



Serious Human Rights Crimes

Chifa Azyana Adly Meknesya¹, Muhammad Rafly Lubis², Meldyana Permata Abdillah³, Muhammad Faiz Almaisi⁴

¹Sidi Mohamed ben Abdellah Fes Morocco

^{2,3,4}State Islamic University of North Sumatra, Faculty of Sharia and Law

E-mail: chifaazyanaadly@gmail.com raflylubis92@gmail.com meldyanapermata@gmail.com
muhammadfaizmtd03@gmail.com

Info Articles

Article History

Received: 2026-05-16

Revised: 2026-05-24

Published: 2026-05-30

Keywords:

Human Rights; Gross Human Rights Violations; War Crimes; International Criminal Law.

Abstract

Gross human rights crimes are serious violations of basic human rights that receive attention in both national and international law. This paper aims to examine the concept and scope of gross human rights crimes, their regulation in Indonesian national law, and the position of war crimes from the perspective of international criminal law. The research method used is normative legal research with a statutory and conceptual approach, through a literature review of primary and secondary legal materials. The results of the discussion indicate that Indonesian national law, through Law Number 26 of 2000 concerning Human Rights Courts, regulates gross human rights violations in a limited manner, namely genocide and crimes against humanity. Meanwhile, in international criminal law, war crimes are recognized as international crimes that occur in the context of armed conflict and are closely related to the protection of human rights. Thus, the study of gross human rights crimes and war crimes demonstrates the relationship between national law and international law in efforts to protect human dignity.

I. INTRODUCTION

Human rights (HAM) are fundamental rights inherent in every human being from birth and universally recognized as part of human dignity. In the development of national and international law, certain violations of human rights are classified as the most serious violations due to their widespread and systematic impact and threat to universal human values. These violations are known as serious human rights crimes and are categorized as extraordinary crimes.

Under Indonesian national law, gross human rights crimes are expressly regulated by Law Number 26 of 2000 concerning Human Rights Courts, which limits their scope to two main forms: genocide and crimes against humanity. This regulation demonstrates the state's commitment to aligning national law with international human rights principles. However, this limitation has also given rise to academic debate regarding the scope of gross human rights crimes in relation to developments in

international criminal law.

From an international legal perspective, particularly as stipulated in the 1998 Rome Statute of the International Criminal Court, gross human rights violations encompass not only genocide and crimes against humanity, but also war crimes. War crimes are serious violations of international humanitarian law committed in the context of armed conflict and directly threaten fundamental human rights, such as the right to life and the right to humane treatment.

The differences between Indonesian national law and international criminal law raise normative questions regarding the position of war crimes within the framework of human rights protection. Although Indonesia has not ratified the Rome Statute, its principles are frequently used as academic and moral references in the development of national law. Therefore, studying gross human rights crimes is crucial not only for understanding the applicable regulations but also for assessing the relevance and limitations of national law in addressing the

dynamics of human rights violations globally.

According to the author, there are several important legal issues related to the regulation and development of the concept of gross human rights crimes within the national and international legal systems. First, what is the concept and scope of gross human rights crimes from the perspective of Indonesian national law and international law? Second, how are gross human rights crimes regulated in Law Number 26 of 2000 concerning Human Rights Courts? Third, what is the status of war crimes within international criminal law?

II. RESEARCH METHODS

This research uses a normative legal research method, which aims to examine and analyze applicable legal norms, focusing on library materials as the primary source. This approach is used to examine the concepts, principles, and regulations of gross human rights crimes in national and international law.

The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach is conducted by examining various laws and regulations related to gross human rights crimes, particularly Law Number 26 of 2000 concerning Human Rights Courts. Meanwhile, the conceptual approach is used to examine legal concepts developed in legal doctrine and literature related to gross human rights violations.

III. RESULTS AND DISCUSSION

A. The Concept and Scope of Gross Human Rights

Human rights are essentially a set of fundamental rights inherent in every individual as a consequence of human dignity. From a legal perspective, protection of these rights does not stop at mere normative recognition, but requires a criminal accountability mechanism when serious and systemic violations occur. Therefore, in the development of national and international law, the concept of gross human rights crimes is recognized as a form of human rights violation with the highest level of seriousness (Muladi: 2005).

Conceptually, gross human rights crimes are understood as acts that fundamentally violate human values and are committed with certain characteristics, namely widespread or systematic nature. This element is the main

distinction between ordinary human rights violations and gross human rights violations, as it indicates a pattern of actions that is not incidental, but rather structured and ongoing.

In Indonesian national law, the concept of gross human rights crimes is formulated in a limited manner in Law Number 26 of 2000 concerning Human Rights Courts. This law stipulates that gross human rights violations only include genocide and crimes against humanity. This limitation reflects the country's legal policy of qualifying certain human rights violations as extraordinary crimes requiring special enforcement mechanisms (Atmasasmita, 2010).

The crime of genocide is defined as an act committed with the intent to destroy, in whole or in part, a particular national, racial, ethnic, or religious group. The element of intent to destroy a particular group is the main characteristic that distinguishes genocide from other forms of international crimes. Meanwhile, crimes against humanity include various inhumane acts, such as murder, torture, enslavement, enforced disappearance of persons, and other acts committed as part of a widespread or systematic attack against a civilian population.

Compared with developments in international criminal law, the scope of gross human rights crimes under Indonesian national law appears narrower. The Rome Statute of the International Criminal Court defines serious violations against humanity not only as genocide and crimes against humanity, but also as war crimes. War crimes are serious violations of international humanitarian law that occur in the context of armed conflict and are directed against those who should be protected, such as civilians and prisoners of war.

Although war crimes have not been explicitly categorized as gross human rights violations in Law Number 26 of 2000, the substance of the violations remains closely related to the protection of human rights. The prohibition of murder, torture, and inhumane treatment in situations of armed conflict is essentially an extension of the basic principles of universal human rights. Therefore, conceptually, war crimes can be viewed as part of the discourse on gross human rights in the context of international criminal law.

B. Regulation of Serious Human Rights Crimes in Indonesian National Law

Law enforcement against gross human rights crimes in Indonesia is specifically regulated through Law Number 26 of 2000 concerning Human Rights Courts, which stipulates a separate mechanism distinct from the regular criminal justice process. This mechanism consists of several sequential and interrelated stages. No stage can be passed without completing the previous one, as each institution has different authorities. These stages include:

1. Investigation by the National Commission on Human Rights

The initial stage of law enforcement is initiated by the National Commission on Human Rights (Komnas HAM) as a state institution authorized to conduct investigations into allegations of gross human rights violations. This authority is explicitly granted by Article 18 paragraph (1) of Law No. 26 of 2000, which states that Komnas HAM is tasked with conducting initial investigations before a case can proceed to the investigation stage. In this stage, Komnas HAM collects preliminary evidence such as statements from witnesses, victims, documents, and an analysis of the sequence of events to determine whether a gross human rights violation has occurred. The results of the investigation are then submitted to the Attorney General's Office to determine whether or not it can proceed to an investigation.

2. Investigation by the Attorney General's Office

The next stage is the investigation conducted by the Attorney General's Office. At this stage, the investigating prosecutor conducts further investigations, such as summoning additional witnesses, confiscating documents, and naming a suspect if sufficient evidence is available.

3. Prosecution and trial in the Human Rights Court

If the investigation is declared complete, the case is transferred to the Human Rights Court, which is a special court under the general court system which has the authority to try two types of serious human rights violations, namely: Genocide and Crimes against Humanity.

4. Implementation of the decision

After the court hearing is complete, the panel of judges renders a verdict based on the evidence presented at trial. The verdict can be a prison sentence or an additional sentence, as stipulated in Law No. 26 of 2000. The decision is enforced by correctional institutions and government agencies, depending on the nature of the additional sentence imposed (Yahya: 2013).

C. War Crimes from the Perspective of International Criminal Law

In the development of international criminal law, war crimes occupy a crucial position as a serious violation of humanitarian values. War crimes are serious violations of international humanitarian law committed in the context of armed conflict, whether international or non-international. These violations directly target those who should be protected, such as civilians, medical personnel, and prisoners of war.

Comprehensive provisions on war crimes can be found in the Rome Statute of the International Criminal Court, which classifies various acts as war crimes, including the killing of civilians, torture, inhumane treatment, destruction of property without legitimate military justification, and the use of prohibited methods and means of warfare. This provision emphasizes that even in situations of armed conflict, the protection of human dignity must remain paramount.

Unlike genocide and crimes against humanity, war crimes have a unique contextual element, namely the existence of armed conflict as a prerequisite for the crime. This element is a key distinction in the construction of international criminal law and demonstrates that international humanitarian law and human rights law complement each other in providing protection to individuals in extraordinary situations (Schabas, 2011).

War crimes essentially involve violations of the rules governing the means and methods of warfare. These rules aim to limit the impact of armed conflict by providing protection to those not directly involved in the fighting, such as civilians, medical personnel, and prisoners of war.

In relation to gross human rights violations, there is a link between acts that qualify as war crimes and the protection of human rights. Some acts that constitute war crimes, such as

murder, torture, and inhumane treatment, are essentially also acts that violate basic human rights. Therefore, although war crimes are regulated under the international humanitarian law regime, the substance of the regulation remains related to the protection of human rights. Therefore, any act that violates these provisions is qualified as a war crime and can be held criminally responsible under international criminal law.

When linked to Indonesian national law, war crimes have not been explicitly categorized as gross human rights violations as stipulated in Law Number 26 of 2000 concerning Human Rights Courts. This lack of regulation demonstrates the limited scope of national law in accommodating developments in international criminal law. Therefore, war crimes are a form of international crime that is substantially related to the protection of human rights, particularly in situations of armed conflict.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the discussion above, it can be concluded that gross human rights crimes constitute serious violations of human rights recognized under both national and international law. In Indonesian national law, provisions regarding gross human rights violations are specifically stipulated in Law Number 26 of 2000 concerning the Human Rights Court, which limits the types of gross human rights violations to genocide and crimes against humanity.

These regulations demonstrate a clear legal framework regarding the types of acts, legal subjects, and enforcement mechanisms for gross human rights violations in Indonesia. Through the Human Rights Court, the state provides a specialized facility to address human rights violations that are extraordinary in nature and have a broad impact on humanity.

Furthermore, international criminal law also recognizes war crimes as a form of international crime that occurs in the context of armed conflict. War crimes encompass various acts that violate international humanitarian law and are fundamentally related to the protection of human rights, particularly for parties not directly involved in hostilities.

Thus, although war crimes have not been explicitly categorized as gross human rights violations under Indonesian national law, their discussion remains closely linked to the concept of human rights protection. This overall discussion demonstrates that human rights protection, both nationally and internationally, is an integral part of efforts to maintain human dignity and values.

B. Suggestion

The government and lawmakers need to pay more serious attention to the regulation of serious human rights crimes in national law, particularly in relation to war crimes, so that human rights protection can be implemented more comprehensively.

Law enforcement officers are expected to implement law enforcement mechanisms against serious human rights violations consistently and based on the provisions of applicable laws and regulations, in order to guarantee legal certainty and protection of human dignity.

REFERENCE LISTAN

- Atmasasmita, (2010). *Hukum Pidana Internasional Dan Kejahatan Luar Biasa*. Bandung: Refika Aditama.
- Harahap, Yahya (2013). *Pembahasan Permasalahan Dan Penerapan Kuahp*. Jakarta: Sinar Grafika.
- Harkrisnowo, (2007). *Hukum Pidana Dan Hak Asasi Manusia*. Jakarta: Universitas Indonesia.
- Marzuki, (2011). *Pengadilan Hak Asasi Manusia Di Indonesia*. Jakarta: Erlangga.
- Muladi, Dan Sulistyani, D. (2011). *Pertanggungjawaban Pidana Dalam Pelanggaran Hak Asasi Manusia*. Bandung: Alumni.
- Muladi. (2005). *Hak Asasi Manusia Dan Reformasi Hukum Di Indonesia*. Jakarta: Kompas.

Parthiana, I. W. (2006). *Hukum Pidana Internasional Dan Ekstradisi*. Bandung: Yrama Widya.

Schabas, W. A. (2011). *An Introduction To The International Criminal Court*. Cambridge: Cambridge University Press.