

Unenforceable Indonesian Human Rights' Court Decisions: Key Factor and the Appropriate Avenue

Elisabeth Sundari¹

1. Universitas Atma Jaya Yogyakarta, DIY, Indonesia

Correspondence:

Elisabeth Sundari, Universitas Atma Jaya Yogyakarta, DIY, Indonesia

Email: sundari20@uajy.ac.id.

How to cite:

Sundari, E. (2026). Unenforceable Indonesian Human Rights' Court Decisions: Key Factor and the Appropriate Avenue. *Sociological Jurisprudence Journal*. Volume 9, Issue 1, Page 14-24. <https://doi.org/10.22225/scj.9.1.2026.14-24>.

Abstract. Since the establishment of human rights laws in Indonesia over two decades ago, their enforcement through the courts has been ineffectual. Some court verdicts involving grave violations of human rights and regular human rights violations were not adequately implemented. As a result, domestically proclaimed human rights acceptance is useless unless adequate enforcement methods are in place. This article addresses the barriers to enforcing the Indonesian human rights court ruling, as well as the courts' capability and aptitude to meet the issues. The research employs normative legal research by analyzing the legal policies on Indonesian human right court to be related with the other jurisdiction comparatively to propose the appropriate avenue to make an effective human rights court enforcement. According to the result, it shows that the most significant impediment to enforcing the court decision is the government's lack of commitment. Yet, the court lacks adequate coercive powers to ensure that the state fulfils its pledge to enforce the court verdicts. Subsequently, this article endeavors to establish the coercive mechanism of the court judgement regarding the revision of the human rights Act or its placement under the authority of the extra human rights commission.

Keywords: court verdicts; enforcement; government; human rights violation; Indonesia

1. Introduction

Effective judicial enforcement of human rights legislation in Indonesia has been absent for more than two decades. Judicial rulings regarding human rights infringements and conventional human rights breaches, including Indonesian Communist Party Movement case on September 30, 1965, Tanjung Priok 1984 incident, and Munir murder. KontraS identified fifteen instances of human rights violations, where The Human Rights Court has addressed only three of them. All victims file claims for compensation or restitution, as well as demands for the fulfilment of their rights to truth, justice, and non-repetition. None of the compensation claims submitted by the victims or their families to the court were successful.

Regarding with the compensation for victims of gross human rights violation, The United Nations has provided The Basic Principles and Guidelines through The General Assembly Resolution 60/147 that was declared in 16 December 2005. The International Criminal Court (ICC) has also adopted a victim-centered strategy through compensation regime, where, according to Donoso, it can encourage a change in the behavior of the authorities to not repeat violations of human rights. Compensation for victims of human rights breaches is therefore critical in dealing with the consequences of abuses and promoting societal reconciliation. It is not simply a form of justice, but also a means of restoring dignity and promoting healing within afflicted communities. Consequently,

the provision of compensation becomes a critical component in the safeguarding of victims' rights.

Patra (2018), as well as Evanty and Pohlman (2018), emphasized the existence of inadequate provisions in Indonesia, which led to insufficient resolutions for victims, and recommended legislative and institutional reform. In the other hand, Yudhanti et al (2017) found that local administrations, such as Boyolali, have implemented services for victims, including legal aid and social rehabilitation, in specific instances, such as gender-based violence. Nevertheless, ensuring comprehensive protection remains a challenge. In the global level, Wittich (2002) considers state culpability to be one of the variables that can affect the effectiveness of compensation payments to victims of human rights violations. Concurrently, Moffett (2017) emphasizes the significance of examining victims' expectations that they would have a means of redress in the event of domestic impunity. Conversely, the International Criminal Court (ICC) functions differently.

Previous studies concentrate on a variety of victim interests, such as the fulfilment of compensation, the issue of legal frameworks on compensation, and legal mechanisms and voids in justice implementation. The main factors and barriers that comprehensively impede the implementation of court decisions related to human rights violations in Indonesia, particularly in the fulfilment of compensation for victims, were not yet the focus of their findings. This research addresses these issues.

The objective of this research is to identify the primary factors that contribute to the unenforceability of court decisions related to human rights violations in Indonesia and to identify the most appropriate avenue for enhancing the enforcement of court decisions. This will contribute to the justice of victims and the strengthening of the rule of law.

2. Method

The research uses normative legal research, by examining the primary and secondary legal documents. Primary legal documents include Indonesian Constitution, Law No.39 of 1999 on Human Rights Protection, Law No.26 of 2000 on Human Rights Court, Standard Norms Regulation No.9 of 2022 relating with Restoration of the Rights of Victims of Serious Human Rights Violations, Law No.2 of 1986 on General Court Jurisdiction, Law No.5 of 1986 on Administrative Court Administrative Court Jurisdiction. It also enquires secondary legal documents, such as legal principles, treaties, as well as law report on human right protection and civil justice system. Using qualitative analysis, the research will apply the relevant identified sources through interpretation method to identify the primary factors that contribute to the unenforceability of court decisions related to human rights violations in Indonesia and to identify the most appropriate avenue for enhancing the enforcement of court decisions.

3. Result and Discussion

The Issues of legal framework for Human Rights Protection in Indonesia

Indonesia accepts the International Universal Declaration of Human Rights (UDHR) by adopting its values through the establishment of Law No. 39 of 1999 on Human Rights. Furthermore, Indonesia's legal framework for human rights and judicial processes is shaped by several key laws and regulations aimed at protecting fundamental rights. The most significant among these is Law Number 26 of 2000, which establishes Human Rights Courts specifically for gross human rights violations. Meanwhile, The Government Regulation Number 3 of 2002 give the victims the right claim compensation, restitution, and rehabilitation in the gross violation of human rights. The Law allows victims to file complaints with the National Human Rights Commission (2022). It provides a broader framework for human rights, emphasizing the need for judicial independence and the rule of law.

However, The Human Rights Court established by Law Number 26 of 2000 has its vague definitions and incomplete elements of crimes, leading to legal uncertainty for victims. This can be shown in the incomplete authority of the Human Rights Court, which is only authorized to try gross human rights violations, as stipulated in Article 4 of Law No. 26 of 2000. Furthermore, the scope of the crime of genocide is unclear as reflected in the provisions of Article 8. The vagueness and incompleteness are made worse by the following lack of clarity in the application of laws, which undermines the pursuit of justice for victims of serious human rights violations. Wardani & Suroto (2023) perceives it as inadequacy in ensuring legal certainty and justice for victims of serious human rights violations, as it contains legal weaknesses and ambiguities in implementing legislation. An ideal human rights system is characterized by robust legal frameworks, effective judicial oversight, and active civil society participation. There are key aspects of such systems. First, legal frameworks. Second, judicial oversight. Third, civil society engagement.

Overview of Court Decisions on Human Rights Violations

The establishment of the Human Rights Court in 2000 aimed to address gross human rights violations, yet challenges remain in effectively prosecuting cases. As well as Novitasari & Asrullah (2022) found, instead of enforcing all human rights violations, the Human Rights Court only enforces gross human rights violations. Below are some outcomes of the compensation claims for human rights violations, and its contributing factors.

ICP 1965 Movement case

Around 1965 there was a Communist Party rebellion in Indonesia (ICP movement 1965) which wanted to propagate communist teachings - which are considered contrary to the first principle of Indonesian ideology Pancasila, namely Divinity - and seize government power. The government succeeded in suppressing the rebellion. These events resulted in various forms of human rights violations including murder, extermination, enslavement, expulsion or forcible transfer of population, deprivation of liberty or other arbitrary deprivation of physical freedom, torture, rape, persecution (persecution) and enforced disappearance of persons. Afterwards, the government arrested, detained, and stigmatized people who were considered sympathizers and involved in the rebellion without any prior investigation and trial.

In 2005, around 20 million victims have attempted to seek justice, such as the class-action lawsuit against The Government seeking compensation and rehabilitation. However, the claim was dismissed by the Central Jakarta District Court in the consideration, as stated in the judgement record No. 75/Pdt.g/2005/PN.JKT.PST, that " *...District Court does not have the authority to examine tort claims committed by the government...the case must be filed to the Administrative Court...* ". No written law as the basis of that argumentation was given. That consideration breaches Article 25(1) of The Judiciary Law No.4 of 2004 that provides " *All court decisions must contain the reasons and basis for the decision, as well as contain a certain article of the relevant legislation concerned or unwritten sources of law sources of unwritten law that are used as the basis for adjudicating* ". Furthermore, the judges' consideration also breaches Article 47 jo. Article 1 points 3 and 4 of Law Number 5 of 1986 that determines " *...Disputes under the authority of the State Administrative Court is only disputes resulting from the issuance of individual concrete decisions of state administrative officials* ". Meanwhile, ICP Movement case is the tort claims committed by the government, not the *issuance of individual concrete decisions of state administrative officials*. Although difficult to verify, the case reveals the attitude of judges who try to hide behind the principle of the absolute authority of the court, as a *modus operandi* to defeat the compensation claims of victims of gross human rights violations. Agree with Heryanto(2018), the result of the court's decision hereby highlighting the difficulties in achieving justice through the formal legal system. The Indonesian domestic legal

framework is considered has failed to provide adequate justice for ICP movement case' victims.

Tanjung Priok 1984 case

The case began with the implementation of the single Indonesian ideology Pancasila with the first principle namely Divinity, which prohibits communism and religious statehood. However, the implementation that single ideology was too forced made certain group of people disapprove, resulting in clashes that resembled religion in September 12, 1984. The State army were blindly shooting at protesting people. Officially, it recorded about 24 deaths, 54 seriously injured, and property damage. While from the victims' side, they estimated 400 deaths and missing.

The victims further filed compensation claims for alleged gross human rights violations through the Central Jakarta District Court in 2003. The Judges at the district court has constituted the Government to give compensation for the victims with the consideration as stated in the Judgement No. 01/Pid.HAM/Ad Hoc/2003/PN.JKT.PST that "...The accused (12 Armies) have been proven to have committed gross human rights violations...by unlawfully shooting at demonstrators... sentence the Government to compensate the victims in accordance with the evidence of damages submitted...". When the government filed appeals and cassations, high court judges and supreme court judges, as stated in DKI Jakarta Regional Court No. 01 /Pid.HAM/Ad Hoc/2005/PT.DKI and the Supreme Court cassation decision No. 09 K/Pid.HAM/Ad Hoc/2005, upheld the trial court's decision.

Despite the final ruling at the cassation level in 2005 by obliging the state to provide compensation, as revealed by KontraS, the implementation of compensation has not all been disbursed to date. Surprisingly, those final judgement was even annulled later by the Supreme Court at the level of judicial review, by considering as stated at the Judgement that "...the actions of the defendants were considered not human rights violations, rather ordinary crimes..." (Kontras, 2020). Yet again, the victims' efforts to obtain compensation that should have been obtained with the three previous decisions that were final (*inkracht van gewijsde*) were delayed because the Government did not execute the compensation and finally failed with the contradictory attitudes of the judges in their decisions, which should not have happened.

While Valeska (2014), Patra (2018), Evanty and Pohlman (2028) concentrate on a variety of victim interests, such as the fulfilment of compensation, the issue of legal frameworks on compensation, and legal mechanisms and voids in justice implementation, the legal problems in the Tanjung Priok case complement the previous findings, Tanjung Priok 1984 case shows how the judges within the same institution, have conflicting interpretations, namely at the cassation level, stating that the case was a gross human rights violation, yet at the judicial review level declare it as an ordinary crime.

The different attitudes of law enforcers in the mentioned cases support Audina (2019) findings that instead of enforcing all human rights violations, the Human Rights Court only enforces gross human rights violations. This limited authority -as provided in Article 35(1) of Law 26 of 2000 may then be utilized by the judges to state that the adjudicated case rather a criminal case than a gross violation of human rights, that it does not fall under the authority of the ad hoc human rights court, based on which the judge then declared the citizens' lawsuit is dismissed.

Munir case

On September 7, 2004, Munir, a human rights activist at non-governmental organization for the disappeared persons, namely KontraS, was murdered while he was on a plane traveling to Amsterdam by being poisoned with arsenic. Munir at that time was known to be very vocal in criticizing the government and was involved in fighting for the rights of workers, student activists, youth, and other oppressed groups (Admin of KontraS, 2024a). For human rights activists, Munir's murder did not only kill one person, but also attacked and terrorized human rights activists.

Instead of catching the mastermind behind the crime, the government responded by arresting Garuda Indonesia pilot, Polycarpus Budihari Priyanto, as the perpetrator of the poisoning to be tried by the adhoc Human Rights Court at the Central Jakarta District Court. The judges in their verdict stated that “...*Polycarpus Budihari Priyanto was legally and convincingly proven to have committed the crime of gross human rights violations in the form of crimes against humanity ...therefore, he was sentenced to 20 years' imprisonment...*”. Regarding compensation for victims, it was stated in the judge's reasoning that “...*the state is not obliged to provide compensation...on the grounds that the perpetrator-Polycarpus Budihari Priyanto as Garuda Pilot-is considered capable of providing compensation...*”.

Munir case remains homework for compensation for the families of the victims. Compensation, which is the right of the victim's family, is also not provided by the state in the case of forced disappearance of KontraS activists Munir, on the grounds that the perpetrator (Garuda Pilot) is considered capable of providing compensation, referring to the provisions of Article 1 Point 4 of The Government Regulation No.3 of 2002 concerning the provision of compensation in gross human rights violations. Based on Article 1 Point 4, the compensation only being given by the Government in case that the perpetrator is 'unable', and not 'the perpetrator unwilling'. If the perpetrator is deemed incapable, then the state can provide compensation for the victim, whilst if the perpetrator is 'unwilling', then the state is not obliged to provide compensation. In this way, compensation in gross human rights violations seems to be shifted to the individual interests of the victim, and not part of the interests of protecting the victim's human rights, which is the state's obligation to fulfill.

Comparing with The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims, as provided by General Assembly Resolution 60/147, the norm in Article 1 point 4 of The Government Regulation No. 3 of 2002 is not in accordance with Number 16 of The Principles. This attitude is manifested in the form of weak Indonesian domestic law making and expresses the lack of political will of the Government of Indonesia in providing effective and appropriate protection for victims of gross human rights violations, as also required in Number 11b of the Principles of General Assembly Resolution 60/147. The victim's right to obtain compensation from the state is hampered by discriminatory and restrictive legal provisions. The case highlights the intersection of state power and human rights violations. This case exemplifies the broader issues of enforced disappearances, particularly in contexts of political repression and social conflict.

The finding complements the findings of regulatory weaknesses as stated by Patra (2018), which observes the weaknesses of Law No. 26 of 2000 concerning Human Rights Courts in the scope of human rights crimes which are limited to gross human rights and humanity. Patra does not notice the provision on the right to compensation which is also discriminatory and restrictive as seen in the provisions of Article 1 Point 4 of The Government Regulation of victims of human rights crimes, as in the Munir case.

Key Factors Contributing to Unenforceability

Lack of enforcement mechanism and Political Will

As well as shown previously by the outcome of victim claim for compensation in Indonesia, in the international level, the International Court Justice (ICJ) as having the authority to adjudicate international human rights law abuses, often lack the power to compel compliance with its decisions. ICJ has no direct means of enforcing its decisions, leading to a crisis in the enforceability of international judicial decisions. Kunz found (2019), that domestic courts may refuse to follow International Court Justice judgements or even declare them unconstitutional, undermining the authority of international human rights courts. That research finding shows there is a lack of enforcement mechanism and no political will from the State that contributing to unenforceability of

the human rights court judgement.

Dependency and weakness of the judiciary

Dependency and weakness of the Judges indicate from the judges' attitude in the *ICP 1965 movement case* who try to hide behind the principle of the absolute authority of the court, as *a modus operandi* to defeat the compensation claims of victims of gross human rights violations. *Tanjung Priok 1984 case* also exemplifies the weakness in the judiciary in the form of the conflicting opinions and decisions between the judges of the three level courts and the judges at the level of judicial review, which are factors that hinder the fulfillment of the right to compensation for victims of human rights violations.

Although it is not easy to verify, the attitude of judges in both cases above can be indicated as a problem of judges' weaknesses and independence. It was found by Wardani (2023) in another case, where the judges hidden behind the principle of the absolute authority of the court, as *a modus operandi* to defeat the compensation claims of victims. Procedural law consideration then becomes the 'excuses' for judges in the event of political intervention from the Government, who in such cases are the alleged violators. Although it is difficult to verify, the adjudication' processes show the impact of the power or political dynamics on judicial independence. All cases involved the credibility of the State Institutions at that time.

Limitation of Legal Frameworks

The weakness of legal framework in Indonesia reduces the right to compensation for victims of non-severe human rights violations. This narrow stipulation was indicated utilized for instance, by the judge in *Tanjung Priok 1984 case* by taking an inadmissible approach, ruling that the case was rather an ordinary human rights violation than gross human rights violations, so that the compensation claims by the victims were decided to be unacceptable. As described previously, in fact there was a widespread attack, namely the shooting at hundreds of protesting people who clashes that resembled ethnicity, race and religion by the soldiers who should shoot only on the command of their General, causing many deaths and property damage. Such conditions obviously fall into the category of gross human rights violations, especially crimes against humanity as stipulated in Article 9 of Law No. 26 of 2000 that states: "...crimes against humanity is one of the acts committed as part of a widespread or systematic attack knowing that the attack is directly against the civilian population in the form of: a. murder..." Should there be no limitation that only victims of gross human rights violations are entitled to compensation as stipulated in Article 35 of Law No. 26 of 2000, then victims of the Tanjung Priok case could receive compensation.

Unfortunately, the Indonesian domestic law relating with the compensation in human rights violation has its root from The General Assembly Resolution 60/147 about The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Article 11 of The Resolution, as following by Indonesian domestic law, constituted that victims' rights to remedy only victims of gross violations of international human rights law and serious violations of international humanitarian law.

Resource Constraints

In the international level, as Catarina concluded (2014), economic limitations can affect a state's ability to implement human rights decisions, especially those requiring significant resource allocation. The situation also experienced by Indonesia. Since gross human rights violations include crimes of genocide that committed with the intent to destroy or exterminate all or part of a national group, race, ethnic group, religious group, the number of victims caused by genocide must be very large and even massive. Compensation for such numerous or massive victims requires a large

amount of state budget support. It is logical that the state, in the event of serious human rights violations that require compensation, tends to try to avoid it, for instance by intervening in the judicial process.

The huge amount of compensation that must be given is also influenced by the number of components that can be demanded as part of compensation. As specified in Article 20 of the General Assembly Resolution 60/147, the *compensation* includes: (a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services. Agree with Wijaya (2024), Dominicus & Parningotan (2024), for developing countries like Indonesia, the lack of budget is one of the factors leading to the ineffectiveness of the compensation enforcement process.

Impunity and Lack of Accountability

Karen research found (2015), persistent patterns of gross human rights violations are often linked to a culture of impunity, where perpetrators are not held accountable, undermining the authority of human rights courts. The case of *ICP 1965 movement*, *Munir*, and *Tanjung Priok 1984*, were indicated to a culture of impunity. The Court in all cases tended not to punish the State or the Supreme Military Leadership. In the class action lawsuit against the government in the 1965 ICP movement case, for example, the judge declared the victims' compensation claim inadmissible. The State was prevented from providing compensation. In the Tanjung Priok 1984 case, the accused human rights violators who were punished by the judge were subordinate soldiers, not the highest military leadership. In Munir's case, those tried and convicted were Garuda Indonesia pilots who had no connection whatsoever with Munir, and not the intellectual actors behind the Garuda pilots who must have felt attacked by Munir's vocal statements criticizing the Government.

Locating Appropriate Avenues for Enforcement

From several key factors leading to the non-fulfillment of compensation claims of victims of human rights abuses, studies on locating appropriate avenues for enforcement are interesting to compare with the situation in Indonesia, as shown in the following section.

Strengthening judicial integrity, accountability, and ethical oversight

In addressing the challenges of bad attitudes and the independence of the court in enforcing human rights in Indonesia, it may focus on enhancing judicial integrity, accountability, and ethical oversight to ensure that the judiciary operates free from external pressures, as well as to combat state impunity in judicial practices. Supporting Borman's opinion (2017), the independence of judicial power is enshrined in the 1945 Constitution which mandates that judicial power must be free from political influence. Regarding to strengthening the integrity, precisely as stated by Fahmiron (2016), the judges must be accountable for their decisions to maintain public trust.

This oversight is crucial in maintaining the independence and integrity of the judiciary, ensuring that judges uphold their responsibilities and address challenges related to misconduct and bad attitudes effectively. It needs supervision that the judges will work independently, such as Judicial Commission in Indonesia, as well as in various states who serve as disciplinary bodies to address misconduct, balancing accountability with judicial independence who involves in strengthening judicial integrity by supervising and giving recommendation particularly in addressing violations of the code of ethics.

Role of Civil Society

The emergence of public participation in governance, including in monitoring justice process, has been ongoing for quite some time. However, this participation has not been able to contribute

significantly to preventing and overcoming problems of judicial integrity and accountability. In the context of Indonesia, for example, Kontras has made all out efforts to combat the problem of independence or the influence of outside powers on judges in deciding the case of the death of Munir, the Kontras activist himself, as a victim of human rights violations, but has not been able to dismantle the issue of judge independence until now.

As Makowski indicated (2021), the main trends in politics, public policy and public administration in the past three de-cades has been public participation that has been seen as a remedy for the crisis of representative democracy and its main institutions (political parties, parliament and the executive bodies). By arguing on the Makowski's study on the development of public participation towards an extreme public participation, which developed in the European Union, such as The Lisbon Treaty 2007, as well as reflecting on the failure of the existing model of limited public participation, as happened in Indonesia, the model of an extreme public participation needs to be emulated in order to create public participation that is effectively able to overcome the problem of judicial independence.

International Assistance and Pressure

International Assistance and Pressure is needed to strengthen the effectiveness of compensation claims by victims of human rights violations in Indonesia. Without diminishing respect for the International People's Tribune which provides support for the 1965 ICP movement case, international support and pressure on the problem of human rights enforcement in Indonesia must be carried out by international organizations that have the authority to make decisions that bind Indonesia to comply. This is reflective of the non-respect and implementation of the final decision of the International People's Tribunal (IPT) in The Hague held on November 10-13, 2015, which held Indonesia responsible for 10 acts of gross human rights crimes that occurred in 1965-1966, by the Indonesian Government.

What the IPT doing is in fact in line with UN's mechanisms in pressuring member states to uphold human rights, particularly through the Universal Periodic Review (UPR). This process allows civil society organizations to submit reports on human rights violations and hold the Indonesian government accountable for its actions . The United Nations has played a role in pressuring member states, including Indonesia, to resolve human rights abuses that occur in the country concerned, including through the UPR and Security Council mechanisms. However, in many cases, the UN's inaction highlights the challenges in enforcing human rights, such as during the violent annexation of Aceh (1976-2005), as the Indonesian government has often ignored international norms (Muhammad, 2017).

Legislative Reforms

There is a possibility to make potential legal reforms to enhance enforcement mechanisms. Amendments to existing laws are necessary to clarify the jurisdiction, the scope for compensation, and procedural enforcement mechanism, ensuring that victim' rights to compensation is effectively and adequately protected, as well as implement stricter regulations for judicial conduct which can ensure for judges to operate independently and impartially. In Indonesia's condition, it is important, first, to provide the right to compensation that does not discriminate against victims of both gross and ordinary human rights violations. Secondly, to avoid decisions refusing to award compensation by hiding behind discriminatory procedural law provisions. Whilst the UN also limits compensation to victims of gross human rights violations as stipulated at Article 11 of The UN General Assembly 2005 number 60/147, expanding victims' right to compensation would not violate human rights since it develops non- discrimination, and the UN should support it.

It is necessary to ensure that the state will honor and implement the decisions of human rights

courts, especially ensuring compensation for victims based on court decisions. This is not easy. An overhaul of the law on state treasury and finance is needed to enable state assets to be confiscated as a means of forcibly enforcing compensation awards. Supporting Murray & De Vos thought (2020), in the event that the perpetrator of human rights violations is the state agency, it is also necessary to regulate in detail by determining the role of these state actors and the procedures by which reparations are implemented and complied. Since most of the potential perpetrator of human rights is the Government or State Agencies, while the national human rights commission has been unable to function properly, it needs a legislation reform to engage a qualified civil society's element more intensively in human rights law enforcement by giving them the role and authority of a co-working partner to the police, public prosecutors, and judges in conducting investigations, prosecutions, and trials.

4. Conclusion

Unlike previous studies that each found one or two key factors for the inadmissibility and execution of compensation claims by victims of human rights violations, this study found there are five key factors overall that make of unenforceable Indonesian court decisions on human rights violations. First, Lack of enforcement mechanism and Political Will; Second, Dependency and weakness of the judiciary; Third, limitation of legal framework; Fourth, Resource Constraints; and Fifth, Impunity and Lack of Accountability.

Improving the effectiveness of Indonesia's human rights courts requires a multifaceted approach that addresses systemic issues, enhances transparency, and fosters accountability. Key recommendations in Locating Appropriate Avenues for Enforcement may include legislative reforms, cultural shifts within the judiciary by strengthening judicial integrity, accountability, and ethical oversight, increase the role of Civil Society by an extreme public engagement in monitoring legal processes, as well as International Assistance and Pressure.

References

- Abdi, Z. F., & Khaerunnisa, C. (2024). Revitalization of Supervision of the Judicial Commission as Strengthening Judicial Institutions in Maintaining the Independence and Integrity of Judges. *JUSTICES: Journal of Law*. <https://api.semanticscholar.org/CorpusID:273511026>
- Admin of KontraS. (2024a). 20 Tahun Pembunuhan Munir: Proses Pro Justisia Penyelidikan Pelanggaran HAM Berat Pembunuhan Munir Oleh Komnas HAM Harus Segera Dituntaskan! <https://kontras.org/artikel/20-tahun-pembunuhan-munir-proses-pro-justisia-penyelidikan-pelanggaran-ham-berat-pembunuhan-munir-oleh-komnas-ham-harus-segera-dituntaskan>
- Admin of KontraS. (2024b). 40 Tahun Nestapa Pengabaian Negara terhadap Korban Peristiwa Tanjung Priok 1984. <https://kontras.org/artikel/40-tahun-nestapa-pengabaian-negara-terhadap-korban-peristiwa-tanjung-priok-1984>
- Ansolabehere, K. (2016). One norm, two models. Legal enforcement of human rights in Mexico and the United States. *Mexican Law Review*, 8(2), 93–129. <https://doi.org/10.1016/j.mexlaw.2016.07.004>
- Audina, N. (2019). Perlindungan Hukum terhadap Korban Pelanggaran HAM Berat (Tinjauan Hukum Nasional dan Internasional). *Al-Mazaahib*, 7(2), 183–198. <https://journal.iainlangsa.ac.id/index.php/legalite/article/view/1464>
- Bambang Heri Supriyanto. (2014). Penegakan Hukum Mengenai Hak Asasi Manusia (HAM) Menurut Hukum Positif di Indonesia. *Jurnal Al-Azhar Indonesia Seri Pranata Sosial*, 2(3), 151–168. <https://jurnal.uai.ac.id/index.php/SPS/article/view/167>
- Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Pub. L. No. General Assembly Resolution 60/147 (2005). <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

- Borman, M. (2017). INDEPENDENSI KEKUASAAN KEHAKIMAN DARI PENGARUH KEKUASAAN DI INDONESIA. *Lex Journal: Kajian Hukum & Keadilan*, 1. <https://doi.org/10.25139/lex.v1i1.233>
- Catarina de Albuquerque. (2014). Realising the Human Rights to Water and Sanitation: A Handbook by the UN Special Rapporteur. Precision Fototype. https://www.ohchr.org/sites/default/files/Documents/Issues/Water/Handbook/Book6_Justice.pdf?utm
- Danangpratama. (2021, September 13). Peristiwa Tanjung Priok 1984: Latar Belakang, Tragedi Kerusuhan, dan Penyelesaian Pelanggaran HAM. *kompas.id*. <https://www.kompas.id/baca/paparan-topik/2021/09/13/peristiwa-tanjung-priok-1984-latar-belakang-masalah-tragedi-kerusuhan-dan-penyelesaian-pelanggaran-ham>
- David, R. (2009). Comparative Study of Three International Human Rights Systems and Their Enforcement Mechanisms. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1566495>
- Disemadi, H. S. (2022). Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies. *Journal of Judicial Review*, 24(2), 289–304. <https://doi.org/10.37253/JJR.V24I2.7280>
- Dominikus Jawa, Parningotan Malau, C. C. (2024). Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia. *USM Law Review*, 7(2), 1006–1017. <http://dx.doi.org/10.26623/julr.v7i2.9507>
- Donoso, G. (2009). Inter-American Court of Human Rights' Reparation Judgments. Strengths and Challenges for a Comprehensive Approach. *Revista IIDH*, 49, 29–68. <https://www.iidh.ed.cr/images/Publicaciones/RevistaIIDH/revista-iidh49.pdf>
- E.Sundari. (2013). *Praktik Class Action di Indonesia* (1st ed.). Cahaya Atma Pustaka.
- Edwards, N. (2021). Challenging impunity in Indonesia and the Philippines through the Universal Periodic Review Mechanism. *Australian Journal of Human Rights*, 26, 1–18. <https://doi.org/10.1080/1323238X.2020.1813918>
- Evanty, N., & Pohlman, A. (2018). After 1965: Legal Matters for Justice? BT - The Indonesian Genocide of 1965: Causes, Dynamics and Legacies (K. McGregor, J. Melvin, & A. Pohlman (eds.); pp. 311–334). Springer International Publishing. https://doi.org/10.1007/978-3-319-71455-4_16
- Fahmiron, F. (2016). INDEPENDENSI DAN AKUNTABILITAS HAKIM DALAM PENEGAKAN HUKUM SEBAGAI WUJUD INDEPENDENSI DAN AKUNTABILITAS KEKUASAAN KEHAKIMAN. *LITIGASI*, 17, 3467. <https://doi.org/10.23969/litigasi.v17i2.158>
- International People Tribunal 1965. (2015). Putusan Akhir Majelis Hakim IPT 1965. <https://doi.org/https://www.tribunal1965.org/putusan-akhir-majelis-hakim-ipt-1965/>
- James, J., Alfini, Shailey, Gupta-Brietzke, James, F., McMartin, I. (2007). Dealing with Judicial Misconduct in the States: Judicial Independence, Accountability and Reform. Social Science Research Network. <https://www.semanticscholar.org/paper/Dealing-with-Judicial-Misconduct-in-the-States%3A-and-Alfini-Gupta-Brietzke/6993aba11582eb077fa46c9c23664bbf0bec5950>
- Karen Engle. (2015). Anti-Impunity and the Turn to Criminal Law in Human Rights. *Cornell Law Review*, 100(5), 1070–1127. [https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=4670&context=clr&httpsredir=1&ref](https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=4670&context=clr&httpsredir=1&referer=&utm)
- Komisi Nasional Hak Asasi Manusia. (2012). Pernyataan Komnas HAM tentang Hasil Penyelidikan Pelanggaran HAM yang Berat Peristiwa 1965-1966. <https://ypkp1965.org/blog/2018/09/30/laporan-dan-rekomendasi-komnas-ham-tentang-peristiwa-1965-1966/>
- Kontras. (2020). Catatan Kritis 20 Tahun Penerapan UU Pengadilan HAM (2000 – 2020): Mengkaji UU Pengadilan HAM yang Efektif Komisi untuk Orang Hilang dan Korban Tindak Kekerasan November 2020 (Issue November). <https://www.kontras.org/wp-content/uploads/2020/11/Kertas-Posisi-20-Tahun-UU-Pengadilan-HAM.pdf>
- Kunz, R. (2019). Judging International Judgments Anew? The Human Rights Courts before Domestic Courts. *European Journal of International Law*, 30(4), 1129–1163. <https://doi.org/10.1093/ejil/chz063>
- Makowski, G. (2021). Extreme Participation: Citizens' Involvement in Public Procurement Decisions. The Example of Piloting Integrity Pacts in the European Union. <https://doi.org/10.13140/RG.2.2.35926.37443>

- Moffett, L. (2017). Reparations for victims at the International Criminal Court: a new way forward? *The International Journal of Human Rights*, 21(9), 1204–1222. <https://doi.org/10.1080/13642987.2017.1360005>
- Muhammad, D. (2017). Gross Violation of Human Rights in Aceh: Patterns of Violence through the Indonesian Government's Policy. *IOSR Journal of Humanities and Social Science*, 22, 19–40. <https://doi.org/10.9790/0837-2205011940>
- Murray, R., & De Vos, C. (2020). Behind the State: Domestic Mechanisms and Procedures for the Implementation of Human Rights Judgments and Decisions. *Journal of Human Rights Practice*, 12(1), 22–47. <https://doi.org/10.1093/jhuman/huaa004>
- Note. (2024). Law without violence: Human rights adjudication as world building. *Harvard Law Review*, 137(5), 1403–1424.
- Novitasari, I., & Asrullah, A. (2022). Human Rights In The Justice System In Indonesia. *Journal of Scientific Research, Education, and Technology (JSRET)*, 1(2), 423–432. <https://doi.org/10.58526/jsret.v1i2.125>
- Patra, R. (2018). The Failure of Settlement of Human Rights Violations in Indonesia and Its Solutions. *Yustisia*, 7(1), 112–133. <https://jurnal.uns.ac.id/yustisia/article/view/19052>