International Journal of Law and Society
Volume. 1, Nomor. 3, July 2024
e-ISSN : 3046-9562, p-ISSN : 3046-9619, Page 258-271
DOI: https://doi.org/10.62951/ijls.v1i3.537
Available online at: https://social.ifrel.org/index.php/GreenSocial.

Adoption of Articles 6 and 7 of the Rome Statute of 1998 on Genocide and Crimes Against Humanity in Law Number 26 of 2000 on Human Rights Courts

Eva Arief[1], Edi Pranoto[2], Novia Mungawanah[3]
[1,2,3] Fakultas Hukum, Universitas 17 Agustus 1945 Semarang, Indonesia
Email : evaarief21@yahoo.co.id[1] pranoto.edi@gmail.com[2]
novia-mungawanah@untagsmg.ac.id[3]

Abstract *Serious human rights violations that occur in Indonesia, such as in Aceh, Papua, Jakarta, Poso and East Timor, fall into the category of crimes against humanity. Indonesia adopted the principles of international law into national law, which were adapted to the ideological values of the Indonesian nation, namely Pancasila, namely adopting the principles of genocide (mass extermination of an ethnic group) and the principles of crimes against humanity contained in Article 6 and 7 Rome Statute 1998. Partially the Rome Statute was implemented in national law by adopting it through Law Number 26 of 2000 concerning Human Rights Court. The problem that arises is how the provisions of Article 6 and 7 of the 1998 Rome Statute concerning genocide and crimes against humanity were adopted in Law Number 26 of 2000 concerning the Human Rights Court. This research uses a normative juridical approach by studying or analyzing secondary data in the form of secondary legal materials by understanding law as rules or norms which are benchmarks for human behavior that is considered appropriate. Research using this normative juridical method essentially emphasizes the deductive method as a general guide, and inductive method as support. Article 6 of the 1998 Rome Statute concerning Genocide (Mass Extermination of an ethnicity) and Article 7 of the 1998 Rome Statute concerning Crime Against Humanity are included in the group of serious human rights violations. Indonesia has an interest in promulgating Law Number 26 of 2000 driven by the desire to fulfill the complementary principles adopted by the 1998 Rome Statute so that Law Number 26 of 2000 concerning trials for serious human rights violations meets the minimum standarts international law. The 1998 Rome Statute is an international agreement that cannot be reserved so that ratification of the 1998 Rome Statute is fully binding of ratifying countries so that the Indonesian government must be careful in ratifyng it, but for Indonesia's interests, several principles and provisions in the 1998 Rome Statute were adopted.*

Keyword *: Genocide, Crimes, Humanity*

1. INTRODUCTION

The struggle to uphold human rights is essentially part of the demands of world history and culture, including Indonesia. Therefore, humans and humanity throughout the world are the same and one. The Bhineka Tunggal Ika creed is a crystallization and recognition of this. Judging from the history, customs, laws, social order, and lifestyle of the Indonesian people in general, there are strong indications that the Indonesian people have had and are familiar with ideas, even values related to human rights. These philosophical and ethical values have been formulated in the 1945 Constitution of the Republic of Indonesia, both in the Preamble to the 1945 Constitution of the Republic of Indonesia and in the body of the 1945 Constitution of the Republic of Indonesia. The terms just, civilized, democratic, deliberation, and social justice indicate the fundamental values of human rights. Likewise, paragraph 1 which states that independence is the right of all nations and colonialism must be abolished and the second paragraph which states that independence leads

Received: June 15, 2024; Revised: June 30, 2024; Accepted: July 28, 2024; Published: July 30, 2024

to a free, united, just, and prosperous people also indicates that Indonesia is a democratic country that upholds human rights with the aim of unity, justice and prosperity. This democratic country that upholds human rights is realized through a state of law, as clearly formulated that Indonesia is a state of law, not a state of power. Several types of human rights have also been formulated in the 1945 Constitution of the Republic of Indonesia (Effendi, 2005). Unity and unity in Indonesia will be realized if all Indonesian people can apply and realize human rights values in their lives (Putra A., 2022).

The 1945 Constitution of the Republic of Indonesia not only shows the close relationship between law and human rights but also shows the substance of the law whose contents also implement human rights in a positive law. This means that the issue of human rights as a constitutional mandate must be implemented, and the law functions to implement the policy. In Muladi's view, law can function as a means to implement national policies that have naturally been agreed upon as input for carrying out social modification, where the term modification is a compromise to neutralize the weaknesses of the function of law as a tool of social control or as a tool of social engineering. This social modification, harmony, balance, and balance between individual interests, community interests, and state interests must always be maintained. Systemically, it must be realized that the cybernetic development process is a "combined action"(Muladi, 2002).

In 1998, the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVII/MPR/1998 concerning Human Rights was issued, wherein one of the points of consideration was stated that the Indonesian nation as part of the world community should respect human rights as stated in the UN Universal Declaration of Human Rights and various other instruments concerning human rights. Furthermore, Article 2 of the MPR RI Decree Number XVII/MPR/1998 concerning Human Rights assigns the President of the Republic of Indonesia and the People's Representative Council of the Republic of Indonesia to ratify various UN instruments concerning Human Rights, as long as they do not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia (Kumala Sari R.Budoyo S., 2019).

In 2000, the Republic of Indonesia issued Law Number 26 of 2000 concerning Human Rights Courts to resolve serious human rights violations in accordance with the provisions of Article 104 Paragraph (1) of Law Number 39 of 1999, as follows: To try serious human rights

violations, a Human Rights Court is established within the General Court (Supriyanto, 2014)(Supriyanto, 2014).

The state can adopt the principles of international law into national law, which is adjusted to the values of the Indonesian nation's ideology, namely Pancasila, as stated by Muladi (Muladi, 2002) as follows: "Adoption of positive things that occur in the international environment is not done immediately, but is always adapted to the values that originate from the nation's ideology, namely Pancasila." J.G. Starke in his book entitled An Introduction to International Law, provides a definition of international law as a body of law that mostly consists of principles and therefore is usually obeyed in relations between countries with each other (Tenripadang, 2016).

Viewed from the national and international interests, in accordance with legal developments, to resolve the problem of gross human rights violations and restore security and peace in Indonesia, it is necessary to establish a Human Rights Court which is a special court for gross human rights violations and for that purpose Law Number 26 of 2000 concerning the Human Rights Court was enacted. In the explanation of Law Number 26 of 2000, it is stated that gross human rights violations are "extraordinary crimes" that have a wide impact both at the national and international levels and are not criminal acts regulated in the Criminal Code and cause material and immaterial losses which result in feelings of insecurity for both individuals and society.

Article 7 of Law Number 26 of 2000 states that serious human rights violations include crimes of genocide and crimes against humanity. The two types of crimes above were adopted from Article 6 and Article 7 of the Rome Statute of 1998. This means that the Rome Statute is partially enforced in national law by being adopted in national legal provisions, namely through Law Number 26 of 2000.

The development of international law to combat crimes against humanity reached its peak when on July 17, 1998, the UN Diplomatic Conference ratified the Rome Statute on the Establishment of the International Criminal Court (ICC), which will try very serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The inclusion of crimes against humanity in the Rome Statute, which is a multilateral agreement, strengthens the concept of a treaty norm (a norm based on an international agreement). The provisions in the Rome Statute show that crimes against humanity do not only occur during war or armed conflict but also during peacetime. Meanwhile, the parties responsible for these crimes are not limited to countries alone but also include non-state parties.

International Law is part of legal science in general, within it flows the same ideas, parts, thoughts, and ideals as law in general. The principles/ideas/ideals, and principles of International Law, take a lot from the principles of Ancient Roman law, natural law, and other legal principles. The principle, as stated by Satjipto Rahardjo, is the reason for the birth of legal regulations or is the ratio legis of legal regulations (Rahardjo, 1986). The principle contains ethical values and demands. Natural/Roman law is widely used as the basis/foundation of international law. These principles include the principle of pacta sunt servanda (the principle of mutual respect for agreements or agreements that have been agreed upon), the principle of bonavida (the principle of good faith), the principle of reciprocity (the principle of reciprocity), the principle of et aequo et bono (the principle based on justice), the principle of clausula sic stantibus/ceteris paribus (the principle of the agreement only applies if the circumstances remain the same/do not change).

The Principles of International Law are full of universal values in the field of human rights that can be raised, explored, and inventoried. Human rights today have become a scientific discipline that is proven and supported by increasingly complete legal instruments, both at the international and national levels. The sources of international law continue to inspire and become an inseparable part of human rights.

Normatively as regulated in the 1945 Constitution of the Republic of Indonesia, it is stated that Indonesia is a country of law. According to Jimly Asshiddiqqie, the principle of the Indonesian rule of law adopts the idea of a state of law with the concept of rechtsstaat from Friedrich Julius Stahl and the concept of the rule of law from A.V. Dicey. Furthermore, Stahl mentions four elements of rechtsstaat in the classical sense, namely: the existence of guarantees for basic human rights, the existence of separation and division of powers, the government must be based on legal regulations, and the existence of administrative justice. Meanwhile, from A.V. Dicey, the elements of the rule of law in the classical sense include the following: the existence of the supremacy of law, equal standing before the law (equality before the law), and a constitution based on human rights.

According to Law Number 39 of 1999, human rights are:

"A set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government and every person for the honor and protection of human dignity."

Protection of human rights is also emphasized in Article 2 of Law Number 39 of 1999 which states:

"The Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are inherently inherent in and inseparable from humans, which must be protected, respected, and upheld for the sake of increasing human dignity, welfare, happiness, and intelligence, as well as justice."

Article 8 of Law Number 39 of 1999 states that the protection, advancement, enforcement, and fulfillment of human rights are primarily the responsibility of the government. Article 2 states that the Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are inherently inherent in and inseparable from humans, which must be protected, respected, and upheld for the sake of increasing human dignity, welfare, happiness, and intelligence, as well as justice.

Chapter IX Article 104 of Law Number 39 of 1999 states that to try serious human rights violations, a Human Rights Court shall be established within the General Court, which shall be established by law within a maximum period of 4 (four) years.

The mandate of Law Number 39 of 1999 to establish a Human Rights Court was followed up with the issuance of Law Number 26 of 2000. This law gives the Human Rights Court the authority to examine and decide cases of serious human rights violations, which in Article 7 are stated to include crimes of genocide and crimes against humanity, which is an adoption of Article 6 and Article 7 of the Rome Statute of 1998. From the description above, the problems that can be analyzed are as follows: how are the provisions of Articles 6 and 7 of the Rome Statute of 1998 concerning genocide and crimes against humanity adopted in Law Number 26 of 2000 concerning the Human Rights Court.

2. RESEARCH METHOD

The research method used in this writing is the Normative Juridical research method. This Normative Juridical Research is a normative legal research, which is a legal research that places law as a normative system, namely regarding the principles, norms, rules of laws and regulations, court decisions, agreements, and doctrines or teachings, then links it to a number of existing legal theories and laws and regulations related to what is being studied.

3. RESULTS AND DISCUSSION

Serious Human Rights Violations According to International Law

Human rights are legal rights that every person has as a human being that are universal and owned by everyone. These rights may be violated, but can never be removed. Human rights are protected by international law, and the constitutions and national laws of many countries in the world. However, violations of human rights occur in many countries in the world. The Republic of Indonesia as part of the international community, is not free from the wave of human rights issues that have hit almost all countries in the world. Actually, the issue of human rights is not a new problem for the world community, because the issue of human rights has been raised since the birth of Magna Charta in England in 1215, until the birth of the UN Charter on Human Rights, namely the "Universal Declaration of Human Rights" on December 10, 1948 (Abdullah, Rozali, 2002). Since the end of World War II, the international community, under the auspices of the United Nations, has been involved in the extensive implementation of human rights standards in an effort to create a legal framework for their effective promotion and protection (de Rover, 2000). The international community, through the UN, has adopted many instruments to promote and protect human rights.

The issue of gross violations of human rights has become a sharp focus of the international community, including cases that occurred in Indonesia, namely in East Timor, Aceh, Tanjung Priok, Abepura, and Papua. Gross violations of human rights, in international law known as "gross violation of human rights" or "greaves breaches of human rights", are explicitly mentioned in the 1949 Geneva Convention and its protocols. The 1998 Rome Statute refers to it by another term, namely "the most serious crimes of concern to the international community as a whole". In the 1998 Rome Statute, this definition is emphasized to include genocide, crimes against humanity, war crimes, and aggression which are under the jurisdiction of the International Criminal Court (Atmasasmita, 2004).

Adoption of Articles 6 and 7 of the Rome Statute of 1998 on Genocide and Crimes Against Humanity in Law Number 26 of 2000 on Human Rights Courts.

Article 13 of Law Number 24 of 2000 on International Treaties along with the explanation and Article 7 paragraph (2) of the Human Rights Law, actually clearly emphasizes the doctrine applied by Indonesia in the implementation of international treaties is the doctrine of incorporation which is based on the theory of monism. This means that after a law or presidential regulation on

the ratification of an international treaty is placed in the state gazette, the international treaty directly becomes national law and binds the government and citizens of Indonesia. However, in practice, Indonesia does not only apply the doctrine of incorporation but also applies the doctrine of transformation in the implementation of international treaties. There are even court decisions that apply international treaties that have not been ratified by Indonesia as one of the legal bases for making decisions. The application of the doctrine of incorporation by Indonesia is generally related to the implementation of international agreements on diplomatic relations, consular affairs, international agreements, and human rights, while the transformation doctrine is applied in the implementation of international agreements on the law of the sea and others (Ekon, 2024).

International agreements can be adopted by national law and become part of national law and enforced within the country, therefore their existence must be upheld. Likewise, Article 6 of the Rome Statute of 1998 concerning Genocide and Article 7 concerning Crimes Against Humanity were adopted in Articles 8 and 9 of Law Number 26 of 2000 concerning the Human Rights Court which were later amended by Article 598 and Article 599 of Law Number 1 of 2023 concerning the Criminal Code which was enacted on January 2, 2023 and came into effect after 3 (three) years from the date of enactment.

In terms of language, genocide comes from two words "geno" and "cidium". The word "geno" comes from Greek which means "race" while the word "cidium" comes from the Latin word which means "to kill"(Hafidh Prasetyo, 2020). Literally, genocide can be interpreted as racial murder. This term was introduced by Raphael Lemkin 1944, a Polish-born Jew who immigrated to America in 1930 in his book Axis Rule In Occupied Europe (Prasetio, Rizki, 2024). So it can be defined that genocide is an act carried out with the intention of destroying, in whole or in part, a particular national, ethnic, racial, or religious group (Taufiqurokhman, 2024).

In international criminal law, genocide is one of the four most serious crimes outlined in the 1948 Genocide Convention, the 1998 Rome Statute, the Statute of the International Criminal Tribunals for Rwanda (ICTR), and the Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (Damayanti, Sindy, 2024).

In national law, this rule was adopted through Law Number 26 of 2000 concerning the Human Rights Court which was later revoked by including the rule in Law Number 1 of 2023 concerning the Criminal Code. The differences in the formulation of the crimes of genocide and

crimes against humanity in Law Number 26 of 2000 concerning the Human Rights Court and Law Number 1 of 2023 concerning the Criminal Code, namely:

Human Rights Court Law (Serious Human Right Violations)	**New Criminal Code (serious crimes against human rights)**
Article 8 The crime of genocide as referred to in Article 6 of the Rome Statute, is any act committed with the intent to destroy or exterminate in whole or in part a national, racial, ethnic, or religious group, by: a. killing members of the group; b. causing serious physical or mental suffering to members of the group; c. creating conditions of life for the group that would result in its physical destruction in whole or in part; d. imposing measures aimed at preventing births within the group; or e. forcibly transferring children from one group to another. **Article 36** Any person who commits an act as referred to in Article 8 letters a, b, c, d, and e shall be punished with the death penalty or life imprisonment or a maximum imprisonment of 25 (twenty-five) years and a minimum of 10 (ten) years.	**Article 598** Any person who with the intent to destroy or exterminate in whole or in part a national, racial, ethnic, religious, or belief group shall be punished by: a. killing members of the group; b. causing serious physical or mental suffering to members of the group; c. creating conditions of life for the group calculated to result in its physical destruction, either in whole or in part; d. imposing measures aimed at preventing births within the group; or e. forcibly transferring children from one group to another. With the death penalty, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 years.
Article 9 Crimes against humanity as intended in Article 7 paragraph (1) of the Rome Statute are acts committed as part of a widespread or systematic attack where it is known that the attack is directed directly against the civilian population, in the form of: a. murder; b. extermination; c. slavery; d. forced expulsion or transfer of residents;	**Article 599** Any person who commits one of the acts as part of a widespread or systematic attack knowing that the attack is directed against the civilian population, in the form of: a. murder, extermination, forced deportation or transfer of population, deprivation of liberty or other physical freedoms in violation of basic rules of international law, or the crime of apartheid, shall be punished by death, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years;

e. deprivation of liberty or other arbitrary deprivation of physical liberty which violates (the principles of) the basic provisions of international law; f. torture; g. rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or sterilization or other equivalent forms of sexual violence; h. persecution of a particular group or association based on similarities in political views, race, nationality, ethnicity, culture, religion, gender, or other reasons that have been universally recognized as prohibited according to international law; i. enforced disappearance; or the crime of apartheid. **Article 37** Any person who commits an act as referred to in Article 9 letters a, b, d, e, or j shall be punished with the death penalty or life imprisonment or imprisonment for a maximum of 25 (twenty-five) years and a minimum of 10 (ten) years. **Article 38** Any person who commits an act as referred to in Article 9 letter e shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 5 (five) years. **Article 39** Any person who commits an act as referred to in Article 9 letter f shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 5 (five) years. **Article 40** Any person who commits an act as referred to in Article 9 letters g, h, or i shall be punished with imprisonment for a maximum of 20 (twenty) years and a minimum of 10 (ten) years.	b. slavery, torture, or other inhumane acts of a similar nature intended to cause great suffering or serious injury to the body or physical or mental health, with a minimum sentence of 5 (five) years and a maximum sentence of 15 (fifteen) years; persecution of a group or association on political, racial, national, ethnic, cultural, religious, belief, gender, or persecution on other discriminatory grounds that have been universally recognized as prohibited under international law, with a minimum sentence of 5 (five) years and a maximum sentence of 15 (fifteen) years; or c. rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or other forms of sexual violence of equivalent magnitude, or enforced disappearance of persons, with a minimum sentence of 5 (five) years and a maximum sentence of 20 (twenty) years.

The striking difference between the two rules above is the use of terms. First, in the Human Rights Court Law, the term used is "Serious Human Rights Violations", while Chapter XXXV uses the term "Serious Crimes Against Human Rights". If these two terms are translated into

English, the terms used in the two instruments will mean "serious human rights violations" for "serious human rights violations" and "serious crimes of human rights" for "serious crimes against human rights". These two terms are not common in international legal vocabulary. In fact, the concept that has been known and used by the international community is "gross violations of human rights" or serious human rights violations which first appeared in the Economic and Social Council (ECOSOC) Resolution 1235 in 1967 and then ECOSOC Resolution 1503 in 1970. In the 1949 Geneva Convention it is called "greaves breaches of human rights", the 1998 Rome Statute Mentioning it in another term, namely "the most serious crimes of concern to the international community as a whole. In addition, the criminal and additional threats to parties who can be convicted in the Human Rights Court Law have higher criminal sanctions compared to those regulated in the Criminal Code.

The Criminal Code was designed as the backbone of the criminal law system in Indonesia, and has a great desire to include all types of crimes within the framework of the total codification of criminal law (Sumigar, 202 C.E.). However, the provisions related to the crime of genocide and crimes against humanity formulated in the Criminal Code are less appropriate because gross human rights violations do not recognize the concept of expiration as recognized in the Criminal Code. The rules on gross human rights violations should remain outside the Criminal Code because as a special crime, it is necessary to obtain a special regulatory mechanism.

In the provisions of Law Number 26 of 2000, not all serious human rights crimes contained in the Rome Statute of 1998 were adopted due to several considerations (Atmasasmita, 2004). First, two other types of human rights violations, namely war crimes and aggression, were still being debated by UN member states, and Indonesia had not yet firmly determined its stance on both. Second, although the Rome Statute of 1998 was adopted at the Diplomatic Conference in Rome, Indonesia had not ratified it, meaning there was no obligation for the Indonesian government to fulfill all its provisions. The partial adoption of provisions in the Rome Statute was based on Indonesia’s interests as a sovereign state. Third, the government's interest in enacting Law Number 26 of 2000 was driven by the desire to fulfill the complementarity principles adopted by the Rome Statute, ensuring that the law met the minimum standards of international law. Lastly, since the Rome Statute is an international agreement that cannot be reserved, its ratification would be fully binding on the ratifying countries. Therefore, the Indonesian government needed to be

cautious in ratifying it, and adopting only certain principles and provisions from the statute was deemed the most appropriate policy to protect Indonesia's sovereignty.

There are fundamental differences between the Rome Statute of 1998 and Law Number 26 of 2000. One of the main differences lies in the principle of legality. The Rome Statute fully adheres to this principle, prohibiting retroactive application of human rights violations that occurred before its enactment (Article 24). In contrast, Law Number 26 of 2000 allows retroactive application through the establishment of an Ad Hoc Human Rights Court via the mechanism of the Indonesian House of Representatives (Article 43). Additionally, the Rome Statute does not absolutely adhere to the principle of *Ne Bis in Idem*. Article 20 paragraph (3) allows a national court decision with permanent legal force to be set aside if the trial was conducted to protect the accused from criminal responsibility or was not carried out independently and openly according to international legal norms.

Another significant difference is the provision regarding the *issue of admissibility* in the Rome Statute, which allows the International Criminal Court (ICC) to determine whether a human rights case can be tried. A case may be deemed inadmissible if it is already under investigation or prosecution by a competent state, unless that state is unwilling or unable to act (Article 17). Similarly, if a state with jurisdiction has investigated but decided not to prosecute, the ICC may intervene if the decision was due to unwillingness or inability (Article 17, paragraph 1.b). Additionally, if the accused has already been tried for the same crime, the ICC cannot proceed, and cases deemed insufficiently serious may also be dismissed (Article 17, paragraph 1.d).

The scope of human rights violations recognized by each legal framework also differs. The Rome Statute identifies four types of violations—genocide, crimes against humanity, war crimes, and aggression—whereas Law Number 26 of 2000 only acknowledges genocide and crimes against humanity. In terms of investigation and prosecution, the Rome Statute assigns these roles to the Prosecutor (Articles 53 and 54), while Law Number 26 of 2000 delegates investigative authority to KOMNAS HAM (Article 18) and investigative and prosecutorial authority to the Prosecutor's Office (Articles 21 and 23). Furthermore, the Rome Statute recognizes international law and ICC decisions as legal references (Article 21), whereas Law Number 26 of 2000 only acknowledges provisions within the law and national criminal procedure regulations (Article 10).

Judicial appointments also differ. The Rome Statute establishes a panel of permanent judges from multiple countries (Article 36), while Law Number 26 of 2000 requires the

appointment of non-career judges (Article 28) and non-career prosecutors from government or community elements (Article 21, paragraph 3). Additionally, the Rome Statute does not permit the death penalty for serious human rights violations, whereas Law Number 26 of 2000 allows the death penalty for specific acts of genocide and crimes against humanity (Articles 36 and 37). Finally, the definition of "crimes against humanity" in the Rome Statute includes acts committed as part of a widespread or systematic attack against "a civilian population" (Article 7, paragraph 1), while Law Number 26 of 2000 states that such crimes must be committed with the knowledge that "the attack is directed directly against the civilian population" (Article 9). These differences highlight the varying approaches of international and national law in addressing serious human rights violations.

Although there are many differences between the Rome Statute of 1998 and Law Number 26 of 2000. Both have a reciprocal relationship that requires each other (interdependence) between the Rome Statute of 1998 as international law and Law Number 26 of 2000 as national law which can give rise to several circumstances that national law requires the existence of international law, international law has important functions for the implementation of national law, international law functions as a means to harmonize various national laws regarding a particular problem and international law can be input for national law regarding a problem whose regulations first appeared in international law (convention) (Nawang Sari, 2019).

4. CONCLUSION

Indonesia as a democratic country based on law, accommodates the needs of the community for protection of human rights since the founding of the Unitary State of the Republic of Indonesia through the 1945 Constitution and continues to make improvements in accordance with developments in international law. The issuance of MPR RI Decree Number XVII/MPR/1998 concerning Human Rights which contains the Human Rights Charter, the issuance of Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights which mandates the Indonesian nation as a member of the United Nations to bear moral and legal responsibility to uphold and implement the Universal Declaration of Human Rights, and the issuance of Law of the Republic of Indonesia Number 26 of 2000 concerning the Human Rights Court, is a legal effort to achieve the highest respect and appreciation for human rights.

Indonesia can adopt international agreements into national law, especially international agreements related to human rights, but the adoption must still be adjusted to the values of the Indonesian nation's ideology, namely Pancasila. Indonesia has adopted Article 6 and Article 7 of the Rome Statute of 1998 concerning the crime of genocide and crimes against humanity into Law Number 26 of 2000 concerning the Human Rights Court, which was then revoked in Article 8 and Article 9 and accommodated by Law Number 1 of 2023 concerning the Criminal Code, which will come into effect in 2026.

REFERENCES

Abdullah, R., & Rozali, S. (2002). *Perkembangan HAM dan keberadaan peradilan HAM di Indonesia*. Ghalia Indonesia.

Atmasasmita, R. (2004). *Kapita selekta hukum pidana internasional*. CV. Utomo.

Damayanti, S., & S. M. (2024). Peran International Criminal Court (ICC) dalam penegakan hukum kejahatan genosida. *Journal of International Multidisciplinary Research, 2*(1), 343.

de Rover, C. (2000). *To serve & to protect: Acuan universal penegakan HAM*. PT Raja Grafindo Persada.

Effendi, A. M. (2005). *Perkembangan dimensi hak asasi manusia (HAM) & proses dinamika penyusunan hukum hak asasi manusia (HAKHAM)*. Ghalia Indonesia.

Ekon, Y. M. (2024). Praktek pemberlakuan perjanjian internasional oleh Negara Republik Indonesia. *Jurnal UNES Law Review, 6*(3).

Hafidh Prasetyo, M. (2020). Kejahatan genosida dalam perspektif hukum pidana internasional. *Jurnal Gema Keadilan, 7*.

Kumala Sari, R., & Budoyo, S. (2019). Perkembangan pengaturan hak asasi manusia (HAM) dalam hukum di Indonesia. *Jurnal Meta Yuridis, 2*.

Muladi. (2002). *Hak asasi manusia, politik, dan sistem peradilan pidana*. Badan Penerbit Universitas Diponegoro.

Nawang Sari, S. (2019). Keterikatan Negara Indonesia pada hukum humaniter internasional. *Jentera Hukum Borneo, 3*(2), 103.

Prasetio, R., M. F. A., & Hafidh Prasetyo, M. (2024). Analisis yurisdiksi negara dalam hukum pidana internasional terhadap kejahatan genosida. *Hakim: Jurnal Ilmu Hukum dan Sosial, 2*(2).

Putra, A. (2022). Interpretasi hak asasi manusia dalam ideologi Pancasila dan implikasinya terhadap persatuan dan kesatuan di Indonesia. *Jurnal HAM*.

Rahardjo, S. (1986). *Ilmu hukum*. Penerbit Alumni.

Sumigar, B. R. F. (2022). Pelanggaran berat HAM dalam RUU KUHP: Tinjauan dari hukum internasional. *Jurnal Negara Hukum, 11*(2), 126.

Supriyanto, B. H. (2014). Penegakan hukum mengenai hak asasi manusia (HAM) menurut hukum positif di Indonesia. *Jurnal Al-Azhar Indonesia Seri Pranata Sosial, 2*(N), 156.

Taufiqurokhman, K. (2024). Kejahatan genosida dalam perspektif hukum pidana internasional. *Wacana Paramarta Jurnal Ilmu Hukum, 23*(1), 40.

Tenripadang, A. (2016). Hubungan hukum internasional dengan hukum nasional. *Jurnal Hukum Diktum, 14*, 69.