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Exploring the Effectiveness of the Human Rights Court in Indonesia: A Call for Humanitarian Action

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Abstract: *Indonesia's Human Rights Court, established under Law No. 26/2000, has faced criticism due to persistent unresolved cases, highlighting flaws in its legal foundation. The Court's performance revealed that Indonesia has been ineffective in resolving serious human rights violation cases. This research emphasizes two main points: 1) exploring human rights enforcement in Indonesia based on the effectiveness of the Human Rights Court's performance, and 2) scrutinizing the context of humanitarian intervention in cases of gross human rights violations in Indonesia. The article utilized a normative juridical research approach, followed by a descriptive analysis through a literature study. The research illustrated that human rights enforcement in Indonesia was inadequate, often stalling at the inquiry stage. Trials for the 1984 Tanjung Priok massacre, East Timor, and Abepura resulted in acquittals, raising doubts about the effectiveness of the Human Rights Court's Law (No. 26/2000). Furthermore, humanitarian intervention was deemed necessary to address these unresolved violations, viewed not as a violation of sovereignty but as a means to enhance human rights protection. This requires national and international cooperation, focusing on resolving cases rather than debating jurisdiction.*

Keywords: *Human Rights; Court; Humanitarian Law; Humanitarian Intervention*

INTRODUCTION

Human rights violations are acts of humanity committed by individuals, governmental institutions, or other entities against the human rights of others that lack a legal foundation or rational justifications (Aryani and Hermanto 2018). Indonesia is a country with a low degree of human rights protection. Unfortunately, minor to major violations have been insufficiently addressed. 2021 country reports on human rights practices in Indonesia show that significant issues included credible reports of 1) violations by the government, involving torture by police, unlawful interference with privacy, inequity in the judicial institution, and wrongful restriction on media; 2) violations of civilian from Papua and West Papua Province, involving arrests of journalist and religious figures, restriction on internet freedom and association, and general harm of physical abuses; 3) violations to members of racial and ethnic minority groups, including lesbian, gay, bisexual, transgender, queer, or intersex persons (LGBTQ+) (US Embassy and Consulates in Indonesia 2021). Even though efforts to address previous human rights problems were never easy, broad violations and disregard for human rights should not be an option (McGregor and Setiawan 2019).

The settlement of serious human rights disputes involves the deployment of an independent judiciary, which aims to ultimately revert the situation harmed by the criminals to its initial state (Hermanto 2019). Law No. 26/2000 on the "Human Rights Court" (Law No.

26/2000 or the Human Rights Court's Law) is the primary legal instrument underpinning the Indonesian Human Rights Court system. Suppose this law does not regulate it will be addressed by the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*, known as KUHP) or the Indonesian Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana*, known as KUHAP) (Suwakil 2020). According to Law No. 26 of 2000, the Human Rights Court is distinctive since the term "Human Rights Court" was deliberately used to identify the form of the Court. The Indonesian Human Rights Court is a special criminal court that falls within the jurisdiction of the general Court (Teguh Prasetyo 2020). The Indonesian Human Rights Court is not separate in the judicial system but a division of a general court designed to adjudicate significant human rights violations. In other words, the Indonesian Human Rights Court is a branch of the District Court (Asrun 2016b).

Moreover, efforts to promote human rights protection must align with Indonesia's past socio-political conditions. Broadly, the procedural Law of the Human Rights Court includes four central powers: inquiries and investigations (including arrest and detention for investigation), prosecution, and examination in Court (Nurkholis and Waluyo 2021).

Adjudication includes compensation, rehabilitation, and retribution. The general explanation of Law No. 26 of 2000 demonstrates the purpose of the Human Rights Court, which is to protect human rights for both individuals and society and to serve as the foundation for enforcement, legal certainty, justice, and a sense of security against all kinds of breaches, especially gross human rights violations (Begem, Qamar, and Baharuddin 2019).

Cases adjudicated by the Human Rights Court are not criminal acts regulated by the Criminal Code (ordinary crimes). Instead, the cases tried must inflict immense, material, and immaterial harm and cause insecurity for individuals and society, thereby being regarded as acts against humanity (*hostis humani generis*). The Law on Human Rights Court was formed to adjudicate cases of serious human rights violations, which are considered extraordinary crimes and have a broad impact at the national and international levels (Warjiyati 2018). Human rights courts for perpetrators of gross human rights violations are part of judicial and legislative reforms adapted to the 1998 Rome Statute provisions (Siswanto 2005). However, even though the essence of the law is based on the Rome Statute, there has been no harmonization of the Rome Statute instruments in the law on the Indonesian Human Rights Court. This may be noted in the Human Rights Court's jurisdiction, including the crimes of genocide and crimes against humanity, which are established in Article 7 of the Law on the Human Rights Court following the International Criminal Court's jurisdiction in the Rome Statute (Irham 2020).

Genocide and crimes against humanity are types of international crimes regulated in the 1998 Rome Statute (Irham 2020). In addition, international humanitarian law also stipulates that genocide and crimes against humanity are violations in war that can be categorized as serious human rights violations. This is regulated based on humanitarian law, namely the 1949 Geneva Conventions. Humanitarian law, often called the law of war, also closely correlates with human rights. Humanitarian law protects human rights in war situations. The existence of humanitarian law reinforces the importance of respecting human values not only in peaceful times but also in critical situations such as war (Mumtazinur 2018).

Humanitarian law is needed because, during wars, human rights violations often occur. This is similar to the Timor Timur case that occurred in Indonesia. The case of Timor Timur is a form of non-international armed conflict between the Indonesian Armed Forces or the TNI and

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the civilian. In this case, it is suspected that there have been serious human rights violations in Timor Timur, such as murder, extermination, slavery, expulsion and forcible transfer, and other inhumane acts against the civilian population (Setiawan 2019). All these actions are essentially a form of gross violation of the right to life, the right to freedom, and a decent life. With the armed conflict and human rights violations, it can be said that the Timor Timur cases have also violated humanitarian law.

Establishing the Human Rights Court in Indonesia shows that the Indonesian government has the will to resolve various cases of gross human rights violations (Nurbani 2018). However, human rights violations continue to occur continuously in Indonesia. Based on data from the Institute for Community Studies and Advocacy (ELSAM), it was stated that there were 12 provinces in Indonesia in the first quarter of 1998, and that was 1,629 fundamental human rights violations (Swardhana 2021). These rights are the right to life, the right to be free from torture, the right to be free from arbitrary arrest, the right to be free from instantaneous extermination, and the right to be free from enforced disappearances. Even the enforcement of the law on several cases of human rights violations has not been entirely resolved. The National Human Rights Commission (*Komnas HAM*) noted that there were 12 cases of human rights violations that had not been resolved to this day. This includes the resolution of the Timor Timur crimes, with the acknowledgment that the cases are still incomplete (Galingging 2018). Because the Human Rights Court's legal foundation has severe flaws, arresting perpetrators of Timor Timur crimes is difficult. Until now, no perpetrators of Timor Timur atrocities have been held accountable for their actions (Swardhana 2021).

As a state of the rule of law, Indonesia guarantees the protection of human rights based on the explanation of the 1945 Constitution (before amendment) and Article 1 para. 3 of the 1945 Constitution (after amendment) (Asrun 2016a). Hence, Indonesia is deemed to ensure law enforcement for human rights violations. If legal enforcement for human rights violators is currently not adequately resolved, the concept of the rule of law itself must be re-examined. Even though establishing the Human Rights Court demonstrates that Indonesia is willing to enforce human rights laws, the fact that there are too many unresolved cases under the gross human rights violation category proves that Indonesia may need humanitarian intervention (Lev 1990).

Based on humanitarian principles, if one state is deemed insufficient to protect its country from major human rights violations, these cases would be taken to the International Criminal Court (ICC) as the primary international body responsible for adjudicating gross human rights violations (White 2020). This authority, known as humanitarian interventions, is a response to systematic, severe human rights violations, but by contrast, it has an evident humanitarian character. It is also important to note that human rights violations, as defined in contemporary international law and politics, typically involve actions by a state against its citizens. Although a wide range of individuals and organizations can restrict people from enjoying life, liberty, equality, and other goods, services, and opportunities, the term "human rights" is commonly used to refer to how states treat their people on their territory (Sularso 2021). In this case, Indonesia may have been categorized as a state that needs humanitarian intervention. Suppose humanitarian intervention is carried out, and the ICC adjudicates these unsolved human rights matters in Indonesia. In that case, it will exacerbate and confirm the Indonesian government's failure to address their concerns within their sovereignty (Dewanto 2022). This will undoubtedly

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lower Indonesia's status in terms of human rights protection. Therefore, it creates the need to enforce and promote human rights protection in Indonesia.

This article will further discuss two main areas, namely 1) exploring human rights enforcement in Indonesia based on the effectiveness of the Human Rights Court's performance and 2) scrutinizing the humanitarian intervention context in gross human rights violations in Indonesia.

METHODOLOGY

This study uses a normative juridical research method that examines various positive laws from the applicable laws and regulations, especially those related to human rights enforcement and humanitarian law. Then, it is analyzed descriptively and analytically, providing an overview of society's problems and legal phenomena (Atmaja 2017). In addition, this article also uses library research with sources from books and journals related to human rights enforcement and courts.

RESULTS AND DISCUSSION

Exploring Human Rights Enforcement in Indonesia

The first discussion will highlight two main points: the juridical view of Indonesia's Human Rights Court system based on regulations and an assessment of the Human Rights Court through case studies. This discussion aims to analyze the efficacy of human rights protection in Indonesia based on the performance of the Human Rights Court.

Normative Approach

Law No. 26 of 2000 concerning the Human Rights Court is the legal basis for the settlement mechanism of criminal acts categorized as extraordinary crimes. The law outlines the procedural provisions regulating the stages of adjudication, including interception, detention, inquiries, investigation, prosecution, court examination, examination procedures, protection of victims and witnesses, compensation, restitution, and rehabilitation.

Interception

Interception is a temporary limitation on the freedom of a suspect or defendant by an investigator if there is sufficient evidence for investigation, prosecution, and/or trial (Hutahaean and Indart 2019). Since interception might be considered a violation of a person's human rights, it must be carried out in line with the appropriate legal regulations. In this case, it is carried out by the Attorney General; thus, the Attorney General can only make the intercept (Utomo 2019). Interception of a person who is strongly suspected of committing a severe human rights violation is only permissible if the following procedures are met:

- Sufficient preliminary evidence.
- The interception is only conducted by authorized investigators.

- Letter of assignment completed.
- Arrest warrant completed.
- Copy of detention warrant.

Detention

Detention is the placement of a suspect or defendant who is strongly suspected of being a perpetrator of a crime based on sufficient evidence in a specific place by the investigator, public prosecutor, or judge with determination (Dewi 2021). In serious human rights violations, the Attorney General is authorized to detain further as an investigator and public prosecutor. At the same time, by their determination, judges at the Human Rights Court have the authority to carry out further detention for examination in Court. Continued detention is carried out by a detention order issued by an investigator or public prosecutor with a judge's determination (Yuli and Dinanti 2016)—the length of the detention period or the extension of the detention period is depicted in Table 1.

Table 1: Perpetrators Detention Period of Human Rights Violations in Indonesia Based on the Law on Human Rights Courts (Source: Authors' depiction based on the Law 26/2000 on Human Rights Court)

No.	Detention For	Authority to Extend the Period	Duration	Law (Articles)
1.	Inquiries	Chief Justice of the Human Rights Court	90 days 90 days 60 days	13 (1) 13 (2) 13 (3)
2.	Prosecution	Chief Justice of the Human Rights Court	30 days 20 days 20 days	14 (1) 14 (2) 14 (3)
3.	Human Rights Court Session	Chief Justice of the Human Rights Court	90 days 30 days	15 (1) 15 (2)
4.	Appeal Examination by the High Court of Human Rights	Chief Justice of the High Court	60 days 30 days	16 (1) 16 (2)
5.	Examination of Cassation by the Supreme Court	Chief of Supreme Court	60 days 30 days	17 (1)

Inquiries

The National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia - Komnas HAM*) will carry out the inquiry stages as a primary supervisory body responsible for human rights protection. If sufficient preliminary evidence of serious human rights violations has occurred, the conclusions of the inquiry results will be submitted to the preliminary examiners. After noting preliminary evidence, *Komnas HAM* must submit the outcome of the complete investigation to preliminary examiners within no later than seven working days. If the main investigator believes the inquiry results are incomplete, they shall return the results to the preliminary examiners with instructions for completion. This must be done within 30 days from the date of receipt of the inquiry results. This procedure is regulated in Article 20 of Law No. 26 of 2000 concerning the Human Rights Court (Ananda 2018).

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Investigation

An investigation is a preliminary examination process to identify evidence of a serious violation of human rights. The process includes examining witnesses, hearing expert testimony, taking statements from suspects, conducting house searches, confiscating property, etc. At this stage, the Attorney General is in charge of investigating major human rights violations. However, the authority to receive reports or complaints is not included in the act of confiscation, as it is the authority of *Komnas HAM* (Teguh Prasetyo 2020).

Prosecution

Prosecution refers to the procedure of submitting cases of serious human rights violations to the Human Rights Court through the issuance of an indictment. The Attorney General carries out the prosecution according to Article 23 of Law No. 26 of 2000. At this stage, the Attorney General appoints an ad hoc public prosecutor composed of government and/or community members. According to Law No. 26 of 2000, the prosecution must be concluded within 70 days after receiving the results of the investigation (Ananda 2018).

Inspection

The examination of cases involving human rights violations is carried out by a panel of five judges, consisting of two Human Rights Court judges and three *ad hoc* judges. The number of judges on the panel must be odd. In this configuration, the *ad hoc* judges serve only as member judges, while a Human Rights Court judge chairs the panel. *Ad hoc* judges are appointed and dismissed by the President as head of state based on the proposal of the Supreme Court. *Ad hoc* judges are selected from outside the court system and must meet professional standards. At least twelve *ad hoc* judges are appointed, each serving a term of five years, with the possibility of being re-elected for one additional term (Faisal 2019).

Victim and Witness Protection

Article 34 of Law No. 26 of 2000 states that every victim or witness in cases of serious human rights violations has the right to physical and mental protection from threats, terror, disturbances, and violence from any party. This protection is provided during the Court's inquiry, investigation, prosecution, and examination stages. This protection must be carried out by law enforcement officers and security forces free of charge. The law enforcement officers responsible for this protection are the police, prosecutors, and judges.

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Criminal Threats

Criminal threats for the perpetrators regulated in the Law No. 26/2000 are detailed in Table 2.

Table 2: Criminal Threats for Perpetrators of Human Rights Violations in Indonesia (Source: Authors' depiction based on the Law 26/2000 on Human Rights Court)

No.	Law No. 26/2000	Acts of Violation	Punishment
1.	Article 36	Genocide includes murders, physical and mental abuse, causing annihilation, preventing births, and forcibly transferring children from one group to another.	The sentence ranges from a minimum of 10 years to a maximum of death, life imprisonment, or 25 years.
2.	Article 37	Murders, annihilation, eviction or forced displacement of residents, deprivation of all types of liberties, and crimes of apartheid.	The sentence ranges from a minimum of 10 years to a maximum of 25 years.
3.	Article 38	Slavery	The sentence ranges from a minimum of 5 years to a maximum of 15 years.
4.	Article 39	All types of torture	The sentence ranges from a minimum of 5 years to a maximum of 15 years.
5.	Article 40	Rape and other forms of sexual slavery, persecution of certain groups based on political views, race, ethnicity, religion, gender, and other reasons universally recognized as prohibited acts under international law.	The sentence ranges from a minimum of 10 years to a maximum of 20 years.

According to the above explanation, the provisions regulated by the Human Rights Court's Law have already stipulated relevant rules for the stages of human rights adjudication. The law is considered adequate as a legal foundation for human rights protection measures. However, the effectiveness of the law is measured by how well its provisions are implemented. Indonesia still has many unresolved human rights issues, demonstrating the law's low degree of implementation.

THE IMPLEMENTATION OF THE LAW ON HUMAN RIGHTS COURTS

Implementing the Human Rights Court's Law can be evaluated through its application to various human rights cases in Indonesia. As widely recognized, numerous incidents have demonstrated significant human rights violations, particularly cases involving structural violence by state apparatus such as police and military, resulting in civilian deaths. These cases are not ordinary crimes but crimes against humanity (Yunara 2019). Despite establishing the Human Rights Court's Law, human rights violations in Indonesia have often not been effectively addressed through legal enforcement, leading to various merits and drawbacks, as indicated in Table 3.

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Table 3: The Progress of Law Enforcement in Cases of Human Rights Violations in Indonesia (Source: Authors' depiction)

No	Case	Description	Developments in the Human Rights Court
1.	Tanjung Priok Chaos (1984)	The Tanjung Priok case in 1984 was the most violent clash between the military and Indonesian Muslims since the 1950s. It is estimated that dozens of people died, and more than 100 were injured. It was even reported that 171 people were missing in that bloody incident (Suwirta 2017).	In July 2000, the first-instance court found 12 guilty and acquitted 2. However, during the appeal process, all those convicted were subsequently acquitted and released.
2.	GAM Rebellion (1989-1998)	The Free Aceh Movement, or GAM rebellion from 1989-1998, was a form of non-international armed conflict between the TNI and GAM sympathizers. The TNI and GAM are suspected of committing various gross violations of human rights, such as extrajudicial killing, enforced disappearance, torture, confinement, rape, and sexual violence that are carried out systematically and widely, which constitute crimes against humanity. According to Amnesty International, 10,000-30,000 people died during the Aceh conflict (Putri and Permatasari 2018).	The establishment of the Human Rights Court has not effectively led to identifying perpetrators of human rights violations, largely due to the state's role in protecting those responsible for such crimes. This protection hinders the investigation and prosecution of human rights abuses, resulting in no perpetrators being held accountable for their actions (Hadi and Sriwidodo 2020).
3.	Timor Timur Cases (1999)	Timor Timur cases in 1999 were a form of non-international armed conflict between the TNI and the civilian population. In this incident, it is suspected that there have been serious human rights violations in Timor Timur, such as murder, extermination, slavery, expulsion, and forcible transfer, as well as other inhumane acts against the civilian population.	In the Timor Timur cases, the Human Rights Court conducted a trial for 18 individuals, resulting in the acquittal of 16 of them. One person was acquitted at the High Court, while just one person was sentenced to imprisonment (Firmandiaz and Husodo 2020).
4.	Mysterious Shooting Case (Petrus) 1982-1985	Suharto requested the police and Indonesian soldiers to eradicate crime rates effectively. This led to extrajudicial killings of individuals suspected of causing public disturbances, commonly referred to as "thugs." In 1984, a total of 107 people were killed, and in 1985, 74 people lost their lives, including 28 who were shot (Fadhil 2020).	*Komnas HAM* recommended that the Petrus case constitutes a serious human rights violation and urged the Attorney General to investigate. However, to date, the case file for Petrus has been shuffled back and forth between *Komnas HAM* and the Attorney General's Office. Prosecutors frequently cite incomplete evidence, investigators not being sworn in, unsworn translators, and other procedural issues as arguments against progressing with the case (Sitoresmi 2021).
5.	Forced Disappearance 1997-1998	During the New Order Government, young activists aimed to uphold justice and democracy by criticizing government policies. However, authorities responded with abductions, forcibly taking activists from their homes and subjecting them to torture (Suwirta 2017).	The People's Representative Council or *Dewan Perwakilan Rakyat* (DPR) has yet to endorse the establishment of an ad hoc Human Rights Court (Fadhil 2020).
6.	Trisakti, Semanggi I, Semanggi II	During public and student protests demanding the resignation of Suharto due to worsening economic problems, incidents of violence occurred. Security forces responded by shooting at protesters and using tear gas, among other actions (Fadhil 2020).	*Komnas HAM* recommended that the Trisakti case constitutes a serious human rights violation and urged the Attorney General to investigate. However, the Attorney General's Office refused, citing the principle of "ne bis in idem," which refers to not being tried twice for the same offense (Fadhil 2020).
7.	Talangsari 1989	Warsidi, a senior figure and leader of the Muslim community in Talangsari, opposed the New Order Government due to its failure to improve the	*Komnas HAM* has recommended that the Talangsari case constitutes a serious violation of human rights and urged the

		welfare of the people. In response, the government surrounded the location of the Warsidi congregation and opened fire after the siege (Suwirta 2017).	Attorney General to conduct an investigation. However, as of March 2008, the Attorney General's Office did not follow up on this recommendation, and the Talangsari case file continued to be passed between *Komnas HAM* and the Attorney General's Office (Sitoresmi 2021).
8.	WasiorWamena 2001 and 2003	Wasior: The case originated from a conflict between the community demanding compensation for confiscated customary rights and a company holding forest concession rights. Additionally, shootings occurred involving Brimob members and employees of the company. During the pursuit, there were incidents of violence against civilians suspected of being involved in the shootings. Wamena: The case involves the burglary of an Indonesian soldier headquarters by an unknown group, resulting in the deaths of two soldiers and serious injury to another person. In pursuit of the perpetrators, several actions were taken, including arrests, torture, shootings, killings of civilians, and the burning of *honai* (traditional houses), churches, polyclinics, and schools. These actions led to the forced displacement of the population.	*Komnas HAM* has recommended that the Wasior-Wamena case constitutes a serious violation of human rights and has urged the Attorney General to conduct an investigation. However, to date, the case file for the Wasior-Wamena case has been moving back and forth between *Komnas HAM* and the Attorney General's Office. Prosecutors frequently cite incomplete evidence, issues with investigators and translators not being sworn in, and other procedural concerns as reasons for delays in progressing with the case (Fadhil 2020).

According to the table above, law enforcement on human rights violations in Indonesia has not yet been appropriately addressed. This may be observed in the cases of Petrus, Talangsari, Trisakti, Semanggi, enforced disappearances, and Wasior Wamena, which illustrate that the Attorney General's Office's law enforcement is only restricted to the inquiry stage, with no follow-up to the settlement of these cases. Several more cases of violations of human rights have merely reached the investigative stage and have yet to be concluded, including the Paniai case in 2014, the Jambo Keupok case, and the Simpang KKA case in Aceh in 2016.

Several cases, including the 1984 Tanjung Priok massacre, were successfully tried in the First Level Court, yet all suspects were declared free. The Court also adjudicated other cases of human rights violations. Still, all suspects were declared innocent, such as the East Timor case, where 18 defendants were released, and the Abepura case, where two defendants were released (Fadhil 2020). This record certainly raises a number of concerns in the minds of the Indonesian people about the commitment of the Indonesian government to protecting human rights because if all suspects are declared free, then there is no one accountable for the loss of so many lives in these cases. The question is then raised again on the function of the law on the Human Rights Court if no perpetrator of human rights violations has experienced its deterrent effect. Therefore, it can be said that the implementation of Law No. 26 of 2000 concerning the Human Rights Court has not been optimized over the last 20 years (Yunara 2019).

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SCRUTINIZING HUMANITARIAN INTERVENTION CONTEXT ON GROSS HUMAN RIGHTS VIOLATION IN INDONESIA

This section highlights the interrelationship between humanitarian law and human rights to portray fundamental reasoning for the issue and discuss the matter of humanitarian intervention by international bodies to adjudicate unresolved cases of gross human rights violations in Indonesia.

Interrelationship Between International Humanitarian Law and Human Rights

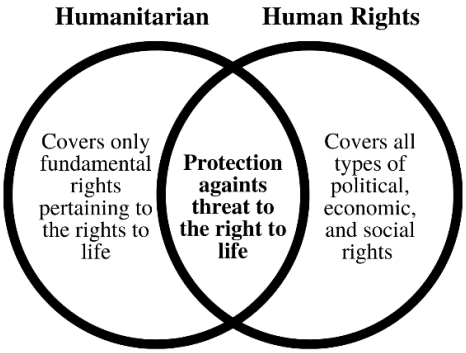
Humanitarian and human rights laws are closely related since both are concerned with protecting people's rights and treating them with dignity and respect. However, they differ in some fundamental ways. Humanitarian law, often known as international humanitarian law, is a set of rules designed to prevent the suffering and destruction caused by armed wars (Nagamine and Roriz 2020). It pertains to armed conflict events, including both international and non-international, and is intended to protect those not directly involved in the hostilities, such as civilians and detained combatants. Humanitarian law is codified in several treaties and other instruments, notably the four 1949 Geneva Conventions and the two 1977 Additional Protocols.

On the other hand, human rights is a broad concept encompassing a wide range of universal and intrinsic rights and freedoms (Yusliwidaka, Roisah, and Setiyono 2022). These rights include civil and political rights, including the right to life, liberty, and freedom of expression, as well as economic, social, and cultural rights, such as education, housing, and healthcare (Wallace 2019). Various international and regional agreements outline human rights law, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (Yusliwidaka, Roisah, and Setiyono 2022).

Over two decades ago, the correlation between the law of armed conflict or international humanitarian law (IHL) and human rights law was a subject of scholarly discourse (Hampson 2008). While humanitarian law and human rights are separate law entities, they are frequently interrelated and may overlap in certain circumstances. Human rights law, for example, may continue to apply during armed conflicts, although it could be subject to specific limitations and restrictions due to the necessities of the situation (Posse 2006). Similarly, humanitarian law's protections may strengthen and reinforce specific human rights, such as the right to life and the prohibition of torture and inhumane acts. The interrelationship between the two variables is illustrated in Graph 1.

Based on Graph 1, it can be concluded that the interrelationship between humanitarian law and human rights lies in the same purpose: to protect people from any threats to their right to life. Moreover, humanitarian law may affect human rights protection in some ways. Humanitarian law provides specific provisions to those caught in armed conflicts, such as protection against aggression, harm, and murder (Begem, Qamar, and Baharuddin 2019). Humanitarian law, for example, strictly forbids the targeting of civilians and the use of weapons that are likely to inflict unnecessary suffering. It also establishes guidelines for protecting detained combatants, including a ban on degrading treatment or punishment (Nagamine and Roriz 2020).

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Graph 1: The Interrelationship Between Humanitarian Law and Human Rights Law (Source: Authors' interpretation based on Francoise J. Hampson's 2008 discourse)

Second, humanitarian law has the potential to enhance and strengthen specific human rights, such as the right to life and the prohibition of torture and inhumane acts. The restriction on torture and inhumane acts, for example, is premised on the notion of dignity, which is also a core element of human rights law (Dewanto 2022). Finally, humanitarian law can be used to address and redress human rights violations that occur during armed conflicts. International Criminal Court (ICC), for example, granted the ability to investigate and prosecute individuals for violations of international humanitarian law, such as war crimes and crimes against humanity. Humanitarian law can assist in holding perpetrators accountable and provide a measure of justice for victims. According to these premises, humanitarian law and human rights are two different entities with an inseparable component that shares the same means to ensure the protection of the right to one's life (Paddon Rhoads 2019).

HUMANITARIAN INTERVENTIONS CONTEXT IN ADJUDICATING GROSS HUMAN RIGHTS VIOLATION IN INDONESIA

The Concept of Humanitarian Intervention for Gross Human Rights Violation Cases

Humanitarian intervention pertains to organizations or coalitions of organizations intervening within the territory of a sovereign state to address injustices. In such cases, the international community asserts both the right and the duty to intervene when states persistently violate human rights, such as through ethnic cleansing and genocide.

The humanitarian intervention concept has also drawn many controversies since it disregards state sovereignty and provides the idea of liberal imperialism (Tomes 2020). The sovereignty concept, which maintains that states have a sovereign right to non-interference in their internal affairs, is one of the grounds against humanitarian intervention (Jemirade 2021). Humanitarian intervention has critics who contend that it may have undesired repercussions and violates the sovereignty of the state in which it is conducted. Moreover, in practice, engaging in humanitarian intervention is often complicated and considers aspects such as international law, politics, and the risks and benefits of such action (Paddon Rhoads 2019).

The concept of humanitarian intervention deploys in a situation that involves a serious human rights violation. In such circumstances, the international community has reframed

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humanitarian intervention to fulfill the responsibility to protect (R2P). In humanitarian conflicts, every state must defend its citizens against threats to humanity. Then, if states fail to provide the means of protection, it is the international community's responsibility to protect the people of that state, as regulated under the United Nations Charter. If peaceful means are insufficient, military force may be used. Therefore, since the right to provide humanitarian intervention is recognized by international law, it cannot be viewed as an interference or infringement of a state's national sovereignty. Instead, it is a way to enhance, assist, and resolve the suffering caused by gross human rights violations (Tsagourias 2022).

There are numerous approaches to humanitarian intervention. Military intervention is one concept in which an army force addresses human rights violations in a foreign country (Tomz and Weeks 2020). This may involve combat troops, air strikes, or other military actions. Another approach is economic or diplomatic intervention, which uses economic or diplomatic measures to pressure the government to address human rights violations. Moreover, for a humanitarian intervention to be legitimate, it must meet specific criteria (Damrosch 1991). Humanitarian intervention must be motivated by a legitimate concern for human suffering, not self-interest or other geopolitical events. The international community must also endorse it through the UN or another international body. Finally, it must be carried out to minimize civilian casualties while respecting the sovereignty of the country in matters (Jemirade 2021).

Humanitarian Interventions for Adjudicating Gross Human Rights Violation in Indonesia

Based on the previous explanation, the Human Rights Court's implementation in Indonesia has not been optimized; this is apparent from the inefficiencies in the legal procedure for numerous cases of gross human rights violations in Indonesia. The inefficacy causes several negative impacts on the longevity of state functioning in Indonesia, including the escalation in impunity and non-fulfillment of victims' rights to truth, justice, and remedies (Kekerasan 2020). Even today, no victim or family of a human rights violation has been granted the right to justice stipulated in the Human Rights Court's Law. This underscores the need for the government to be more devoted to resolving cases of human rights violations. Despite the government's efforts to implement settlement regulations for victims and families of human rights violations, the process remains challenging to manage (Dewanto 2022). As a result, the goal of achieving justice has yet to be met.

The Court's inability to serve justice creates a void in which the International Criminal Court (ICC) will adjudicate these matters to its jurisdiction. The ICC is an independent international tribunal with jurisdiction over the world's most horrendous crimes, including genocide, crimes against humanity, and war crimes (Budisantosa 2020). The ICC has jurisdiction over individuals suspected of committing certain crimes, regardless of their nationality. Within the grounds of the Court's failures, the humanitarian intervention may need to be carried out through the ICC.

Regarding jurisdiction, the ICC lacks the authority to carry out humanitarian intervention or hold states accountable for such action (Tsagourias 2022). Moreover, the fact that Indonesia has not ratified the Rome Statute 1998 as a legal basis for ICC's jurisdiction amplifies the ineligibility of ICC standpoints to conduct a humanitarian intervention for Indonesia. In reality, Indonesia's reluctance to ratify the Rome Statute has been regarded as unusual, given that the

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substance of the Human Rights Court's Law is similar to the standards outlined in the Rome Statute (Sularso 2021). These similarities are shown in Table 4.

Table 4: Similarities in Material Jurisdiction of the ICC and the Indonesian Human Rights Court (Source: Authors' depiction based on Rome Statute of 1998 and Indonesia's Law 26/2000 on Human Rights Court)

Court	Jurisdiction	Legal Basis	Similarities in the Definitions of Genocide and Crimes Against Humanity Based on the Legal Basis of the Two Courts
ICC	- Genocide - Crimes against Humanity - War Crimes - Aggression Crimes	Article 5, Rome Statute	1. Genocide is acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such: a. Killing members of the group; b. Causing serious bodily or mental harm to members of the group; c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d. Imposing measures intended to prevent births within the group; e. Forcibly transferring children of the group to another group. 2. Crime against humanity means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: a. Murder; b. Extermination; c. Enslavement; d. Deportation or forcible transfer of population; e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; f. Torture; g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court. i. Enforced disappearance of persons; j. The crime of apartheid; k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
Indonesia Human Rights Court	- Genocide - Crimes against Humanity	Article 7, Human Rights Court's Law	

Table 4 demonstrates that the substance of the Human Rights Court's Law is substantially aligned with the Rome Statute. Furthermore, because international humanitarian law and human rights law intersect, Indonesia, too, can be viewed as inextricably linked to humanitarian law (Posse 2006). Despite the lack of jurisdiction for the ICC to perform a humanitarian intervention, the ICC may still have the authority to prosecute the perpetrators

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under the reference of the United Nations Security Council (UNSC) as a body that responds to maintain world peace and security (Article 13, Rome Statute).

Moreover, based on Table 3, which depicts numerous unsolved human rights violation cases, particularly the GAM Rebellion (1989-1998) and the Timor Timur Case (1999), which caused substantial damage during armed conflicts, the humanitarian intervention appears to be a necessity (Sabila, Bustamam, and Badri 2019). This circumstance then constitutes an exigency for the UNSC to grant jurisdiction for the ICC to acquire these cases. However, there have been no attempts by the ICC Public Prosecutor to investigate any human rights violation cases (Jara Gómez 2021). Therefore, it can be said that the UNSC has not submitted any proposal for investigation to tackle these cases.

Calculating the harm caused by existing cases has highlighted the need for humanitarian intervention to adjudicate human rights violations in Indonesia. In this case, humanitarian intervention should not be regarded as an intrusion on state sovereignty; instead, it should be viewed as an input to improving the status of human rights protection in Indonesia by resolving gross human rights cases that have proven unsuccessful in the adjudication process. However, these efforts necessitate a solid understanding of national and international parties to prioritize case settlement over debating the status of sovereignty and jurisdiction. As the right to life is the most critical aspect of this situation, any measures must be taken to fulfill this ultimate core of human rights.

CONCLUSION

Exploring human rights enforcement in Indonesia based on the effectiveness of the Human Rights Court's performance has proven insufficient. Instances such as Petrus, Talangsari, Trisakti, Semanggi, enforced disappearances, Wasior Wamena, Paniai (2014), Jambo Keupok, and Simpang KKA (2016) illustrate that the Attorney General's Office frequently stops at the inquiry stage without taking subsequent measures. The trials for the 1984 Tanjung Priok massacre, East Timor, and Abepura similarly led to the acquittal of all suspects, raising significant concerns regarding the government's dedication to upholding human rights. This lack of effectiveness raises doubts about the objective of the Human Rights Court's Law, as no wrongdoers have experienced its deterrent impact, suggesting that the enforcement of Law No. 26 of 2000 has not been fully maximized in the last two decades. Therefore, the government and law enforcers must evaluate the system within Indonesia's Human Rights Court, as the current circumstances do not represent Indonesia's commitment to ensuring human rights protection.

The humanitarian intervention context in gross human rights violations in Indonesia is evident through the intersection of international humanitarian law and human rights legislation. The presence of several unresolved human rights crimes underscores the necessity for humanitarian assistance. The detrimental effects of these cases highlight the imperative need for humanitarian action in Indonesia. This intervention should be viewed not as a violation of sovereignty but rather as a method to enhance the protection of human rights by addressing important situations that have not been successfully resolved through the legal process. Collaboration and coordination at national and international levels are necessary to achieve successful intervention. This collaboration should prioritize the resolution of cases rather than engaging in discussions about sovereignty and jurisdiction.

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CRediT AUTHOR STATEMENT

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