

Analysis of Legal Protection of Human Rights in the Context of State Administrative Law

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Abstract

This paper examines in detail the legal protection of human rights (HAM) in the context of State Administrative Law in Indonesia. Through a normative approach - the conceptual journal examines human rights from the historical side to the Juridical aspect. In this context, legal protection is not only preventive through regulations, but also repressive through the mechanism of human rights justice and the Supervision of independent institutions such as the National Commission on Human Rights and the Constitutional Court. This study also highlighted the strategic role of the State Administrative Agency in ensuring human rights through public services oriented to the principle of welfare state. In reality, the challenges of human rights protection still include violence, discrimination and especially abuse of authority, which requires comprehensive legal affirmation. Therefore, this journal recommends strengthening the capacity of bureaucracy as well as responsive law enforcement as the main guard in ensuring human rights protection in the context of democratic and just rule of State Administration Law.

KEYWORDS: *Human Rights; State Administrative Law; State of Law.*

Introduction

Human Rights (HAM) are a set of inherent rights that exist in every individual as a being created by God Almighty. These innate rights are a blessing that should be respected and protected by everyone to uphold human dignity. As a state governed by the rule of law, Indonesia requires legal frameworks to form and control governmental administration. According to Jan Materson from the United Nations Human Rights Commission, Human Rights are inherent in humans, and without them, people cannot live as human beings. Democracy and human rights are not new issues; many countries in the world have declared

themselves democratic and committed to respecting human rights. Modern constitutions are often characterized by explicit provisions ensuring the protection of human rights.¹

Human Rights are considered universal, applicable to all individuals everywhere, and cannot be revoked by anyone. These rights encompass essential entitlements tied to the human condition, such as the right to life, liberty, and equality. In the reform era, the recognition and protection of human rights became increasingly crucial as a moral foundation in interpersonal interactions. However, in practice, the implementation and protection of human rights face various challenges, including violence, discrimination, and other violations.² Therefore, it is essential to understand how constitutional law can play a role in safeguarding human rights and creating a just and equitable environment. Constitutional law holds an important role in human rights protection. Implementing the principles of the rule of law in Indonesia's administrative system is an effort to evaluate the extent to which state administration aligns with these principles, particularly concerning human rights within the framework of good governance.³

Constitutional law is a legal system that regulates the relationship between the state and its citizens, as well as among the citizens themselves. Within this framework, constitutional law ensures the respect and protection of human rights. It includes the mechanisms and institutions needed to uphold these rights, such as courts, law enforcement agencies, and human rights bodies. The principles of good governance adopted in State Administrative Law are aimed at creating effective government, including through accountable public service systems.⁴

The concept of human rights is also influenced by the evolving understanding in different countries. In Western liberal traditions, such as in the United States prior to the 1776 Declaration of Independence, human rights were seen as a response to authoritarian rule, focusing on individual liberties and property. Socialist interpretations, however,

¹ Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 20, 2024): 394–417, <https://doi.org/10.22219/ljih.v32i2.35374>.

² Nugroho Noto Diharjo et al., "Human Rights and Constitutional Sovereignty in The Context of The Struggle for Legal Justice," *Bacarita Law Journal* 4, no. 2 (May 5, 2024): 174–84, <https://doi.org/10.30598/bacarita.v4i2.12985>.

³ Christina Yunnita Garung and Linda Lomi Ga, "Pengaruh Akuntabilitas Dan Transparansi Terhadap Pengelolaan Alokasi Dana Desa (add) Dalam Pencapaian Good Governance Pada Desa Manulea, Kecamatan Sasitamean, Kabupaten Malaka," *Jurnal Akuntansi: Transparansi Dan Akuntabilitas* 8, no. 1 (March 20, 2020): 19–27, <https://doi.org/10.35508/jak.v8i1.2363>.

⁴ Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019): 785–808, <https://doi.org/10.31078/jk1646>; Ahmad Ahmad and Novendri M. Nggilu, *Constitutional Dialogue: Menguatkan Intraksi Menekan Dominasi (Konvergensi Terhadap Pengujian Norma Di Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2023); Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Constitutional Dialogue in Judicial Review at the Indonesian Constitutional Court: The Future Prospects," *Journal of Legal, Ethical and Regulatory Issues* 25, no. 1S (November 15, 2021), <https://www.abacademies.org/abstract/constitutional-dialogue-in-judicial-review-at-the-indonesian-constitutional-court-the-future-prospects-13248.html>.

emphasize social rights, prioritizing economic well-being over individual freedom. The obligation to respect human rights is reflected in the preamble to the 1945 Constitution, which contains articles emphasizing equal legal standing for all Indonesian citizens.⁵

In practice, challenges remain in enforcing and protecting human rights under constitutional law. These challenges include acts of violence, discrimination, and other rights violations whether physical, psychological, economic, or social. Violations may be perpetrated by individuals, groups, or the state. Addressing these issues requires coordinated and systematic efforts, including education, advocacy, and law enforcement⁶. Education raises awareness of the importance of human rights; advocacy empowers communities to assert their rights; and enforcement ensures legal accountability. Therefore, legal protection of human rights under constitutional law is crucial not only for justice and equality but also for societal stability and well-being.

Method

The writing method employed in this research is the normative–conceptual method, which relies on a juridical approach emphasizing the analysis of legal materials derived from statutory regulations, legal doctrines, and relevant academic literature, particularly legal journals that thoroughly discuss the principles and foundations of State Administrative Law and human rights.⁷ The normative approach is intended to identify, examine, and understand the positive legal norms that govern mechanisms for the protection of human rights within the framework of administrative law, while the conceptual approach is used to explore and formulate legal concepts relating to the relationship between the administrative authority of the state and the protection of human rights in modern governance practices. Through this method, the research aims not only to map out the applicable legal norms but also to evaluate the effectiveness of their implementation in safeguarding the fundamental rights of citizens from potential violations by excessive or arbitrary administrative actions. Thus, this method is highly relevant in supporting the analysis of the main theme of the article, “An Analysis of Legal Protection of Human Rights in the Context of State Administrative Law,” as it enables a deep investigation into the theoretical and normative connections between administrative law principles and human rights protection in Indonesia.⁸

⁵ Ahmad Ahmad, Fence M. Wantu, and Novendri Mohamad Nggilu, *Hukum Konstitusi: Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi* (Yogyakarta: UII Press, 2020).

⁶ Suwito et al., “Contemplating the Morality of Law Enforcement in Indonesia,” *Journal of Law and Sustainable Development* 11, no. 10 (October 25, 2023): e1261–e1261, <https://doi.org/10.55908/sdgs.v11i10.1261>.

⁷ Irwansyah Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020); Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2010); Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Prenadamedia Group, 2014).

⁸ H. Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis Serta Disertasi* (Bandung: Alfabeta, 2017).

Human Rights Protection in the Rule of Law: Conceptual Foundations, Institutional Authority, and Indonesia's Legal Framework

1. The Concept of Human Rights Protection in a State Governed by Law

The concept of legal protection originates from the notion of a state based on law (rechtsstaat or rule of law). The idea of the rule of law has long been debated by philosophers. For example, Plato, in his works (*Politeia*, *Politicos*, *Nomoi*), emphasized that a nation should be free from greedy and corrupt rulers. To achieve the ideal state, both citizens and those who govern must be subject to the law.⁹ Plato's idea of the rule of law was further developed by his student, Aristotle. In *Politica*, Aristotle argued that the concept of the rule of law is closely related to the protection of human rights. According to him, a good state is one governed by constitutional sovereignty and law.¹⁰ Aristotle identified three elements of a constitutional government: first, it must serve the public interest; second, it must operate in accordance with general laws rather than arbitrary power that disregards customs and constitutions; and third, it must be enforceable in practice.¹¹

Fundamentally, the law serves as a means to control government, and the object to be protected is the people (civilians). Thus, the concept of a state based on law is inextricably linked to the legal protection of human rights. The very substance of a rule-of-law state is the guarantee of legal protection for human rights.¹² This philosophy underlies the amendments to the 1945 Constitution especially the third amendment which not only explicitly declares Indonesia as a state based on law but also elaborates human rights protection in detail in Chapter XA (Articles 28A–28J).¹³

Legal protection is not solely about having substantive laws that regulate human rights (preventive legal protection). More importantly, there must be legal mechanisms to address violations of those substantive provisions. This is referred to as repressive legal protection, which entails ensuring there is legal recourse to address cases of human rights violations. State responsibility in protecting citizens can be categorized into two forms: preventive legal protection, where citizens have the opportunity to raise objections (*inspraak*) to prevent

⁹ Muhamad Fathan Mandela Mandela, "Konflik Negara Dan Masyarakat : Isu Wadas Dalam Prespektif Politik Kewargaan," *Politeia: Jurnal Ilmu Politik* 16, no. 1 (January 31, 2024): 30–37, <https://doi.org/10.32734/politeia.v16i1.10974>.

¹⁰ Laurent Pech, "The Rule of Law as a Well-Established and Well-Defined Principle of EU Law," *Hague Journal on the Rule of Law* 14, no. 2 (December 1, 2022): 107–38, <https://doi.org/10.1007/s40803-022-00176-8>.

¹¹ Syafrinaldi Syafrinaldi and Syafrjadi Syafrjadi, "The Concept of Human Rights, Democracy and the Rule of Law," *PROCEEDINGS INTERNATIONAL CONFERENCE BKSPTIS 2018*, no. 0 (November 6, 2018), <https://jurnal.unissula.ac.id/index.php/bksptis/article/view/3582>.

¹² Tim Lindsey, "Indonesian Constitutional Reform: Muddling Towards Democracy," in *Public Law in East Asia* (Routledge, 2013).

¹³ Mohammad Ibrahim, "The Judicialisation of Discrimination in the Indonesian Constitutional Court," *International Journal of Discrimination and the Law* 22, no. 2 (June 1, 2022): 125–51, <https://doi.org/10.1177/13582291221094923>.

disputes; and repressive legal protection, which deals with resolving disputes once violations have occurred.¹⁴

From the discussion above, it can be concluded that the concept of a state based on law emphasizes the guarantee that the implementation of governance must be free from arbitrary actions by the state. The legal system serves as the means of control, and the citizens are the ones it aims to protect. The manifestation of a rule-of-law state in national life implies that legal protection must be realized. The incorporation of moral considerations and religious values in limiting human rights is also a distinctive feature of a rule-of-law state based on Pancasila ideology.¹⁵

In addition to the Western philosophers Plato and Aristotle, the Islamic thinker Ibn Khaldun also discussed the concept of the rule of law. According to Ibn Khaldun, there are two forms of rule-of-law states: *siyasah diniyah* (Islamic nomocracy) and *siyasah ‘aqliyah* (secular nomocracy). The key difference lies in their legal foundation: Islamic nomocracy is based on both divine law (*sharia*) and human reason, while secular nomocracy relies solely on human-made laws. This secular model of the rule of law is what is generally adopted in Western (non-Islamic) countries.¹⁶

Another term closely related to the rule-of-law concept is “rule of law” itself. According to H. Muhammad Tahir Azhary¹⁷, the rule of law developed in Anglo-Saxon countries. The fundamental difference between *rechtsstaat* and the rule of law is that the former includes administrative courts, while the latter relies heavily on the general judiciary, which is trusted by the public. In a rule-of-law system, everyone is considered equal before the law, and general courts are deemed sufficient to handle all legal matters, including those involving the government, due to the integrity and competence of the judges.

In contrast, Philipus M. Hadjon¹⁸ raises concerns about equating the term *negara hukum* (state based on law) with *rechtsstaat* or rule of law. Especially in the context of Indonesia’s political history under the Old and New Orders, the term was often used merely as a slogan. Therefore, Hadjon firmly argued that the concept of a rule-of-law state is not merely a translated term from *rechtsstaat* or rule of law, but rather a distinct concept in itself. He also cautioned against hastily equating *negara hukum Pancasila* with the aforementioned Western legal concepts. However, with the reforms in the post-1998 era, the Indonesian

¹⁴ Usman Rasyid et al., “Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power,” *Jambura Law Review* 5, no. 2 (July 31, 2023): 386–413, <https://doi.org/10.33756/jlr.v5i2.24239>.

¹⁵ S.K Ali, “Cultural and Educational Rights of Minorities: A Human Right and Constitutional Law Perspective,” accessed July 4, 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2208559.

¹⁶ Tolhah Tiha Nawawi, “Protection of Human Rights According to Islamic Law,” *Indonesia Law College Association Law Journal* 2, no. 2 (December 30, 2023): 46–52, <https://ejournal.psthi.or.id/index.php/ILCALaw/article/view/17>.

¹⁷ Lamine Larit, “Administrative and Judicial Supervision of the Real Estate Investigation Process in the Algerian Legislation,” *Russian Law Journal* 11, no. 6 (2023): 21–27.

¹⁸ Philipus M. Hadjon, “Peradilan Tata Usaha Negara Dalam Konteks Undang-Undang No. Tanggal 30. Tentang Administrasi Pemerintahan 2014,” *Jurnal Hukum Dan Peradilan* 4, no. 1 (2015): 51–64, <https://doi.org/10.25216/jhp>.

Constitution now explicitly states that Indonesia is a rule-of-law state, not merely in the explanatory section, but codified in Article 1 Paragraph (3) as a result of the third amendment in 2001.

The rule-of-law state concept places the protection of human rights as one of its central elements. Given the urgency of human rights protection, constitutions must provide for them to guarantee the rights of citizens. One of the key improvements made in the amendment of the 1945 Constitution is the more comprehensive enumeration of citizens' rights, compared to the original version, which was general and brief. The legacy of widespread human rights violations during the New Order regime under President Suharto serves as a lesson, underscoring the importance of explicitly outlining human rights in the constitution. The amendments also established judicial mechanisms through the Constitutional Court to challenge laws that violate constitutional human rights provisions.¹⁹

Human rights are universal values that have been widely recognized and adopted globally. Various international instruments require state parties to ensure the protection and fulfillment of their citizens' rights. Indonesia, with its long history of human rights advocacy, has ratified numerous international human rights instruments. Although significant reforms were made post-1998, they are part of a longer historical struggle.

The constitutional foundation for Indonesia as a welfare state is implied in the fourth paragraph of the Preamble to the 1945 Constitution, which outlines the nation's goals: to protect the entire Indonesian people and homeland, promote public welfare, educate the nation, and contribute to world peace based on freedom, lasting peace, and social justice. Thus, the Indonesian government is responsible not only for governing but also for ensuring social welfare and creating a just and prosperous society. The government must also regulate and manage economic activities, natural resources, and public enterprises to support social welfare, care for the poor and neglected children, and provide social and health security, as provided in Articles 33 and 34 of the 1945 Constitution.²⁰

In line with the elements of a rule-of-law state, Indonesia's Constitution includes several key provisions reflecting its decentralized and welfare-oriented legal framework:

Recognition and protection of human rights, Articles 28A–28U of the 1945 Constitution;

1. Separation and distribution of state power both horizontally (e.g., among the President, DPR, and judiciary) and vertically (e.g., decentralization through regional autonomy in Article 18);

¹⁹ Yovita Arie Mangesti et al., "Term Limitation of Indonesian Parliamentarians Seen from Constitutionalism," *Revista de Investigações Constitucionais* 11 (November 15, 2024): e263, <https://doi.org/10.5380/rinc.v11i2.91104>.

²⁰ Ahmad Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue," *Jurnal Konstitusi* 20, no. 3 (September 1, 2023): 514–35, <https://doi.org/10.31078/jk2038>.

2. Sovereignty of the people, Article 1(2): “Sovereignty belongs to the people and is implemented according to the Constitution”;
3. Governance based on law and regulations;
4. Judicial oversight by an independent judiciary, Article 24 and related organic laws;
5. Regular, periodic general elections;
6. Legal remedies for citizens against harmful government actions, including administrative
7. remedies, the Administrative Court (PTUN), and the Ombudsman Commission.

The fundamental principles of the rule of law and constitutional democracy as enshrined in the 1945 Constitution of Indonesia are particularly reflected in the articles that guarantee the respect and protection of human rights (Articles 28A–28U), the separation and distribution of powers both horizontally among state institutions and vertically through regional autonomy (Article 18), as well as the affirmation that sovereignty rests with the people (Article 1(2)). Governance based on law affirms the supremacy of law in state administration, which is overseen by an independent judiciary (Article 24 and its organic laws), and is further reinforced by regular and periodic elections as a manifestation of public participation in government. Moreover, guarantees of access to justice through legal remedies such as the Administrative Court (PTUN²¹) and the Ombudsman strengthen the legal protection of citizens against harmful government actions, thereby forming a system of governance that is democratic, accountable, and grounded in the protection of human rights.

2. What Are the Authorities of State Administrative Bodies in Ensuring and Protecting Human Rights?

The substance of public service is always related to activities carried out by individuals, groups, or specific institutions to provide assistance and ease for the public in achieving certain goals. Public service becomes increasingly important because it directly involves a diverse society with varying interests and objectives. Therefore, public service institutions can be run by both government and non-governmental entities. When the government serves as a bureaucratic organization in public service, it becomes the front line in interacting with and delivering services to the public²².

When government institutions²³ provide services, the primary concern is how to deliver assistance and ease to the public to meet their needs and interests. High-quality services require efforts from all employees, not just those at the “Front Office.” Therefore, service excellence demands

²¹ Ahmad Ahmad, Viorizza Suciani Putri, and Mohamad Hidayat Muhtar, “Antara Otoritas dan Otonomi : Pertautan Hak Asasi Manusia dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara,” *Jurnal Konstitusi* 21, no. 3 (September 1, 2024): 392–412, <https://doi.org/10.31078/jk2133>.

²² Dian Ekawaty Ismail et al., “Cyber Harassment of Public Figures: Causes and Importance of Legal Education,” *E3S Web of Conferences* 594 (2024): 03005, <https://doi.org/10.1051/e3sconf/202459403005>.

²³ Enrico Parulian Simanjuntak, “Pengujian Ada Tidaknya Penyalahgunaan Wewenang Menurut Undang-Undang Administrasi Pemerintahan / Examination to Determine the Presence or Absence of Abuse of Authority According to Government Administration Law,” *Jurnal Hukum Dan Peradilan* 7, no. 2 (July 29, 2018): 237–62, <https://doi.org/10.25216/jhp.7.2.2018.237-262>.

commitment from all personnel, including those in the “Back Office,” who work behind the scenes and are not visible to the public. Why must public services provided by government institutions involve all staff? Because every task carried out by any employee contains elements of service, which ultimately affects the quality of the service products delivered by the institution to the public.

Public service, in this context, refers to all types of services—whether in the form of public goods or public utilities that are essentially the responsibility of and implemented by government institutions at the central, regional, and state-owned enterprise levels. These services aim to fulfill public needs and enforce regulations as mandated by the law.

In the context of modern states, often referred to as welfare states, the government bears the obligation to ensure the welfare of its citizens. As such, the government is required to take initiative and act on a broad range of issues affecting the lives of its people, even if no specific regulations yet exist. This discretionary authority is referred to as “Freies Ermessen” the government’s freedom to act independently for the sake of public interest. But what constitutes “public interest”? To answer this question, several theories can be considered:²⁴

a. Security Theory

This theory asserts that the most important public interest is to ensure a safe and peaceful life for the community.

b. Welfare²⁵ Theory

This theory emphasizes that the primary public interest is the fulfillment of basic needs, such as:

- 1) Food: The government must take measures to ensure that citizens are not deprived of access to food.
- 2) Health: Government actions and decisions must not harm public health or the environment.
- 3) Employment: It is the government’s duty to create job opportunities and prevent unemployment.

c. Life Efficiency Theory

This theory posits that the primary public interest is for people to live efficiently, thereby increasing prosperity and productivity across all areas, including social, economic, cultural, educational, and others.

d. Shared Prosperity Theory

According to this theory, the public interest lies in collective happiness and prosperity. Social problems must be addressed, and the gap between the rich and the poor must not grow too wide.

In this sense, the duties of the government encompass all actions, decisions, and measures undertaken by state institutions to achieve governance objectives not only to maintain order but also to realize national goals and the general public interest. The

²⁴ Martin Roestamy et al., “A Review of the Reliability of Land Bank Institution in Indonesia for Effective Land Management of Public Interest,” *Land Use Policy* 120 (September 1, 2022): 106275, <https://doi.org/10.1016/j.landusepol.2022.106275>.

²⁵ Ahmad, Wantu, and Ismail, “Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach.”

government's mission is explicitly outlined in the fourth paragraph of the Preamble to the 1945 Constitution:

“... to form a Government of the State of Indonesia that shall protect the whole of the Indonesian people and the entire homeland of Indonesia, and to advance the general welfare, to educate the life of the nation, and to participate in the establishment of a world order based on freedom, lasting peace, and social justice.”²⁶

As such, public service is fundamentally a structured and intentional process to meet collective goals, and state administrative bodies serve a critical role in this framework particularly in ensuring that services align with human rights principles, accountability, and equity.

3. Indonesia's Legal Instruments for Human Rights Protection

Indonesia is one of the sovereign countries that recognizes the Universal Declaration of Human Rights. In line with this, Indonesia has taken several legal steps to enforce human rights through Pancasila, the amended 1945 Constitution, decrees of the People's Consultative Assembly (MPR), laws, government regulations, and other legal frameworks. In addition, legal mechanisms have been established to implement human rights protection domestically. Indonesia also has a human rights system that includes dedicated institutions such as the National Commission on Human Rights (Komnas HAM), the National Commission on Violence Against Women (Komnas Perempuan), and the Anti-Trafficking Commission.²⁷

The legal provisions and regulations concerning human rights, or what may be referred to as human rights instruments, serve as the legal tools used to protect and enforce these rights. The following are some of the key examples:²⁸

a. Pancasila

Pancasila, as the ideological foundation of the Indonesian state, contains the belief that humans are created by God Almighty and possess both individual and social aspects. It upholds human dignity and, as such, mandates that everyone has the responsibility to respect the human rights of others.

b. MPR Decree No. XVII/MPR/1998 on Human Rights

This decree was ratified during the MPR session on November 13, 1998, as a response to the increasing cases of human rights violations in Indonesia and the demand for reform at the time.

²⁶ Ibid.

²⁷ Komisi Nasional Hak Asasi Manusia, “Ratifikasi OPCAT, Upaya Strategis Pencegahan Penyiksaan,” Komisi Nasional Hak Asasi Manusia - KOMNAS HAM, March 18, 2021, <https://www.komnasham.go.id/index.php/news/2021/3/18/1715/ratifikasi-opcat-upaya-strategis-pencegahan-penyiksaan.html>.

²⁸ Komnas Perempuan, “CATAHU 2020 Komnas Perempuan: Lembar Fakta Dan Poin Kunci (5 Maret 2021),” Komnas Perempuan | Komisi Nasional Anti Kekerasan Terhadap Perempuan, 2021, <https://komnasperempuan.go.id/siaran-pers-detail/catahu-2020-komnas-perempuan-lembar-fakta-dan-poin-kunci-5-maret-2021>.

Key articles include:

Article 2: Assigns all state institutions and government apparatus to respect, enforce, and disseminate understanding of human rights throughout society.

Article 3: Instructs the President and the House of Representatives to ratify international human rights instruments, provided they do not conflict with Pancasila and the 1945 Constitution.

c. The 1945 Constitution of the Republic of Indonesia

Human rights in political, economic, social, and cultural domains are clearly stipulated in several articles, such as:

1. Article 27 (1), (2), and (3);
2. Article 28A through 28J;
3. Article 34.

d. Law No. 39 of 1999 on Human Rights

This law serves as a primary legal instrument to protect and guarantee individual rights, referencing international conventions such as the ICCPR, UDHR, CRC, and ICESCR. Although comprehensive, the law has several critical weaknesses—such as overlapping definitions and confusion between human rights and criminal law responsibilities, which results in an unclear distinction between moral obligations and criminal liability.

e. Law No. 26 of 2000 on Human Rights Courts

This law regulates two main aspects: the legal procedures for human rights courts and the classification of serious human rights violations (e.g., crimes against humanity and genocide). However, a major shortcoming is that such international crimes fall under the jurisdiction of the International Criminal Court (ICC), and thus, the Human Rights Court in Indonesia has no authority to prosecute them.

f. Law No. 23 of 2002 on Child Protection

Driven by increasing child rights violations, this law prohibits the involvement of children in political activities, social unrest, armed conflicts, and other adult matters. It emphasizes that children must be protected, loved, and safeguarded.

g. Law No. 23 of 2004 on the Elimination of Domestic Violence

Promoted by women's rights activists, this law recognizes victims' rights to protection and assistance from volunteers, healthcare professionals, social workers, and spiritual counselors. Its strength lies in allowing society—not just law enforcement—to be involved in protecting victims.

h. Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination

Daily-life discrimination based on race or ethnicity hinders peaceful and harmonious relations in society. This law affirms that racial and ethnic discrimination must be abolished, as it constitutes a violation of human rights.

i. Law No. 21 of 2000 on Labor Unions

j. Law No. 8 of 1999 on Consumer Protection

Apart from these, numerous other laws contribute to the enforcement of human rights in Indonesia, such as:

- 1) Law No. 21 of 2007 on Human Trafficking,
- 2) Law No. 12 of 2006 on Citizenship,
- 3) Law No. 30 of 2002 on the Corruption Eradication Commission,
- 4) Law No. 3 of 1999 on Elections,
- 5) Law No. 40 of 1999 on the Press,
- 6) Law No. 2 of 2002 on the Police,
- 7) Law No. 3 of 2004 on Judicial Power,
- 8) Law No. 32 of 2004 on Regional Government,
- 9) Law No. 3 of 2009 on the Supreme Court.

These various instruments show the depth of Indonesia's commitment to respecting, protecting, and fulfilling human rights, with considerable influence on improving human rights enforcement across the country.

Within Indonesia's legal system, human rights protections are further guaranteed by the 1945 Constitution—especially Articles 28A to 28J and Article 34. These provisions serve as the constitutional foundation for safeguarding the civil, political, economic, social, and cultural rights of every citizen.

The Indonesian government has made considerable efforts to uphold human rights. However, active public participation and oversight from political institutions remain essential to prevent misuse of power. Collaboration between the government, the public, and relevant institutions is vital to ensure consistent and meaningful human rights enforcement in Indonesia going forward.²⁹

Conclusion

It can be concluded that the legal protection of Human Rights (HAM) within the framework of State Administrative Law is essential for ensuring justice, equality, and societal welfare, as these rights are fundamental to every individual and require not only recognition and codification in legal regulations but also effective implementation through institutional and administrative mechanisms. Indonesia's legal state, as mandated by the amended 1945 Constitution, carries a constitutional obligation to protect human rights by upholding the rule of law, maintaining separation of powers, and embracing popular sovereignty, supported by an independent judiciary, appropriate legal frameworks, and social welfare-oriented public policies. This commitment echoes classical philosophical ideas from Western and Islamic traditions, including thinkers like Plato, Aristotle, and Ibn Khaldun, who emphasized that a state governed by law must protect its citizens in the exercise of state power. In the modern era, this principle is embodied in numerous national and international legal instruments, as well as institutions such as the National Human Rights Commission (Komnas HAM), the National Commission on Violence Against Women (Komnas

²⁹ Beltsazar Arya Krisetya, "Membangun Masa Depan Digital Indonesia: Perkembangan Terbaru Regulasi Teknologi," *Tech For Good Institute* (blog), October 7, 2024, <https://techforgoodinstitute.org/uncategorized/membangun-masa-depan-digital-indonesia-perkembangan-terbaru-regulasi-teknologi/>.

Perempuan), and the Human Rights Court. Nevertheless, significant challenges remain, including ongoing violence, discrimination, and human rights violations, which necessitate continuous state dedication through education, advocacy, and firm, fair law enforcement. As part of a welfare state, the government's role extends beyond administration to actively ensuring the prosperity and well-being of its people, reflecting its genuine respect for human rights.

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