



Serious Human Rights Violations (The Role of the National Commission on Human Rights, the Human Rights Prosecutor's Office, and the Human Rights Court)

Dinda Suciana Rambe¹, Yolanda Ayu Gita², Tasya Devina Putri Harahap³, Putri Nabila Aryhati Solin⁴

¹Sunan Kalijaga State Islamic University Yogyakarta

^{2,3,4}State Islamic University of North Sumatra

E-mail: 22203011015@uin-suka.ac.id Yolanda0206231009@uinsu.ac.id Tasya0206231005@uinsu.ac.id,
Putri0206231014@uinsu.ac.id

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<p>Article History Received: 2025-05-12 Revised: 2025-05-22 Published: 2025-05-30</p> <p>Keywords: <i>Human Rights Violations; National Human Rights Commission; Attorney General's Office; Human Rights Court.</i></p>	<p>Gross violations of human rights are serious crimes that require a specific and integrated legal mechanism. In Indonesia, their handling involves several key institutions, namely the National Commission on Human Rights (Komnas HAM), the Attorney General's Office through its division of prosecution of gross human rights violations, and the Human Rights Court. This study aims to analyze the role and authority of each institution in the process of enforcing the law against gross human rights violations, while also assessing the effectiveness of coordination between these institutions. The research method used is normative legal research with a statutory and conceptual approach, through a review of Law Number 26 of 2000 concerning the Human Rights Court and related regulations. The results of the study indicate that although the authority of each institution has been clearly regulated, in practice, various obstacles remain, such as differences in interpretation of authority, weak coordination, and political and administrative obstacles. Therefore, strengthening the legal framework and inter-institutional coordination mechanisms is necessary to achieve effective human rights law enforcement and justice.</p>

I. INTRODUCTION

Human rights (HAM) are basically a collection of fundamental rights which are a gift from God Almighty inherent in every person since birth and cannot be reduced, removed, or canceled by anyone (Jimmy, 2015). Everyone, including the state as the highest authority, must respect these rights because they are universal and fundamental to human dignity. The recognition of human rights is morally and legally required in a country founded on the supremacy of law, and must be realized through real protection and enforcement of the law. The 1945 Constitution of the Republic of Indonesia, which regulates human rights provisions broadly in Articles 28A to 28J, clearly reflects this (UUD NRI 1945).

However, historical facts show that Indonesia has experienced a number of incidents that fall into the category of blatant human rights violations throughout its national and state history. These incidents include various crimes against humanity, torture, enforced disappearances, and mass killings (Santoso, 2019). These violations are often committed by state officials or other parties with certain

powers and authorities, and are usually organized, systematic, and widespread (Muladi, 2016). This situation demonstrates the abuse of authority, which has a negative impact on the rights to liberty, life, and human dignity.

In addition to causing immense suffering to individual victims, gross human rights violations are also considered extraordinary crimes because they have a far-reaching impact on social stability, the sense of justice within society, and peace and security at the national and international levels (Eko, 2017). Furthermore, the international community recognizes the universal humanitarian principles that gross human rights violations violate. Consequently, their resolution cannot be compared to ordinary crimes; instead, they require unique and extraordinary strategies and legal processes, such as the establishment of law enforcement organizations and court systems specifically designed to address these crimes. Indonesia subsequently enacted Law Number 26 of 2000 concerning the Human Rights Court as a means for the state to meet demands for justice and accountability for gross human rights violations.

By explicitly regulating the division of roles and authorities of related institutions: the National Commission on Human Rights (Komnas HAM) as an investigative body, the Attorney General's Office as investigator and public prosecutor, and the Human Rights Court as a special judicial body authorized to adjudicate cases of gross human rights violations, this law serves as the primary legal basis for upholding gross human rights. However, academics and legal professionals continue to frequently criticize the effectiveness of the law enforcement system in practice, particularly regarding the slow legal system, poor institutional coordination, and the unfulfilled sense of justice for victims (Uli, 2020).

II. RESEARCH METHODS

This research is a legal research

This study uses a normative qualitative approach, aiming to examine the legal regulations and mechanisms for law enforcement against gross human rights violations in Indonesia. The approaches used in this study include a statutory approach and a conceptual approach. The statutory approach is used to analyze legal provisions governing human rights and gross human rights violations, particularly the 1945 Constitution of the Republic of Indonesia and Law Number 26 of 2000 concerning the Human Rights Court. The conceptual approach is used to examine legal concepts and doctrines related to human rights, genocide, and crimes against humanity as developed in national and international legal literature.

The legal sources used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include relevant laws and regulations. Secondary legal materials include legal textbooks, scientific journals, and expert works related to human rights and gross human rights violations. Tertiary legal materials include legal dictionaries and other supporting sources.

The legal materials were collected through library research. All legal materials obtained were analyzed qualitatively using descriptive-analytical and prescriptive legal reasoning to draw conclusions regarding the effectiveness of the legal framework and the role of state institutions in addressing gross human rights violations in Indonesia.

III. RESULTS AND DISCUSSION

A. Serious Human Rights Crimes and the Role of the National Commission on Human Rights

Based on Article 7 of Law Number 26 of 2000, there are two main categories of crimes that violate human rights: crimes against humanity and the crime of genocide (Law No. 26 of 2000). Both types of crimes are recognized by domestic and international law as the most serious violations of humanitarian principles. The fundamental goal of the crime of genocide is to completely or partially destroy a certain group based on their nationality, race, ethnicity, or religion. Crimes against humanity, on the other hand, are acts that are part of a systematic or widespread attack against the civilian population that cause systematic and widespread suffering (Mochtar, 2013).

The National Commission on Human Rights (Komnas HAM) was established as an autonomous government organization free from interference by any authority, with a constitutional mandate to defend human rights. Reviewing and investigating human rights issues, educating the public, overseeing the implementation of human rights, and mediating human rights complaints are some of the responsibilities assigned to Komnas HAM (Philipus, 2012). Komnas HAM has special authority to conduct *pro justitia* investigations, a type of judicial investigation aimed at the interests of the criminal justice process in the framework of resolving gross human rights violations (Law No. 26 of 2000). Investigations by the National Commission on Human Rights are conducted through a number of legal actions, such as summoning and questioning witnesses, collecting and confirming various documents and evidence, investigating the scene of the incident, and examining the trends and circumstances surrounding the occurrence of gross human rights violations (Dewi, 2018). The purpose of all these actions is to obtain a complete picture of the alleged egregious human rights violations and to ensure that there is sufficient legal basis to proceed with the case. The Attorney General's Office, which has the authority to conduct additional investigations, accepted the findings of the investigation.

Although the National Commission on Human Rights (Komnas HAM) plays a crucial role in the early stages of law enforcement for serious human rights violations, the exercise of this authority often faces a number of challenges. One

such obstacle is the Attorney General's Office (AGO) declaring the findings of a Komnas HAM investigation inadequate or failing to meet certain criteria (Denny, 2019). The National Commission on Human Rights and the Attorney General's Office have differing perspectives and interpretations of the law, particularly regarding evidentiary standards and the fulfillment of the elements of serious human rights crimes. As a result, the legal process is often hampered and takes a long time without clear certainty (Bambang, 2018). In addition to impacting the effectiveness of law enforcement, this situation leaves victims of serious human rights violations feeling unfairly treated and dissatisfied.

B. The Role of the Prosecutor's Office in Handling Serious Human Rights Crimes

As specifically stated in Article 21 of Law Number 26 of 2000 (Law No. 26 of 2000), the Attorney General's Office of the Republic of Indonesia is granted extraordinary authority to act as both investigator and public prosecutor in situations of gross human rights violations. Unlike the Attorney General's Office's authority to handle general crimes as stipulated in the Criminal Procedure Code, this authority is *lex specialis*, meaning it has a unique nature. Consequently, the Attorney General's Office plays a crucial role in the investigation phase in addition to carrying out the prosecutorial role in cases of gross human rights violations.

The Attorney General's Office is tasked with investigating the findings of the National Human Rights Commission's investigation. A number of legal actions are used to follow up on this, such as conducting additional interrogations of witnesses and related parties, collecting and analyzing evidence, and designating individuals as suspects.

suspect if the elements of a crime have been fulfilled, and create and complete case files for the judicial process (Romli, 2011). Next, the Prosecutor's Office carries out the next task as a public prosecutor, representing the interests of the state before the Human Rights Court, after the completion of the investigation stage.

Although the Attorney General's Office (AGO) has strategic authority in law enforcement related to serious human rights violations, numerous scholarly studies and real-world observations indicate that this authority is often used with extreme caution. This mindset is particularly evident when dealing with situations

of serious human rights violations involving state actors or groups with significant political influence (Agus, 2019). This overly cautious approach often leads to slow legal proceedings and a lack of institutional courage in bringing cases to the prosecution stage.

Furthermore, a number of non-legal circumstances, including political pressure, interference by influential individuals, and inadequate protection systems for prosecutors handling these sensitive cases, are often associated with the ineffective prosecution of serious human rights violations (Mahfud, 2014). Due to these circumstances, the Prosecutor's Office finds itself in a challenging position between the demands of law enforcement and the surrounding political realities.

Many cases of egregious human rights violations ultimately remain at the investigation stage and are never referred to the Human Rights Court due to these obstacles. For victims and their families, these difficulties result in prolonged legal ambiguity and a deep sense of injustice and disappointment (Indah, 2020). Furthermore, public trust in the state's commitment to upholding the law and defending human rights can be eroded by unresolved, important human rights cases.

C. Human Rights Court as a Special Judicial Institution

In the mainstream legal system, a Human Rights Court (Human Rights Court) is a unique type of court specifically established to investigate, hear, and decide cases involving gross human rights violations (Rina, 2019). Human Rights Courts are designed to offer a more targeted and appropriate legal system to handle violations that have extraordinary characteristics and broad impacts on society. The Human Rights Court system consists of two types: *ad hoc* Human Rights Courts, which are specifically established to decide cases of gross human rights violations that occurred in the past, and permanent Human Rights Courts, which handle cases that occurred after Law Number 26 of 2000 was passed (Law No. 26 of 2000).

From a normative and conceptual perspective, the Human Rights Court is intended to serve as a legal instrument to uphold the core values of human rights enforcement, which include justice, truth, and accountability for those who violate human rights (Andi, 2019). It is believed that by using this legal system, those who commit

serious human rights violations will be held legally accountable and the victims will be recognized and compensated. Consequently, the Human Rights Court participates in initiatives to restore justice and national harmony in addition to enforcing criminal penalties.

However, the reality of judicial practice shows that a number of significant challenges remain in implementing the mandate of the Human Rights Court. The large proportion of Human Rights Court decisions resulting in the defendant being found not guilty is a significant ongoing issue. This condition is usually caused by a lack of evidence used in court proceedings and challenges in presenting key witnesses, particularly in situations involving serious human rights crimes that occurred over a long period of time (Topo, 2019). These limitations directly impact the court's ability to conclusively establish the elements of a crime.

Beyond the issue of evidence, other factors also influence the quality of Human Rights Court decisions, such as judges' lack of knowledge and expertise regarding the complexities of international human rights crimes, which differ from ordinary crimes. Furthermore, the independence and impartiality of the legal system are often perceived as being affected by political pressure and special interests (Arief, 2018). These challenges demonstrate that the existence of Human Rights Courts has not fully met the public's need for justice and legal certainty, or the expectations of victims of heinous human rights crimes (Adnan, 2007).

III. CONCLUSION AND SUGGESTIONS

A. Conclusion

Gross human rights violations are categorized as extraordinary crimes with distinctive characteristics and far-reaching impacts. Consequently, addressing them requires a strong and efficient law enforcement system that operates autonomously and without external interference. The National Commission on Human Rights (Komnas HAM) is a key player in the initial stages of this law enforcement structure, particularly in investigating claims of gross human rights violations. Furthermore, the Human Rights Court serves as a unique judicial body tasked with investigating, evaluating, and legally adjudicating cases of gross human rights violations, while the Attorney General's Office plays a crucial role as the organization

authorized to conduct investigations and prosecutions.

Although Indonesia's law enforcement system for gross human rights violations is firmly regulated by law and the establishment of a dedicated organization, significant challenges remain in its operation. Law enforcement efforts against gross human rights violations have not been able to function optimally due to poor coordination and synergy between law enforcement agencies, the influence of political factors and power interests, and various obstacles in the evidentiary process, particularly related to limited evidence and difficulties in presenting witnesses. This situation impacts the sense of justice and legal certainty that is not fulfilled for victims, and also indicates that Indonesia's still inadequate human rights enforcement system needs to be strengthened and improved comprehensively.

B. Suggestion

It is necessary to strengthen the authority of the National Human Rights Commission at this stage.

investigations into gross human rights violations, particularly to ensure a more effective pro justitia investigation process and produce high-quality case files. Furthermore, the Prosecutor's Office must ensure independence and courage in carrying out its prosecutorial function to ensure that the legal process against perpetrators of gross human rights violations is not hampered by political or power interests. Furthermore, the Human Rights Court needs comprehensive reform to improve the quality of its decisions, both in terms of legal considerations, consistent application of norms, and the fulfillment of a sense of justice for victims and the community.

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