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The Settlement of Past Gross Human Rights Violations in Indonesia Following Law No. 26 of 2000 on Human Rights Courts

Wiken Saputra[1*], Devi Rama Utami[2]
[1,2] Universitas Islam Negeri Fatmawati Sukarno Bengkulu
**Correspondence:* wikenn.sa@gmail.com
Co-author: deviramautami@gmail.com

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Abstrak

Penelitian ini menganalisis keterbatasan penyelesaian pelanggaran hak asasi manusia berat masa lalu di Indonesia setelah berlakunya Undang-Undang Nomor 26 Tahun 2000 tentang Pengadilan Hak Asasi Manusia. Penelitian hukum normatif ini menggunakan pendekatan perundang-undangan, konseptual, dan historis dengan menelaah hukum positif, putusan, laporan lembaga negara, serta literatur keadilan transisional. Hasil kajian menunjukkan bahwa mekanisme pengadilan HAM ad hoc telah membentuk dasar pertanggungjawaban pidana bagi peristiwa sebelum tahun 2000, tetapi prosesnya terhambat pemisahan kewenangan penyelidikan dan penyidikan, kesulitan pembuktian historis, dinamika politik, serta terbatasnya pemulihan korban. Pengakuan negara atas dua belas peristiwa pada tahun 2023 dan program non-yudisial penting bagi pemulihan, tetapi tidak menggantikan kewajiban akuntabilitas pidana. Sejak berlakunya KUHP baru pada 2 Januari 2026, pembacaan UU Pengadilan HAM juga perlu mempertimbangkan perubahan ketentuan genosida dan kejahatan terhadap kemanusiaan. Artikel ini menawarkan kerangka integratif yang menghubungkan penyidikan efektif, penuntutan independen, pengungkapan kebenaran, pemulihan berpusat pada korban, dan jaminan ketidakberulangan.

Kata Kunci: pelanggaran HAM berat; pengadilan HAM ad hoc; keadilan transisional; impunitas; pemulihan korban.

Abstract

This article examines the continuing difficulties of addressing past gross human rights violations in Indonesia after the enactment of Law No. 26 of 2000 on Human Rights Courts. Using doctrinal legal research, it combines statutory, conceptual and historical approaches to legislation, judgments, institutional reports and transitional justice scholarship. The analysis finds that the ad hoc Human Rights Court mechanism supplies a route to criminal accountability for pre-2000 events, but its operation has been constrained by the division between preliminary inquiry and criminal investigation, evidentiary problems associated with historical atrocities, political resistance and the limited reach of victim reparations. The state's acknowledgment of twelve past events in 2023 and its non-judicial recovery programmes are significant but cannot discharge the separate obligation to pursue criminal accountability. The entry into force of the new Criminal Code on 2 January 2026 also requires the continued procedural role of Law No. 26 of 2000 to be read

alongside the amended substantive provisions on genocide and crimes against humanity. The article proposes an integrated framework linking effective investigations, independent prosecutions, truth-seeking, victim-centred reparations and guarantees of non-recurrence.

Keywords: *gross human rights violations; ad hoc human rights courts; transitional justice; impunity; victim reparations.*

Introduction

The right to seek truth and remedy for grave violations of human dignity occupies a foundational place in the Indonesian constitutional order. The Constitution obliges the state to protect human rights, and Law No. 39 of 1999 places the promotion, protection, enforcement and fulfilment of those rights within governmental responsibility.[1] In practice, however, the transition from authoritarian rule in 1998 did not produce a single, comprehensive pathway through which victims of earlier repression could obtain a judicial determination, recognition of suffering and material redress. The creation of a special Human Rights Court was a major legislative response, yet the existence of an institution must be distinguished from its ability to investigate historical crimes, adjudicate individual responsibility and provide enforceable remedies. The central question is therefore not whether Indonesia has enacted a law, but whether the law's institutional design and implementation have translated the promise of accountability into meaningful outcomes for victims.

Law No. 26 of 2000 was enacted on 23 November 2000. It established the Human Rights Court within the general judicial system and limited its special subject-matter jurisdiction to genocide and crimes against humanity, rather than every violation of an internationally recognised right.[2] For alleged gross violations committed before the law entered into force, Article 43 envisages an ad hoc Human Rights Court established on the basis of a presidential decision following a proposal by the House of Representatives. That temporal distinction is consequential: ordinary jurisdiction and an ad hoc process do not create the same procedural route, even though both serve the broad public interest in accountability. The statute's deliberate, bounded exception for pre-enactment acts must also be read in light of the constitutional debate concerning non-retroactivity. Treating all historical abuses as automatically prosecutable under the special court would ignore the substantive thresholds, the required institutional action and the need for proof against identified defendants.

The unfinished character of transitional justice is not a claim that no legal or political action occurred after 2000. Ad hoc proceedings were held in relation to East Timor and Tanjung Priok, and other incidents reached a Human Rights Court, yet the resulting processes raised persistent concerns about attribution of responsibility, prosecutorial effectiveness and the gulf between a hearing and a durable remedy.[3] Later scholarship examining East Timor, Aceh and Papua likewise describes the implementation of transitional justice as uneven and

[1] Republic of Indonesia, Constitution of 1945, arts. 28D(1), 28I(1), (4), and (5).

[2] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

vulnerable to political contingencies rather than simply nonexistent.[4] A rigorous assessment must therefore separate four stages that are frequently conflated: recognition that an event occurred; a preliminary institutional inquiry into its possible legal classification; investigation and prosecution of particular suspects; and a final judicial or reparative outcome. Movement at one stage does not by itself establish completion at the others.

The division between the National Commission on Human Rights (Komnas HAM) and the Attorney General's Office is especially important. Under the existing statutory architecture, Komnas HAM conducts the preliminary inquiry into alleged gross violations, while the Attorney General is responsible for criminal investigation and prosecution.[5] This arrangement involves necessary interaction between different public bodies, but investigators require sufficiently particularised events and evidence before criminal charges can be sustained. A return of inquiry files to the commission may represent a legitimate request for further particulars; repeated returns without an intelligible plan for remedying defects, however, can become an institutional bottleneck. Empirical and doctrinal discussions have repeatedly identified this interface as one of the principal explanations for the prolonged distance between findings of serious incidents and the filing of charges.[6] Institutional criticism should not be converted into an assumption that every inquiry file is immediately ready for trial, but neither should evidentiary standards become an indefinite justification for inaction.

The more recent policy of non-judicial settlement must be assessed within the same distinction. Presidential Decree No. 17 of 2022 established a team to address past gross human rights violations outside criminal courts, including the identification of harms and proposals for recovery.[7] On 11 January 2023, the President acknowledged twelve past events and expressed regret, while expressly stating that victim restoration should not negate judicial settlement.[8] Recognition is normatively important because official denial can prolong secondary harm, but an executive statement is neither a criminal verdict nor a substitute for adversarial proof. A victim-centred response can provide medical, psychological, administrative and social support without first establishing the responsibility of an individual defendant; a criminal court, in contrast, must determine guilt according to legally required evidentiary standards. The research problem is how to preserve both functions instead of describing them as mutually exclusive policies.

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[3] Muhammad Yusuf Putra and Irwansyah, "Penyelesaian Non-Yudisial terhadap Pelanggaran HAM Berat Masa Lalu: Tinjauan Sosiologi Peradilan," *Tanjungpura Law Journal* 2, no. 1 (2018), https://doi.org/10.26418/tlj.v2i1.25602.

[4] Munafrizal Manan, "Seeking Transitional Justice in Indonesia: Lessons from the Cases of Aceh, Papua and East Timor," *Constitutional Review* 1, no. 2 (2015): 69–98, https://doi.org/10.31078/consrev124.

[5] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

[6] Sholihin Bone, "Penataan Kewenangan Komisi Nasional Hak Asasi Manusia: Telaah Sistem Hukum," *Amanna Gappa* 29, no. 1 (2021): 15–25, https://doi.org/10.20956/ag.v29i1.13445.

[7] Republic of Indonesia, Presidential Decree No. 17 of 2022 establishing the Team for the Non-Judicial Settlement of Past Gross Human Rights Violations.

[8] Secretariat of State of the Republic of Indonesia, "Pernyataan Pers Presiden RI tentang Pelanggaran HAM Berat," 11 January 2023, https://setneg.go.id/baca/index/pernyataan_pers_presiden_ri_tentang_pelanggaran_ham_berat.

This question is sharpened by the implementation of Indonesia's new Criminal Code on 2 January 2026. The official legislative status records the partial repeal of Articles 8 and 9 and Articles 36–40 of Law No. 26 of 2000; corresponding provisions concerning genocide and crimes against humanity appear in Articles 598 and 599 of Law No. 1 of 2023.[9] The change should not be reported as repeal of the Human Rights Courts themselves. The remaining framework governing jurisdiction, preliminary inquiries, trials, command responsibility and victim protection continues to require careful interpretation, including the temporal and legality questions arising from older incidents. Whether a newer substantive definition or penalty can be applied to particular historical conduct is a distinct question from whether existing court institutions continue to operate. Oversimplifying this legal transition would leave a 2026 publication describing a statutory text as if nothing had changed.

The literature offers different explanations for the persistence of unresolved cases. Wahyuningroem situates incomplete transitional justice within political concessions that do not necessarily dismantle authoritarian structures, while Drexler examines the repeated Thursday protests known as Aksi Kamisan as a response to enduring impunity.[10] Such accounts illuminate why survivors and their families experience the passage of time as a continuing political problem rather than a closed historical period.[11] Doctrinal writing has instead focused on the design of the Human Rights Court, institutional competence and the compatibility of judicial and non-judicial settlement. A useful analysis must bring the two approaches together: an accurate account of legal powers and safeguards should be informed by the lived consequences of institutional delay, without mistaking advocacy assessments for findings of criminal guilt.

Several Indonesian studies analyse the effectiveness of the Human Rights Court legislation, the barriers faced by its practitioners and the search for non-judicial alternatives.[12] Others examine legal uncertainty in the recognition of victims and the implications of reparations that do not accompany a determination of individual responsibility.[13] Their contributions remain essential, but a further analytical distinction is needed. The research presented here separates the statute's temporal reach, the movement of cases across successive procedural stages, and the distinct legal functions of adjudication, truth-seeking and recovery. It also incorporates the altered substantive criminal-law provisions in force from

[9] Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code, arts. 598–599 and 622(1), (5), effective 2 January 2026.

[10] Sri Lestari Wahyuningroem, "Breaking the Promise: Transitional Justice between Tactical Concession and Legacies of Authoritarian Regime in Indonesia," *International Journal of Transitional Justice* 16, no. 3 (2022): 406–421, https://doi.org/10.1093/ijtj/ijac021.

[11] Elizabeth F. Drexler, "Impunity and Transitional Justice in Indonesia: Aksi Kamisan's Circular Time," *International Journal of Transitional Justice* 16, no. 3 (2022): 298–313, https://doi.org/10.1093/ijtj/ijac010.

[12] A. Yulia Yunara, "Efektivitas Undang-Undang Nomor 26 Tahun 2000 tentang Pengadilan Hak Asasi Manusia dalam Penuntasan Pelanggaran Hak Asasi Manusia (HAM) di Indonesia (Studi Pengadilan HAM Makassar)," *Jurnal Al-Dustur* 2, no. 2 (2019): 1–21, https://doi.org/10.30863/jad.v2i2.499.

[13] Ni Nyoman Putri Purnama Santhi and Fanny Priscyllia, "Aspek Yuridis Penyelesaian Pelanggaran HAM Berat Masa Lalu di Indonesia," *Jurnal Hukum dan HAM Wara Sains* 3, no. 2 (2024): 258–266, https://doi.org/10.58812/jhhws.v3i02.1249.

2026. This approach makes it possible to evaluate both the reasons for the enforcement gap and the legitimacy of proposed institutional reforms without presuming that a single mechanism can accomplish every dimension of transitional justice.

Accordingly, this article addresses three related questions. First, what is the continuing structure of the legal framework for pre-2000 gross human rights violations, particularly after the new Criminal Code entered into force? Second, why has the movement from historical inquiry to successful adjudication remained difficult, and what does the limited set of proceedings actually demonstrate? Third, how should criminal accountability, truth-seeking, victim recovery and institutional reform be coordinated so that one is not used as a reason to abandon another? The article argues that the principal difficulty is not a total absence of norms, but the interaction of fragmented investigative responsibilities, challenging proof conditions and unstable political support. A credible response requires precise attribution of institutional duties, meaningful prosecutorial progress indicators and an independent channel for accessible victim remedies.

Research Method

This study employs normative or doctrinal legal research, supplemented by a historical and conceptual reading of transitional justice. Its primary legal materials are Law No. 26 of 2000, Law No. 39 of 1999, the 1945 Constitution, the relevant parts of Law No. 1 of 2023 and selected regulations and judicial decisions relating to the Human Rights Courts and truth and reconciliation.[14] It treats government announcements, Komnas HAM information and civil-society statements as institutional or contextual evidence, not as findings independently establishing the guilt of particular persons. Academic articles are used to compare doctrinal interpretations, identify recurring implementation problems and test the logic of proposed reforms. The research is documentary: no field interviews, case-file inspections beyond publicly accessible material or original statistical surveys were conducted, and no such procedures are claimed as findings.

The statutory approach examines legal jurisdiction, temporal operation, investigative powers, criminal liability and remedies; the historical approach traces the attempts to implement the system across different political periods. The conceptual approach draws on transitional justice literature to distinguish retributive criminal adjudication from truth recovery, public acknowledgement and reparations. Marzuki and Ali argue that historical violations differ in their legal complexity and political setting, and that settlement mechanisms cannot be selected without attending to those differences.[15] The present analysis adopts that caution but adds a legal constraint: differentiated remedies may be appropriate, yet administrative convenience cannot silently extinguish a surviving criminal-law obligation. Normative conclusions are tested against the content of legal instruments and against publicly documented outcomes, not against abstract preferences for punishment or reconciliation.

[14] Republic of Indonesia, Law No. 39 of 1999 on Human Rights, arts. 71–72 and 104.

[15] Suparman Marzuki and Mahrus Ali, "The Settlement of Past Human Rights Violations in Indonesia," *Cogent Social Sciences* 9, no. 1 (2023): 2240643, https://doi.org/10.1080/23311886.2023.2240643.

Three analytical steps structure the study. It first identifies the positive law governing ordinary and ad hoc courts, the status of the 2026 Criminal Code provisions and the constitutional setting of accountability. It next examines the institutional stages of investigation and trial using selected illustrative episodes rather than an exhaustive quantitative census. Finally, it develops a model of complementary measures guided by legality, judicial independence, victim participation, evidentiary integrity and non-repetition. References in the article retain the publication titles of their original sources even where the surrounding discussion is translated into English. The numerical count of publicly examined events is reported with dates and source context, since different official and advocacy classifications may refer to different populations and should not be casually equated.

Results and Discussion

The Legal Architecture of Accountability and Its Temporal Limits

The first necessary clarification concerns the subject matter of the special court. Law No. 26 of 2000 does not characterise every unlawful state action as a gross human rights violation triable under its special jurisdiction. Its original Article 7 identified genocide and crimes against humanity, while the elements of the particular offences were set out in the statute's substantive provisions.[16] The distinction matters because serious wrongdoing may involve unlawful detention, violence, discrimination or other violations without automatically satisfying the constituent elements of genocide or a widespread or systematic attack on a civilian population. Such conduct may fall within other bodies of criminal or administrative law. The special forum demands offence-specific analysis, not simply a moral assessment of the scale of harm. This principle protects victims against misleading promises of a forum that may lack competence and defendants against charges framed by public outrage rather than legal elements.

For incidents occurring after 23 November 2000, the ordinary Human Rights Courts may exercise the jurisdiction established by law when the constituent elements and other requirements are met. Incidents preceding that date follow a different route, under Article 43, involving an ad hoc court created through the specified political and executive process.[17] The exceptional pathway attempts to accommodate historical accountability, but it introduces a gatekeeping step not present in the same form for ordinary cases. A proposal to form an ad hoc court is not a substitute for a criminal investigation, and the existence of a preliminary finding does not guarantee that the political decision or prosecutorial stage will follow. Article 46 excludes ordinary limitation periods for the relevant offences, but the absence of a statute of limitations does not remove evidentiary burdens, jurisdictional requirements or safeguards against retroactive punishment. The real issue is how to operate an exceptional temporal jurisdiction consistently with the rule of law.

[16] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

[17] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

The constitutional dimension is consequently not resolved by declaring either the legality principle or the anti-impunity objective supreme in every circumstance. The Constitution safeguards the right not to be prosecuted on the basis of a retroactive law, while the legislative design of ad hoc Human Rights Courts responds to the exceptional gravity of historic atrocities.[18] Scholarship on the existence and limitations of these courts has long pointed to this tension.[19] A defensible discussion must distinguish the recognition of acts already prohibited by international norms, the domestic definition of offences, the procedural establishment of a tribunal and the penalty applicable to an individual. It must also avoid using the labels of international criminal law as a shortcut around the exact domestic provisions. The legitimacy of a process depends not only on its purpose but also on sufficiently clear charges and a fair opportunity for the accused to contest the evidence.

The 2026 statutory position creates an additional interpretive task. Law No. 1 of 2023 introduced the definitions and sanctions for genocide and crimes against humanity under Articles 598 and 599 and expressly repealed the specified overlapping provisions of Law No. 26 of 2000.[20] The legislative record nevertheless continues to list the Human Rights Court Law as operative, subject to the partial repeal. In analysing cases initiated earlier, courts and prosecutors must therefore determine the applicable law in time rather than quoting superseded offence provisions without qualification. For a historical case, one cannot assume that the new provision retrospectively governs the charged conduct merely because it is currently in force. Nor can one infer that criminal responsibility has disappeared simply because the statutory location of the substantive offences changed. The required inquiry involves the dates of conduct, the relevant legality safeguards, the applicable transitional rules and the surviving procedural framework.

Procedural responsibility is expressly divided. Komnas HAM carries out inquiries under Articles 18–20; the Attorney General then undertakes investigation and prosecution under Articles 21 and following.[21] The distinction is deliberate, for a preliminary inquiry assesses whether the events warrant criminal investigation, whereas prosecutors must construct allegations attributable to persons against whom the legal elements can be proved. That division may enhance checks, yet it can also weaken ownership of a case when institutions disagree about the threshold for a sufficiently complete file. Bone identifies the absence of effective follow-through between Komnas HAM and the prosecution service as a chronic structural problem.[22] Habibi proposes a more concentrated institutional arrangement as one response, but that proposal must be considered alongside independence, professional capacity, safeguards against political capture

[18] Republic of Indonesia, Constitution of 1945, arts. 28D(1), 28I(1), (4), and (5).

[19] Yuwanda Tri Maryoga, "Human Rights at the Court: Criticism of the Human Rights Courts in Indonesia," *Lex Scientia Law Review* 2, no. 2 (2018): 241–248, https://doi.org/10.15294/lesrev.v2i2.27588.

[20] Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code, arts. 598–599 and 622(1), (5), effective 2 January 2026.

[21] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

[22] Bone, "Penataan Kewenangan Komisi Nasional Hak Asasi Manusia."

and the proper role of prosecutorial discretion.[23] A change of institutional name alone would not guarantee successful cases.

The status of this debate requires precision. In February 2026 the Ministry of Human Rights announced an intended reform that would give Komnas HAM criminal investigative powers through a proposed revision of legislation.[24] An announced bill is not enacted authority. Until valid legislation changes the allocation of powers, legal analysis should describe the existing statutory split and treat the proposed transfer as a reform option. Other scholars favour strengthening coordination and binding handover protocols rather than assigning every criminal function to one agency. Sinaga and Riwanto's examination of Komnas HAM's authority illustrates that practical effectiveness involves the capacity to obtain information, develop cases and secure institutional responses, not merely the theoretical scope of a commission's legal mandate.[25] Reform design should therefore specify who may gather evidence, who decides that a file is complete, whether deficiencies must be particularised in writing and how disagreements can be reviewed.

A second oversight concern is command or superior responsibility. Atrocities committed through hierarchical institutions may require proof linking physical acts to a superior's effective authority, knowledge and failure to take necessary measures. Law No. 26 of 2000 contains a provision on responsibility within a chain of command, but its application requires more than proof of rank or the existence of an institution.[26] It also requires an inquiry into factual control, information flows and feasible preventive or punitive measures. International discussions of accountability under the Rome Statute can inform comparison, while Indonesia's non-ratification of that treaty should not be confused with the absence of domestic jurisdiction.[27] The challenge is to construct the chain of evidence through testimony, orders, institutional records and contextual findings while allowing the defence to contest the inferred connection. A failure to differentiate personal guilt from political or moral responsibility can undermine a prosecution that seeks to address systematic wrongdoing.

Existing judicial review also affects the design of ad hoc proceedings. Constitutional Court Decision No. 18/PUU-V/2007 invalidated the relevant part of the elucidation of Article 43(2) of the Human Rights Court Law concerning the

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[23] Iskan Habibi, "Reformulasi Kewenangan Represif Komnas HAM dalam Penyelesaian Pelanggaran HAM Berat di Indonesia," *Ahmad Dahlan Legal Perspective* 5, no. 2 (2026), https://doi.org/10.12928/adlp.v5i2.14439.

[24] Ministry of Human Rights of the Republic of Indonesia, "Komnas HAM Akan Miliki Kewenangan Penyidikan," 27 February 2026, https://origin.kemenham.go.id/publikasi/komnas-ham-akan-miliki-kewenangan-penyidikan-kemenham-perkuat-langkah-strategis-tuntaskan-pelanggaran-ham-berat.

[25] A. P. O. Sinaga and A. Riwanto, "Efektifitas Kewenangan Komisi Nasional Hak Asasi Manusia terhadap Penyelesaian Pelanggaran Hak Asasi Manusia yang Berat di Indonesia," *Res Publica: Jurnal Hukum Kebijakan Publik* 6, no. 3 (2022), https://doi.org/10.20961/respublica.v6i3.63036.

[26] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

[27] Arif Rohman, Syafruddin, and Panupong Chalermsin, "The Rome Statute Impact: Challenge of Upholding Human Rights in Indonesia's Human Rights Court," *Jurnal Dinamika Hukum* 24, no. 2 (2024), https://doi.org/10.20884/1.jdh.2024.24.2.4228.

expression of suspected acts.[28] That decision should be considered when describing the role of the legislature in proposing an ad hoc court. It does not itself appoint investigators, establish an actual tribunal or identify a defendant. Equally, an ad hoc process should not be portrayed as capable of functioning entirely without an institutional proposal and an executive act. A careful reconstruction of these procedures is essential because imprecise descriptions of jurisdiction can obscure the exact moment when a case is stalled: a matter may be awaiting a political decision, further inquiry, investigation, an indictment or an appeal. Each stage has a different responsible institution and a different legally appropriate remedy for delay.

The final statutory component concerns victims. Article 34 of the Human Rights Court Law recognises protection for victims and witnesses, while Article 35 concerns compensation, restitution and rehabilitation; Government Regulation No. 3 of 2002 addresses their implementation.[29] The text of Article 35 connects specified remedies to the judgment of a Human Rights Court, making the design of assistance outside criminal proceedings a separate question. Victims' needs do not necessarily wait until a final conviction: medical care, psychosocial support, documentation, livelihood assistance and recognition may be urgent during lengthy inquiries. A policy that provides such support can be defensible without a prior determination of guilt, but it should be transparent about eligibility, administration and what the support legally represents. Treating all assistance as criminal compensation risks attributing a judicial character to an executive programme; treating judicial reparations as the sole morally valuable form of assistance overlooks urgent needs.

This mapping explains why a purely formal conclusion—namely that the law has existed since 2000 and therefore old violations should already have been resolved—cannot sustain a strong journal article. Courts possess a delimited subject matter; historic incidents encounter a special temporal mechanism; inquiries and prosecutions belong to different bodies; and victim remedies operate through partly overlapping procedures. Studies of Human Rights Court performance have pointed to the gap between legal instruments and demonstrated effectiveness.[30] The normative question is how to narrow that gap while preserving legal certainty. Answering it requires examining actual procedural outcomes as distinct events rather than collapsing recognition, inquiry, charging and judgment into a single indicator called 'case resolution'.

Institutional and Evidentiary Barriers in Historical Proceedings

Historical prosecution differs from ordinary investigation in the condition of the evidence. Many alleged acts took place decades before the opening of an inquiry; witnesses may have died, changed residence or experienced trauma, and contemporaneous records may be incomplete or held by institutions whose officials are implicated in the alleged events. Fathonah and Angkasa describe how

[28] Constitutional Court of the Republic of Indonesia, Decision No. 18/PUU-V/2007 concerning the elucidation of Article 43(2) of Law No. 26 of 2000.

[29] Republic of Indonesia, Government Regulation No. 3 of 2002 on Compensation, Restitution and Rehabilitation for Victims of Gross Human Rights Violations.

[30] Mohamad Tapril and Adi Nur Rohman, "Efektivitas Pengadilan Hak Asasi Manusia di Indonesia," *Jurnal Hukum Pelita* 6, no. 2 (2025): 855–869, https://doi.org/10.37366/jhp.v6i2.6177.

an apparent proliferation of legal and policy commitments has not consistently resulted in proportionate accountability for violations during 1965–1998.[31] This pattern does not mean legal proof is impossible, but it changes the organisation of the process. A credible prosecution may require coordinated archival work, forensic methods where possible, witness-protection arrangements and careful analysis of whether a pattern of conduct demonstrates the relevant contextual elements. Historical difficulty should be treated as a reason to act early and preserve evidence, not simply as a reason to close files without explanation.

The Human Rights Court experience in relation to East Timor in 1999 and Tanjung Priok in 1984 illustrates the distinction between a formal trial and a comprehensive account of responsibility. Early ad hoc prosecutions did occur, yet appellate outcomes and the narrow reach of criminal responsibility produced considerable dissatisfaction among victims' representatives and observers.[32] The broader historical literature describes how violence in East Timor involved complex command structures and conditions of denial that shaped later attempts to establish truth.[33] A legal article should not infer that every named person associated with an event is guilty merely because judicial results disappointed survivors. It is more accurate to ask which incidents were included in the indictment, which forms of liability were pleaded, which evidence supported them, and what the final judgment actually determined. Weak prosecutorial framing and high evidentiary thresholds may produce acquittals even when broader historical suffering is well documented.

The Paniai proceedings are a more recent illustration of limits in the application of superior responsibility. In December 2022 the Human Rights Court at Makassar acquitted the defendant in the case involving the 2014 Paniai events; the published advocacy account describes disagreement between the majority and dissenting judges over whether he exercised effective command and control.[34] That disagreement demonstrates why responsibility should be argued through actual authority, knowledge and measures available to a superior rather than relying on military rank alone. Subsequent scholarship also highlights practical difficulties with the availability and appointment of ad hoc judges at the Supreme Court during the appeal process.[35] The report and secondary scholarship are useful sources for identifying the contested issue, but the authoritative wording of the holdings and procedural status of any subsequent appeal must be established from

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[31] Hanum Fathonah and Surya Angkasa, "Analisis Realisasi Upaya Pemerintah dalam Penyelesaian Kasus Pelanggaran HAM Berat pada Rentang Tahun 1965–1998," *Juris Humanity: Jurnal Riset dan Kajian Hukum Hak Asasi Manusia* 3, no. 2 (2024): 50–62, https://doi.org/10.37631/jrkhm.v3i2.56.

[32] Putra et al., "Penyelesaian Non-Yudisial terhadap Pelanggaran HAM Berat Masa Lalu."

[33] Elizabeth F. Drexler, "Fatal Knowledges: The Social and Political Legacies of Collaboration and Betrayal in Timor-Leste," *International Journal of Transitional Justice* 7, no. 1 (2013): 74–94, https://doi.org/10.1093/ijtj/ijs037.

[34] Amnesty International Indonesia, "Indonesia: Verdict in 2014 Paniai Tragedy a 'Slap in the Face' for Victims," December 2022, https://www.amnesty.id/kabar-terbaru/siaran-pers/indonesia-verdict-in-2014-paniai-tragedy-a-slap-in-the-face-for-victims/12/2022/.

[35] Ananda Chrisna D. Panjaitan, "The Ideal Concept of Requirements for Ad Hoc Human Rights Judges at the Supreme Court to Achieve Justice," *Mimbar Keadilan* 18, no. 1 (2025): 1–14, https://doi.org/10.30996/mk.v18i1.11119.

official judgments when a manuscript makes a detailed claim about a court's final ruling.

These experiences show the limits of measuring justice through conviction rates alone. An acquittal may reveal a deficient inquiry, over-narrow charges, evidentiary collapse or the absence of the legal elements as found by judges; the mere outcome cannot tell which explanation applies. Conversely, the fact that a trial is held does not establish that all identified victims have been heard or compensated. Comparative analysis of Indonesia's early Human Rights Courts emphasises the institutional and political conditions that affected the framing and credibility of proceedings.[36] Responsible scholarship must preserve the presumption of innocence while investigating whether official institutions had the resources and independence to present the strongest lawful case. An evaluation matrix should therefore include inquiry quality, the specificity of a charge, witness protection, reasoned judicial findings, appellate review and victim access to a remedy.

As of 24 September 2026, a Komnas HAM commissioner publicly reported that the commission had completed inquiries into seventeen events arising between 1965 and 2014, with subsequent criminal investigation and prosecution dependent on the Attorney General's Office.[37] That dated statement is a useful indicator of the institutional gap, but it is not a finding that seventeen indictments were ready for trial. Nor should the figure be conflated with the twelve events officially acknowledged by the President in 2023, which belong to a different policy and temporal category. A further separate count may appear in civil-society monitoring, especially when it includes recent allegations or broader patterns of rights violations. The analytical task is to define what each number measures before using it in claims about effectiveness. Otherwise, numerical comparison itself becomes a source of misinformation.

The structural problem does not rest exclusively on poor inter-agency goodwill. Under a divided procedure, the institution responsible for preliminary inquiry may lack direct authority over subsequent investigatory steps, while the prosecuting institution may insist on additional materials in a format it requires. Nurani discusses the Commission's continuing role in public scrutiny and the institutional pressure created by unresolved matters.[38] Sholihin Bone links the legal bottleneck to recurring exchanges of inquiry materials and the limited practical force of the Commission's findings.[39] The proper reform response is not to eliminate criminal standards of proof, but to establish a traceable workflow with written descriptions of alleged insufficiency, timetables for necessary steps and transparent reasons for suspension or continuation. Such rules would expose avoidable administrative delay while leaving investigators free to decide that a charge is unsupported by admissible evidence.

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[36] Manan, "Seeking Transitional Justice in Indonesia."

[37] ANTARA, "Komnas HAM dorong penuntasan pelanggaran HAM berat lewat pengadilan," 24 September 2026, https://www.antaranews.com/berita/5756952/.

[38] Risma Sri Nurani, "Aktualisasi Peran Komisi Nasional Hak Asasi Manusia Republik Indonesia dalam Kasus Pelanggaran Hak Asasi Manusia," *Jurnal Iman dan Spiritualitas* 2, no. 3 (2022): 467–474, https://doi.org/10.15575/jis.v2i3.19654.

[39] Bone, "Penataan Kewenangan Komisi Nasional Hak Asasi Manusia."

One reform model would give Komnas HAM a broader investigatory and prosecutorial mandate; another would preserve institutional separation while requiring joint case planning and independent oversight of impasses. Habibi's proposed concentration of powers responds to fragmentation but presupposes that the Commission could recruit investigators, forensic specialists and trial advocates who possess the required criminal-law expertise.[40] Independent investigation may be valuable for allegations involving state agents, but prosecutorial concentration can also raise concerns about unchecked power and the fair separation of functions. A balanced design must specify impartial review of a decision not to prosecute, access to relevant evidence, defence disclosure, witness protection and professional accountability. Institutional autonomy, though necessary, does not guarantee evidentiary competence. The system should be assessed through enforceable powers and procedural safeguards rather than by whether its organisational chart looks simpler.

Political considerations remain interwoven with technical difficulties. The period from the transition to democracy to the current decade has included moments of public promise, legal reform, partial acknowledgement and renewed delay. Wahyuningroem characterises this recurring pattern as transitional justice employed at times as a tactical political concession rather than a sustained change in institutional practice.[41] Such interpretation should be understood as a scholarly explanation of patterns, not as conclusive evidence that a named public official deliberately obstructed a case. The concept does, however, direct attention to the enforceability of official commitments: whether a promise was followed by funding, appointments, evidence-preservation procedures and measurable prosecution decisions. A government may gain reputational benefit from expressing regret even when the legal machinery that would identify individual offenders remains unchanged. This separation between symbolic recognition and enforceable action is central to the article's account of unfinished justice.

The social consequences of delay also affect the legal process. Families seeking information about disappearances, deaths or detention may experience their search as an enduring obligation to relatives, not merely a procedural interest that expires with the political transition. Drexler's account of Aksi Kamisan shows how repeated demonstrations can maintain a public presence for unresolved losses and resist the normalisation of impunity.[42] Historical remembrance can supply leads, witnesses and records relevant to inquiry, but survivor narratives must still be collected under ethically sound conditions and evaluated according to applicable legal rules. It is inappropriate to demand that victims repeatedly recount traumatic experiences without adequate information about the uses of testimony. A responsible case strategy should record prior statements securely, avoid needless duplication and explain the distinction between public truth-seeking and criminal witness evidence.

A further obstacle concerns the protection of institutions and individuals asked to supply evidence. Where alleged violations implicate powerful organisations, witnesses may fear reprisals and archives may be difficult to access.

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[40] Habibi, "Reformulasi Kewenangan Represif Komnas HAM dalam Penyelesaian…."

[41] Wahyuningroem, "Breaking the Promise."

[42] Drexler, "Impunity and Transitional Justice in Indonesia."

The statutory obligation to protect witnesses and victims must therefore be backed by concrete facilities and procedures rather than invoked only as a general principle.[43] A credible system would evaluate threats in advance, provide independent reporting channels and ensure that protective measures do not prevent legitimate defence challenges. Evidence collected through interviews, organisational documentation and contextual analysis should be subject to clear provenance and preservation standards. These measures benefit all parties: they support reliable prosecution and reduce the risk that faulty or untestable evidence is used against defendants. The inquiry into historical wrongdoing should thus be framed as an integrity problem as well as a political one.

The Indonesian experience also invites caution in international comparison. The Rome Statute and international jurisprudence offer analytical terms such as the elements of crimes against humanity and responsibility of a superior, but foreign legal mechanisms cannot simply be transplanted into domestic proceedings without attention to Indonesian legislation.[44] International discussions of East Timor demonstrate how judicial visibility and social memory can diverge when violence is organised through local structures and denial.[45] These perspectives illuminate the need for contextual evidence and public history but do not permit courts to ignore domestic legality or fair-trial requirements. An informed comparative approach asks which methods of documenting crime patterns, protecting witnesses and reasoning about responsibility can be adopted consistently with Indonesian procedural rules. It avoids treating international criminal law as an all-purpose substitute for a missing domestic indictment.

The obstacles identified in the source manuscript—political resistance, weak implementation, difficulties of proof and an enduring culture of impunity—are thus analytically related but not interchangeable. Political pressure can affect institutional willingness; limited investigative coordination can prevent an evidentiary file from becoming a case; aging evidence can increase the risk of errors; and poor victim services can magnify the harms of delay. Rahmadhani and Wardana describe this combination as a persistent barrier to equitable resolution notwithstanding the legal frameworks enacted since reform.[46] It follows that an effective reform must respond to more than one failure mode. A statute that changes prosecutorial authority but leaves witnesses unprotected, archives inaccessible or victims excluded may generate new expectations without materially improving outcomes. The task is to connect institutional accountability to legally testable decisions and to the practical needs of persons affected by historical atrocities.

Complementary Justice: Trials, Truth-Seeking, Reparations and Reform

Transitional justice includes several mechanisms whose purposes overlap but are not identical. A criminal trial determines personal responsibility for an

[43] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

[44] Syafruddin, et al., "The Rome Statute Impact."

[45] Drexler, "Fatal Knowledges."

[46] Alifiyah Fitrah Rahmadhani and Dodi Jaya Wardana, "Penyelesaian Pelanggaran HAM Berat di Indonesia," *UNES Law Review* 6, no. 1 (2023): 2799–2807, https://doi.org/10.31933/unesrev.v6i1.1056.

offence under a presumption of innocence, with safeguards concerning evidence, defence and judicial independence. Truth-seeking investigates the wider historical setting, acknowledges harms and creates an accessible public record; reparations respond to the consequences suffered by victims. These mechanisms can complement one another, although none should be presented as a disguised equivalent of another. Marzuki and Ali emphasise that the diversity of Indonesia's historical events calls for careful choice of legal responses rather than a single formula applied to every incident.[47] That sensible observation does not imply a free choice to replace obligatory prosecution whenever a file becomes politically sensitive. Complementarity instead requires a clear division of function, procedural connection and protection against a settlement programme being used as an amnesty by another name.

The historical attempt to create a national Truth and Reconciliation Commission was affected by Constitutional Court Decision No. 006/PUU-IV/2006. In December 2006 the Court ruled Law No. 27 of 2004 inconsistent with the Constitution, eliminating that statute's binding force.[48] Subsequent scholarship has therefore proposed renewed legal models for truth-seeking that better safeguard victims and the constitutional framework.[49] An executive working team established by presidential decree cannot simply be equated with a truth commission vested with the institutional guarantees, powers and procedures of a specific parliamentary statute. The legal basis of a body affects access to information, independence, the treatment of confidential testimony and the extent to which its recommendations must be implemented. Reform proposals must begin from the actual status of the earlier law rather than assuming that a permanent national commission currently exists.

The Aceh Truth and Reconciliation Commission illustrates an alternative institutional setting. Academic work explains its legal development under the Aceh governance framework and the provincial rules governing truth and reconciliation.[50] Ulya examines the political and constitutional debates around its establishment after the annulment of the national commission legislation.[51] More recent analysis separates the function of Aceh's truth body from criminal proceedings and recommends coordination between evidence-gathering, victim protection, reparations and the relevant courts.[52] The lesson is not that every province should adopt an identical institution. Aceh's arrangements arise from a

[47] Marzuki et al., "The Settlement of Past Human Rights Violations in Indonesia."

[48] Constitutional Court of the Republic of Indonesia, Decision No. 006/PUU-IV/2006, 7 December 2006, declaring Law No. 27 of 2004 on the Truth and Reconciliation Commission unconstitutional.

[49] Muhammad Rifai Yusuf, Naufal Rizqiyanto, and Sulastri Sangadji, "Redesigning the Institutional Framework of Indonesia's Truth and Reconciliation Commission," *Lex Renaissance* 10, no. 2 (2025): 308–339, https://doi.org/10.20885/JLR.vol10.iss2.art2.

[50] Khairil Akbar, "Politik Hukum Pembentukan Komisi Kebenaran dan Rekonsiliasi Aceh," *Lex Renaissance* 2, no. 2 (2019), https://doi.org/10.20885/JLR.vol2.iss2.art11.

[51] Zaki Ulya, "Politik Hukum Pembentukan Komisi Kebenaran dan Rekonsiliasi Aceh: Re-Formulasi Legalitas KKR Aceh," *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 2, no. 2 (2017): 94–106, https://doi.org/10.22373/petita.v2i2.65.

[52] Lala, Rahmiati, and Eprina Mawati Br. Siboro, "Perbedaan Mekanisme Penyelesaian Pelanggaran HAM Berat di Aceh dan Daerah Lain di Indonesia," *Jurnal Hukum Lex Generalis* 7, no. 12 (2026), https://doi.org/10.56370/jhlg.v7i12.4515.

particular legal and historical context. Rather, a credible multi-mechanism system requires protocols that protect the independence and confidentiality of a truth-seeking process while making lawful referrals possible when evidence of a serious offence emerges.

Non-judicial settlement received new national attention through Presidential Decree No. 17 of 2022 and the team that it established. The text explains that past gross violations remained unresolved and that alternative efforts were needed to uncover events and assist a broader process of reconciliation.[53] The initiative was followed by the President's acknowledgement of twelve events on 11 January 2023, including the 1965–1966 events, enforced disappearances in 1997–1998, the May 1998 riots and several events in Aceh and Papua.[54] These recognitions have ethical and administrative significance because official acknowledgement can help correct public denial and open paths to services. However, they do not individualise criminal liability, identify all survivors or determine a comprehensive level of compensation for each family. The precise legal character of an acknowledgement should therefore be stated clearly in both government programmes and scholarly assessments.

The administration subsequently issued Presidential Instruction No. 2 of 2023 to coordinate implementation of the non-judicial recommendations across government institutions.[55] Scholarship examining implementation in Aceh recognises the importance of providing social, economic and psychological restoration while warning of problems concerning coordination, legal certainty and victim participation.[56] The analytical benchmark should not be whether a programme has distributed a particular item of assistance alone. It should ask whether eligibility is clear and non-discriminatory, decisions are reviewable, services reflect victims' expressed priorities, and there is an accountable process for responding to grievances. Programmes also require continuity beyond a ceremonial launch: employment support, health care and documentation may be needed for years. Durable protection depends on administrative systems that can reach eligible victims without demanding that they first renounce the possibility of prosecution.

This is where the relationship between reparations and criminal judgments becomes central. Article 35 of Law No. 26 of 2000 expressly connects compensation, restitution and rehabilitation under that statute to the pronouncement of a Human Rights Court.[57] Government Regulation No. 3 of 2002

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[53] Republic of Indonesia, Presidential Decree No. 17 of 2022 establishing the Team for the Non-Judicial Settlement of Past Gross Human Rights Violations.

[54] Secretariat of State of the Republic of Indonesia, "Pernyataan Pers Presiden RI tentang Pelanggaran HAM Berat," 11 January 2023, https://setneg.go.id/baca/index/pernyataan_pers_presiden_ri_tentang_pelanggaran_ham_berat.

[55] Republic of Indonesia, Presidential Instruction No. 2 of 2023 on implementation of recommendations for the non-judicial settlement of past gross human rights violations.

[56] Husnul Jamil, Puguh Aji Haris Setiawan, and Dewi Iriyani, "Keadilan Hukum dalam Penyelesaian Pelanggaran Hak Asasi Manusia Berat yang Berkeadilan melalui Mekanisme Non-Yudisial Berdasarkan Keppres Nomor 17 Tahun 2022," *Cessie: Jurnal Ilmiah Hukum* 4, no. 5 (2026), https://doi.org/10.55904/62r3f438.

[57] Republic of Indonesia, Law No. 26 of 2000 on Human Rights Courts, arts. 4, 7, 18, 21, 35, 42, 43 and 46, as relevant.

gives further rules for those remedies.[58] Victim-oriented administrative assistance under a separate legal instrument serves a different function and should not be described as if it were compensation awarded by a court. The distinction protects legal clarity and prevents policymakers from treating emergency or welfare benefits as proof that judicial obligations have been fulfilled. A transparent design should distinguish immediate assistance, a judicial reparation order, restitution owed by an offender and broader rehabilitation programmes. It should also explain the relationship among those mechanisms so that victims do not face arbitrary exclusions or repeated demands for the same evidence.

The rights to truth, justice and reparation cannot be reduced to a choice between punishment and forgiveness. The transitional justice literature points to the social dangers of equating national reconciliation with the erasure of responsibility. Elizabeth Drexler's discussion of local memory in Timor-Leste shows that unresolved historical knowledge can continue to shape social trust long after a formal transition.[59] In Aceh, Jeffery's analysis of amnesty and accountability emphasises the complex interaction of peace agreements, democratic changes and the claims of survivors.[60] These studies support an approach in which peacebuilding and victim support matter, but their legal effect should be carefully defined. The policy goal must be restoration of dignity and credible institutions, not merely reduction of visible conflict or public pressure. Agreements requiring victims to abandon lawful remedies as a condition of assistance would need particularly strong constitutional scrutiny.

Truth-seeking also creates opportunities and risks for subsequent prosecutions. Information gathered in a public hearing may identify witnesses, patterns or sites of possible evidence, yet the conditions under which statements are collected differ from those required in an adversarial criminal process. Witnesses must know the scope of confidentiality, the possibility of lawful referral and the potential consequences of disclosure. Cross-institutional protocols should preserve originals, record consent and document the provenance of material before it is transferred. A truth commission should not secretly function as a police unit; equally, an evidentiary firewall should not be so absolute that serious crimes become impossible to investigate when victims wish to pursue justice. The proposed arrangements must operate under explicit law, provide safeguards for privacy and defence rights, and enable victims to choose forms of participation without reprisals.

A useful reform agenda therefore begins with the existing division between Komnas HAM and the Attorney General's Office. At minimum, the institutions should be required to communicate allegations and evidentiary deficiencies with precision, document follow-up steps and establish reviewable schedules for the movement of files. Nurani's account of the Commission's oversight role and the continuing need for coordinated action supports the argument that public

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[58] Republic of Indonesia, Government Regulation No. 3 of 2002 on Compensation, Restitution and Rehabilitation for Victims of Gross Human Rights Violations.

[59] Drexler, "Fatal Knowledges."

[60] Renée Jeffery, "Amnesty and Accountability: The Price of Peace in Aceh, Indonesia," *International Journal of Transitional Justice* 6, no. 1 (2012): 60–82, https://doi.org/10.1093/ijtj/ijr027.

recommendations alone are insufficient.[61] Habibi's more ambitious proposal to combine inquiry, investigation and prosecution in a single institution could be examined through parliamentary debate, comparative practice and assessments of capacity.[62] Any such amendment would need safeguards for operational independence, appointment procedures, investigatory budgets, evidence disclosure and remedies for arbitrary action. Reform must protect against political interference without creating a prosecutorial body answerable to no effective legal control.

A second reform concerns archives and evidence preservation. The state should create lawful procedures for identifying, securing and reviewing historical records, including an audit trail describing custodianship and any redactions. Sensitive documents may require protective arrangements because they concern witness safety, private information or national security interests, but secrecy should not be presumed to defeat every legitimate inquiry. The legal basis for access must be specific and reviewable. Experts in historical documentation, forensic medicine and witness interviewing may help prosecutors reconstruct patterns while remaining independent of decisions on guilt. The experience of the courts discussed by Tapril and Rohman shows that formal jurisdiction alone cannot compensate for deficient institutional support.[63] Appropriate assistance would therefore include training, specialised staffing and transparent handling of disagreements over incomplete evidence, not merely another directive to 'resolve' cases quickly.

A third reform involves meaningful participation by victims and their families. Participation is not achieved by announcing a government programme or inviting a survivor to a single public meeting. People affected by historic violations may require information about the stage of a case, translation or disability accommodations, secure channels for testimony and independent advice concerning available remedies. As reflected in the sustained public activity analysed by Drexler, survivors may experience official silence as a continuing form of exclusion.[64] Administrative programmes should therefore use clear eligibility criteria, channels for correction of records, appeal or complaint procedures, and published aggregates that protect personal information. Criminal proceedings should, separately, inform victims of material developments subject to appropriate limits designed to protect the investigation and the accused's right to a fair trial.

A fourth reform addresses guarantees of non-recurrence. Public recognition of atrocities is not sufficient if the institutions that allowed abuses to occur remain unchanged in their incentives and operational cultures. Education, professional ethics, access to archives, civilian oversight, effective complaint handling and a public commitment to lawful command structures are all relevant. Discussions of the 1965–1966 violence demonstrate the importance of acknowledging historical memory in addition to recognising legal claims.[65] Üngör and Adler situate Indonesia within wider debates over genocide, historical denial and transitional justice, illustrating why public memory and institutional safeguards must be

[61] Nurani, "Aktualisasi Peran Komisi Nasional Hak Asasi Manusia Republik…."
[62] Habibi, "Reformulasi Kewenangan Represif Komnas HAM dalam Penyelesaian…."
[63] Tapril et al., "Efektivitas Pengadilan Hak Asasi Manusia di Indonesia."
[64] Drexler, "Impunity and Transitional Justice in Indonesia."

considered together.[66] Those approaches should not be used to impose collective guilt; the objective is to establish rules and practices that discourage abuses while respecting the individual rights of everyone affected by legal processes. Iqbal and Ridwan's study of Pesantren Ihyaul Qur'an offers a local example of how inclusive teaching and shared activities can foster tolerance and cooperation among students.[67]

The model proposed in this article is a complementary, three-track framework. The accountability track concerns legally defined offences, investigations, prosecution, adjudication and review. The truth-and-record track concerns documented histories, public acknowledgement, accessible archives and survivor participation under protective rules. The recovery track concerns health services, economic and psychosocial support, recognition, compensation where legally available and prevention measures. It does not assume that all three tracks must move at the same speed, but it requires them to exchange appropriately protected information and to remain answerable to publicly specified duties. The model is normative rather than the description of an institutional system already created in full. Its advantage is conceptual clarity: a completed assistance programme cannot be reported as a conviction, and a criminal acquittal does not erase the possibility of lawful assistance to persons demonstrably harmed.

The risk of an overly simple reconciliation narrative should also be acknowledged. Ngurah Sena Agung and Purnama Santhi distinguish the claims of criminal accountability and non-judicial reconciliation and reject treating them as permanently opposing categories.[68] Indonesia's experience suggests that neither punitive rhetoric nor symbolic acknowledgement by itself changes the incentives that sustain institutional paralysis. The effectiveness of each track must be tested by criteria appropriate to its purpose. For prosecution these include fair handling of files, evidentiary sufficiency, independence and reasoned judgments. For truth-seeking these include reliable documentation, survivor trust, public access consistent with safety, and protection of witnesses. For recovery they include lawful eligibility, timely services and actual benefits delivered. Without differentiated benchmarks, the phrase 'resolution of past human rights violations' can conceal more than it explains.

A limited, legally grounded agenda is preferable to an unmeasured demand that all historical cases be completed at once. The government and responsible institutions could first publish a standard classification of procedural stages and

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[65] Yosef Keladu Ledalero, "Coming to Terms with the World: Hannah Arendt's Perspective for Reconciling with the 1965 Tragedy," *Journal of Southeast Asian Human Rights* 9, no. 2 (2025), https://doi.org/10.19184/jseahr.v9i2.53692.

[66] Uğur Ümit Üngör and Nanci Adler, "Indonesia in the Global Context of Genocide and Transitional Justice," *Journal of Genocide Research* 19, no. 4 (2017): 609–617, https://doi.org/10.1080/14623528.2017.1393985.

[67] Moch. Iqbal and Wachid Ridwan, "Multicultural Islamic Education Through Learning Experiences of Diverse Students in Pesantren," *Jurnal Pendidikan Islam* 12, no. 1 (2026): 11, https://doi.org/10.15575/jpi.v12i1.49097.

[68] I Dewa Gede Ngurah Sena Agung and Ni Nyoman Putri Purnama Santhi, "Dilema Keadilan Transisional: Antara Rekonsiliasi Non-Yudisial dan Pertanggungjawaban Pidana dalam Penyelesaian Pelanggaran HAM Berat di Indonesia," *Jurnal Hukum dan HAM Wara Sains* 5, no. 2 (2026): 534–542, https://doi.org/10.58812/jhhws.v5i02.3802.

the legal impediments identified in each publicly reportable matter. They could then prioritise preservation of fragile evidence and meaningful victim protection, while developing review mechanisms for unresolved institutional disagreements. In parallel, the legislature could assess the statutory effects of the new Criminal Code, the continued ad hoc-court framework and the options for properly constituted truth-seeking institutions. Yusuf, Rizqiyanto and Sangadji provide a recent design discussion of a renewed Truth and Reconciliation Commission which may inform the latter debate.[69] What can be recommended on the documentary record is the creation of accountable pathways and measurable standards; the present study cannot demonstrate the likely effectiveness of a specific institutional reform without additional implementation data.

Table 1. A proposed framework for complementary transitional justice mechanisms

Track	Primary legal or policy function	Accountability indicator
Judicial accountability	Inquiry; investigation; indictment; adversarial trial; appellate review	Documented decisions at each stage; judicial independence; fair-trial safeguards
Truth and historical record	Recognition; testimony; archives; protected truth-seeking	Reliable record; victim consent; public access with confidentiality protection
Recovery and non-recurrence	Immediate assistance; judicial reparations where appropriate; institutional reform	Accessible services; reviewable eligibility; measurable preventive reforms

Source: the authors' normative synthesis of the legal framework, the 2022–2023 recovery measures and the scholarship examined in this article; this table does not describe a programme that has already been fully established.

The documentary corpus for this doctrinal examination comprises the 1945 Constitution, Law No. 39 of 1999, Law No. 26 of 2000, Law No. 1 of 2023, relevant executive instruments and publicly available institutional reports and judicial materials. The inquiry covers the development of the legal framework from 2000 to the editorial cut-off in November 2026. Official legislation is preferred for a proposition about current law, final judgments for adjudicated outcomes, and dated reports for institutional claims. Secondary scholarship is used to test competing interpretations, not to replace the primary record.

East Timor, Tanjung Priok and Paniai are discussed as illustrative episodes because they represent different temporal, political and procedural configurations. Their comparison can clarify the operation of jurisdiction, criminal procedure and evidentiary obligations; it cannot establish a universal success rate for all alleged historical violations. In the absence of a citation to a specific final case file, this manuscript does not infer the elements found by the court, the reasoning for acquittal or responsibility of an identified person from a general historical description.

[69] Rizqiyanto, et al., "Redesigning the Institutional Framework of Indonesia's Truth and…."

A proposed assessment matrix should distinguish input indicators (existence of an officially registered inquiry, reasoned written requests for missing evidence and identification of a lead institution), process indicators (dated prosecutorial milestones and recorded protective measures), and outcome indicators (reasoned judicial decisions, accessible remedies and documented delivery of reparations). These are normative criteria suitable for future monitoring; the article does not claim that this model has already been applied or independently validated.

Conclusion

The enactment of Law No. 26 of 2000 was a substantial step toward establishing accountability for gross human rights violations in Indonesia, including events occurring before its entry into force. The law created a special judicial framework while reserving the ad hoc court route for earlier events. Nevertheless, the existence of a legal avenue has not meant that all identified events have passed from preliminary inquiry to investigation, indictment and final judgment. Fragmented institutional responsibilities, the loss or inaccessibility of historical evidence, contested attribution of superior responsibility and changes in political commitment have contributed to the continuing enforcement gap. The new Criminal Code, effective on 2 January 2026, adds a further interpretive obligation: the surviving institutional and procedural provisions of the Human Rights Court Law must be read alongside the revised substantive offence provisions and the relevant principles governing the law applicable in time.

The state's acknowledgement of twelve past events in January 2023 and the associated non-judicial measures have an important role in recognising suffering and delivering services. Such recognition, however, is not a judicial determination that named individuals committed criminal offences, just as a criminal acquittal does not logically establish that every reported harm was fictitious. Judicial accountability, truth-seeking and reparation each have distinct purposes and should therefore be pursued as complementary, properly regulated tracks. A legally coherent response would improve coordination between Komnas HAM and the Attorney General's Office, create reviewable procedures for the handling of investigative files, preserve evidence, protect witnesses and enable meaningful victim participation. Immediate recovery measures should operate transparently without being misrepresented as substitutes for court-ordered remedies or lawful prosecution.

This article contributes a differentiated framework for evaluating progress: each case should be assessed according to its procedural stage, and each settlement mechanism according to its legally defined objective. Its conclusions are normative and documentary rather than an empirical evaluation of every pending case. Future research should examine case files, judgments, institutional handover practices and the experiences of victims under appropriate ethical and access safeguards. Such work is necessary to determine which procedural reforms would be most effective. For present purposes, the principal requirement is that administrative assistance, public acknowledgement and criminal accountability be made mutually reinforcing, so that reconciliation neither masks impunity nor diminishes the fair-trial rights on which legitimate judicial decisions depend.

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