

Strengthening Human Rights Protection in Indonesia: Integrated Legal Reforms, Institutional Empowerment, and Public Participation

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Abstract

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This article discusses comprehensive strategies to bridge the gap between normative frameworks and the practical implementation of human rights (HR) protection in Indonesia. It emphasizes the need for thorough legal reform, including updating outdated regulations, harmonizing overlapping laws, and revising potentially misused legislation such as the Electronic Information and Transactions Law (*Undang-Undang Informasi dan Transaksi Elektronik/UU ITE*). Strengthening the judiciary is highlighted as essential, with a focus on enhancing the capacity of judges, prosecutors, and law enforcement officers while safeguarding judicial independence from political interference. Empowering human rights institutions, particularly by expanding the mandate of the Human Rights (*Komisi Nasional Hak Asasi Manusia / Komnas HAM*) and revitalizing the Truth and Reconciliation Commission, is considered vital to addressing both current and past violations. Furthermore, public empowerment through education and digital participation is encouraged to promote accountability and awareness. Transform human rights protection from rhetoric into tangible realities accessible to all segments of society.

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1. Introduction

Human Rights (*Hak Asasi Manusia/HAM*) are a set of fundamental rights inherent to every individual from birth, regardless of race, gender, nationality, religion, or other social status. According to international law, these rights are universal, inalienable, and interdependent. The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, became a major milestone in the recognition and protection of fundamental human rights. The document affirms that every human being has the right to freedom, security, and protection from all forms of oppression. The principles contained within it have become the foundation for many countries, including Indonesia, in building a national legal framework to protect human rights.¹

As a rule-of-law state, Indonesia has a constitution that explicitly guarantees the protection of human rights through Article 28A to Article 28J of the 1945 Constitution. These articles regulate various fundamental rights, including the right to life, the right to family, the right to freedom of religion, the right to education, and the right to protection from discrimination. This constitutional guarantee is reinforced by the ratification of international instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through Law No. 12 of 2005. This ratification affirms Indonesia's commitment to the protection of human rights in

¹ Katharine McGregor and Ken Setiawan. "Shifting from international to "Indonesian" justice measures: Two decades of addressing past human rights violations." *Journal of Contemporary Asia* 49, no. 5 (2019): 837-861.

accordance with international standards, while also binding the state to implement these principles into national law.

However, the existence of a strong legal framework does not automatically guarantee that human rights protection will be effective in the field. In practice, the gap between norms and reality still often occurs. The main challenges faced include weak law enforcement, low public awareness of their rights, and political influences that can hinder the legal process. This condition results in many human rights violations, both individual and structural, not being resolved completely.

Examples of human rights violations in Indonesia are quite diverse, ranging from murder, torture, slavery, discrimination, arbitrary detention, to restrictions on freedom of opinion. Vulnerable groups such as women, children, and indigenous communities often become the main victims.² The surge in cases of violence against women, including indigenous women, is a serious concern. Agrarian conflicts and competition for natural resources not infrequently trigger violence, intimidation, and even criminalization against those who fight for their rights. Patriarchal cultural factors and weak legal protection exacerbate this situation.

In addition, indigenous communities also face the seizure of customary land rights due to overlapping land claims with the interests of the mining industry, plantations, and infrastructure projects. Although there is formal recognition of customary land rights through legislation, their implementation often faces a

² Renee Fiolet, Laura Tarzia, Mohajer Hameed, and Kelsey Hegarty. "Indigenous peoples' help-seeking behaviors for family violence: A scoping review." *Trauma, Violence, & Abuse* 22, no. 2 (2021): 370-380.

collision with economic and political interests. As a result, indigenous communities lose access to the land and natural resources that are the basis of their lives.

The digital era presents new challenges in the protection of human rights, especially freedom of opinion. Although social media opens up space for the public to express aspirations, regulations such as the Electronic Information and Transactions Law (*Undang-Undang Informasi dan Transaksi Elektronik/UU ITE*) are often used to limit expressions that are considered to criticize those in power. This phenomenon raises concerns that the protection of freedom of opinion in Indonesia is actually being threatened by a legal instrument that is supposed to protect it. On the other hand, the spread of hoaxes and hate speech in cyberspace is a reason for the government to implement stricter regulations. However, regulations that are not designed proportionally risk becoming a tool to silence criticism. This condition shows the need for comprehensive legal reform to ensure accountability and effective protection of human rights. Such reform includes strengthening the judicial system, increasing the capacity of law enforcement officials, and empowering human rights protection institutions such as *Komnas HAM* and the Commission for Truth and Reconciliation. Strengthening the authority and transparency of these institutions is very important to ensure that human rights violations can be handled fairly and completely.

2. Literature Review

The protection of Human Rights is one of the main pillars of a modern legal system that aims to uphold the dignity, freedom, and equality of every individual.

Conceptually, human rights are fundamental rights that are inherent to humans naturally, which cannot be revoked and must be respected by the state and other parties.³ The international legal framework for human rights protection began with the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, which set universal standards for civil, political, economic, social, and cultural rights that must be guaranteed by all member states of the United Nations. In the Indonesian context, the constitutional guarantee of human rights is reflected in Article 28A–28J of the 1945 Constitution. These articles regulate fundamental rights, such as the right to life, freedom of religion, the right to education, and protection from discrimination. In addition, the ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through Law No. 12 of 2005 shows Indonesia's commitment to adopting international standards into national law.⁴

Nevertheless, a number of studies show a gap between legal norms and their implementation.⁵ The main challenges of human rights protection in Indonesia include weak law enforcement, low public awareness, and political intervention in the legal process. This implies the difficulty of resolving human rights violation cases, both those that occurred in the past and those that are currently ongoing.

³ Nowak, Manfred. "What are human rights?." In *The Routledge Companion to Music and Human Rights*, pp. 13-27. Routledge, 2022.

⁴ Laila Nurlatifah. "Protection of women's reproductive health rights based on international law and regulation on laws in Indonesia." *Lampung Journal of International Law* 2, no. 1 (2020): 25-40.

⁵ Giulio Nittari, Ravjyot Khuman, Simone Baldoni, Graziano Pallotta, Gopi Battineni, Ascanio Sirignano, Francesco Amenta, and Giovanna Ricci. "Telemedicine practice: review of the current ethical and legal challenges." *Telemedicine and e-Health* 26, no. 12 (2020): 1427-1437.

Vulnerable groups, such as women, children, and indigenous communities, are often victims of human rights violations.⁶ *Komnas Perempuan* records thousands of cases of violence against women every year, both in the form of domestic violence, sexual harassment, and other forms of gender-based violence. highlights the prevalence of agrarian conflicts involving indigenous communities, where their customary land rights are often marginalized for the sake of industrial and development interests.

In addition, the digital era has brought a new dimension to human rights protection, especially related to freedom of opinion. Shows that the application of the *UU ITE* is often misused to silence criticism, especially against the government. On the other hand, the phenomenon of the spread of hoaxes and hate speech on social media requires proportional regulation so that freedom of expression remains protected without neglecting public order. Based on this literature review, it is clear that human rights protection in Indonesia has a strong legal foundation but still requires strengthening in its implementation. These challenges include structural factors (institutions and regulations), cultural factors (public awareness and values), and technological factors (the impact of the digital era). Therefore, this research focuses on the analysis of these challenges and the formulation of strategic steps to increase the effectiveness of human rights protection in Indonesia.

⁶Md Nahidul Islam. "The impact of human rights violation concerning the status of women and children in Bangladesh: a critical review." *Br. J. Arts Humanit* 2, no. 1 (2020): 1-13.

3. Method

This research uses a descriptive qualitative method to analyze the legal framework for Human Rights protection in Indonesia, the challenges of its implementation, and the necessary reform steps. This method was chosen because the research not only focuses on the presentation of empirical data but also on an in-depth interpretation of the phenomena, regulations, and socio-political dynamics that influence the implementation of human rights protection. The descriptive qualitative approach is considered relevant to provide a detailed overview of the actual condition of human rights protection in Indonesia by referring to various credible sources. Through this method, researchers can describe facts, identify the links between legal norms and practices in the field, as well as explore the factors that are both inhibitors and drivers of human rights protection, including in cases of violations against vulnerable groups and restrictions on freedom of expression in the digital era.

Research data was obtained entirely from secondary sources. These sources include national legislation such as the 1945 Constitution Article 28A–28J, Law No. 39 of 1999 on Human Rights, Law No. 12 of 2005, and the Electronic Information and Transactions Law (*UU ITE*). In addition, international legal instruments that have been ratified by Indonesia are also used, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). This research also utilizes annual reports from official institutions such as *Komnas HAM*, *Komnas Perempuan*, and Setara Institute, accompanied by the results

of scientific studies, previous research, and news that meet credibility standards. Data collection was carried out through a library research study of relevant books, academic journals, institutional reports, and news articles.

Data analysis uses content analysis techniques with the stages of identifying regulations and policies related to human rights, classifying human rights protection challenges into structural, cultural, and technological categories, interpreting the relationship between the legal framework and reality in the field, and evaluating the effectiveness of related policies and institutions. The results of the analysis are presented in a descriptive narrative that contains an exposition of facts, problem identification, and solution recommendations that are expected to provide a theoretical contribution to the development of human rights studies and practical input for policymakers, law enforcement officials, and the wider community.

4. Results

4.1. The Legal Framework for Human Rights Protection in Indonesia

Indonesia as a rule-of-law state has a strong and detailed constitutional foundation in guaranteeing the protection of Human Rights. Article 28A to Article 28J of the 1945 Constitution explicitly contains various fundamental rights of citizens, which include the right to life, freedom of religion and belief, the right to a proper education, the right to a sense of security, and full protection from all forms of discrimination. This series of articles not only functions as a declaration of principles but also serves as the main juridical foundation for the formation of

various more technical and operational derivative regulations in protecting human rights in Indonesia.

Efforts to strengthen human rights protection in the country are also demonstrated through the ratification of various important international instruments.⁷ The ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through Law No. 12 of 2005 is concrete proof of Indonesia's commitment to adopting and implementing human rights protection principles in accordance with global standards. Both instruments legally bind the state to guarantee the fulfillment of civil, political, economic, social, and cultural rights of every citizen without distinguishing their background, ethnicity, religion, or social status.

At the national level, Law No. 39 of 1999 on Human Rights is the main legal umbrella that formulates the definition, basic principles, and mechanisms of human rights protection. This law also regulates the formation of the *Komnas HAM* as an independent institution mandated to carry out the functions of study, research, education, monitoring, and mediation related to human rights issues. In addition, there are a number of other legal instruments that strengthen the protection of vulnerable groups, such as Law No. 23 of 2004 on the Elimination of Domestic Violence, Law No. 6 of 2014 on Villages which recognizes and protects the

⁷ Ahmad Nehaluddin and Gary Lilienthal. "Right to water as a human right: A critical overview of international instruments." *Environmental Policy and Law* 50, no. 4-5 (2021): 299-308.

customary rights of indigenous communities, as well as various implementing regulations that technically regulate protection procedures.

Nevertheless, although the legal framework for human rights protection in Indonesia is normatively adequate, the success of its implementation is highly dependent on the quality of law enforcement that is consistent, independent, and free from political intervention. The striking difference between the norms written in regulations and the reality that occurs in the field shows a quite serious implementation gap. This is clearly seen in the handling of a number of past serious human rights violation cases, such as the 1965 Tragedy and the 1984 Tanjung Priok event, which, although they have been investigated by *Komnas HAM*, have not yet received a complete resolution through an effective judicial mechanism. Therefore, although the regulatory framework has been prepared comprehensively, the biggest challenge lies in the implementation stage. A law enforcement strategy is needed that is not only strong in substance but also effective, independent, accountable, and able to guarantee the restoration of victims' rights and the prevention of future violations.

4.2. Challenges in Implementing Human Rights Protection

The implementation of Human Rights protection in Indonesia still faces various complex obstacles, including structural, cultural, and political obstacles. Structural obstacles are seen in the weak capacity of law enforcement officials in handling human rights violation cases quickly, professionally, and justly. In addition, there is still an overlap of regulations that causes confusion in the application of the law, as well as the limited authority of human rights protection institutions such as the *Komnas HAM*. Although *Komnas HAM* has the mandate to conduct independent

investigations, this institution does not have the executorial authority that allows it to force cases to be continued in court. As a result, many investigation findings stop at the recommendation stage, without any guarantee of an adequate follow-up legal process.

Cultural obstacles are closely related to the low public awareness of the rights they have. Many victims of human rights violations, especially those from vulnerable groups such as women, children, indigenous communities, and people with disabilities, are reluctant to report for fear of social stigma or feeling pessimistic about the justice of the legal system. In many cases, this reluctance is exacerbated by a deeply rooted patriarchal culture, especially in handling cases of violence against women, where victims are often blamed or experience revictimization during the legal process.

Political obstacles arise from the intervention of political interests in the resolution of human rights cases, especially those related to serious human rights violations in the past. Political stability is often used as a reason not to process perpetrators in court, with the pretext of maintaining national security or avoiding horizontal conflict. This pattern results in many cases ending with impunity, so that perpetrators do not get commensurate punishment and victims do not get justice.

A clear example of implementation obstacles can be seen in agrarian conflicts involving indigenous communities. Although customary land rights have been legally recognized, in practice these rights are often marginalized by economic interests such as mining business permits or large-scale plantations. Land disputes in Papua, Kalimantan, and Sumatra show how development policies that are oriented towards

economic growth often sacrifice the rights of indigenous communities who have managed their land and natural resources for generations.

In the digital era, new challenges in human rights protection arise related to freedom of opinion and expression. The Electronic Information and Transactions Law (*UU ITE*), which was originally intended to protect the public from the misuse of information technology, in reality is often used disproportionately to ensnare activists, academics, and journalists who criticize government policies. Although the spread of hoaxes and hate speech is a serious problem that needs to be addressed, the inappropriate application of the *UU ITE* can damage the climate of democracy and hinder the freedom of expression guaranteed by the constitution. The challenges of implementing human rights protection in Indonesia are multidimensional and interconnected. Their resolution requires an integrated strategy that includes comprehensive legal reform, strengthening the capacity and authority of human rights protection institutions, increasing the competence of law enforcement officials, and empowering the public to be more aware and courageous in fighting for their rights.

4.3. Efforts for Legal Reform and Strengthening Human Rights

Institutions To overcome the clear gap between existing legal norms and the practice of Human Rights protection in the field, comprehensive, planned, and sustainable legal reform is needed.⁸ This reform includes updating regulations that

⁸ Katharine McGregor and Ken Setiawan. "Shifting from international to "Indonesian" justice measures: Two decades of addressing past human rights violations." *Journal of Contemporary Asia* 49, no. 5 (2019): 837-861.

are no longer relevant to social, political, and technological developments, harmonizing overlapping regulations that cause confusion in implementation, and revising laws that have the potential to be misused, such as the Electronic Information and Transactions Law (*UU ITE*). This revision is expected to be able to ensure that the regulation truly protects freedom of expression without neglecting the need to maintain public order.

Strengthening the judicial system is key to ensuring that human rights protection can run effectively and credibly. This step includes increasing the capacity of judges, prosecutors, and police officers in understanding, internalizing, and consistently applying human rights principles in every legal process. In addition, the independence of the judiciary from political intervention must be firmly guaranteed through strict legal and ethical mechanisms. Human rights-based education and training for law enforcement officials need to be integrated continuously into competency development programs, so that their understanding is not only theoretical but also applicable in daily practice.

Human rights protection institutions such as *Komnas HAM* need to be strengthened both in terms of authority and resources. Currently, *Komnas HAM*'s recommendations are often ignored because they do not have coercive legal force. Giving greater authority, including the ability to bring cases directly to court without having to depend on other institutions, can significantly increase the effectiveness of this institution. In addition, the re-establishment of the *Komisi Kebenaran dan Rekonsiliasi (KKR)* is very important to resolve past serious human rights violation

cases through a fair, transparent, participatory, and reconciliation-based mechanism that respects the rights of victims.

Community empowerment is also an important component of this reform. Public awareness of human rights can be increased through formal education in schools and universities, as well as through sustainable public campaigns involving mass media and digital platforms. The active participation of the public in monitoring and reporting human rights violations, including through the use of digital technology such as reporting applications or social media, can function as an effective social control tool and encourage government accountability. This comprehensive reform effort requires strong political support, consistent commitment from all related parties, and close synergy between the government, state institutions, civil society organizations, the academic world, the media, and the international community. With an integrated strategy, human rights protection in Indonesia is expected to be able to transform from mere normative rhetoric into a real practice whose benefits can be felt directly by all levels of society without exception.

5. Discussion

The research results show that the legal framework for human rights protection in Indonesia is normatively quite strong, but its implementation still faces serious challenges. This finding is in line with the theory of rule of law which emphasizes the importance of consistency between legal norms (law in the books)

and law enforcement practices (law in action).⁹ In the Indonesian context, the significant difference between the two reflects an implementation gap caused by structural, cultural, and political factors. From a structural perspective, the existence of various legal instruments such as the 1945 Constitution, Law No. 39 of 1999, and the ratification of international instruments shows the state's formal commitment to human rights. However, the existence of written law alone is not enough without strong and independent institutions to enforce it. The condition of *Komnas HAM*, which does not have executorial authority, is proof of a weak institutional design, so its recommendations are often ignored.

Culturally, low public awareness of their rights limits the effectiveness of human rights protection. In Pedagogy of the Oppressed emphasizes the importance of critical education to liberate society from oppressive structures. In the Indonesian context, human rights education campaigns are still sporadic and not widespread, especially in remote areas and indigenous communities. As a result, many victims of human rights violations choose to remain silent because of social stigma and distrust of the legal process. Political factors are the most complex obstacle. Past serious human rights violations such as the 1965 Tragedy or the Wasior-Wamena case have not been resolved due to political stability considerations. This reinforces in Transitional Justice that countries in transition often sacrifice the resolution of human rights violations to maintain political consensus. However, this approach

⁹ Derita Prapti Rahayu, Faisal Faisal, Rafiq Sari, and Ndaru Satrio. "Law enforcement in the context of legal culture in society." *Law Reform* 16, no. 2 (2020): 276-289.

risks strengthening a culture of impunity which in turn weakens the legitimacy of the law.

New challenges also arise in the digital era. The disproportionate use of the *UU ITE* to ensnare activists and journalists who criticize the government raises concerns about freedom of expression.¹⁰ According to a Human Rights Watch report, digital regulations in Indonesia are still vulnerable to misuse by authorities to silence criticism. This phenomenon is in line with the concept of a shrinking civic space, which refers to the narrowing of space for civil liberties in various democracies. The efforts for legal reform and strengthening human rights institutions proposed in the research results are relevant to the rights-based approach model in development. This approach places the fulfillment of human rights as both a goal and an instrument of development. Revising the *UU ITE*, harmonizing regulations, and giving greater authority to *Komnas HAM* are strategic steps to close institutional gaps.

In addition, the role of civil society is very crucial. NGOs, independent media, and grassroots movements have a social control function that can pressure the government to be more accountable. In the information technology era, the use of citizen journalism and online public complaint platforms can strengthen participatory mechanisms in human rights monitoring. Thus, this discussion affirms that human rights protection in Indonesia requires a multi-level strategy: strengthening regulations, reforming institutions, increasing public awareness, and

¹⁰ Fernando Junius, Zico, Pujiyono, Umi Rozah, and Nur Rochaeti. "The freedom of expression in Indonesia." *Cogent Social Sciences* 8, no. 1 (2022): 2103944.

maintaining space for civil liberties. The synergy between the government, state institutions, civil society, the media, and the international community will be key to transforming the commitment to human rights from a legal document into a reality in daily life.

6. Conclusion

The protection of Human Rights in Indonesia has a strong normative foundation through the 1945 Constitution, national legislation, and the ratification of various international instruments. However, the findings of this research indicate that this normative strength has not been fully implemented effectively in practice. There is a significant gap between the law in the books and the law in action caused by structural weaknesses, low public awareness, and political obstacles. Institutional weaknesses, such as the limited authority of *Komnas HAM*, reduce the effectiveness of enforcement mechanisms. The low level of human rights literacy in society also has an impact on the minimal public participation in monitoring and fighting for their rights. Meanwhile, political factors, especially in the resolution of past serious human rights violations, show a compromise that risks strengthening impunity. The new challenges in the digital era, particularly the potential misuse of the *UU ITE*, also narrow the space for civil liberties.

To overcome these problems, a strategic step is needed in the form of legal reform that emphasizes the harmonization of regulations, the revision of problematic articles, and the strengthening of the authority of human rights enforcement institutions. On the other hand, empowering the public through

continuous human rights education is key to creating a legal culture that respects human dignity. The success of human rights protection in Indonesia will be highly dependent on political will, the courage to carry out reforms, and the active participation of civil society. The synergy of all parties the government, state institutions, society, the media, and the international community will be the determinant of whether the commitment to human rights stops at a legal document or truly becomes a reality in everyday life.

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