Mahkamah Konstitusi 2010b: 302, 318). Valina Singka, from the Regional Envoys Faction, underlined that the main objective of drafting the Constitution was to limit the power of those who governed (Mahkamah Konstitusi 2010b: 281). Finally, it was agreed that MPR would no longer be considered as the highest institution within the governmental structure; it would have an equal position with other governmental branches including the DPR (*Dewan Perwakilan Rakyat* or House of Representatives), the President, the Constitutional Court, and the Supreme Court. Finally, the Plenary Session of MPR RI on 9 November 2001 decided to amend Article 1 (2) to be 'Sovereignty shall be vested to the people and it shall be exercised in accordance with the Constitution' (Amended 1945 Constitution 2001).

The other important change in the Amendment of the 1945 Constitution was the insertion of human rights clauses which significantly improve the Indonesian commitment to uphold the idea of sovereignty including responsibility towards its people. As stipulated in Article 28 (a) to (j) of the Amended 1945 Constitution, the Government has a constitutional mandate to bear the responsibility to protect, advance, uphold and fulfil human rights of the people in accordance with the principle of a democratic and law-based state. It is noteworthy to mention some of the supporting arguments from the MPR's Faction. According to Gregorius Seto Harianto from F-PDKB (*Partai Demokrasi Kasih Bangsa* Faction), the reason for putting in more detailed human rights clauses was that the existing political structure was not conducive for democracy. Therefore, his Faction encouraged 'taking human rights stipulated in the MPR Decree No. XVII/1998 to be inserted into the 1945 Constitution to make the State earnest and responsible in ensuring the rights of the people' (Mahkamah Konstitusi 2010c: 214). In addition, Agun Gunandjar Sudarsa from F-PG (*Partai Golongan Karya* Faction) stated that 'the insertion of human rights clauses in the Constitution would enhance the constitutional guarantee of human rights in Indonesia and confirms the strong commitment of Indonesia to become part of civilized nations within international society' (Mahkamah Konstitusi 2010c: 219). The insertion of human rights clauses indicated the shifting of understanding of sovereignty that gives more priority to

sovereign responsibility rather than merely focusing on the rights of the sovereign to use its power over the population.

According to Jimly Asshiddiqie (2010), the Amended 1945 Constitution incorporates the principles of *nomocracy* and democracy as two sides of one coin: *rechtsstaat* should be democratic, and *constitutional democracy* should be based on the rule of law. In this circumstance, the Constitution adheres to constitutional democracy and the rule of law, which calls for the limitation of authority of the state and emphasises the importance of power distribution and checks and balances mechanisms (Asshidiqqie 2010: 131, 135). Harold Crouch acknowledged that the amended constitution has outlined guidelines for building 'a democratic political system in accordance with the acceptable international standard' (2010: 78). Another scholar, Andrew Ellis, admitted that by the adoption of the constitutional checks and balances mechanism and separation of powers among state institutions, Indonesia had abandoned the principle of *integralistic* state (2007: 30).

In conclusion, it can be said that by amending the 1945 Constitution, Indonesia reconstructed its concept of sovereignty of the people and put limitations on the sovereign's ability to exercise power. The sovereign could not behave at will, but had responsibilities to the people as the real holder of sovereignty, as mandated by the amended constitution. Moreover, with this amendment of 1945 Constitution, the state was mandated to bear responsibility to respect, fulfil, and protect human rights, including the specific rights of individual security from violence.

b. Security sector reform

Security sector reform is another means by which to assess the Indonesian state's evolution in understanding its sovereign responsibility towards the human rights norms. Security sector reform is important to rebuild and restructure the security institutions in accordance with the democratic principle and respect for human rights. The push to reform the security sector developed both from domestic demand and in response to the evolving international attitude toward sovereignty and human rights, which encouraged the redefinition of security to focus on the security of the people as well as on the security of the state (Human Security Report 2005 cited in O'Hagan 2007: 333).

The OECD DAC Handbook for Security System Reform declared that, to better cope with the contemporary security challenges, the security sector should be reformed to be consistent with democratic principles, rule of law, and human rights (OECD 2007: 21; Putri 2014: 4). According to Harold Crouch (2010: 127) the purpose of the reform of security system is to create good governance in the security system and to build a safe and orderly environment in which to realise welfare and prosperity of the people. To achieve this, security sector reform could be carried out by withdrawing the military from political roles and uphold supremacy of civilian. Helmy Fauzi (2014: 2), a Member of Parliament in 2009-2014, suggested that the reform should aim to build a responsible security institution that adhere to democratic and human rights principles. Drawing upon these various criteria of security sector reform, it is important to assess whether with this reform, the security institutions in Indonesia have changed from the previous identity of defending and securing the sovereign or the regime, to the new identity of defending and securing the people and individuals, as the fundamental reason of the formation of the state or as the moral purpose of the state.

As explained in the previous chapters, it is acknowledged that since the early independence the role of ABRI (the armed forces) had been prominent. They had been continuously employed in internal security duties and in suppressing periodic revolts and insurgencies (Lowry 1993: 1). In these circumstances, the state used its defence forces to ensure its power was not challenged. In this sense, there is a parallel with Weber's definition of a state as 'an institution that claims a monopoly of the legitimate use of physical force' (Weber cited in Redner 1990: 639; Waters and Waters 2015: 198). Nevertheless, according to Anderson (2002), violence emerges as a consequence of the state having the authority to use and control means of coercion, which is easily misused by the leader. And misuses of power were well known during the New Order era (Anderson cited in Colombijn and Lindblad 2002: 12). Therefore, with the establishment of the Reformation Order, the ABRI was required to accommodate the aspirations of people who wanted internal reform of the ABRI that would improve the organisation's professionalism by keeping it away from practical politics. In the past, military involvement in politics and other state functions had contributed to various forms of human rights abuses (ELSAM 2011). Therefore, this reform was necessary in order to develop democracy and respect for human rights, especially to ensure the basic right to security from the type of violence evident during the New Order era.

In response to the changing domestic political context, which led to the establishment of a democratic political system and the international normative transformation towards human security, ABRI[26] started the initiative to build a New Paradigm in 1998. The New Paradigm aimed to support a democratic political system, therefore the military would 'not occupy positions in the government but only to influence indirectly; and it would share power with civilian political forces" (Crouch 2010: 132). In 2000, the TNI Commander-in-Chief, Admiral Widodo AS, affirmed the armed forces' support to the consummation of the popular sovereignty conception and confirmed that, as part of the New Paradigm, it would abandon practical politics by ending its role in parliament and other political structures, and will not exercise its right to vote (Mahkamah Konstitusi 2010b: 293-4). Major General (Ret.) TB Hasanuddin, Member of Parliament (2009-2014 and 2014-2019), said that the Reform era provided momentum for the emergence of progressive thinking to form a professional defense institution. Democratisation demanded that the TNI revitalise its identity, function and role as a state defense instrument responsible for protecting all Indonesian people according to the constitution's mandate (Hasanuddin 2014: 32).

This New Paradigm was institutionalised in the Law No. 34/2004 on the TNI which intended to revitalise the identity of the military as professional soldiers and abandon the military dual-function (*dwi-fungsi ABRI)*. There has been positive progress in the building of a professional army, including ending the role of TNI in the Parliament in 2004; however, the TNI is not yet above reproach. Although legally the military was declared 'back to the barracks', in fact that decree has not been fully carried out. Formally the concept of the dual-function ABRI was abolished. But the military has not been able to fully realise the paradigm of professional soldiers who keep their distance from politics. According to H. Achmad Effendy Choirie, Member of Parliament (2004-2009 and 2009-2014), this situation reveals the unfinished agenda of security sector reform in Indonesia (2014: 44).

The challenges in the process of security sector reform can be seen in the tendency to revive the pattern of security management in the New Order era into the 2011 State Intelligence Bill and the draft for the National Security Bill. This is demonstrated in the provisions that authorise intensive inspection and interception into the Bill. This special power is thought to have the potential to threaten law

[26] As part of its efforts to create distance from the New Order, in 1999, ABRI built a new image by changing its name as TNI (*Tentara Nasional Indonesia* or the Indonesian National Military).

enforcement, human rights and democracy (Fauzi 2014: 5; Putri 2014: 9). Such a special power has the potential to be misused for the political interests of the ruler in order to maintain power in any way. It also gives an opportunity to restore the position and role of security actors (TNI and BIN – *Badan Intelijen Negara* or State Intelligence Agency) as in the New Order political format, ie as law enforcement officers (Fauzi 2014: 8; Putri 2014: 10). The intelligence was often used as a tool to secure the power of the authorities in ways that sometimes violated both legal and human rights provisions (Kartasasmita 2014: 58).

There are different opinions regarding the security sector reform in Indonesia. Bradford submits that the reform has been implemented with a good record (2005: 19). Araf argued that there had been some improvements, but that some problems had weakened performance, in particular he said that the new paradigm showed the military tendency to maintain its role in Indonesian politics by adopting a different model of engagement (2007: 33). Other authors argue that security sector reform in Indonesia is incomplete, and that there remain impediments to attaining effective and responsible security institutions (Choiry 2014: 44; Liddle 2003: 399; Mietzner 2006: 3; Sukma 2010: 3). It is interesting that Crouch (2010: 177) and Beeson, Bellamy and Hughes (2006) have tried to understand Indonesian performance in undertaking security sector reform by considering the historical legacy and domestic politics that affected the dynamic of the reform. Beeson, Bellamy and Hughes in particular argue that Southeast Asian countries have different experiences from the Western countries; therefore there are some basic assumptions of the Western style security sector reform that cannot be easily adopted in Southeast Asia, including Indonesia (Beeson, Bellamy and Hughes (2006: 451). Considering the local context, it seems that for the foreseeable future, the military will continue to have an important role in Indonesian politics (Beeson, Bellamy and Hughes 2006: 462; Lee 2000: 706).

From the above explanation it can be concluded that, due to the continuing legacy of the powerful dual military-political function of ABRI during the New Order era, security sector reform can be seen as a work in progress. However, this cannot be an excuse for discontinuing or delaying the process towards accountable and responsible security sectors, which will provide a strong foundation to support the establishment of a responsible sovereign in order to ensure the protection of the people and individuals as the real holder of sovereignty.

3. The normative transition in Indonesia

a. Human rights as an inherent constitutional mandate

During the New Order, discussion of human rights as a universal value in Indonesia caused tension due to the varying views of the policy makers. The collapse of the New Order renewed momentum for the cause. The idea of human rights – which is essentially the idea of respecting and accepting human dignity – developed in Indonesia alongside the history of the nation. It was at the heart of the national awakening movement in the early 20th century, and at the heart of the struggle for nationalism to achieve the independence of Indonesia. This spirit is expressed in the Preamble to the 1945 Constitution, which states that the struggle for independence is a struggle to realise the right of each nation to become an independent nation and be free from oppression and colonialism because colonialism is considered as incompatible with humanity and justice (Indonesian Constitution 1945). The struggle for independence aimed to uphold the dignity of the nation to be equal with other nations. From this point of view, since early independence Indonesia has acknowledged human rights as an important building block in the foundations of a sovereign state. At this stage, it advocated the right for self-determination and the right for equal sovereignty. The idea of human rights was later confirmed in *Pancasila* and the 1945 Constitution but the socio-political context at the time only provided a minimalist space in accommodating human rights ideas.[27] Moreover, the idea of human rights stipulated in the early years of independence did not mention the protection of an individual's right to security from violence committed by the 'host' state. The responsibility that came with sovereignty that was articulated in that period was responsibility to protect the nation as a whole; it was not the responsibility to protect individual security from violence. In this early independence period, it was understood that the Government was more focused on the collective rights of the nation, which were related to the right to independence and the right to self-determination as a new sovereign state.

There was important progress in the commitment of the state to human protection that was reflected in the 1949 Constitution and the 1950 Provisional Constitution. These constitutions incorporated almost all human rights provisions from the Universal Declaration of Human Rights, including the protection of right to personal security. This commitment was further articulated in the 1955 Bandung Conference

[27] A deeper assessment on the construction of sovereignty and responsibility in the early independence era has been explained in the Chapter 2 of this thesis.

and within the meetings of the *Konstituante* that tried to formulate a new constitution for the country. Unfortunately, this idea was weakened by the successive authoritarian regimes of the Guided Democracy and the New Order. They managed to marginalise human rights and human protection discourses that had been inherent in the nation's history. Even with an increasingly vigorous development of human rights discourse in international society, the state was able to construct the idea that human rights were foreign concepts that are not in accordance with the values and personality of the Indonesian nation (Nasution 2003: 1-2).

The end of the authoritarian New Order government and the birth of the Reformation brought renewed internal momentum for the idea of human rights and human protection. It began to grow and become the foundation for the effort to improve the human dignity of Indonesia to be an equal and respected nation in international relations. These renewed domestic efforts contributed significantly to the institutionalisation of human rights and human protection within the Amended Constitution and other legislations after the *1998 Reformasi.* Thus, it would be misleading to say that only pressure from the international community determined the improvement for human rights in the Reform era[28] as the idea of human rights has had a long historical roots in the course of the Indonesian nation. Human rights and human protection were at the heart of the 1998 people's movement that called for reform of Indonesia's political system and government. Indonesian society had learnt from experience that strong and uncontrolled state power led to the abuse of power and it gave rise to the occurrence of human rights violations that did not fit with the genuine vision to form Indonesia as a just and prosperous state.

It is worthy to note how President Habibie understood the concept of human rights and responsibility:

> We have left behind us once and for all the notion that human rights are a product of Western culture. We state clearly that human rights imply a commitment by all of us to respect the honor and dignity of humankind irrespective of race, ethnicity, skin color, sex or social status. Needless to say, efforts to promote and protect human rights must be accompanied by a sense of responsibility. Indeed, there are no rights without responsibilities…
>
> In our seriousness to respect and enforce human rights I, on behalf of the government, would like to express through this grand forum my deepest regrets for past human rights violations in several regions committed by individuals from the state apparatus in operations against separatists… In full awareness of my mandate to respect and implement human rights, I hereby

[28] It was acknowledged that during the end of Soeharto's leadership, human rights protection was quite intense called by international NGOs, international organisations and Western countries.

> offer my apology to the Indonesian people, in particular to the families of the victimS..." (President Habibie The Jakarta Post 16 August 1998 cited in Bourchier and Hadiz 2003: 299).

This statement started the shifting in understanding that human rights was no longer perceived as a foreign idea for Indonesia anymore, but that it was part of Indonesian values that the government and society had to respect and protect. The apology from the President also reflected commitment from the government to change its behavior and policy towards human rights, something that was impossible to foster under the previous regime.

To have a stronger guarantee for human rights protection, the reform movement urged the Constitution to regulate human rights explicitly and in detail. The existing provisions on human rights stipulated in the Preamble, Article 27, 28, and 29 of the Constitution were proven as insufficient to guarantee human rights and the basic right for individual security. In response to the demands of the Reform Movement, on 13 November 1998 the MPR, acting as the manifestation of people's sovereignty, issued the MPR Decree No. XVII / MPR / 1998 concerning human rights. This Decree then provided a fundamental framework for reviewing the existing constitution, carried out through the amendment of the 1945 Constitution within the MPR Annual Sessions from 1999 to 2002.

Discourse on human rights had begun to shift. This was reflected in the language used by the MPR in its Decree that human rights were the mandate of the Constitution, in particular the Preamble of Constitution. Furthermore, the MPR Decree stated that

> Human rights is a right as a gift from God Almighty inherent in human self, natural, universal and eternal, related to the dignity and human dignity. … The Indonesian people realize that human rights are historical and dynamic whose implementation develops in the life of society, nation, and state (MPR Decree XVII/1998).

Indonesia as a nation perceives human rights based on the philosophy of life and personality of the nation that puts human beings as individual creatures and social beings. Therefore, the Indonesian people believe that human rights are inseparable from their obligations (MPR Decree XVII/1998). Indonesia's perception of human rights was sourced from religious teachings, universal moral values, cultural values of the nation, and based on Pancasila and the 1945 Constitution. Referring to Acharya (2004: 251), this indicates that in accepting the international norm of human rights, Indonesian elites, as the norm entrepreneurs tried to frame and graft those international norms to align with the existing

and accepted norms and interests within domestic society. Acharya (2004: 245) calls this process norm localisation. It is not merely adopting international human rights norms in their entirety to be incorporated into national legislations, but it refers to how norms are fashioned to be in conformity with national values; in turn, this makes them more easily accepted by the nation.

At the same time, to realise the active participation of Indonesia as part of the international community, it necessitates Indonesia to respect human rights stipulated in the UDHR and other international instruments. Therefore, it is important to note that the Decree incorporated all-important provisions of human rights from the UDHR, including 'the right to life and the right not to be subjected to torture or to cruel and degrading treatment' (MPR Decree XVII/1998). The strong commitment to human rights and human protection is further institutionalised in the Human Rights Act No. 39/1999.

Transition in the discourse of human rights continued during the process of the 1945 Constitution amendment. Discussions around constitutional amendment were marked by the common understanding among MPR members that human right was a precondition for democracy. The shifting understanding was also indicated by acceptance of the universal validity of human rights. Slamet Effendy Yususf (GOLKAR Party Faction) said that the former regime had used a particular perspective on human rights to allow the use of violence as an effective method to maintain order and sustain its power (Mahkamah Konstitusi 2000c: 284). The ruler had prioritised securing its power and had neglected its responsibility for human protection. Yusuf and Hamdan Zoelva (Star and Moon Party Faction) argued that Indonesia as a nation was an inseparable part of the world society; therefore, it must acknowledge universal human rights principles. The state had a responsibility to use its power and authority to give protection to its people (Mahkamah Konstitusi 2000c: 284).

Regarding the content of human rights that should be promulgated in the Constitution, there was common understanding that it would refer to the UDHR and other international human rights conventions as well as to the MPR Decree. For example, Valina Sinka Subekti (Group Representative Faction) suggested that the constitution should adopt human rights provisions stipulated in the UDHR and other human rights instruments. She added it should include *non-derogable* rights and gender equality (Mahkamah Konstitusi 2000c: 280-281). Yusuf (GOLKAR Party Faction) and Hendy Tjaswadi (TNI/POLRI Faction) proposed that the most fundamental rights that come into the category of *non-derogable* rights were 'the right to life, right not to be subjected to torture or to cruel and

inhuman treatment, and right to personal security' (Mahkamah Konstitusi 2000c: 284). They delineated other important rights including the right to freedom of assembly and association, the right to work and education, and the right to social work (Mahkamah Konstitusi 2000c: 293). Compared to the content of rights promulgated in the 1949 Constitution, the 1950 Provisional Constitution and the draft constitution of the *Konstituante*, this Amended 1945 Constitution incorporated more provisions of rights. Moreover, it is worthy to note that the amended constitution stipulated the rights to individual security from violence as follows:

> Article 28 A. Every person shall have the right to live and to defend his/her life and existence.
>
> Article 28 G
>
> 1. Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.
> 2. Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country" (Amended 1945 Constitution 2001).

The constitutional reform embodied through the Amendment of the 1945 Constitution, which affirmed the provision of respect and protection of human rights in precise detail, provided a stronger basis for the government to realise its responsibility towards its people. Human rights protection gained a stronger foothold because it was mandated by the constitution. There were some driving factors for the insertion of human rights provisions in the constitution. The first was to fulfil the need to be a responsible state. The insertion of human rights protection is one of the realisations of the sovereignty of the people, because it indicates that the sovereign has the responsibility to give protection to its people. The second was to fulfil moral and legal responsibilities as members of international society: Indonesia has to uphold UDHR and other international human rights instruments. Thirdly, it needed to fulfil the aspirations of the people, who had demanded improvement. In this regard, Nursyahbani Katja Sungkana (Group Representative Faction) argued that insertion of human rights clauses was necessary because the constitution was a social contract between the state and the citizen, and the first thing that must be protected by the state were the rights of the citizen (Mahkamah Konstitusi 2000c: 311).

The 1998 MPR Decree imperatively assigns the President to ratify international treaties on human rights under the auspices of the United Nations system with the terms 'not contrary to *Pancasila* and the 1945 Constitution'. To implement the MPR Decree, the Indonesian government ratified six major

treaties on human rights[29] including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, ratified in 1998) and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD, ratified in 1999). In 2005 Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Besides being mandated by the MPR Decree, pressure and criticism from international society, voiced by human rights NGOs and some prominent states drove the Government of Indonesia to ratify the Convention against Torture, and the Convention against Racial Discrimination. The 1997 economic crisis led to a multi-dimensional crisis in Indonesia. It triggered youth and students to demonstrate, demanding the government to improve the situation. The government responded with repressive means that resulted in gross human rights violations, which became known as the Semanggi and Trisakti incidents. This invited criticism and pressure from both the domestic and international community. Responding to these pressures, the new government of the Reform regime ratified CAT and ICERD to show their commitment to human rights improvement.

Although Article 2 of the 1998 MPR Decree includes the terms ‘not contrary to *Pancasila* and the 1945 Constitution’, which potentially creates room to limit the active participation of Indonesia in adopting the values of universal human rights. However, the ratification and harmonisation of several international instruments of human rights into the national law of Indonesia, proved that there was no conflict between human rights norms with *Pancasila* and the 1945 Constitution. Indonesian modalities in negotiating with international norms and universal values such as human rights exist in substantive aspects in *Pancasila* and the Amended Constitution. It necessitates a reinterpretation of the principles of Pancasila, in particular the first and second principles. The first principle 'Almighty God' implies an association with the core rules of the law of nature, and necessitates that truth applied to humans is a radiance of divine absolute truth; therefore it applies universally. The second principle 'just and civilized humanity' emphasises the side of justice and civility in human existence and implies that in essence all human beings are equal regardless of gender and social, economic and political status (Murtiono in Khanif 2016: 92). With this reinterpretation of Pancasila, we can find compatibility between Pancasila and human rights. Furthermore, with the additional provisions enunciated in the

[29] During the New Order era, Indonesia has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984 and Convention on the Rights of the Child (CRC) in 1990.

Chapter XA on Human Rights in the Amended 1945 Constitution, human rights have obtained a stronger foothold constitutionally.

The shifting of understanding of what constitutes human rights in the Reform era can also be inferred from the government's shift of how Pancasila and the 1945 Constitution should be seen and treated. The New Order regime considered *Pancasila* and the 1945 Constitution as something that was sacred and could only be interpreted unilaterally by the government (in order to preserve the power of the regime). With the establishment of the *Reformasi*, there emerged opportunities to interpret *Pancasila* and the 1945 Constitution as a system of ethical values in line with the universal values of human rights. Positive progress in adoption and internalisation of international human rights instruments into the Constitution and national legislations are evidence that *Pancasila* does have compatibility with the universal value system that has become a standard of common achievement for all peoples of the world (Murtiono in Khanif 2016: 99). At the same time, to facilitate the acceptance of international human rights norms, it is necessary to find a concept of human rights with an Indonesian vision: a conception that is appropriate for the character and personality of the Indonesian people and nation. This necessitates giving meaning to Pancasila not as a static and rigid value, but as a living value, norm, law, and system for all Indonesian people (Khanif 2016: 126). Pancasila should be understood as an open ideology, which is viable in a democratic system and can easily adapt to the development of values in the society.

As the realization of the commitment to human rights promotion, the Government issued the National Plan of Action for Human Rights (*Rencana Aksi Nasional Hak Asasi Manusia* or RANHAM) in the periods of 1998-2003, 2004-2009, 2010-2014, and 2015-2019. RANHAM gives an important framework for both the central and local governments to implement their domestic and international responsibilities, as stipulated in national human rights legislations, 'by considering the values of the religion, moral, tradition, cultures, and security as well as order of Indonesian nation based on *Pancasila* and the 1945 Constitution' (The Decree of the President No. 23/2011).

By ratifying the international human rights legal instruments, the state has an obligation to ensure, maintain, protect and promote human rights, as set out in international instruments for human rights that have been adopted. In concert with the concept of sovereignty, it is recognised that on the one hand

the state continues to claim control over its population and territory, but on the other hand, with the ratification of international instruments for human rights, some of the rights of sovereignty were handed over to the international instruments of human rights. Each country still has sovereignty in the sense that it independently manages its own government, but in relation to the protection of human rights, there are two sources of obligation. Internally the responsibility to protect the citizens' rights is the mandate of the constitution, and there are concurrent international legal obligations that stem from the ratification of international human rights laws.[30]

b. Evolving discourse of Sovereignty which entails both rights and responsibilities

In mid-1998 the Suharto regime was toppled by a wave of democratisation and Indonesia entered the era of transition to democracy. The political change influenced the way the country dealt with the issues of human rights; they were no longer just packaged as an issue that was used to oppose the repressive nature of the government and fight for democracy, as argued by the previous administration (Indonesian Imparsial 2014: 16). During the *Reformasi* era, human rights values were adopted into government policies and institutions of the state. Indeed, the protection, promotion and enforcement of human rights was established as part of the important agenda of the *Reformasi* government.

Indonesia has progressed much since the reformation, and human rights has become an important pillar at a national level. The Habibie presidency (1999-2002) reversed the orientation of traditional sovereignty (sovereignty as right and authority) to one with a responsibility to the people. Moreover the state responsibility has been recognised once it was spelled out in the Article 28 (a) to (j) of the Amended 1945 Constitution. The government has tried to encourage the development and protection of human rights as something that derives from the constitution, not as something that is merely forced from the outside. When the fourth amendment of the 1945 Constitution had passed, the idea that sovereignty entailed responsibility to protect human rights became the national consensus, not something that was imported from the outside. As a consequence, Indonesia has an obligation to develop and protect the human rights of every citizen of Indonesia because it is a constitutional mandate (Interview with the Head of ELSAM 15 February 2017; a commissioner of KOMNAS HAM,

[30] Most interviewees from the government officials and civil society (NGOs and academics) shared this point of view during my fieldwork.

11 December 2015; Head of Human Rights Bureau of the Coordinating Ministry of Political and Security Affairs, 8 December 2015; and the Head of Human Rights Bureau of the Ministry of Foreign Affairs, 6 January 2016). This is reflected in the evolution of the discourse that a sovereign has responsibility to ensure protection to its people, as the genuine purpose of the establishment of the Indonesian nation-state.

Regarding the concept of sovereignty, it is important to evaluate whether the results of the 1945 Constitution amendment support the sovereignty norms oriented to the people or to the state. It may be necessary to see whether the concept of popular sovereignty that was reconstructed by the Indonesian leaders during the amendment of the 1945 Constitution is consistent with the generally accepted meaning of popular sovereignty. We can refer to the idea of social contract from the time of John Locke and J. J. Rousseau. In essence, the legitimacy of the sovereign power is derived from the consent of the people. The government exercises power based on the will of the governed and the government has responsibility to attain common goods including giving protection to the people. With this in mind, Alex Bellamy labelled the sovereignty that lays its claim in the name of human rights as popular sovereignty (2009: 11). Sovereignty of the people means that the reference and orientation of the sovereign is directed to the people, to fulfil the will and needs of the people, and to guarantee that the people's needs, including the basic right to security are fulfilled and protected. According to Francis Deng, as an agent and a manifestation of the sovereignty of the people, the state has a responsibility to improve the living conditions of citizens and should be accountable for its mandate, both internally and externally (Deng 2006: 220; Solomon 2005: 1).

The Amended 1945 Constitution shifted the understanding of sovereignty by reconstructing the concept of sovereignty promulgated in Article 1 (2) from 'Sovereignty is vested in the people and shall be fully exercised by the People's Consultative Assembly (MPR)' to the conception of 'Sovereignty is vested in the people and is implemented according to this Constitution' (Amended 1945 Constitution 2000). It changed the way sovereignty was exercised and implemented. The Amended Constitution put limitations on the power of the executive and at the same time strengthened the legislative and judicial bodies, as well as the check and balance mechanism among government branches. The most important change was that the amended constitution mandated to the government to promote, respect and fulfil human rights, including human protection. These changes showed that the amended constitution reconstructed the concept of sovereignty in Indonesia by affirming that the sovereign has

responsibilities, including the duty to attain the betterment of life of the people, especially by promoting and protecting basic rights, as a precondition for the enjoyment of other human rights.

The amended Constitution is considered to have met the criteria for the principle of popular sovereignty, viewed from the substantial and procedural aspects. The substantial principle is manifested in the existence of Article 1 (2) 'Sovereignty is vested in the people and is implemented according to this Constitution' (Amended 1945 Constitution, 2000). In addition, there are more detailed and clear provisions concerning human rights stipulated in Chapter XA Article 28 (a) to (j), which guarantee the principles of freedom and equality. The second aspect is related to the procedural principle that manifests in Article 2, which guarantees the principle of majority rule in the decision-making process and the principle of accountability that has to be observed by the executive, legislative and judicial bodies. The transformation was not only reflected in the enactment of the amended constitution, but also in the institutional aspect to strengthen the role of civil society and the media in implementing the promotion and protection of human rights. The active role of civil society is increasingly becoming an important check and balance to the state that is necessary to ensure the government exercises its power and authority in a responsible manner.

The internal changes reflected in the reformulation of sovereignty within the constitution and the redefinition of sovereignty within international society in the post-Cold War era implied a growing awareness and understanding within Indonesian society that it was no longer appropriate for Indonesia to maintain priority only on order and stability without considering and prioritising justice. During the New Order era, the government used a perspective that emphasised the use of force to solve various problems. Security and order are considered as prerequisites for development that would bring about the prosperity of the nation. Currently, with the changing nature of normative structure at the international and domestic levels, it is no longer sufficient for a sovereign state to only focus on maintaining state security, territorial control and integration. To be recognised as a sovereign state, it has to develop democratic institutions and fulfil its responsibilities to protect the human rights of its people.

President Habibie also acknowledged that globalisation and normative transformation in the international society had brought fundamental changes to many nations, including Indonesia. This was reflected in his statement reported in the national media:

> In political domain, reforms aim at reinforcing democracy based upon popular participation…by organizing people's consultative and representative institutions to uphold sovereignty vested in the people…we must create a transparent socio-political system with structures and processes that truly and effectively reflect the sovereignty of the people…
>
> The social and political volatility that peaked on 21 May was evidence that the old paradigm emphasizing stability through a security approach was no longer adequate to respond to the fast-changing demands and aspirations of the people. A new paradigm needs to be developed that gives more emphasis to a democratic and welfare approach (President Habibie The Jakarta Post 16 August 1998 cited in Bourchier and Hadiz 2003: 298, 301).

With that statement, he emphasised the need for Indonesia to leave the security approach as the manifestation of traditional sovereignty which focuses on the rights of the state to control the country. In contrast, he advocated sovereignty of the people and urged the adoption of sovereignty as responsibility focusing on the fulfilment of state responsibility to respond to the people's need.

c. The East Timor solution as a reflection of the shifting understanding of sovereignty and responsibility in Indonesia

The case study of East Timor is chosen because the Indonesian-East Timor relations in the 1970s captured the normative transformation within international and domestic societies. The East Timor case study reflected a shift of actors' behavior towards international norms.

As explained in Chapter III, the policy to integrate East Timor in 1975 reflects that Indonesia prioritised the sovereignty norm as a right rather than as a responsibility, meaning that it adopted the right to preserve its national integrity and security while human rights and self-determination of the East Timorese were considered as less urgent interests to be considered. This was able to take place due to an enabling environment whereby prominent actors, in particular the major Western countries, interpreted the self-determination norm to be adjusted to their respective national interest. In the 1970s, although human rights were increasingly adopted as an international norm, their implementation remained in the domestic jurisdiction. Within these circumstances, each sovereign state had the discretion to interpret and determine the notion of responsibility to promote human rights values in according to its domestic context. Therefore the prominent Western countries at that time were complicit with the policy of Indonesia in East Timor.

However, there was a significant change in global thinking, at the end of the 1990s, where issues of democracy, human rights and good governance gained the attention of the international community. The end of the Cold War had already brought a significant transformation in international norms, in particular regarding sovereignty and responsibility. It was admitted that sovereignty could not entail complete independence or absolute authority over domestic affairs (Simma 2002: 150; MacFarlane and Sabanadze 2013: 625). There was a important shift from the exclusive rights of the sovereign state to the acknowledgement of the basic rights of individuals. The global realisation was that the state sovereignty did not only regarding rights; it also assigned the state to carry out the responsibility to ensure the safety and wellbeing of its people. Failure in performing responsibilities would trigger international community to questioning its sovereign rights (MacFarlane and Sabanadze 2013: 625). In this circumstance, the international community might take over responsibility in line with the development of the international norm of humanitarian intervention.

This changing normative structure at an international level had implications for the conduct of states, including Indonesia, in implementing their sovereign rights and responsibilities. Indonesia had to adapt to this evolving dynamic and could not ignore its responsibility to respect human rights. Criticism emerged from the international community over the violence and human rights abuses committed during the integration of East Timor. The United Nations issued a warning and resolution over poor performance of human rights in East Timor. This spurred efforts by the international community to find a solution to the East Timor conflict based on the self-determination principle (Amnesty International 1994: 12; Schwarz 1999: 223). It encouraged Jakarta to rethink the appropriateness of its security-based approach integration policy in East Timor and commit to adopt a more people-oriented development approach, as was expressed in the President Habibie's statement in the Jakarta Post in 1998 (as cited in Bourchier and Hadiz 2003: 301).

At the same time, at the domestic level, as already explained in this chapter, the *Reformasi* had brought significant transformation to the political, economic and social order. This had important effects on the dynamics of Jakarta's policy towards East Timor. The new government proposed a special status for East Timor, giving it wide-ranging autonomy within the framework of the Unitary Republic of Indonesia. This proposal was presented at tripartite talks in New York and received a positive response from the Portuguese representative and the UNSG (Alatas 2006: 135); however, it received criticism from NGOs and some other states. Some East Timorese perceived the proposal as an opportunity to

open a wider possibility to the final goal of independence, by arguing that this special autonomy was considered a bridge for preparing a referendum in the next five or ten years (Alatas 2006: 147).

Meanwhile, tensions continued to escalate in East Timor, which drove criticism and pressure from domestic and international society. Australian Prime Minister John Howard suggested to President Habibie that he consider the possibility of holding a referendum after some time of special autonomy (Wheeler and Dunne 2001: 812). After careful discussions in a Special Coordination Meeting for Political and Security Affairs, President Habibie offered Option II of popular consultation on 27 January 1999, as an alternative proposal if the East Timorese people rejected Option I of special autonomy. As these talks unfolded, the deteriorating security conditions in the field, marked by the escalating turmoil and violence between pro-independence and pro-integration groups, had caused thousands of people to flee outside the province, thereby intensifying international concern and criticism.

With the close attention of the international and domestic community after the fall of Soeharto, increasing demands of the people of East Timor, and the new government willingness to carry out the mandate of reform, President Habibie finally agreed to hold a popular consultation under the UN supervision to give opportunity for the East Timorese people to determine their futures. On 30 August 1999 a popular consultation was conducted by the UNAMET and monitored by 500 international observers, 1700 Timorese observers and several NGOs and other civil society organisations. The UNSG announced the result on 4 September 1999 that 94,388 or 21.5 percent of registered voters chose special autonomy and 344,580 or 78.5 percent favoured independence from Indonesia (Cotton 2004: 61; Hadi et al. 2007: 191).

Shortly after the announcement of the ballot result, violence broke out which apparently could not be controlled by the Indonesian authorities. Upset with the unpredicted result, the pro-integration militias attacked the pro-independence supporters and looted and burned various facilities. Many houses and other infrastructure were destroyed. In Dili and other cities, hundreds of people died, and thousands of people had to flee to the West Nusa Tenggara (Hadi et al. 2007: 191). Even the UNAMET was forced to withdraw all local employees from outside Dili. TNI was seen as unable to handle security. There were allegations that TNI stood behind the riots by omission, allowing the militia to commit crimes, and giving tacit support to the militias to conduct the violence (Hadi, et al. 2007: 192; KOMNAS HAM

2000b: 10-16). A report by the UNSC delegation to East Timor stated that 'the violence could not have occurred without the involvement of large elements of the Indonesian military and police' and concluded that 'the Indonesian authorities were either unwilling or unable to provide the proper environment for the peaceful implementation of the 5 May agreement' (UNSC 1999: 6; Cotton 2004: 61).

Based on this situation, the UNSC urged Indonesia to give access to an international intervention for restoring security and order in the territory. Initially Habibie rejected the presence of international troops before receiving a definitive decision from the Indonesian Parliament regarding the results of the referendum. But strong pressure from the international community prompted Habibie to give consent to the entry of the international force. The pressure came from many parties in the guise of warning froms the World Bank and the IMF to stop economic aid, from the US to stop the military assistance, for an economic embargo from the European Union, and from the international community that the Indonesia's reputation as a leader of ASEAN and the non-aligned movement would be destroyed if it did not act to improve the situation (Wheeler and Dunne 2001: 818-819). On 12 September 1999, Indonesia finally consented to accept a multinational enforcement mission. On September 15, the UNSC authorised the establishment of INTERFET through the Resolution 1296/1999, where Australia took a central role in the implementing the enforcement mission in East Timor.

Under considerable international pressure, President Habibie commanded KOMNAS HAM to establish a Commission of Inquiry on Human Rights Violation in East Timor (*Komisi Penyelidik Pelanggaran Hak Asasi Manusia* or KPP HAM). Its final report on 31 January 2000 stated that 32 individuals, mostly senior police and military officials to be responsible for serious violation of human rights (Cotton 2004: 65; KOMNAS HAM 2000b: 43-46). The United Nations established the UN Commission of Inquiry to investigate human rights violations in East Timor during 1999, which in turn suggested the international community to establish an international tribunal if Indonesia failed to address this problem. This pressure was heightened by the adoption of UNSC Resolution No. 1264 in 1999. President Abdurrahman Wahid, Habibie's successor, preferred to establish an ad hoc human rights court based on Human Rights Court Law No. 26 of 2000 to trial the perpetrators in the East Timor case.

This case study showed how domestic and international contexts influenced the transformation of Indonesia's understanding and practice regarding the norm of sovereignty and responsibility in the *Reformasi* era. The changing nature of the domestic political system, which opened up the gate for the development of democracy and human rights, encouraged the government to depart from the previous understanding of sovereignty that only emphasised its rights to control the people. The evolving discourse on sovereignty after the *Reformasi*, as can be seen in the previous discussion regarding constitutional reform and security sector reform, demonstrated the development of understanding that the idea of sovereignty consists of both rights and responsibilities. It is acknowledged that the state, especially the government, has a responsibility to give protection to its population and to realise common good for the people. This domestic transformation could not be separated from what was going on at the international level. The stronger commitment toward a sovereignty that entailed rights and responsibilities resonated in the domestic discourse.

These circumstances were manifested in the changing attitude and policy of Jakarta towards East Timor in the aftermath of *Reformasi.* The new administration had prepared to change its policy and offered a new status of special autonomy to the youngest province. The granting of a special autonomy option was based on the desire and interest of Indonesia to maintain its sovereignty over East Timor. However, the internal and external criticism drove the central government to offer the second option of a referendum, which resulted in the majority decision of the East Timorese people to choose an independent option. The unpredicted and uncontrolled violence after the ballot garnered strong criticism towards Jakarta. The reluctance to give consent to the international force was also based on the same interests and considerations to prioritise sovereign rights to be free from external intervention in domestic affairs. However, with the deteriorating situation and humanitarian crisis unfolding in East Timor and the increasingly severe external pressure, Indonesia compromised its sovereign rights in order to perform its sovereign responsibility by allowing the international mission for restoring security and order in the territory and bringing the perpetrators of human rights atrocities in the conflict to the court.

4. Conclusion

This chapter investigated how Indonesia reconstructed the norms of sovereignty and responsibility in the post-1998 era. This era saw a significant transformation of material and ideational structures, both

in international and domestic societies, which brought a significant change in Indonesia's perception and practice toward sovereignty and responsibility norms.

In the international realm, the end of the Cold War brought normative transformation which affected the guiding principles for states and other actors in their interactions with each other. The decline in ideological rivalry between the two power blocs opened up the possibility that human rights abuses could be considered as a threat to international peace and security. This development changed the conceptual meaning of sovereignty and responsibility and allowed them to be perceived and reconstructed as complementary and compatible norms. It further facilitated the redefinition of sovereignty to include responsibility.

In the domestic realm, 1998 marked a significant political turning point when Indonesia transformed from an authoritarian to a democratic system. These international and domestic transformations shaped the way Indonesian society gave meaning to the norms of sovereignty and responsibility for human protection. Discourse on sovereignty and human rights began to shift with the amendment of the 1945 Constitution. The amended constitution reconstructed the concept of sovereignty by asserting that sovereignty should be vested to the people and be executed in accordance with the constitution. It put limitations on the state's power and authority to prevent the state and the government exercising power arbitrarily, and added provisions to remind the sovereign that they had more responsibilities to perform. This was done by adopting clauses to limit the period of presidency, strengthen the checks and balances mechanism, and add more human rights provisions.

The insertion of more detail and explicit human rights provisions in the Amended Constitution, provided a stronger basis for the state to realise its responsibility towards its people, as now mandated by the constitution. The idea of human rights was at the heart of effort to improve the human dignity of Indonesia to be an equal and respected nation in international relations. In addition, Indonesia became more aligned with international society, as evidence by its ratification of international human rights instruments and harmonising those principles into national laws and policies. Therefore, with the Reformation, there was an evolving discourse in Indonesia that perceived human rights and human protection as an inherent constitutional mandate and as an Indonesian obligation under certain ratified international human rights instruments.

Chapter V. The contemporary Orientation of R2P in Indonesia

The previous chapters explained how the idea of sovereignty and responsibility has evolved within Indonesia. Despite widespread assumptions that sovereignty has a fixed meaning, this thesis finds that the idea of sovereignty has been dynamically evolving during successive phases of Indonesian history. This chapter aims to assess how Indonesia understands and accepts the R2P norm, and to explore the preparedness and commitment of Indonesia to implementing and mainstreaming the norm. The analysis will be presented in three sections. The first section will explore the emergence of R2P within international society. The second section will describe the perception and understanding of that new norm within Indonesia. The third and final section will explore the prospect for the implementation of R2P in Indonesia by evaluating the extent of its acceptance as a framework for maintaining sovereignty while committing to human protection.

1. Responsibility to Protect within international society

As noted in the previous Chapter, there has been a significant normative transformation in international society since the end of the Cold War, which in turn affected how states and other actors interact with each other. When Kofi Annan, the former UN Secretary General, presented his 1999 Annual Report and the 2000 Millennium Report he proposed that the sovereignty of the people should prevail if it came into conflict with the sovereignty of the state (UNSG 1999: 2; UNSG 2000: 34). His speeches set the compass for the cultivation of R2P, and interestingly, the East Timor case became part of the story of this global normative transition. As Annan argued in *The Economist*, the troubles in East Timor directed international society to focus on 'timely intervention by international community' to stop massive human rights abuses when the respected state do not have ability and willingness to handle it (Annan 1999: 1). He further underlined the importance of the international community's ability to take action in dealing with actual or potential humanitarian atrocities:

> Our reflections on these critical questions derive not only from the events of last year, but from a variety of challenges that confront us today, most urgently in East Timor. From Sierra Leone to the Sudan to Angola to the Balkans to Cambodia and to Afghanistan, there are a great number of peoples who need more than just words of sympathy from the international community. They need a real and sustained commitment to help end their cycles of violence … Let me say that the Council's prompt and effective action in authorizing a multinational force for East Timor reflects precisely the unity of purpose that I have called for today (UNSG 1999: 2-3; Thomson 2005: 19).

The case of East Timor marked a new chapter in the development of the international discourse on norms of sovereignty and intervention. Nicholas Wheeler and Tim Dunne (2001: 806) described the East Timor crisis as a new form of humanitarian interventionism within which there was no conflict regarding the use of force as a means to achieve humanitarian purpose and it became 'a barometer for how far the normative structure of international society has been transformed.' INTERFET acted with the UN Security Council authorization after the Government of Indonesia provided its consent (Wheeler 2001: 553; Martin, 2004: 142) – something that was not forthcoming in the earlier case of the Kosovo crisis. For this reason, Australia's Foreign Minister, Alexander Downer (cited in Wheeler and Dunne 2001:808), and Ian Martin (2004: 142) mentioned East Timor as a unique case that would constitute the future of international intervention. And Annete Jansen considered international intervention in East Timor had important contribution to the development of R2P 'in a doctrinal (military intervention for humanitarian purposes), intellectual (vision as laid down in Annan's speech), and in empirical sense (example of what such an intervention might look like)' (2017: 15).

The UN Secretary General requested that international society finds a way to address the dilemma of intervention to give protection to the people in danger. The main contribution of R2P is that it tries to shift the discourse from the 'right to intervene' to the idea of 'responsibility to protect' and from focusing on state sovereignty as the absolute term of control to the sovereignty as responsibility to promote common humanity (Evans et al 2001: 8; Capie 2012: 77; Welsh, 2009: 3). This shift of language has changed the perception and has created new environment to find a consensus in dealing with the dilemma of intervention for saving the risk people. International society recognises the sovereignty of a state, but it does not mean that the state has unlimited claims and powers in acting or treating its people according to their own free will. The concept of sovereignty comprehends dual responsibilities that are complementary, namely: externally, there is an obligation to respect the sovereignty of another country, and internally, there is an obligation to respect the dignity of all those who are in his power (Evans et al. 2001: 8).

One important feature is that R2P confers the responsibility to provide protection to the individual to the state. By interpreting sovereignty as a responsibility, the state authority should assume responsibility for carrying out the functions of protection for the life and safety of its population. It is only in the event where the civilian's safety is threatened, while the state cannot or is not ready to halt

the violation, or even the state acts as the offender, the international community has a duty to intervene for the purpose to give protection to the population in risk (Evans et al. 2001:16).

The principle then gained consensus from the international community affirmed in the UNGA Resolution No. A/RES/60/1 in the UN 2005 World Summit forum (UNGA 2005: 30), states that:

> 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.
>
> 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (UNGA 2005: 30).

In essence, referring to Ban Ki-moon, the former UN Secretary General, R2P should be understood in terms of three pillars, namely: individual state responsibility, international assistance in capacity building, and a timely and decisive response (UNSG 2009: 2; Breaky 2012: 18, Bouwhuis 2013: 731; Welsh 2009: 2). In 2006, the UN Security Council endorsed R2P by adopting UNSC Resolution No. 1674 on the Protection of Civilians in Armed Conflicts. In this Resolution, UN Security Council emphasizes that state has an obligation for bringing justice of those responsible for mass atrocity crimes (UNSC 2006: 2). With this endorsement, R2P gained more legitimacy as the international principle, which set a standard of appropriate behavior for a responsible government, internally towards its people and externally towards international community.

2. Indonesia and the Responsibility to Protect

This section aims to explore the perception and acceptance of Indonesia, as the third largest democracy in the world, to the R2P norm, which set a standard of proper behavior for a responsible government.

With the establishment of the Reformation regime Indonesia has gradually built a democratic political system. The changing nature of the domestic political system, which has now opened up to democracy and human rights, encouraged the government to abandon previous understandings of sovereignty that only emphasized the sovereign's right to exercise control over the people. The evolving discourse on sovereignty after the *Reformasi*, as presented in the previous chapter, demonstrates the development of the idea of sovereignty consisting of both rights and responsibilities. This development provides great potential for the acceptance and application of R2P in Indonesia.

The process of Indonesia's socialisation of the R2P framework can be seen by observing the interpretation of R2P that circulates in government and other public institutions and networks.

a. Indonesia's position at the United Nations Forums

Indonesia became one of the participating states that endorsed the R2P principle within the 2005 World Summit. During the Summit, the Indonesian President Susilo Bambang Yudhoyono stated that

> We need consensus on the responsibility to protect the people from genocide, ethnic cleansing and crimes against humanity. To achieve this goal, armed forces should only be used when other means have failed. (Yudhoyono 2005: 1; Alexandra 2011: 58; APR2P 2008: 12; CSIS 2011a: 3)

This statement reflected Indonesian prudence in addressing this new norm, in particular the methods to be used under the R2P norm. Indonesia recognized the imperative to achieve consensus among the members of international society regarding R2P. However, Indonesia underlined the importance of making clear the definition of R2P crimes, what measures would be carried out when there is any R2P situation, and who has the authority to decide on and undertake those measures (Pohlman 2010a: 7). The clarity of these aspects is important in order to prevent the illegitimate application of R2P.

With regard to the third pillar of R2P, Indonesia has shown a more cautious attitude. In principle Indonesia recognizes the importance of prompt action at the right time as one option to be considered when a state fails in its obligations to protect its people. However, consistent with the views of other developing countries, Indonesia remains skeptical of the possibility of using military intervention. In this context, the Indonesian government emphasizes the importance of respecting the sovereignty and

equality of all states, and the need to further develop criteria to deploy military force in response to massive humanitarian crisis (CSIS 2011a: 5). This attitude was expressed by the Indonesian delegation to the 98th Plenary Meeting of the UNGA on 7 September 2006:

> The concept of responsibility to protect should be approached carefully, taking into account the sovereignty and equality of all States. My delegation opposes the threatening of peoples, groups or countries by others, and sees that as a counterproductive measure. While we realize that sanctions may be required in some exceptional circumstances, we believe that extreme care should be exercised in that regard (A/60/PV.98, September 2006: 19; Alexandra 2011: 58-59).

In this regard, Indonesia had concerns that the use of force would do more harm than good since it could cause more civilians casualties. Indonesia also had concerns with the potential misapplication of coercive military action (Bellamy and Beeson 2010: 268). Considering the potential risk of military intervention, Indonesia always emphasizes the importance of non-violent responses to mass atrocity situations, including using diplomacy and mediation before deployment of armed forces. With this in mind, Indonesia affirmed its commitment to make military intervention the last resort for responding to R2P cases.

In 2009, the UN Secretary General clarified the strategy for implementing R2P that was stipulated in the UNSG Report on the 'Implementation of the Responsibility to Protect' (UNSG 2009: 2). The UN Secretary General Ban Ki-moon underlined the equal importance and the interdependence of the three pillars of R2P in order to ensure protection of population. Another important point mentioned in the report is that R2P should remain narrow in its scope, to apply only to the four atrocity crimes: genocide, war crimes, ethnic cleansing and crimes against humanity (UNGA 2005). However, it envisages a deep response involving prevention and protection instruments. It is also important to note that these responsibilities of states and international community are rooted in well-established international law, especially international humanitarian and human rights law. With this understanding, R2P is not in opposition to sovereignty; instead, it could be regarded as strengthening sovereignty (Pohlman 2010a: 9; Serrano 2010: 176; UNSG 2009: 7).

On this occasion, Indonesia again expressed its support for the three pillars of R2P as a solid framework to defend any assault of the four R2P crimes. As the Indonesian Representative put it, 'the task ahead is not to reinterpret or renegotiate the conclusion of the World Summit, rather to find ways of implementing its decisions' (Natalegawa 2009: 2; Devetak et al. 2016: 12). However, for

operationalizing the implementation of R2P, Indonesia tends to emphasize the importance of prevention measures (Alexandra 2011: 60). In addition, Indonesia encouraged the General Assembly to develop a comprehensive capacity-building program and at the same time underline the importance of the role of international and regional community to assist states in capacity building (Natalegawa 2009: 3).

The commitment of Indonesia towards R2P is getting stronger as reflected in its discourse presented during the UN General Assembly Informal Interactive Dialogue on R2P in 2013 and 2014. Indonesia reaffirmed its strong support to 'fully and firmly subscribe to the finest purposes and objectives of the concept of Responsibility to Protect … and committed to participate actively in implementing R2P' (PRRI, 2013: 1). In 2014, Indonesia even confidently stated, 'It is our unwavering position that the Responsibility to Protect is, and must be, a universal principle' (PRRI, 2014: 1). In this forum that focused on collective responsibility and international assistance, Indonesia agreed with the key points highlighted by the UN Secretary General that that 'Pillar II Assistance and capacity building to assist States in upholding their responsibilities, reaffirms that R2P reinforces State sovereignty and is preventive at its core' (PRRI, 2014: 2).

Indonesia continues to give strong support to R2P as expressed in the UN General Assembly Dialogue on R2P in 2015. Consistent with its position in focusing on the prevention aspect, the government of Indonesia presented some measures that have been carried out by Indonesia in implementing prevention capacity including: building a strong normative and institutional framework and building community resilience (PMRI 2015: 4).[31]

From Indonesia's statements in the UN General Assembly, it can be concluded that Indonesia has consitently supported R2P as a whole from its inauguration at the 2005 World Summit. Indonesia always actively engages in multilateral discussions about the R2P norm in UN forums. From the language expressed in these statements, there is a case for arguing that an increasing trend is evident in Indonesia's commitment to endorse and implement R2P. Indonesia affirms that the responsibility to provide protection to the people lay primarily in the individual state, while international community has a responsibility to provide assistance in cautious about the application of the preventive and responsive

[31] The next section will investigate how Indonesia carried out these measures as part of its efforts to implement R2P.

actions by international community that encompass the potential of military intervention. In this respect, Indonesia encourages the international community to continue the dialogue to discuss further on this matter.

b. R2P understanding within domestic society

After describing the Indonesian Government's position on R2P at the international level, especially in various UN forums, it is important to note how R2P has been understood by other actors within domestic society. This description will help to give us a comprehensive picture of shared understanding on R2P within Indonesian society. This description can be utilized for assessing the acceptance and the potential for implementation of the R2P norm in Indonesia.

A preliminary study conducted by the Centre for Strategic and International Studies (CSIS) in Jakarta in 2011 found that R2P was seen as a new concept that has not received widespread attention. Apart from the Ministry of Foreign Affairs, other government departments only had minimal knowledge about R2P. R2P was not even been familiar among the officials in the Ministry of Defense, as one of the important stakeholders in R2P and human rights affairs. Politicians in the House of Representatives (*Dewan Perwakilan Rakyat* or DPR) started to become aware of R2P with the escalation of the humanitarian crisis in Libya in early 2011. In general, government institutions still perceive R2P cautiously, especially the third pillar; the concern here is that such action can be misused by the great powers for their own vested interests. Facing these challenges, the study concluded that colaboration between the government and civil society to promote R2P was required, particularly by increasing human rights protection in the country (Alexandra 2011; CSIS 2011b; interview with a researcher in CSIS, Lina Alexandra, 6 January 2016).

Based on the results of my in-depth interviews in December 2015-February 2017 with government employees, military officers, police, academics, researchers and human rights activists in Indonesia, this thesis provides an update on findings related to the perspectives of local actors on understanding how R2P relates to Indonesia. Respondents represent the government and other institutions that work closely to the R2P related issue, including the Coordinating Ministry for Political, Legal, and Security Affairs; Ministry of Foreign Affairs, Ministry of Justice and Human Rights; Ministry of Defense;

National Police; National Committee of Human Rights (KOMNAS HAM); some research centers and non-government organizations.

The earlier research conducted by the Centre for Strategic and International Studies (CSIS) in 2011 found that R2P had not, at that time, received wide attention within Indonesian society. This thesis argues that R2P is now more widely understood, indicated by the fact that all of my respondents have known about R2P as a concept that emphasizes the state's responsibility to provide protection to its people. They also recognize that their institutions see R2P as relevant and important to Indonesia. However, it is admitted that knowledge of R2P is not yet popular among the grassroots and there are different degrees of understanding and acceptance of R2P among respondents (Interview with government officers, academics, and NGO activists 2015-2017). KOMNAS HAM and civil society organizations are the most open and receptive actors to the framework because they can use R2P to fight for more rights protection. A commissioner of KOMNAS HAM stated that the core principle of R2P, namely the commitment of the state to give protection, already exists in the constitution, in the Preamble of the 1945 Constitution, which states that the purpose of the establishment of the Indonesian state is to provide protection for the people. The essence of R2P is to correspond with the idea of sovereignty in Indonesia, which is based on the responsibility of protecting its subjects. Although later there was a dynamic where the aspect of responsibility had been marginalized, but since the Reformation, Indonesia's commitment to human rights has progressed. This situation shows that sovereignty is no longer contrasted with human rights as was perceived in the New Order era (Interview with a commissioner of KOMNAS HAM, Roichatul Aswidah on 11 December 2015).

Respondents from human rights NGOs acknowledged that R2P is relevant and important for Indonesia since it is an element of the reform agenda associated with building a democratic and responsible state. These representatives have a similar argument that sovereignty has to be manifested in the state’s capacity to protect its people. When the state complies with protecting human rights, no one will question its sovereignty. These NGOs have worked actively to fight for the promotion, enforcement and protection of human rights through various strategies including human rights education, research to policy advocacy to ensure that the state carries out and fulfills its responsibilities to the population. Therefore they are ready to accept R2P since the fundamental value is in line with the vision they have fought for. And they hope that the government will genuinely realize its commitment to R2P in the

domestic sphere, as stated at the UN forum (Interview with civil society 2015; 2016; 2017)[32]. KontraS stated that the acceptance of R2P by the UN member states strengthened the status of human protection as a universal value which all states are responsible for, without exception. Therefore, Indonesia needs to remain aligned with the R2P framework (KontraS, 2014: 6). Rizal Panggabean from Gadjah Mada University said that R2P is closely related to a classical adage in politics *protego, ergo, obligo* which means if I am protected then I have obligation to support and obey those who protect me. Taken to the level of the people as a whole, one can interpret the phrase as meaning that if the state gives protection to its people then the people will give obedience to the state. If the state cannot provide protection, it will not be considered to be sovereign, and will not get the strong support (and the obligation to obey laws) from its citizens. With this understanding, then R2P provides a basis for the legitimacy of state sovereignty (Interview with a UGM scholar, Rizal Panggabean on 22 February 2017).

Related to Pillar 3, the majority of respondents from civil society have a more open-minded perspective towards the possibility of international intervention if a country is found to have failed to take responsibility for protecting of its people. They persuaded the Government of Indonesia not to worry about Pillar III for the reason that as long as the state carries out its responsibilities it will not open up possibilities for intervention. Therefore, they voiced a similar recommendation that the important agenda to be pursued in the future is to ascertain that the Government of Indonesia has to make real efforts to establish a system and political structure that can ensure and strengthen the capacity of the state to protect its citizens (Interview with LIPI, KontraS, Imparsial (2015); CSIS, CiRES, HRWG, UGM (2016); ELSAM, The Habibie Centre (2017). However, a concern that was admitted by an interviewee from Human Rights Working Group, who has been working closely with ASEAN for many years, it is quite difficult to convince states that have experienced the trauma of being colonized by foreign state of the need to potentially take coercive measures in the name of R2P. The case of Libya in 2011 confirmed for these countries that there is a danger that human protection can be utilized to justify a military intervention that changes the regime of the target states (Interview with a senior researcher of HRWG, Yuyun Wahyuningrum on 11 January 2016).

[32] Interview with Kusnanto Anggoro from CiRES on 11 January 2016, Philips Vermonte from CSIS on 6 January 2016, Adriana Elisabeth from LIPI on 15 January 2015, Puri K Putri from KontraS on 30 November 2015; Pungky Indarti from Imparsial on 16 December 2015; Rafendi Djamin and Yuyun Wahyuningrum from HRWG on 25 January 2016 and 11 January 2016; Mohtar Mas'oed from UGM on 18 January 2016; Wahyu Wagiman and Wahyudi Djafar from ELSAM on 16 February 2017, Rahimah Abdulrahim from The Habibie Centre on 23 February 2017.

The Ministry of Foreign Affairs (MoFA) is an institution that is the most familiar with R2P, compared with other governmental institutions, and has been actively involved in the discussions about R2P in international forums. To an extent, MoFA accepts R2P as a whole three-pillar package. However, a respondent said that in the UN forum Indonesia need to show solidarity towards fellow developing countries, which are very cautious with making any commitments that allow for the possibility for military intervention (Interview with the Head of Human Rights Division of the Ministry of Foreign Affairs 6 January 2016). Therefore, in these larger multilateral forums Indonesia stands by Pillar I and II, and is cautious about Pillar III. Most developing countries still face with challenges related to the lack of capacity of state structures. Therefore, they need assistance to build and improve their capacity to fulfill their responsibilities. While regarding the third pillar, developing countries voice concern that they could become the target of international intervention. Given these contexts, it is understandable that developing countries are focusing more on pillar one and two but very cautious to the third pillar of R2P.

With regards to the Pillar III of R2P, the interviewee confirmed that Indonesia supports the UN Security Council in order to make decisions in a timely manner to authorize decisive action when there is an R2P-type of alert. He underscored that the action should be in conformity with the UN Charter and other international law provisions (Interview on 6 January 2016). A more supportive point of view was presented by a senior diplomat, H. E. Professor Makarim Wibisono, who believe that Indonesia needs to endorse R2P as a whole and should not be hesitant with respect to the third pillar. To him, *Reformasi* has meant that the state has strong commitment and capacity not to let atrocities occur. He was convinced that Indonesia's national legislation had provided a robust legal framework for human rights promotion and protection and he stated that Indonesia had been the most vociferous in calling for the promotion of human rights in ASEAN (Interview with Makarim Wibisono on 8 December 2015).

Interestingly, interviewees from the Ministry of Defense and the National Police also gave similar opinions, stating that R2P is relevant and important to Indonesia. A senior military officer at the Ministry of Defense said that responsibility is embedded in sovereignty; responsibility is embedded in the status of a sovereign state. He argues that a dignified country is one that protects its people and in this respect, TNI (*Tentara Nasional Indonesia* or Indonesian Armed Force) is an instrument of the state to protect the people (Interview with a TNI officer, Jan Pieter Ate on 26 January 2016). In line with the TNI, a senior officer at the National Police Headquarters also said that R2P is important for Indonesia

and that the Police has strong commitment to support R2P because the primary role of the Police is to provide protection to the people by maintaining security, public order & law enforcement. However, the respondent from POLRI stressed the importance of taking a cautious view of the role of international actors in the resolution of human rights issues. As a sovereign state, Indonesia has the authority to solve human rights issues independently; moreover, Indonesia has established an adequate national legal mechanism for human rights protection (Interview with a senior officer of the National Police 17 February 2017).

Some human rights defenders voiced different opinions regarding the position of TNI and POLRI towards the idea of state having responsibility for human protection and their commitment to develop a responsible government. These interviewees stated that security institutions were reluctant to accept international norms and laws on human protection. This attitude is apparent from the reluctance of TNI to approve the proposals from civil society to encourage Indonesia to ratify certain international human rights laws, which are indispensable for the fulfillment of the state's responsibility in providing protection to its people. The TNI does not agree with the idea for Indonesia to ratify the Rome Statute, because they worry about the retroactive principle (Interview with a commissioner of KOMNAS HAM on 11 December 2015). Another interviewee said that the TNI is behind the government's decision to delay the ratification of the Rome Statute and the Convention against Forced Disappearance (Interview with Imparsial, 16 December 2015). To date, the TNI is still sensitive about discussing the formation of oversight bodies to monitor their accountability in their work. On behalf of the state, TNI has the authority to exercise power to defend the sovereignty of the state, but it is still difficult and still long way to enact the concept of accountability within the TNI (Interview with KontraS on 30 November 2015).

c. Analysis of Indonesia's perception and acceptance on R2P

From the statements in international forums and interviews, it can be said that at the normative level, there is an increasing trend in Indonesia's acceptance of R2P. In the beginning, when R2P was declared firstly in the UN World Summit Outcome Document in 2005, Indonesia's position was very cautious in supporting the normative framework. Although welcoming the basic principle, Indonesia took a careful position with regards to the means to attain the goal. Indonesia agreed with basic principle that responsibility to give protection to the people lay with the individual state. This principle converges

with the domestic values of Indonesian statehood as enshrined in the 1945 Constitution, which embraces mandate for the state to protect the people and to contribute to the attempts of maintaining world peace and order. In addition, the emergence of this norm is also in parallel with the momentum of new presidency under Yudhoyono and Jusuf Kalla (2004-2014) who had vision to improve democracy and human rights in Indonesia. These ideas made Indonesia took a position to support R2P at the World Summit on 16 September 2005 (Yudhoyono 2005: 1). It is worthy to note that at the same month, Indonesia ratified the twin basic covenants of international human rights, namely the ICCPR and ICESCR. All of these events reflect the momentum for the Government in improving its commitment to human rights promotion and protection.

Nevertheless, in expressing its support for the early development of R2P, Indonesia showed a prudent position related to the possibility of collective action including using force by the international community to stop gross violations of human rights. In this regard, Indonesia was wary that it could undermine the other existing norm of sovereignty and non-interference, which it regarded as a safeguard for the preservation of its national values. Indonesia also feared that the international collective response will tarnish the Indonesian tradition to always put forward non-violent ways of resolving international issues. Therefore, the initial response from Indonesia to this emerging norm, as reflected in the 2005 and 2006 UNGA forums, was very cautious.

Indonesia's position in responding to this new emerging norm can be explained using the norm diffusion theory from Krook and True (2010) and localization theory from Amitav Acharya (2004). Krook and True (2010: 108) and Acharya (2004: 251) provide an analytical tool to understand that initial response towards a new norm usually represented by resistance and concern by respected actor or state. In the later phase, the local actor will try to do interpretation, grafting, and pruning in order to make this new foreign norm fit with local norm (Acharya 2004: 251). This process may produce a new modified norm or a new localized norm[33] (Acharya 2004: 251; Krook and True 2010: 109). Following this argument, it can be said that Indonesia's cautious behavior toward R2P can be understood as the initial phase of localization process. The Indonesian position in 2005 and 2006 reflected the wariness of the Indonesian government that R2P, could contradict the norm of non-intervention that were perceived

[33] A modified norm has a broader meaning than a localized norm. It refers to the changed nature of an already diffused international norm, while a localized norm is a specific term that emphasizes the active role of local actors in adapting the international norm to the existing local values and traditions.

as being fundamental to Indonesia's state building process since the beginning of independence. As already explained in the Chapter 2 of this thesis, Indonesia adopted popular sovereignty as the principle that legitimized its independence aspiration. However, the historical experience of colonization led post-independent leaders to give meaning to popular sovereignty by emphasizing on its exclusive right and authority to govern its people and territory independently, free from outside intervention. And this construction of sovereignty is in-step with the conception of sovereignty that is enshrined in the UN Charter.

Interestingly, the doubt and the caution with respect to the Pillar III articulation of international responsibility, is not only a concern on the part of Indonesia. This kind of perception is commonly articulate among Asian countries such as Vietnam, Malaysia, and Cambodia (Capie 2012: 83). Sovereign equality and non-interference have become important institutional norms within ASEAN. This 'ASEAN way' provides opportunity for the members to focus on consolidating its domestic affairs without wariness of being interfered by external parties. It has facilitated stability and security that enable cooperation and solidarity within the region (Bellamy and Drummond 2011: 184-5). In such an environment, it is convenient for Indonesia to be cautious of Pillar 3, as a form of solidarity with neighboring countries, as also recognized by respondents from the Ministry of Foreign Affairs.

Indonesia's prudent attitude might also have arisen because Indonesia and other countries as well, did not yet comprehensively understand the R2P. It is acknowledged that as a new norm that was not deeply elaborated, the initial period of R2P socialization raised doubts, misunderstandings and even anxiety from some members of international society. Gareth Evans (2008: 56-7) acknowledged that there are doubts and misunderstandings among politicians and scholars by perceiving R2P as the new manifestation of humanitarian intervention and R2P as focusing merely on military approach in addressing the humanitarian crisis (CSIS 2011: 10). Alex Bellamy also acknowledged that there is a common misread of R2P as "a new norm of humanitarian intervention or a new legal principle" (2014: 14). This different understanding even came from one of special officers of the UN Secretary General Kofi Annan, Stephen John Stedman who mentioned "R2P as a new norm to legalize humanitarian intervention" (Stedman 2007: 933; Bellamy 2014: 14). This misunderstanding might lead states to worry about the possibility of intervention. Indonesia's experience with the INTERFET intervention in the aftermath of East Timor referendum has affirmed Indonesia's caution with respect to any potential for military intervention under name of R2P.

Following a deeper elaboration about R2P in the 2009 Report of the UN Secretary General on Implementing R2P and in light of the annual interactive dialogues among the UN members to develop strategy to implement R2P, the degree of Indonesian acceptance towards R2P has increased. In the 2009 UN General Assembly forum, Indonesia affirmed its commitment to implement R2P. Moreover, this annual interactive dialogue has provided space for all the UN members to participate and contribute in developing the appropriate approach and strategy to translate R2P norm into practice. This forum has facilitated better understanding and wider acceptance of R2P among the UN members, including Indonesia. Stronger commitment to support and implement R2P was also reflected in Indonesia's representative statements in the UN General Assembly forums in 2013, 2014 and 2015 explained previously. In a similar manner, all interviewees in my fieldwork research admitted that they have both knowledge of R2P and they endorsed R2P's implementation in Indonesia. As explained in the previous section, my respondents believe that R2P has common ground with the shared understanding of sovereignty within contemporary Indonesian society. Its basic idea actually resonated well with the current Indonesian presidency that put forward law enforcement and human rights protection as one of his development priorities (Interview with officers of the Ministry of Foreign Affairs 6 January 2016, Ministry of Justice and Human Rights 12 January 2016, Coordinating Ministry for Politics, Justice and Security 8 December 2015). The acceptance of R2P is not only congruent with the current aspiration of Reform movement, but the idea of state having responsibility to give protection to its people, which become the main premise of R2P, can be easily accepted by Indonesian society because it has resonance with the vision of an independent Indonesia as stated in the Constitution (Interview with a commissioner of KOMNAS HAM 11 December 2015, officers of National Army 26 January 2016 and National Police 17 February 2017).

The above explanation portrays how Indonesian society has tried to develop congruency between the international norm of R2P with the Indonesian sovereignty norm and practices, as part of the localization process. The discourse developed within Indonesian society illustrated the attempts of the Government officials, in particular, to give meaning and reconstruct R2P to find resonance with existing national understanding of sovereignty and responsibility within Indonesian society. In its effort to implement R2P, Indonesia focuses on building capacity for prevention. The government acknowledges that the basic principle of R2P converges with the Indonesian identity as an emerging democratic state that upholds the sovereignty of the people as part its constitutional mandate. Then, the

core value of R2P is also perceived as relevant and would contribute to the attainment of the vision of *Reformasi* to build and develop a responsible sovereign state which is not only prioritize security of the state but also has strong commitment to protect its people. With this representation of R2P, it facilitates the growing acceptance of R2P by the government and civil society in Indonesia.

In the next part of the Chapter, I will discuss whether the increase in understanding and acceptance of R2P on the normative level gives positive implications on a practical level in the preparedness of Indonesia to implement and mainstream R2P.

3. Preparedness of Indonesia to implement and mainstream R2P

This part aims to explain how Indonesia has translated its commitment stated in UN forums into the real practice of building capacity for prevention of mass atrocities. Furthermore, it aims to assess to what extent R2P has been applied or become a reference for policy and behaviour of government and NGOs in addressing human rights issues in Indonesia. This assessment is important to determine whether the commitment filed by the government in an international forum was merely rhetoric or if it was really adopted in domestic normative and institutional frameworks in order to develop a responsible government.

Indonesia's position to pay more attention on the prevention measures is consistent with the spirit of R2P. It is widely acknowledged that the most effective way to give protection to the people is conducted through building capacity to prevent the occurrence of mass atrocities. Conceptually, preventive measures are considered as 'a central element of R2P' (Bellamy and Dunne 2016: 8) and the 'logical priority of the original R2P framework' (Welsh 2016: 218) that will contribute to improve the effectiveness of R2P as a whole. In the Report of the UN Secretary General on Implementing R2P, the UNSG underlined the prominent role of the individual states in preventing the occurrence of atrocity crimes by ensuring the commitment of the state to uphold the responsible sovereignty (UNSG 2009: 10). In 2014, the UNSG presented an 'Analysis for Atrocity Crimes: A Tool for Prevention'. It provides a comprehensive assessment on the risk factors that create possibility for the commission of mass atrocity crimes. By understanding the risk factors and its indicators, it would help countries to assess its prevention capacities and strategies (UNSG 2014: 5).

To explore what has been done in Indonesia to implement R2P, this thesis will follow the category of measures presented by the Government of Indonesia at the 'Interactive Dialogue on the Responsibility to Protect' on 8 December 2015. Indonesia has devoted its attention to build its prevention capacity in three areas: (a) building normative framework by developing and implementing legal instruments; (b) building institutional framework important for implementation and monitoring human rights protection; and (c) building community resilience (PMRI 2015: 7). To give a comprehensive analysis, this section will also explore (d) the implementation of R2P by Indonesia in its external relations.

a. Building normative framework to implement R2P

The first step to implementing an R2P norm is through building a legal framework to enable efforts to build mass atrocities' prevention capacity of the state. Referring to the UNSG Report 2009 on Implementing R2P, the crucial aspect of responsible sovereignty is respect for human rights. The report recommends States to become party to international human rights law, humanitarian law and other relevant international laws (UNSG, 2009: 11). This should be followed by efforts to integrate these international laws into national laws and regulations, so that the rules on appropriate behavior can be applied at a domestic level (UNSG 2009: 11).

To implement R2P, the Government of Indonesia has developed a legal framework to build capacity for human rights promotion and protection. Related to this aspect, Indonesia already has fairly strong modalities in the form of legislations to promote and protect human rights, thanks to the process of reform that has continued since 1998. Indonesia is already well endowed with normative instruments that can be utilized to achieve the R2P objectives. It started with the MPR's Decree No. XVII/1998 that declared the Indonesian Human Rights Charter, which acknowledges human rights provisions mandated in the Universal Declaration on Human Rights. The government established a mechanism to improve human rights performance by enacting the 1999 Human Rights Act and the 2000 Human Rights Court Act.

This progress was followed by the amendment of the 1945 Constitution (1999-2002) which affirmed that human rights was an inherent constitutional mandate, not a foreign thought. As explained in Chapter 4, the amended constitution prescribes more detailed and explicit provisions regarding human rights protection, including the rights to life, personal security, and freedom from discrimination. These

provisions give constitutional basis for the state to fulfil its responsibility towards its people, as stated in Article 28 I (4) 'The protection, promotion, upholding and the fulfilment of human rights are the responsibilities of the state, especially the government' (Indonesian Constitution 1945). Thus, human protection as core principle of R2P has a strong foothold because it was mandated by the constitution.

To implement R2P, the Government of Indonesia can also utilize the existing National Plan of Action on Human Rights or *Rencana Aksi Nasional Hak Asasi Manusia* (RANHAM) that work for a five-year term. As part of RANHAM policy, Indonesian government has ratified six major treaties on human rights and embodied the principles into national laws and regulations. To mention some of these treaties are Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and the International Covenant on Civil and Political Rights (ICCPR). With these national laws and legislations in place, Indonesia has a strong foundation on which to realize its commitment to implement R2P. The existence of these human rights laws and instruments can be interpreted as strong acceptance of human rights norms, including human protection, and the idea of sovereignty as responsibility within Indonesian society.

The ongoing RANHAM was launched in 2015 to be implemented until 2019 with priorities including: enhance the implementation of human rights instruments in government policies, harmonise national legislations to be consistent with a human rights perspective, settlement of human rights violations, and accessibility of persons with disabilities to participate in various aspects of life (RANHAM 2015: 12). Although the current RANHAM does not mention R2P specifically, it can be seen as an indicator of the increased commitment of the current government to realize its responsibility to promote, fulfil and protect human rights and create a clearer pathway for implementing and mainstreaming R2P in various government policies. Nevertheless, there are different points of view that come from civil society. KontraS for instance, criticised the National Action Plan on Human Rights 2015-2019 as failing to address the real human rights problems in the country. By focusing on disability and vulnerable groups, RANHAM had put aside other urgent human rights issues and did not refer to the previous period of RANHAM and the results of UPR review, ratification of the Rome Statute and the Optional Protocol for the Convention of anti-Tortuce (KontraS 2015: 5).

It is also important to assess the way Indonesia has adopted international human rights norms. In accepting human rights norms, Indonesia does not adopt them unconditionally; instead, Indonesia reconstructs the norm and adapts them to the local context. This can be illustrated in its localisation of the 1998 Rome Statute into Law No. 26/2000 on Human Rights Court. Due to concern that the Rome Statute could diminish Indonesian sovereignty in addressing domestic affairs, Indonesia had not ratified the Statute. The Indonesian delegation to the 1999 Rome Conference that established the ICC adopted a position that is similar to other Non-Aligned Movement countries in emphasizing the prerogative of independent state sovereignty. It remained cautious about the potential of the ICC to claim automatic jurisdiction over domestic human rights abuses[34] (Muladi 1998; Huikuri 2016: 79). However, at the end of 1999, there was an urgent need to establish a national human rights court in order to bring those responsible for the human rights abuses in post-ballot East Timor to justice (Juwana 2003: 653). The UN High Commissioner on Human Rights issued a resolution to investigate the case. Indonesia rejected this international pressure and promised to establish its own national human rights court (*Tim Imparsial* 2015: 51). Challenged with this new situation, there was a need to adopt new rules for investigating and conducting a trial for extra ordinary crimes. Indonesia tried to find common ground between foreign and local ideas by adopting some rules from the Rome Statute to be adjusted with the existing rules in Indonesian regulations on the criminal court. As a result, Indonesia enacted Law No. 26/2000 which gave legal basis for establishing a national Human Rights Court. This body has responsibility to prosecute the case of allegations of gross human rights violations. In the case of a grave violation of human rights that happened before the enactment of this Law, the government shall form the Ad Hoc Human Rights Court.

To use Acharya's theoretical framework, this process demonstrates how the new international norm, when diffused to a national level, undergoes compromise through the process of adjustment and adaptation; this process is called norm localisation (2004: 251). The enactment of Law No. 26/2000 exemplified how the Government of Indonesia localised international law regarding human rights enforcement mechanisms to be adopted and implemented within the Indonesian justice system. This process resulted in the emergence of a new institution, namely the Human Rights Court. In constructing

[34] The government showed a commitment to ratify the Rome Statute by putting it as one of priorities in the National Action Plan on Human Rights 2004-2008 and 2009-2014, but in 2013 the government decided to renounce its commitment. Observers argued that President Yudhoyono took this policy after holding meetings with a numbers of retired generals from TNI and Ministry of Defense (Huikuri 2016: 81).

these new rules of human rights enforcement, the Indonesian Government accommodated some of the Rome Statute provisions and some from the Indonesian criminal code. The modification was in the scope of crimes that only incorporated genocide and crimes against humanity but failed to incorporate war crime and aggression. In terms of procedure, the judicial process in human rights court is still based on national procedures and evidence rather than adopting international standards (Halili 2016: 200; Zunnuraeni 2013: 363). The establishment of a human rights court through localisation meant that Indonesia now had a specific mechanism for human rights enforcement. Nevertheless, the partial adoption of Rome Statute has served to weaken the effectiveness of the Law in attaining its objectives to perpetuate justice for victims and creating a deterrent effect that can end the practice of impunity. This situation has raised public concerns, as stated by Muladi, former Minister of Justice, and Asmara Nababan, former members of *KOMNAS HAM*, as well as human rights NGOs and some scholars, that efforts to advance the protection of human rights in the country could be hampered (Muladi 2003; Yudhawiranata 2013; Halili 2016:207; Zunnuraeni 2013:356).

Because of these substantive and procedural differences, in the case of gross human rights abuses in Abepura Papua, for example, the legal process did not work effectively because the prosecutor in his analysis only referred to the procedures and jurisprudence of national law. This situation illustrates the argument put forward by Krook and True that the modification of the norm could bring a different implication at the practical level (2010: 109). In the case of gross human rights violations, the Prosecutor should be able to refer to the procedures and judicial decisions in the International Tribunal for Rwanda and Former Yugoslavia (ELSAM 2007; Zunnuraeni 2013: 367). There was also concern on the potential of politicisation of the human rights enforcement mechanism. This related to article 43 of Law No. 26/2000 that put requirement of acquiring approval from the Parliament (DPR), with the endorsement of President, to establish an ad hoc human rights court to carry out trials for grave violation of human rights that happened before the enactment of the Law. The point of concern raised by human rights defenders and scholars was that DPR often made decisions based on political considerations and interests, such as to protect their political patron, rather than on legal arguments. Human rights NGOs recommended that this authority should come to KOMNAS HAM, which has a mandate to make conclusions based on its legal investigations (Halili 2016: 205; Zunnuraeni 2013:364). The contestation of authority between the DPR and KOMNAS HAM is evidenced by the stagnation of seven cases of gross past human rights violations, which caused the failure of the

establishment of Ad Hoc Human Rights Court for these cases, including the 1965 massacre and the mysterious killings cases in the 1980s.

Accordingly, to support Indonesian preparedness to implement and mainstreaming R2P, it is imperative for Indonesia to strengthen its national normative framework including ratification of relevant international human protection instruments, including the Rome Statute and the Optional Protocol of the Convention of Anti-Torture, and embracing the human protection and R2P principles in the national and local legislations. Furthermore, it is important to make sure that those principles are implemented consistenly and effectively in the practical level.

b. Building an institutional framework to implement R2P

The other measure to implement R2P carried out by the Government of Indonesia was to build an institutional framework as part of the national human rights protection system. The importance of building institutions is also highlighted within the *2014 UN Framework for Analysis for Mass Atrocity: A Tool for Prevention,* which explain that to build a strong capacity for prevention, the state should establish institutions responsible for carrying out human rights policies that will work based on the principles of good governance and rule of law (UNSG 2014: 12).

In implementing its commitment to R2P, as stated by the Indonesian mission during the 2015 UNGA Interactive Dialogues on R2P, the Government of Indonesia gave a mandate to the Ministry of Justice and Human Rights to be the focal point for channeling human rights provisions as a national priority into all government institutions (PMRI 2015: 7). All ministers and other non-ministry government institutions in national and local governmental levels, under the Ministry of Justice and Human Rights as the coordinator, must implement the RANHAM. Indonesia's endeavor to build capacity for implementing R2P and preventing mass atrocities has been facilitated by utilizing the existing national institutions devoted to strengthen human rights protection. With the birth of *Reformasi*, the existence and position of KOMNAS HAM was strengthened to become an independent institution with stronger mandate and authority to carry out research, education, monitoring and investigation of human rights (KOMNAS HAM 2015: 1). Although KOMNAS HAM was established in 1993, long before the R2P was agreed upon, the work of this institution has made an important contribution to Indonesia's efforts to achieve the R2P objectives. One of the prominent positions of KOMNAS HAM is that it has become

the only institution with the authority to investigate against gross human rights violation based on Law No. 26/2000 on Human Rights Court (Pratikno and Lay 2001: 159). KOMNAS HAM has succeeded in conducting investigations of ten cases of grave human rights violations, including six that occurred in the past, and has submitted its investigation report to the Attorney General's Office to follow up by conducting an investigation and then proceeding to court. Two past cases, Tanjung Priok (1984) and East Timor (1999) have been tried in the Ad Hoc Human Rights Court in Jakarta, and the Abepura (2000) case has been tried in the Human Rights Court in Makasar. The role of KOMNAS HAM became more critical in Indonesia's attempts to implement R2P since it received an additional mandate to be involved in the implementation of the 2012 Management Social Conflict Act, which aimed to develop an early warning system for social conflict.

KOMNAS HAM faces several challenges in carrying out its mandate for conducting control and monitoring human rights promotion and protection. The challenges can be categorised into two dimensions: internal and external. KOMNAS HAM faces internal challenges stemming from the partial adoption of the Paris Principles that became the fundamental standard for national human rights institutions set forth by the UN. The localisastion of Paris Principles affected the performance of KOMNAS HAM. In respect to financial resources, the law states that KOMNAS HAM will be funded by the Government annual budget. This is in contrast with the Paris Principles, which demand that financing should be separated and independent of the government, as this may otherwise affect the independence of the commission (UNGA 1993: 2). It is evident that this source of government funding hampers the implementation of the work of KOMNAS HAM because it is often impeded by the procedure of using government funds that is not always consistent with the Commission's requirements. In addition, the existing budget allocation is insufficient to sustain the optimal implementation of tasks, functions and operations (UNHRC 2013: 2). This situation has implications on the performance of KOMNAS HAM in handling cases (ANNI 2008: 75; Tim Imparsial 2014: 132).

In addition, KOMNAS HAM also faces challenges stemming from external factors regarding political support from the government and other institutions who have responsibilities in promoting and protecting human rights. For instance, related to the effort to solve cases of grave violation of human rights. KOMNAS HAM had finished its inquiry for these six cases and sent the report to the Attorney General Office in 2012, nontheless, there is no follow up action from the Attorney General (Djafar, Fadhli, and Sumigar 2016: 1; Reswanto 2016: xii). In the case of the enforced disappearance of pro-

democracy activists in Trisakti and Semanggi, ELSAM pointed out that there was lack of willingness from the former President Yudhoyono to follow up the recommendation from the DPR to establish Ad Hoc Human Rights Court (Djafar and Al-Rahab 2012: 12-13). In the meeting on 8 June 2018, KOMNAS HAM has submitted a request to the current President Widodo to ask the Attorney General as investigators and prosecutors immediately follow up the cases (*Kompas.com* 10 December 2018). Nonetheless, as of December 2018, the process of resolving gross human rights cases has not been completed. It denies the rights of victims to legal certainty and justice.

These internal and external factors affected KOMNAS HAM's capacity to fulfil its mandate. Notwithstanding, it is widely admitted that KOMNAS HAM has become the foothold of the people's expectation to control and monitor the function of the state and the government in fulfiling its responsibility in promoting and protecting human rights. The function of KOMNAS HAM is crucial for efforts to build the country's capacity to achieve the objectives of the R2P. Therefore, more efforts are needed to improve the institutional system of KOMNAS HAM and strengthen the support of all parties for ensuring that Indonesian has a competent and reliable institutional structure in enforcing human rights protection.

The other important institution for building a democratic political system that will promote the capacity prevention mandated by R2P is the security sector that respects the rules of protection. The indicators, as set out within the *2014 UN Framework of Analysis for Atrocity Crimes,* are effective control of civilian on the security forces and respect of International Humanitarian Law and human rrights laws (UNSG 2014: 12). This measure is congruent with the agenda of reform established by the *Reformasi* regime in Indonesia as explained in Chapter 4 of the thesis. Security Sector Reform in Indonesia is carried out by the rearrangement of the function, structure and culture of the institutions responsible for security in order to conform to democracy and human rights values (Fauzi 2014: 2).

Developing security sector that respect for human protection is crucial for building capacity for prevention under R2P framework. The state has to ensure that security institutions do not misused their authority to use of force in carrying out their duties to enforce law and public order. And Indonesia has experience of military-led regime that put forward the militaristic approach in maintaining security of the regime with the consequence of undermining the security of individuals. Therefore, it is important

to reform the structure and culture of the security sector in accordance with rule of law and human rights principles.

To build a capacity for prevention of mass atrocities, it is important to ensure that security institutions always respect for the rules of protection and do not misused their authority to use of force in carrying out their duties to enforce law and public order. The MPR Decree No VI and VII of 2000 regulate the separation of the structure and role of military and police. This is an important step to ensure that the function of maintaining security, order, law enforcement, and protection of the people can be done by POLRI in accordance with human rights standards. Previously, the military had joined with the police to overcome riots and rebellions. This led to overlapping roles. The military method of destroying the enemy did not appropriate in maintaining public order, which resulted in incidents of human rights abuse (Crouch 2010: 134). The separation of police and military would facilitate each force to build its professionalism. To improve the professionalism of POLRI, POLRI launched the new paradigm of POLRI as Civilian Police. To implement the reform, the Chief of POLRI issued new policies regulating the human rights standards in the implementation of POLRI duties. Until 2012, there were twenty-seven new regulations developed concerning such areas as witness and victim investigation procedures, investigation for criminal offence, and the use of force in police action, based on the principles of good governance, human rights and rule of law (Siregar 2013: 133-4). This rearrangement of function, structure, and culture of National Police can be interpreted as the endeavor of the Indonesian government to implement the first pillar of R2P. An interviewee from the National Police confirmed this situation by saying that, 'The concept has been integrated with our bureaucracy; the responsibility of the state to protect in my opinion has been applied' (Interview with the Head of Human Rights Division of the Headquarter of the Indonesian National Police 17 February 2017).

It is also important to ensure that the security sector works under the effective control of civilians to ascertain that the security institutions always respect for the rules of protection. Law No. 34/2004 on the Indonesian National Army (TNI) stated that TNI acted as a state instrument in the defense sector to carry out its duties based on policies and state political decisions. In reforming its institution, TNI declared a New Paradigm that expressly intended to revitalise the identity of the military as professional soldiers and abandon the military dual-function (*dwi-fungsi ABRI*) (Ate 2010: 7). It is stated in the Law No. 34/2004 that as professional soldiers, they are educated, trained, not involved in practical politics, and embrace the principles of democracy, human rights, civilian supremacy, national

laws and ratified international laws. A senior TNI officer who serves as the Director of Defence Technology and Industry, Directorate General of Defence Potential at the Ministry of Defense stated that the ongoing reforms in the institution of the TNI reflects Indonesia's readiness to implement R2P. Furthermore, he confirmed this by stating that the code of conduct for the TNI is now much clearer, the tasks and functions of the TNI are now stated by law and the TNI is under civilian control. Therefore he is convinced the TNI has transformed to be more professional hence improving its capacity to uphold and perform R2P properly (Interview 26 January 2016).

Nevertheless, there are challenges in implementing the new paradigm and new policy for security sector reform that are related to the separation of military and police function. This ideal has not been realised in totality; the military still has the opportunity to become involved in national security affairs through the concept of military operations other than war. The Defence White Paper 2003, 2008, and 2015 opened up the possibility of TNI's involvement in national security because it adopted a wider definition of defence that included the preservation of national unity, national ideology, and the constitution (Crouch 2010: 153). This condition has strong correlation with the construction of the threat perception stipulated in those Defence White Papers that Indonesia was still concerned mainly with internal security issues such as terrorism, separatist movements, communal conflicts, and natural disasters. In this regard, KontraS criticises the government's view of security concepts that are defined as the security of the state and the formation of a strong state (*Kompas.com* 12 July 2011).

The other challenges are reflected in the fact that there is continued evidence that human rights violations are still occuring. The 2014 KOMNAS HAM Annual Report noted an increase in complaints of cases of human rights violations from 2012, 2013 and 2014 where the police were ranked as the first perpetrators of human rights violations, followed by corporations, local government and judicial institutions (KOMNAS HAM 2014: 18-19). This trend is in line with research conducted by KontraS and the Jakarta Legal Aid Institute which revealed that from 2010 to 2017 there was an increasing number of cases of torture experienced by the community. The perpetrators of torture were mostly from POLRI and TNI institutions, while the victim profile was from middle-class and lower-level society, facing difficulty in accessing information related to legal aid (*Kompas.com* 13 October 2017).

This data showed a gap between the new paradigm of civilian police and the extant practice of policing. Responding to the data, POLRI said that there were problems related to the quality of its human

resources and investigation infrastructure. Lack of ability of POLRI members in understanding the procedures and provisions of the investigation and lack of facilities and infrastructure for verification opened the possibility for the occurrence of violations (*Kompas* 13 October 2017). A study conducted by the Indonesian Science Institute or LIPI identified two problems. First, instrumental reforms have not touched the needs of the community due to unavailability or overlapping regulations. Second, there was misconduct in implementing the regulations, possibly related to the existing practice of corruption, collusion, misuse of discretion and so forth (Siregar 2013: 140). Another study posited additional factors for the gap between the new paradigm and the practice; including a lack of external oversight mechanism and a military culture that remained intact within the police (Yanuarti 2013: 121-122).

The other crucial aspect in reforming the structure of security sector is related to the attempt to reform the culture of the security institution from a closed and confidential institution to an open, transparent and accountable one. This delicate issue is related to the settlement of gross human rights abuses and the abandonment of the culture of impunity. Although the MPR Decree on the role of TNI mandated that any cases related to general criminal law should be brought to the civilian court, nevertheless this provision was not implemented effectively because the military officers preferred to go to military court. The government established the Human Rights Court and Ad Hoc Human Rights Court to trial gross human rights violations. However, critics said that the Human Rights Court was not effective and became a tool of impunity because it mostly tried the junior officers and ordinary soldiers only (Araf 2007: 41; Crouch 2010: 174; Juwana 2003: 669; Pohlman 2010b: 6). This aspect in part resulted from the partial adoption of the Rome Statute into the Indonesian Human Rights Court as part of the localization process of the norm.

In combating the culture of impunity, civil society gives priority to the settlement of past human rights violations. They criticise state ignorance that was reflected in the AGO's reluctance to take follow-up action of the investigation report on the past cases from KOMNAS HAM since 2012 (*KontraS.org* 4 June 2015). Civil society is also actively campaigning for the government to make a decision on the mechanism and timeframe for the settlement. ELSAM and KontraS are among the NGOs that are actively enganged in the issue of anti-impunity and proposing transitional justice as an approach to settle past human rights violations.

With pressure from international society and demands from domestic society, in particular the victims and civil society, the government undertaken several attempts to resolve past human rights, including the establishment of the Commission for Reconciliation and Truth and an independent committee to investigate violence in Aceh. The ad hoc human rights court has also tried to prosecute cases from East Timor, Abepura and Tanjung Priok, but was considered by many parties to be unsuccessful in meeting victims' justice (Cohen 2003: 12; Juwana 2003: 672). These efforts had not yielded significant results for the fulfillment of victims' rights to justice due to the lack of technical competence and political support, thus they did not result in a foundation for a comprehensive settlement (Cohen 2003: ii; KOMNAS HAM 2014: iii; Sujatmoko 2016: 333).

The non-completion of past human rights violation cases has become a point of concern in relation to Indonesia's readiness to prevent atrocities. This indicates the existence of a practice of impunity, which is one of the risk factors that can affect the efforts of preventing future atrocities. Annie Pohlman (2010a: 37, 2010b: 11) has argued that the reluctance of the government to solve past human rights abuses might have a negative implication for the implementation of R2P, especially in preventing future atrocities. Haris Azhar from KontraS (*KontraS* 2016: 228) was also concerned that the unfinished legal process of human rights violations might undermine the promotion of human rights in the Reformation era. Other human rights promoters in Indonesia, such as ELSAM, HRWG, and Imparsial, argued that the slow progress of the settlement of past human rights abuses would impair the capacity to implement R2P (Interview with ELSAM 2017; HRWG 2016; Imparsial 2015). ELSAM argues that the settlement of past human rights violations is an absolute requirement on the transitional agenda to prevent the birth of new human rights violators (ELSAM 2016: 2).

The current government made the settlement of past human rights abuses one of its priorities, as stated in Nawacita. In 2015 President Jokowi planned to carry out a National Reconciliation (*Kompas.com* 11 December 2015), which was immediately rejected by human rights advocates. In response to this rejection, the Government in 2017 stated that the settlement will take two routes: judicial and non-judicial (*Komnasham.go.id* 6 February 2017). This planning aims to accommodate demands from the society and demonstrated the government commitment to end the culture of impunity. Nonetheles, it is important for civil society to monitor the process in order to ensure the government realizes its commitment in fulfilling its responsibility to give justice to the victims. Moreover it will contribute to develop prevention capacity necessary for implementing and mainstreaming R2P.

From the above assessment, it can be concluded that improvements have resulted from security sector reform; however, some problems have weakened Indonesia's R2P performance. These impediments should be addressed in order to build an accountable and responsible security sector that will provide a strong foundation to support the establishment of a responsible sovereign.

In addition to the government policies explained above, it is worth noting the significant role of non-state actors, including NGOs, academics, think tanks and their networks, in advocating sovereignty as responsibility and R2P, which will become the basis for building capacity to respond and prevent the occurrence of genocide and other mass atrocities in the future. Through research and publication, CSIS has contributed to socializing and internalizing R2P in the country (CSIS 2011: 11). Since 2014, HRWG and CSIS in cooperation with the Asia Pacific Center for Responsibility to Protect has carried out workshops, seminars, and experts meeting involving relevant stakeholders from government and civil society to improve the understanding and awareness regarding the importance of R2P by focusing on the atrocity preventions (APR2P 2014: 1; 2016: 1). Through these activities, participants have improved its capacity to identify the problems and mapping the existing mechanisms potentials for implementing R2P in the country. The discourse of developing a national plan of action and creating a national focal point for atrocity prevention has been developed, though it has not materialized yet (APR2P 2016: 1; Interview with the Executive Director of the HRWG 25 January 2016).

In carrying out the role of promoting human protection, civil society organizations are also quite active in developing networks at the international levels. As part of their monitoring activities on the government's human rights protection policy, they send feedback directly to the government or indirectly through the media. NGOs are also actively participating in providing inputs to the international human rights mechanism through the Universal Periodic Review on the United Nations Human Rights Council and other international monitoring bodies (Interview with ELSAM 16 February 2017; with HRWG 25 January 2016; with Imparsial 16 December 2015). The active role of civil society will guarantee the check and balance mechanism and in turn it becomes an important element of the preventive agenda associated with R2P.

c. Building community resilience

Indonesia agreed upon and accepted the UN Secretary General's guidelines on implementing R2P that encourages states to uphold the politics of inclusion and avoid the exclusion policy in order to establish a responsible sovereignty. States should develop an effective management for dealing with multi-cultural society by promoting the principle of non-discrimination and the equal enjoyment of rights (UNSG 2009: 10). In his statement at the UNGA in 2015, the Indonesian representative expressed a commitment to develop an inclusive engagement among different community to prevent the occurence of the R2P type of crimes in Indonesia. He underlined the importance of the principles of good governance, supremacy of law, and public participation for governing multi-cultural society that would contribute to the objective of building resilience community (PMRI 2015: 7).

The effort to build community resilience in order to implement R2P parallels the commitment of the Reform regime to improve its policy of managing Indonesia's multicultural society. The current President who assumed office in 2014 has a clear commitment to improve the management of social diversity. In his vision, he has placed a priority on strengthening the role of the state in giving protection and ensuring the safety of the people, reinforcing *ke-Bhineka-an* (diversity) and social restoration (Ministry of State Secretary 2014: 11). The vision to build an inclusive social and political system is not a new initiative in Indonesia; it has been an enduring effort since the beginning of independence. This vision has resonated well with the vision of Indonesia's founding leaders in building national integration. They adopted "*Bhinneka Tunggal Ika*" or "Unity in Diversity" as a motto to promote the idea that, despite its diverse cultural background, Indonesia has vision to attain a unified, sovereign, just and prosperous nation.

To develop a resilient community, the government has increased its provision of education about diversity. Law No. 20/2003 on the National Education System provides a legal basis for implementing the policy of multicultural education that is essential to nurture and build the character of students to become individuals who can apply the values of diversity. Another measure to build a resilient community is conducted through interfaith and cultural dialogues. This effort is not a new initiative, but it has been strengthened in the Reformation era through enactment of several legislations and by implementation rules that encourage religious harmony. Interfaith dialogues is implemented and

developed by the government, civil society organisations, and academics, both at school and college levels.

Another mechanism to develop prevention capacity as part of R2P implementation is conducted by establishing an early warning system through the enactment of the Law No. 7/2012 on the Management of Social Conflicts with the aim to build community resilience. To implement this law, President, The Head of National Police, and the Minister of Domestic Affairs have enacted relevant implementing regulations. To operationalize this early warning system, there is an Integrated Team for Management of Social Conflict involving several governmental agencies and civil society as well in national, province & regency levels. This early warning system covers efforts for prevention, response, and conflict settlement, including reconciliation, rehabilitation, and reconstruction (Law No. 7/2012). It is important to note that the content of the Law is in accordance with the early warning system model recommended by the UN Secretary General prescribed in his 2010 Report regarding Early Warning, Assessment and the Responsibility to Protect.

Nevertheless, there remain weaknesses in implementing the commitments and legislations, evidenced by the continuing incidence of social conflict in some places. Human Rights Watch and Amnesty International report that there continues to be issues of freedom of religion and belief, freedom of expression, and the ongoing practice of violence by security forces (Amnesty International 2017: 2-3; Human Rights Watch 2017: 1-2). A study by Asia-Pacific Centre of the Responsibility to Protect (APR2P) categorises Indonesia as a 'moderate risk' country because there are records of sectarian conflict in some regions, acts of terrorism, and secessionist conflict in West Papua (APR2P 2017: 10). KOMNAS HAM throughout 2015 received 87 complaints relating to cases of violations of the right to freedom of religion and belief that occurred in the form of intolerant acts and discrimination on the basis of religion or belief (KOMNAS HAM 2016: 5). A study by the Coordinating Ministry for Human Development and Culture states that social conflict occurs because of the issues of identity and culture, the impact of the industrialization process, the seizure of land and natural resources, and political and administrative matters. Although the normative framework for the managing social conflicts is in place, the implementation is still constrained due to the lack of synchronization of conflict management in various regions, the operationalization of policies has not been integrated and coordination between implementing agencies is not optimal (*Kemenkopmk.go.id* 4 May 2017).

From this assessment, it appears that the identity issue plagued by the socio-economic gap remains an important issue in Indonesia. This is closely linked to the government's capacity to ensure the equal distribution of development outcomes. However, the potential for conflict arising from issues of identity and socio-economic should be minimiszed by the performance of state institutions that are capable and accountable in dealing and halting the potential of such conflict from arising or escalating. Although the national mechanism and institutions are in place, unfortunately there are some weaknesses related to the capacity of state apparatus in carrying out the task to implement the rules effectively. This means there are yet still some weaknesses in carrying out the principles of good governance and rule of law. This should be a priority for future improvement efforts if Indonesia is to become a resilient country in building the prevention capacity of R2P-related situations.

d. Implementing Responsibility to Protect at the international level

In addition to the domestic level, Indonesia's commitment to implement R2P can be understood from its active promotion of human rights and R2P in the region and in its position to respond to any R2P situations in other countries.

Since the Reformation in 1998, Indonesia has moved steadily toward becoming a democratic country that plays an active role within international affairs. Previously recognised as a supporter of Asian values, Indonesia has been actively encouraging and promoting democracy and human rights at international and regional levels (Murphy 2009: 71; Sukma 2011: 110). Indonesia initiated an annual event, the Bali Democracy Forum, where Indonesia and other participants discuss and share experience and best practices in promoting democracy and peace. Indonesia was trusted to be the Chair of the Human Rights Council in 2005 and a non-permanent member of the UN Security Council.

Its commitment to contribute to the promotion of human protection and maintenance of international peace are also manifested in Indonesia's contribution to the UNPKO missions. Currently, Indonesia becomes one of the main contributors for the UN peacekeeping operation by sending troops to the UN peacekeeping forces. In 2016 itself, according to the Foreign Minister Retno Marsudi, Indonesia was contributing 2,843 TNI and Police officers to 10 UN peacekeeping operations (*Kompas.com* 15 December 2016). This fact shows that Indonesia has a commitment to take part in the civilian

protection endeavours as the reponsibility of international community. This commitment to civilian protection can be interpreted as a good indication of Indonesia's willingness and preparedness to implement R2P in international stage.

At regional level, Indonesia becomes the leader in promoting human rights and democracy. The Reform governments have strongly committed to building ASEAN as a regional organization that upholds democracy and human rights (MoFA 2016; Sukma 2011: 113). This is demonstrated in part by the persistence of Indonesia to incorporate human rights, democracy, and good governance principles in the ASEAN Charter[35], encourage ASEAN to establish an ASEAN Intergovernmental Commission on Human Rights (AICHR), and to formulate the ASEAN Human Rights Charter (Gomez and Ramcharan 2014: 58; KontraS 2014: 36-37; Poole 2013: 2). With its new identity as a democratic country, Indonesia has tried to align with the global normative transformation. While continuing to adhere to the principle of non-interference as one of the prominent components of the ASEAN Way, Indonesia has started to advocate a more flexible application of the principle (Heiduk 2016: 11). Indonesia and other democratic members have encouraged normative transformation and endorsed a more assertive human rights regime as an essential mechanism for maintaining ASEAN's relevance as a regional organization within the post-Cold War international society (Gomez and Ramcharan, 2014: 58; Katsumata, 2009: 619; Sani and Hara 2013: 383).

An important shift in understanding human rights and non-interference within ASEAN was promoted by the Indonesian Foreign Minister, Hasan Wirajuda in the Second Roundtable Discussion on Human Rights in ASEAN in 2006 by stating,

> In today's world, gross violations of human rights are no longer a purely domestic matter. They are also a matter of international concern . . . Thus if ASEAN members still feel that an incidence of gross violations of human rights is too sensitive an issue for open discussion in a meeting, then the logical alternative is to have it addressed within the neutral premises of a regional commission. To ignore it is no longer an option (cited in Alexandra 2012: 59).

Furthermore, in 2009 Wirajuda states '… violations of human rights in a country can no longer be seen as internal matters. ASEAN should not hide behind the principle of non-interference' (cited in Sukma 2011: 113). Following footsteps of other important statements by the then UN Secretary General Kofi

[35] Indonesia was the last country to ratify the ASEAN Charter due to the weaknesses of human rights provisions stipulated within the Charter. Indonesia aspired for a stronger provision for human rights protection while the Charter merely focused on the promotion of human rights (*Kompas.com* 1 October 2008).

Annan, the Canadian ICISS, and the 2005 WSOD emphasizing the sovereign responsibility for human protection, the Indonesian leader recognized that it is no longer appropriate and legitimate for any government to use sovereignty as an argument to justify human rights abuses in the domestic domain. By aligning with the evolving international normative framework Indonesia is contributing to the discourse of sovereign responsibility for human protection, but is making the case in the regional context to realize ASEAN's vision to be a caring and sharing regional community. Indonesia has contributed to bringing ASEAN towards a more protective regime (Gomez and Ramcharan 2014: 55) by promoting R2P in ASEAN, carried out through its active participation in dialogues for building necessary mechanisms to implement R2P in ASEAN (ICRtoP and APR2P 2015: 6). Represented by Makarim Wibisono, Indonesia became one of the members of the ASEAN High-Level Advisory Panel, which aims to strengthen the ASEAN to implement and mainstream R2P in the region (ASEAN HLAP 2014: 46). The HLAP seeks to convince member states of ASEAN that R2P is not an alien norm because R2P's objective is consistent and inherent with the overall visions of ASEAN (ASEAN HLAP 2014: 2).

Indonesia's practice regarding R2P is reflected in how Indonesia responds to R2P situations in other countries. As explained above, Indonesia accepted R2P as a whole, but has a careful approach in implementing the norm, especially regarding Pillar 3. Indonesia also emphasises the non-use of force in responding to R2P situations and only allows military measures in an extreme case. The following cases illustrate how Indonesia understand and implements R2P in relations with other countries.

When Cyclone Nargis hit Myanmar in May 2008, the French Government called for the international community to use R2P as justification to deliver humanitarian aid to respond to the negligence of the authority in Myanmar in fulfiling its responsibility to protect its population (Bellamy and Davis 2009: 559). France's initiative was welcomed by Western countries, but faced opposition from Russia, China and Vietnam (APR2P 2008: 2). Indonesia also objected to the proposal, saying, 'The humanitarian situation in Myanmar can be discussed better in other more appropriate forums, and not in the UNSC' (Bellamy and Drummond 2011: 190; Goodenough 2008: 1; Hotland 2008: 1). Indonesia shared the view with the UN Secretary General's Special Adviser, the Asia-Pacific Centre for the Responsibility to Protect, and other countries that R2P only applies to the four atrocity crimes as agreed in the 2005 World Summit, meaning that R2P did not apply to the Myanmar's humanitarian crisis that was caused by natural disaster (APR2P 2009: 27; Charbonneau 2008: 1). By rejecting the application of R2P in this

case, Indonesia did not mean to challenge the R2P per se; rather, it sought to affirm the consistency of the meaning and the narrow scope of R2P.

The UN Security Council enacted two resolutions in 2011 invoking R2P to authorize international community to undertake a decisive action to protect civilians from the repressive regime of Libya. In assessing this case the international community was divided. Some argued that the Libyan case was an example of the successful application of R2P, while many said that it was a deviation of R2P application. It exceeded the mandate of protection because it ended with the toppling down of the regime (Evans 2012: 1). Several countries, such as Brazil, Russia, India, and China, criticized NATO as they ignored the importance of being neutral in the ongoing conflict, since they apparently gave support to the anti-Khadafi group, by providing weapons to them (Thakur 2013: 70). Indonesia stood with the second group who filed criticism to the application of R2P in Libya. Indonesia criticized that the operator of the UN Resolution had made a mistake in implementing the mandate of Resolution No. 1973 (*Antaranews.com* 29 March 2011). The President of Indonesia, Yudhoyono, regretted that NATO put forward the clauses of no-fly zone and the use all necessary means, but put aside the other important mandates to bring the warring parties to ceasefire and search for a peaceful solution to be realized immediately. He called for all parties in Libya, including multinational forces to prioritize peaceful means thus preventing the increasing of casualties (*Detiknews.com* 29 March 2011). The Libya case demonstrated the position of Indonesia to be consistent in supporting R2P implementation, especially by taking careful approach regarding the use of coercive military action. The NATO operation that ended with the changing of the ruling regime strengthened Indonesia's concern about the right intention criteria and the effectiveness of military measures to achieve R2P goal of protecting vulnerable population.

The implementation of R2P in Libya has shaped international society's response to the humanitarian crisis in Syria. Indonesia has condemned violence against civilians in Syria and Indonesia supported the UN to take action to protect Syrians (*Kompas.com* 5 June 2012). Unfortunately, three UNSC resolution drafts failed to be agreed upon due to a veto from Russia and China. Experience in Libya that the NATO led military operation exceeded the mandate of civilian protection, which led to regime change, became one of the arguments of the international community, including Indonesia, to refuse military intervention in Syria. In April 2017, Indonesia condemned the use of sarin gas by the Syrian government, but was concerned over unilateral actions by the United States launching a missile into

Syria's air base. Indonesia urged the UNSC to mediate this conflict (*TribunNews.com* 7 April 2017). Indonesia encouraged the inclusive dialogue and political process rather than using military force to solve the Syrian conflict. Indonesia is consistent with emphasizing mechanisms through the UN as legitimate authority to decide the R2P responsive action (*Voaindonesia.com* 8 April 2017).

In the case of serious violence in Rakhine, Myanmar, which started in June 2012 and had escalated since 2016, Indonesia demonstrated its commitment to exercise its international responsibility to protect the risked population. The deteriorating situation on the ground in 2017 triggered various community groups in Indonesia to hold rallies condemning the ongoing violence and urging the Myanmar government to stop its persecution of the Rohingya population. Members of parliament also expressed similar concern and asked the Indonesian government to take diplomatic moves compel the Myanmar government to change its policy towards the Rohingya people. Responding to the deteriorating security and humanitarian situation at Rakhine State in August 2017, the Indonesian government expressed deep concern and urged the government to end violence and address the issues immediately. The Indonesian President Widodo sent the Foreign Minister, Retno Marsudi[36]. She visited Myanmar on 4 September 2017 and negotiated with key figures such as the Myanmar State Councillor Aung San Suu Kyi and the Commander of the Armed Forces of Myanmar, Senior General U Min Aung Hlaing. Marsudi handed over the initiative "Formula 4+1" for Rakhine State to Aung San Suu Kyi. It includes

> Restore stability and security; maximum restraint and non-violence; protection to all persons in the Rakhine State, regardless of race and religion; and the importance of immediate access to humanitarian assistance; plus implement the recommendations from Advisory Commission Report to Rakhine State led by former UN Secretary General Kofi Annan (*Kemlu.go.id* 4 September 2017).

In this case, we can see that in practicing R2P, Indonesia and other ASEAN countries emphasized that the responsibility to handle the problem and give protection to the population primarily goes to the Myanmar government; therefore they urged Naypyitaw to take necessary steps to end atrocities and improve the situation. "Myanmar's security authorities need to immediately stop all forms of violence

[36] Indonesia was the first and the only country accepted by the civil and military authorities of Myanmar to discuss the delicate issue of Rakhine conflict.

that occur in Rakhine State and provide protection to all communities including Muslim communities," said Retno Marsudi. She also emphasized 'the principles of protection, respect for human rights and an inclusive development approach should take precedence' in building peace and security in the country (*Kemlu.go.id*. 4 September 2017). Although there was a progress with the fact that the Myanmar Government agreed to accept Indonesia's and ASEAN's involvement in the distribution of humanitarian aid in Rakhine State (*Kemlu.go.id* 4 September 2017), Indonesia's maneuvers in advancing human protection in this case were limited by the existing ASEAN Way that prioritizes sovereignty, non-interference, and consensus principles.

There is a lot of criticism towards ASEAN for not taking significant initiatives to respond to ongoing communal conflicts and refugee crises in the region. Despite firm responses from Indonesia, Malaysia and the Philippines, ASEAN as an organization seems to have taken a cautious attitude and weak response to the mass atrocities in Myanmar. It was through Indonesian diplomacy that ASEAN secured access to participate in delivering humanitarian assistance to Myanmar. Indonesia has taken the initiative to bring the Rohingya case to the discussion table at several ASEAN meetings, including the APSC meeting and the ASEAN Summit; however, the case was not successfully stated in the official statements of ASEAN's meeting. After a long silence, the association finally issued an official stance through its Chairman's Statement on Rohingya Crisis on September 23, 2017 on the sidelines of the 72nd UNGA meeting (ASEAN 2017). However, this statement was made very weak by not specifically referring to the systematic human rights abuses committed by the Myanmar government which had caused hundreds of thousands of Rohingya people to die and flee to neighboring countries. A more resolute attitude is shown by the ASEAN Parliamentarians for Human Rights (APHR) that on August 24, 2018 urged the UNSC to refer the Myanmar issue to the International Criminal Court (ICC) (*www.bbc.com* August 24, 2018).

The above situation demonstrates the cautious position of ASEAN in applying R2P. ASEAN seems to have difficulty in mobilizing integrated measures to take decisive action to handle atrocity crimes in its member states. Although all member countries have endorsed R2P in the 2005 WSOD and in 2014 ASEAN has stated its commitment to 'mainstreaming R2P as a pathway to achieving a caring ASEAN community' (HLAP 2014: 1), there are still uncertainties in defining the applicability of R2P, in particular when there is a concern that applying the principle would contravene the deep-rooted principle of non-interference. Nonetheless, the recent development shows a subtle changing in the

diplomatic practices within ASEAN, which is driven by the need to reconcile R2P and non-interference to facilitate a better solution to the Rohingya crisis. As stated by one of the members of APHR from Indonesia, Eva Kusuma Sundari, "ASEAN countries must set aside their destructive 'non-interference' policy and take genuine action… We cannot allow these atrocities to take place in one of our member countries with complete impunity" (*aseanmp.org* 24 August 2018).

This situation illustrates the localization process of R2P in Indonesian diplomatic practice and ASEAN institutional framework and mechanism. It reflects the way Indonesia and ASEAN localized R2P to be congruent with the existing principles in Indonesia and ASEAN, while at the same time, the ASEAN principle of non-interference has been moderated to facilitate a constructive engagement in dealing with common concerns. With the changing normative structure in international society advocating sovereignty as entailing responsibility for human protection, it is no longer appropriate for Indonesia and ASEAN to maintain non-interference and ignore gross violations of human rights in Myanmar. Indonesia and ASEAN, through flexible engagement and an inclusive approach, urged the Myanmar government to uphold its responsibility to protect its population regardless of the ethnicity, religion or citizenship statusof its people. By modifying R2P to the existing ASEAN institutional mechanism, Indonesia and ASEAN could improve their legitimacy as a responsible government and regional organization within contemporary international society.

From these cases, it can be concluded that Indonesia always supports R2P as the norm to realise states' prevention and protection responsibilities, both individually and collectively. Indonesia also emphasizes the importance for all actors to comply with the criteria and procedures in accordance with the UN Charter and existing international laws.

4. Conclusion

The analysis of this chapter suggests that, in accepting R2P, Indonesia reinterpreted the R2P norm to find common ground with existing Indonesian values and principles. Indonesia agrees and accepts three pillars of R2P, but emphasises prevention as a key formula to implement R2P successfully.

Indonesia's alignment with R2P can be seen from its continued support for the R2P norm from the beginning of its inauguration in the 2005 World Summit. Indonesia agreed with its basic principle that

responsibility to give protection to the people lay in the individual state. This acceptance is not only congruent with the current aspiration of Reform movement, but is also derived from basic principle that have been upheld by Indonesia since the early years of independence. In this respect, R2P converge with Indonesia's commitment to develop a responsible government, which flows from the domestic values of Indonesian statehood enshrined in the 1945 Constitution that the first mandate in building Indonesian state is to give protection to all people. However, Indonesia is prudent in addressing the norm, especially regarding the application of the third pillar of R2P that includes the possibility to use coercive means in pursuing humanitarian ends. In this regard Indonesia is wary that it could undermine the other existing important norm of sovereignty and non-interference. Its historical experience of being colonized under a foreign state for more than three centuries, its experience with the INTERFET internvention in East Timor in 1999, and the NATO intervention in Libya in 2011 informed Indonesia to be careful with the idea of foreign interference. The way Indonesia reconciles tensions between the normative aspiration to support the value of protection responsibility and the strategic interest to secure its sovereignty from any potential intervention has shaped Indonesia's orientation towards R2P.

Consistent with its orientation towards R2P, in translating its commitment to R2P, Indonesia has devoted its attention to build a strong preventive capacity through building normative and institutional framework for human rights protection and community resilience. This ongoing process of capacity building for prevention reflects gradual institutionalisation of R2P norm within Indonesian society. To some extent, Indonesia already has some institutions and mechanisms needed to implement and mainstream R2P within its society, owing to the reform process conducted since 1999, as manifested in the policy to strengthen KOMNAS HAM and establish Human Rights Court. Adapting R2P to the local context has increased the legitimacy of R2P in Indonesia. This is evident from the subtle shift of policies and practices of sovereignty that increasingly prioritising human protection. The issuance of new rules and harmonisation of pre-existing rules to conform to human rights and R2P norms can be interpreted as a shift or transition of Indonesian policy to put forward its protection responsibilities.

Nevertheless, it must be admitted that at the moment, there are yet some weaknesses. There are challenges in realizing these human rights policies due to the lack of political support from anti-reformist groups, the difficulties in successfully coordinating the work of implementing agencies and limited capacity of state apparatus in carrying out the task to implement the rules effectively. In addition, the reform process of institutions related to human rights protection has not attained to the

ideal condition yet. Put together, it gives implication to impede the effectiveness of human rights protection, indicated in the incidents of human rights violations, as reported by human rights NGOs and KOMNAS HAM.

In essence, Indonesia supports and accepts R2P, but gives greater priority to prevention. In consequence, the story of R2P in Indonesia so far has been largely characterised with its domestic application to build preventive capacity. Its international application of R2P has been marked with its significant contribution to promote human rights and R2P in ASEAN. In addition, Indonesia also plays an active role in using humanitarian diplomacy to encourage neigbouring countries, Myanmar especially, to fulfil their responsibity to protect. This positioning of Indonesia is the result of local actors' attempts to define problems and solutions of the real situation in Indonesia. Indonesia's choice to prioritise the preventive capacity becomes highly relevant and strategic due to two relevant situations. *First*, Indonesia has a complex history and experienced internal conflicts prone to lead to the occurrence of the four forms of crime outlined in R2P. Therefore, it is relevant and important for Indonesia to focus on improving its social and political structures to strengthen the capacity of the state to prevent atrocities. *Second*, Indonesia believes that if it implements its primary responsibility towards its people properly, they do not have to worry about being the target of external military intervention. If every state practices the norm of sovereignty as responsibility properly, then there will be no atrocity problem globally. As a large country and multicultural nation, it is not a simple task for the Indonesian government to make a balance between the imperatives to succeed in the state-building process and its morality to become a responsible government capable of handling and managing the diversity with a responsible mechanism. Considering these situations, Indonesia’s attempt to concentrate on building preventive capacity in impelemnting R2P becomes an appropriate and sensible policy formula.

Conclusion

This thesis has investigated Indonesia's orientation toward human rights by elaborating on how Indonesia has understood the ideas of sovereignty and responsibility for human protection over time. The conventional story of Indonesia and human rights views Indonesia negatively for its readiness to sacrifice human rights in the face of threats to its sovereign authority. In this view, sovereignty is perceived as giving absolute right and authority to the ruler to exercise power. More recent texts and commentaries have viewed Indonesia more positively with the progress of human rights protection since the Reformation in 1998. Both points of view assume that human rights have been largely absent in the history of Indonesia.

This thesis challenges this conventional view and offers a new perspective to the existing literature on Indonesia's relationship with human rights. Following recent scholarship on sovereignty this thesis argues that historically, 'sovereignty has always entailed both rights and responsibilities' and that these rights and responsibilities vary across time and space (Bellamy 2009: 19; Glanville 2014: 5; Reus-Smit 2001: 526). The idea of sovereignty as responsibility underlines the state's responsibility to ensure the protection of its people's rights (Deng et al. 1996: 211). Therefore, it is important to revisit how Indonesia perceives sovereignty and responsibility because this perception will influence the practice of Indonesia in performing its responsibilities in relation to human protection. It is important to recall that this thesis is not looking to cover all human rights. Instead, it focuses on human protection, or the right to security from violence, which is considered to be a basic right that is applicable for everyone and may not be sacrificed in the interest of securing other human rights (Shue 1982: 29; Vincent 1986: 14). With this focus, the thesis investigated how the Indonesia state has understood the concepts of sovereignty and responsibility, and how it has practiced its responsibility not to use violence against its citizens and all people within its territory.

The main task of this conclusion is to summarize and bring together key insights and arguments made in the analysis to answer my research questions, and point to some of their implications. In particular, it hopes to understand better what these changes in the norm's construction mean for the policy challenge of strengthening the promotion and protection of security from mass atrocities in Indonesia. The conclusion then identified how this research contributes to existing scholarly debates on sovereignty and the responsibility to protect.

The central argument in this thesis is that Indonesia's conceptualization of sovereignty has always had an account of responsibility, however the balance between the rights and responsibilities of the sovereign have varied throughout Indonesian history. Human rights have been part of Indonesian politics since independence, but the protection of civilians from violence only emerged for a short period in the early 1950s and then gained momentum after 1998. Indonesia's discursive engagement with sovereignty and responsibility for human rights protection was carried out through a complex process of norm localization. This localization process was dynamically shaped by the normative and material structures at international and domestic contexts. The idea of popular sovereignty and responsibility for human protection were modified to make them congruent with Indonesian national values and were negotiated among the leaders in each historical period. By understanding this historical and social construction of sovereignty and responsibility, it is understood that recent endorsement of R2P by the Indonesian government was made possible because the spirit of R2P resonates with the idea and practice of responsibility that has been part, albeit a fragmentary part, of Indonesian politics since independence. However, the potential for Indonesia to implement and mainstream R2P in a comprehensive manner is limited because Indonesia prefers to focus on prevention measures only and continues to be cautious over its preparedness to take coercive measures that may be requested by other states (Pillar II) or, in extreme circumstances – imposing coervice measures on an unwilling neighbour (Pillar III).

The analysis in Chapter II to Chapter V supports those arguments. Chapter II to Chapter IV investigated how the Indonesia's understanding of sovereignty and responsibility for human protection has evolved from the early independent until the current time under the Reform regime. And Chapter V specifically analysed Indonesia's orientation towards R2P.

1. Summary of the arguments: The history of sovereignty and responsibility in Indonesia

The thesis started in Chapter I with a theoretical outline that justified the adoption of a social constructivist approach, which provides a useful theoretical framework to analyse my research questions. Social constructivism provides historical and discursive tools to understand how the ideas of sovereignty and responsibility have emerged and evolved in the course of Indonesian history through a dynamic social process of norm localization. This reserach investigated the dynamic process by which

the sovereign responsibilities have been understood by Indonesian society, contested by local values, adapted to fit the local context, and then implemented within Indonesian society over time.

In order to assess the relative importance of particular meanings of sovereignty, the thesis traced the development of this idea at key historical moments within Indonesia's history, starting from the early independence to the current Reform era. These historical moments reflect how the meaning and instrumentality of sovereignty and responsibility norms were understood differently by different actors in Indonesia and in different circumstances. By tracing this process of ideational development over historical time in Indonesia, we can see how present understandings of sovereignty, responsibility and their relationship were and continue to be socially constructed. Based on this analysis I then assessed the preparedness and commitment of Indonesia to implement and mainstream the R2P norm.

Chapter II assessed the construction of sovereignty and responsibility in the early post-independence phase. The analysis in this chapter gave a comprehensive understanding on how sovereignty and responsibility first emerged and became articulated in Indonesian society in the early independence period. This picture is important as the starting point to trace how these norms were constituted through the discourse embraced by the government and other relevant actors over time until they are manifested in contemporary policy and diplomacy.

Chapter II showed that in the very early phase of Indonesian historical journey, the discourse of sovereignty and responsibility was present when the founding fathers of Indonesian independence were concerned that colonial international society had allowed the rights of individuals to be sacrified in the interests of international order. It was shaped also by its leaders' understanding of *integralistic* state, based on the principle of *gotong-royong dan kekeluargaan* (cooperation and family principles), as a strong state which has authority and responsibility not only to protect individual or group interests, but to protect the people as an organic unity. Therefore, the founding leaders ultimately adopted a view of the state in which prioritises sovereignty rather than wider individual rights provisions. However, it would be misleading to conclude that the early conception of sovereignty was an absolutist one, because it also accommodated human rights principles to a minimum degree (only stipulated in seven articles of the 1945 Constitution). Interestingly, this occurred three years before the Universal Declaration of Human Rights was endorsed by international society. Nonetheless, in this early phase of independence, the basic right to security from violence was not articulated yet in the conception of

responsibility in Indonesia. It is true that the relationship between sovereignty and responsibility in Indonesia began in 1945, but its responsibility was oriented towards the protection of the nation and the people as a whole – a common and understandable response given the history of colonisation. So the idea of rights incorporated in the 1945 Constitution was oriented more on the collective right of the nation, which in turn became commitments to the right of self-determination as an independence state, the right to self-government, the right to freedom from colonial subjugation; all came to prevail over the right of individuals. It was understood that self-determination drove the formulation of the constitution, as part of the battle of Indonesia to build a new sovereign state that was free from foreign domination.

However, it is important to note that in practicing the post-independence sovereignty, Indonesia established liberal democracy, which was characterized with the development of political parties since the end of 1945 and parliamentary democracy since the 1950. The practice of liberal democracy could happen because the democratic group led by Hatta and Sjahrir worried about and anticipated the emergence of an authoritarian state based on the 1945 Constitution that endorsed an executive-heavy political system. Liberal democracy continued to evolve with the enactment of the 1949 Constitution and the subsequent 1950 Provisional Constitution that adopted human rights provisions associated with the Universal Declaration of Human Rights. It can be said that Indonesian leaders were fully aware of the development of human rights norms in international society and intended for human rights to become fundamental to the construction of Indonesian statehood. The Indonesian leaders aspired to a conception of sovereignty involving responsibility for human rights protection. Indonesia and other participants within the 1955 Bandung Conference further advocated this construction of sovereignty and responsibility as compatible norms. This kind of conception also developed further in the meeting of *Konstituante* in drafting a new Constitution.

This conception of sovereignty was reconstructed at the end of the 1950s, and took a different direction. The 1959 Presidential Decree promoted an absolute sovereignty with the establishment of the Guided Democracy and return to the 1945 Constitution. With the re-institution of the 1945 Constitution, the decree abolished the 1950 Constitution and the draft Constitution formulated since 1956 by the *Konstituante.* The army proposed to the President to return to the 1949 Constitution, because there is provision in the 1945 Constitution that gives the TNI a role in politics. To justify its action, Soekarno, supported by the military, constructed a discourse that liberal or parliamentary

democracy was at odds with the Indonesian values of consensus, harmony and mutual cooperation. They accused the existing multi-party electoral political system as causing instability and the rapid succession of cabinets which worsened social, economic and political conditions. Therefore, Soekarno created a strong state where the sovereign had a supreme authority to exercise its power. He became the life-long President and he repressed any criticism. The Guided Democracy ended through a series of events starting with an attempted coup in 1965 that was quickly quashed by the military, and followed by a policy of abolishing the Communist Party and destroying its sympathizers, since they were accused as the main agitators of the coup. This tragedy left a dark stain in the history of Indonesia, as it came to be understood by the international community as the 1965 massacre. A massacre of this scale shows that the idea of sovereign responsibility had no room for protecting those that were regarded as enemies of the state.

Chapter III explained that the construction of sovereignty and responsibility for human rights protection evolved during New Order era, which was marked with the minimum responsibility of the state to protect individual security from violence. The prevailing norm at the international level was characterised by the traditional notion of sovereignty, which prioritized non-intervention and non-interference towards other sovereigns' domestic affairs. Although human rights were increasingly adopted as an international norm, its implementation remained limited in the domestic jurisdiction. Within these circumstances, each sovereign state had discretion to interpret and adjust human rights according to values in the domestic context.

The prevailing normative structure at international level that prioritized sovereignty guarded with non-intervention principle provided space for the New Order regime to exercise a power-based conception of sovereignty. With a vision to build a unitary republic based on the *Pancasila* democracy, the government constructed sovereignty in its traditional meanings that emphasized the right of the sovereign to exercise its power rather than upholding its responsibility towards the people. In the New Order era, human rights were difficult to develop because the advancement of human rights was perceived as an impediment to the achievement of the strong and prosperous state promoted by Soeharto administration. The government believed that stability and national security were preconditions for economic development. The state was able to construct the idea that human rights are foreign ideas that are not in accordance with Indonesia's values and personality that are based on the principles of *kekeluargaan* (family-ness) and *gotong-royong* (sharing burdens). By saying that

Indonesia was not a rights-based society, Soeharto emphasized that human rights were only recognized together with human duties. Furthermore, he emphasized that *Pancasila* values *were* reflected in the willingness to work together and sacrifice for the common good (Soeharto 1975 cited in Abdullah 2009: 386).

The emphasis on collectivism and family principles were founded on the *integralistic* perspective, which was dominant in the early independence and then was reproduced by the New Order administration. It was believed that the state would become the leading agent to achieve common good for all people. It is also important to mention that Soeharto was very much influenced by the Javanese worldview. The conceptions of power and obligation in Javanese culture gave a justification for the ruler to strengthen its sovereign power rather than its obligation and responsibility to take care of its subjects. It is even the duty of the subjects to comply with the ruler. In Javanese culture, the world is perceived as an uncertain place, and it needs the leader to control order so as to keep the world in a predictable condition. And surrender to the leader is preferable to the risk of conflict and chaos. Therefore, as noted by Mulder, 'the subjects have a moral duty to submit obedience by emphasizing *rukun* (live in harmony) and avoiding confrontation that can cause disorder' (1994: 70). The New Order regime took advantage of this Javanese understanding of power and leadership in its efforts to justify its authoritarian political system which prioritized its sovereign rights and authorities rather than responsibilities towards its population. With this conception of sovereignty and responsibility, it was easy for the government to justify its policy to oppress opponents or to dismiss criticisms in the name of security of the state or in the name of order and stability. Acts of state violence to individuals were evident in cases such as the mysterious killings of 1982-1985, the violence that occurred in Tanjung Priok in 1984, and the application of military operations in Aceh, Papua and East Timor.

The policy to integrate East Timor under Indonesian sovereignty in 1976 represented Indonesia's emphasis on the norm of sovereignty over basic human rights such as security from violence. This situation reflected Indonesia's understanding of sovereignty primarily as the right to preserve its national integrity and security, while human rights and self-determination of East Timorese were considered to be, at best, a marginal priority. This can be taken place since there was enabling environment where prominent actors in particular the major Western countries interpreted self-determination norm to be adjusted to their respective national interest. And in the domestic realm, this

policy can be explained by understanding the dominant perspective of New Order regime to value on the security of the state over the security of its people.

Chapter IV demonstrated a significant change in Indonesian understanding of sovereignty and responsibility, shaped by the evolving discourse in international and domestic society. In the international realm, the end of the Cold War brought normative transformation which affected the guiding principle for states and other actors in their interactions with each other. The decline in ideological rivalry between East and West has raised a new perspective that views human rights violations as a menace to international security and peace. This development changed the conceptual meaning of sovereignty and responsibility and allowed them to be perceived and reconstructed as complementary. It further facilitates the redefinition of sovereignty to promote the conception of sovereignty as responsibility.

At the domestic realm, the year of 1998 marked a significant turning point within Indonesian domestic politics, which signalled the start of a transformation from an authoritarian to a democratic political system. This transformation has brought a significant change in Indonesian perception and practice toward sovereignty and responsibility norms, evident in amendments to the 1945 Constitution. The amended Constitution reconstructs the concept of sovereignty by asserting that sovereignty shall be vested to the people and shall be exercised in conformity with the Constitution. It put limitation on the state's power and authority in order to prevent the state and the government to exercise power arbitrarily, and add some provisions to remind the sovereign that they have more responsibilities to perform. It has been done by adopting the clauses that limit the period of presidency, strengthening checks and balances mechanism, and adding more human rights provisions, including the specific rights of individual against violence.

With the insertion of more detail and explicit human rights provisions in the Amended Constitution, it gives a stronger basis for the state to fulfill its responsibility to give protection to individuals living in its territory, because it is mandated by the constitution. The idea of human rights and human protection in particular, finds its momentum back and become the foundation for the effort to improve the dignity of Indonesia to be an equal and respected member of international society. In addition, Indonesia become more aligned with the re-balancing of order and justice in international society, manifested among other things by ratifying international human rights instruments and harmonizing those

principles into national laws and policies. Therefore, with the Reformasi, the evolving discourse in Indonesia perceives human protection as an inherent Constitutional commitment and as an obligation for Indonesian governments to comply with certain ratified international human rights instruments.

Chapter V assessed the contemporary orientation of R2P in Indonesia. Although Indonesia accepts R2P as a whole, it gives greater priority to the non-coercive aspects of the prevention agenda. At the same time, Indonesia remains very cautious about the third pillar. Consistent with its position to R2P, in translating its commitment to R2P, Indonesia has devoted its attention to build a strong preventive capacity through building normative and institutional framework for human rights protection and building community resilience. This ongoing process of capacity building for prevention reflects gradual institutionalization of R2P norm within Indonesian society. Within domestic society in Indonesia, there is an increasing acceptance of R2P. Although there is variation in the degree of knowledge and understanding about R2P, the framework is now more widely known by important human rights stakeholders in contemporary Indonesia. Nevertheless, it is admitted that there are challenges in realizing these policies due to the existing of non-reformist elites within the military and the government who worry that R2P would risk their position. In addition, the reform process of institutions related to human rights protection is not yet complete. Putting these points together, there are impediments to implementing effective human rights protection, evidenced in the continued incidents of human rights violations and the continued reticence to admit past gross human rights violations.

In addition to its domestic reforms, Indonesia's commitment toward R2P also manifested in its engagement in the discourse of R2P within the UN forums and ASEAN. However, Indonesia's response and attitude towards R2P situations in Myanmar, Libya and Syria demonstrates a prudent approach in applying R2P, especially when it preferred to the use of military intervention to secure the protection of individuals. Its historical experience of colonialism and military intervention in the aftermath East Timor referendum informed Indonesian government to adopt a careful attitude with regards to the idea of using force for attaining the R2P goals.

2. Main contributions

The first contribution of this research is a revision to the story of Indonesia's relationship with basic human rights. The conventional story about sovereignty and responsibility for human rights protection in Indonesia has been misinterpreted. This thesis argues that responsibility and human rights have always had a place in the conception of sovereignty in Indonesia, from the earliest days of post-independence. That conventional story has hidden from view the dynamic character of the construction of a norm. This thesis acknowledged that there were periods when the degree of responsibility for human protection decreased, namely during the Guided Democracy and the New Order era. However, this should be understood as part of an unfolding social and historical relationship of sovereignty and responsibility in Indonesia. The responsibility was there, but the leaders gave more focus to consolidating Indonesia's sovereignty as a post-colonial state and gave emphasis to its responsibility to protect the collective good rather than individual rights.

This thesis showed that Indonesia's understanding of sovereignty does not merely consist of its rights and supreme authority. As demonstrated in a number of chapters, it is evident that Indonesia acknowledges that sovereignty involves rights and responsibilities, although the balance between rights and responsibilities has changed over time. With this argument, this thesis provides a deeper and richer understanding of Indonesia's orientation toward human rights.

This finding presents a more fine-grained understanding of Indonesia's relations with human rights in contrast to the existing literature that tends to see it in black and white terms. In contrast to the first body of literature that view Indonesia's relationship to human protection negatively by emphasizing its record of human rights abuses, my study has tried to dig deeper into the normative context that has been developed throughout Indonesian history. This research found that the construction of sovereignty in Indonesia does not only entail the rights of the sovereign, but also consists of certain responsibilities. It was proven by the strong aspiration of the Indonesian leaders to incorporate human rights idea in constructing the conception of statehood and sovereignty since early independence. Although it was not a dominant voice, the idea of sovereign responsibilities to protect could be dimly perceived in the 1945 Constitution. It then received stronger articulation in the 1949 and 1950 Constitutions when Indonesia reconstructed the idea of sovereignty with responsibility to uphold the rule of law and

adopted most human rights provisions from the 1948 UDHR. The discourse at the 1955 Bandung Conference and the *Konstituante* (1956-1959) illustrated this tendency.

This fact accordingly enriches the point of view from the second body of literature that presented a more positive perspective on the Indonesian relationship with human rights, viewing Indonesia's reorientation to human rights as a new trend resulting from Reformation. This thesis showed that even during the New Order era, often viewed as reluctant in admitting human rights as a valid system for Indonesia, it was evident that the government developed and encouraged discourse on human rights in order to fulfil its claim as the corrector of Guided Democracy. However, this discourse was marginalized with the emergence of a conception of statehood and sovereignty promoted by a military-led group which enshrined a power politics conception of sovereignty. This thesis also contributes to a deeper analysis to the second body of literature, by presenting the fact that the idea of responsibility for human rights protection has not been understood comprehensively by the wider community. Even the government officials who works on implementing human rights legislation still have limited understanding of the way to respect and protect human rights at a practical level. This was reflected in the ongoing human rights abuses reported by some NGOs and KOMNAS HAM. In addition, it should be admitted that the progress has run slowly and is still far from the ideal. The existence of the anti-reformist group, who are persistent with its conception of sovereignty as a right to impose order, is hampering the progress of the reform.

The second contribution is to enrich the discourse on norm diffusion in international relations. This thesis confirms the applicability of norm localization theory. Indonesia's understanding of sovereign responsibility to give protection to the people had emerged and evolved dynamically (as we have seen). Local actors, represented by the Indonesian government and other relevant players, actively constructed and reconstructed the international norm of sovereignty and responsibility to protect human rights to be congruent with Indonesian values and traditions. To give some examples, the members of BPUPKI clearly stated that Indonesia would adapt to the idea of popular sovereignty from international society, Western society in particular, but it should be combined and adjusted with Indonesian principles of *kekeluargaan dan perwakilan* (family principle and representation). Therefore, it came up with a new modified conception of popular sovereignty that would be exercised by the People's Consultative Assembly.

The case of Indonesia's acceptance of R2P also proves the working-out of norm localization theory. There is an agential capacity of local actors in directing how certain international norms being adopted and then implemented within national level. They actively ascribe meaning, reinterpret, and reconstruct the R2P norm to find a common ground with existing local norms of sovereignty and non-intervention that have become important in the process of state-building in Indonesia. This process opens the space for modification that brings more acceptance and increases the legitimacy of R2P within Indonesian society. Since the norm has been modified, in turn it also modified the output and outcome. Indonesia adopts R2P with emphasis on the prevention and takes a cautious approach in regards to the use of military intervention in attaining R2P goals.

The third contribution of this thesis is filling a gap in the literature regarding the coexistence of sovereignty and responsibility in international relations by broadening the scope of research to address this dynamic process in Indonesia. This research is important considering the position of Indonesia as the third largest democracy in the world after more than three decades of its post-independence history being dominated by the experience of an authoritarian political system. This study provides an important lesson about the dynamic process of localizing sovereignty and responsibility for human protection and it can be used as a benchmark to assess the socialization and application of this norm in other post-authoritarian countries. The existing studies of norms mostly describe norm diffusion as a linear process where norms rise and fall along a liberal 'western' pathway before being distributed to the rest of the world.

Certain scholars have started to criticise the linear pathway in the conventional story about norm diffusion (Cortell and Davis Jr. 2000; Acharya 2004; Krook and True 2010). In parallel with this imperative, this research demonstrates that the process of norm diffusion is not merely an effort to find compatibility between the international norms with the existing local norm, but it also related to the wider context of the material power and interests within the domestic society. The reform in Indonesia did not necessarily remove the actors from the old regime and replace them with entirely new actors, as was the case with post-Apartheid South Africa. In Indonesia the old actors and institutions are still playing significant roles in the new political system. Within this political context, the acceptance or rejection of any new 'external' norm is also influenced by the power relationship between pro-reformist and pro-status quo forces within the political elites with their competing interests in taking a certain position towards the new external norm being embraced by the state. In the case of accepting

R2P and the settlement of past gross human rights violations in Indonesia, the existence of anti-reformist elites within the military and government offices played a significant role in impeding the progress of human protection in the country. Therefore, this research endeavours to contribute to and enrich the conventional understanding of norm diffusion by proposing a new standpoint to understand the history of an idea and norm as it has unfolded in a large and complex post-authoritarian society.

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Interviews:

Adriana Elisabeth. Head of the Centre of Political Research of the Indonesian Science Institute (*Lembaga Ilmu Pengetahuan Indonesia* or LIPI). 15 January 2016.

Agus Darojat. Director of Human Rights Division, Indonesian National Police Headquarter. 17 February 2017.

Agus Sriyono, Deputy II of the Coordinating Ministry for Political, Legal and Security Affairs. 8 December 2015.

Bambang Iriana Djajaatmadja. Director of Dissemination and Strengthening of Human Rights of the Ministry of Justice and Human Rights. 12 January 2016.

Dicky Komar. Head of Human Rights Division of the Ministry of Foreign Affairs. 6 January 2016.

Eric Hiariej. Lecturer at the Gadjah Mada University. 22 February 2017.

Ganewati Wuryandari. Researcher at the Centre of Political Research of the Indonesian Science Institute (*Lembaga Ilmu Pengetahuan Indonesia* or LIPI). 15 January 2016.

Jan Pieter Ate. The Director of Defence Technology and Industry, Directorate General of Defence Potential, Ministry of Defence. 26 January 2016.

Kusnanto Anggoro. Professor at the University of Defence and the Executive Director of the Centre for Risk Studies. 11 January 2016.

Lina Alexandra. Senior Researcher at the Centre for Strategic and International Studies. 6 January 2016.

Makarim Wibisono. Senior Diplomat and Professor at the University of Airlangga. 8 December 2015.

Mohtar Mas'oed. Professor at the Gadjah Mada University and Senior Researcher at the Centre for Security and Peace Study Gadjah Mada University. 18 January 2016.

Molan Tarigan. Director of the Human Rights Instrument of the Ministry of Justice and Human Rights. 12 January 2016.

Mualimin Abdi. Director General of the Human Rights Affairs at the Ministry of Justice and Human Rights. 12 January 2016.

Philips J. Vermonte. Executive Director of the Centre for Strategic and International Studies. 6 January 2016.

Poengky Indarti. Executive Director of the Imparsial. 16 December 2015.

Puri K Putri. Head of Advocacy Division at the Commission for the Disappeared and Victims of Violence (*Komisi untuk Orang Hilang dan Korban Kekerasan or KontraS*). 30 November 2015.

Rafendi Djamin. Executive Director of the Indonesian Human Rights Working Group. 25 January 2016.

Rahimah Abdulrahim. Executive Director of the Habibie Centre. 23 February 2017.

Roichatul Aswidah. Commissioner of the KOMNAS HAM (the Indonesia National Commission for Human Rights). 11 December 2015.

Samsu Rizal Panggabean. Senior Lecturer at the Gadjah Mada University and Researcher at the Centre for Security and Peace Study Gadjah Mada University. 22 February 2017.

Wahyu Wagiman. Executive Director of the Institute for Policy Research and Advocacy (*Lembaga Studi dan Advokasi Masyarakat* or ELSAM). 16 February 2017.

Wahyudi Djafar. Deputy Dorector for Research at the Institute for Policy Research and Advocacy (*Lembaga Studi dan Advokasi Masyarakat* or ELSAM). 16 February 2017.

Yuyun Wahyuningrum. Senior Advisor on ASEAN and Human Rights at the Indonesian Human Rights Working Group. 11 January 2016.

Appendices

Ethical Clearance Approval

Ririn Nurhayati - Outcome of Ethical Clearance Application

Reply all | Delete Junk | >

Ririn Nurhayati - Outcome of Ethical Clearance Application

POLSIS RHD ENQUIRY <rhd.polsis@uq.edu.au> Reply all |

PE

Tue 10/27/2015, 4:50 PM

Ririn Tri Nurhayati; Tim Dunne <tim.dunne@uq.edu.au>; Richard Devetak <r.de

Inbox

This message was sent with high importance.

You replied on 10/28/2015 11:00 AM.

Dear Ririn,

I am writing to inform you that your application for Ethical Clearance has been approved for your research project "Sovereignty and Responsibility in Indonesia".

I wish you well with your project.

Kind regards
Prof. Christian Reus-Smit
Chair of Research Committee
School of Political Science and International Studies

By way of

Vanessa

Muriwai Vanessa Salam

Research Higher Degree Administrative Officer | School of Political Science & International Studies The University of Queensland | St Lucia Queensland 4072

telephone +61 7 3365 3043 | fax +61 7 3365 1388

email rhd.polsis@uq.edu.au | web www.polsis.uq.edu.au/

CRICOS 0025B

https://outlook.office.com/owa/projection.aspx1/2

Reply all | Delete Junk | >

RE: Application for Ethical clearance for 2nd fieldwork

POLSIS RHD ENQUIRY <rhd.polsis@uq.edu.au> Reply all |

PE

Wed 1/25/2017, 4:49 PM

Ririn Tri Nurhayati

Inbox

You replied on 1/27/2017 12:00 PM.

Dear Ririn,

I have just received a response from Prof Chris Reus-Smit saying that he is happy to support your Ethical clearance application.

So you can now go ahead with preparing your Research funding application. J

Kind regards,

Marja

From: Ririn Tri Nurhayati [mailto:ririn.nurhayati@uq.net.au]

Sent: Wednesday, 25 January 2017 3:44 PM

To: POLSIS RHD ENQUIRY <rhd.polsis@uq.edu.au>

Subject: Application for Ethical clearance for 2nd fieldwork

Dear Marja,

I would like to send my application for Ethical Clearance for conducting my second fieldwork.

This project is a continuation from the first fieldwork in January 2016, with the different institutions that could not be covered in the first fieldwork because of the time constraint. Would you please forward this to the School's Research Committee?

Thank you very much.

Kind regards,
Ririn Tri Nurhayati

https://outlook.office.com/owa/projection.aspx