

Review of Universal Human Rights Theory in the Perspective of Law and Justice

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Info Articles	Abstract
<p>Article History Received: 2025-07-01 Revised: 2025-07-11 Published: 2025-07-31</p> <p>Keywords: <i>Human Rights., Human Rights Theory., Theory of Justice.</i></p>	<p>This study analyzes the conceptual framework and philosophical foundations of human rights (HAM) through a review of key legal theories. The discussion begins with natural law theory, which argues that human rights are inherent, universal, and derived from transcendental ethical principles as a guide for positive law. As an antithesis, this study presents the theory of legal positivism, which emphasizes that human rights are a formal product of state institutions, where legal validity is separate from moral considerations. Next, this study examines theories of justice, particularly John Rawls's concept of "justice as fairness," to analyze the equitable distribution of rights, obligations, and resources within a social structure. The theoretical analysis concludes with a debate between universalism and cultural relativism. Universalism asserts the global applicability of human rights to every individual, while cultural relativism emphasizes the importance of social context, traditions, and local values. By synthesizing these perspectives, this study concludes that a thorough understanding of these theories is crucial for implementing human rights globally while maintaining sensitivity to the diversity of global contexts.</p>

I. INTRODUCTION

Human rights (HAM) are fundamental rights inherent to every individual simply because they are human, regardless of race, religion, gender, or any other status. To understand the philosophical foundations, principles, and arguments underlying these rights, various conceptual frameworks and theories have been developed. These theories explain the origin, nature, and basis of these fundamental rights, as well as how they are protected within social and legal systems.(Saragih, 2021).

In general, discussions of human rights theory are often divided into several main schools of thought. One of the most fundamental is the Natural Law Theory, or Natural Theory. This theory holds that human rights are universal and inherent, derived from a higher morality or natural order, not merely the result of human-created rules.(Purwoko, 2025)According to this view, positive law (state law) must be in line with these universal moral principles to be considered legitimate and just.(Al-Fariqi, 2022)For balance, the Theory of Legal Positivism asserts that human rights are established and recognized by laws

drafted by authorized bodies, such as governments or international organizations. According to this view, the acceptance of a right depends heavily on official recognition and enforcement, with a clear distinction between legal and moral aspects.(Sulistiyowati, 2025).

In addition to these two main theories, understanding human rights has also been enriched by other approaches. The Theory of Justice, whose primary contribution comes from philosopher John Rawls, seeks to define and apply the concept of justice within the structure of society. This theory emphasizes the importance of the fair distribution of rights, obligations, and resources as the foundation of society.(Muhtadi, 2021)On the other hand, Critical Legal Theory offers the view that law is often used as a tool to maintain power, necessitating a critical analysis of human rights to explore how these rights can become victims of systematic oppression. Understanding these theories is crucial because it provides a framework for evaluating, interpreting, and advocating for human rights in complex contexts around the world.(Siregar, 2023).

II. RESEARCH METHODS

This research uses a qualitative approach through literature review. The focus of the research is directed at understanding and analyzing various theories regarding human rights based on written sources, such as books, journals, laws and regulations, and official documents. Data were collected through a review of relevant literature and then analyzed descriptively and qualitatively to systematically describe and interpret the concepts and thoughts of experts on human rights theory.

III. RESULTS AND DISCUSSION

A. Research result

Human Rights Theory is a framework that outlines the philosophical foundations, principles, and rationales underlying human rights as an essential part of the social and legal structure. In general, this view holds that human rights are inherent and inalienable rights that every individual possesses simply because they are human, regardless of race, religion, gender, or other status.

Human rights theory is often divided into several approaches, including the naturalist approach, which argues that these rights are derived from natural law or universal moral values; the positivism approach, which emphasizes that these rights are regulated by applicable laws and official acts from governments; and the constructivist approach, which views human rights as the result of social agreements and specific historical contexts. (Irham, 2024) In addition, this theory also includes an individual rights approach that emphasizes the protection of personal rights such as freedom of speech and the right to privacy, as well as a collective rights approach that involves the rights of communities and groups, such as the right to self-determination and the right to a clean environment. Through these various approaches, human rights are understood as basic norms that must be upheld and protected by the legal system and social institutions to ensure the dignity and well-being of every individual. (Saragih, 2021) Human rights theory forms the basis for the process of creating laws, policies, and practices

that aim to prevent violations of individual rights and support justice and equality in society.

B. Discussion

1. Natural Theory (Natural Law and Natural Rights)

Human rights can be considered a product of the natural law school, which gave rise to the theory of natural rights. This is reflected in the American Declaration of Independence, the French Declaration of the Rights of Man and of the Citizen, and in various constitutions of modern nations. Morsink also acknowledged the influence of natural law as a source of inspiration in the drafting of the Universal Declaration of Human Rights. Natural law can be traced back to ancient times and developed further in the Middle Ages, along with the works of renowned Christian philosophers, such as St. Thomas Aquinas. Mystical thought suggests that natural law is part of God's perfect law, comprehensible through human reason. Some elements of earlier natural law philosophy include the idea that each individual's place in life is determined by God, so that all people, regardless of their status, are under God's authority. This foundation is theistic, meaning its truth depends on belief in God. (Al-Fariqi, 2022).

In his work, *De Jure Belli ac Pacis*, Grotius argued that the existence of natural law as the basis of all positive law can be explained rationally using scientific principles. This mathematical approach to legal issues shows that all provisions can be known by using correct reason, and their validity is not dependent on God. This secular, rational approach to law was very attractive to intellectuals after the Renaissance period, and by relying on the correct reasoning of Grotius' model, the development of natural theory or individual rights can be understood. (Purwoko, 2025).

International jurists in the 15th and 16th centuries, such as Grotius and Francisco de Vitoria, used the concept of natural law to develop theories of international law that were considered modern in their time. Vitoria, for example, is considered to have applied natural law to examine the rights of indigenous peoples, particularly regarding territorial issues. During the 17th century, Grotius's version of natural law continued to be refined, evolving into a theory of natural rights, which

recognized subjective individual rights. One of the main proponents of this natural rights theory was John Locke. He argued that, under natural law, every individual has the right to life, liberty, and property for survival and development. These rights are personal and cannot be transferred or revoked by the state. Locke also stated that to avoid uncertainty in life, humans participate in a social contract, a voluntary bond in which the exercise of these inalienable rights is transferred to the state. If a state ruler violates the social contract by ignoring the natural rights of individuals, the people have the right to remove that ruler and establish a new government that respects their rights.(Darmadji, 2023).

Natural law theory, also known as natural law theory, is an approach in the philosophy of law that attempts to relate legal principles to the laws of nature, which are believed to be the basis for a universal moral and social order. In this perspective, law is not seen simply as the result of social processes or human legislation, but as the embodiment of moral and rational principles inherent in human nature and the natural world. This idea has deep roots in ancient philosophical thought, from Greek philosophers such as Aristotle, who viewed natural law as a manifestation of moral wisdom embedded in the structure of the universe and human nature, to Roman philosophers such as Cicero, who argued that natural law is a universal law that remains unchanging, despite the existence of positive laws created by humans.(Nursyamsi, 2022).

According to this theory, natural law is a body of moral and ethical principles inherent in human nature and the larger world order, which can be understood through rational thought and moral reflection. These principles are considered the basis for social and legal norms accepted by society, which need to be integrated into a positive legal system to ensure justice and legitimacy. Therefore, natural law theory requires that any human-created legal system must align with these principles to be considered valid. In this context, positive law that does not reflect or contradicts natural principles is considered morally and legally inadequate. This view makes natural law theory a tool for criticizing positive law, as it allows for assessing the justice and legitimacy of law by

reference to a higher, more fundamental standard.(Siregar, 2023).

2. Positivism Theory

Positivism theory, from the perspective of legal philosophy, is an approach that emphasizes the need for objective understanding and analysis of law, based on verifiable facts and measurable structures, without regard to moral considerations or personal ethical norms.(Pradityo, 2020)Legal positivism argues that law is the result of human legislative action and that its validity depends on the existence and application of rules based on their formal texts and contexts, and agreed-upon procedures, rather than on moral standards or ethical principles that may vary between individuals or groups. The application of rules officially established by authorities is not based on conformity to moral principles or natural law. This approach, developed by philosophers such as Jeremy Bentham and John Austin in the 19th century, rejects the view that law and morality are deeply connected; instead, legal positivism focuses on the analysis of the structure, procedure, and validity of law based on criteria of formality and recognized authority.(Sulistiyowati, 2025)

From a positivist perspective, a norm or regulation is recognized as valid if it meets certain criteria established in the applicable legal system, such as being ratified by a legislative body or accepted in legal practice. Therefore, positivist theory emphasizes the importance of separating law from morality, rejecting the use of moral arguments in determining legal validity, which are considered separate fields. This approach has had a significant impact on the understanding and application of law in modern legal systems, where the primary focus is on the consistent and objective application of the law according to established procedures, without the intervention of subjectivity or moral judgment. As a result of this view, legal positivism also contributes to the ways in which laws and regulations are interpreted.

3. Theory of Justice

The Theory of Justice is an approach in moral and political philosophy that seeks to explain, evaluate, and apply the idea of justice in social, economic, and legal contexts. This theory is based on the doctrine that justice is a fundamental

principle that must be part of the structure of society so that the distribution of rights, obligations, and resources can be carried out fairly and equitably. (Asy'ari, 2021) One of the important contributions to this theory comes from the philosopher John Rawls, who in his book "A Theory of Justice", introduced the idea of "justice as equality" which emphasizes the need for principles of justice to be integrated into the basic structure of society by highlighting two main principles: first, every individual should have an equal right to a balanced system of liberties; and second, social and economic inequalities are acceptable only if they benefit the least advantaged groups in society and if positions and positions are open to all on the basis of equal opportunity.¹⁸ This idea seeks to address the injustices that may result from the unequal distribution of resources and opportunities, and argues that a social structure to be considered just must benefit the least advantaged members of society. (Muhtadi, 2021).

This theory also encompasses alternative perspectives such as Robert Nozick's theory of distributive justice, which argues that justice lies in the way ownership of goods is legitimately acquired and maintained, thus emphasizing the importance of private property rights and rejecting forced redistribution that is perceived as violating individual rights. Therefore, justice theory examines not only how rights and resources are distributed but also emphasizes the importance of legal systems and public policies that promote fairness and equal treatment for all members of society. This approach has had a significant impact on various disciplines, such as political theory, economics, and ethics, by providing a framework for assessing justice in public policy, legal systems, and everyday social interactions.

4. Universalism vs. Cultural Relativism

The debate over universalism and cultural relativism within the framework of human rights is a central topic in human rights theory, concerned with how these rights are understood and applied across different social and cultural contexts. Universalism holds that human rights are universal, independent of differences in culture, religion, or local circumstances. Proponents of universalism claim that these rights are fundamental principles that must be respected and protected worldwide,

based on the belief that every individual possesses inherently equal dignity and rights. (Asplund, 2022) On the other hand, cultural relativism emphasizes that cultural and local contexts play an important role in determining what counts as human rights, arguing that human rights standards should be adapted to the unique values, traditions, and cultural practices of each community.

Cultural relativists argue that the application of human rights principles requires accommodating cultural differences and avoiding approaches that could be interpreted as cultural domination or the colonization of Western values. This debate poses challenges in developing human rights policies and practices that are sensitive to cultural diversity while maintaining fundamental core principles. On the one hand, universalism advocates the application of uniform and comprehensive human rights standards, while on the other, cultural relativism emphasizes the importance of respecting cultural diversity and adapting to local norms. Therefore, finding a balance between universalism and cultural relativism is crucial in developing an approach to human rights that is inclusive, equitable, and sensitive to diverse social and cultural contexts. (Kusumawardani, 2023)

5. Legal Realism

Legal realism utilized the perspective of the social sciences, particularly sociology, which at the time was a relatively new discipline. Among the prominent proponents of legal realism were Karl Llewellyn and Roscoe Pound. According to Llewellyn, the goal of legal realism is to explain what the law actually does, not simply describe what the law is. (Hidayat, 2021) With an empirically based approach, legal realists lack a general theory of rights in the strict sense. They view theory as part of their research into the processes and relationships between policy, law, and legal institutions. (Zulfa, 2021) In this context, rights are considered the end result of this interaction, so they are often criticized because they are considered to ignore the moral and ethical dimensions that should be the basis for law.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

This study concludes that human rights

(HAM) rest on a complex and multidimensional theoretical foundation. Natural law theory provides a universal moral foundation that human rights are inherent in human dignity, while legal positivism provides a formal framework for these rights to be legally recognized by the state. On the other hand, justice theory emphasizes the importance of equal distribution of rights and resources within the social structure, which is then enriched by discourses of universalism and cultural relativism to balance global standards with local values. Overall, a comprehensive understanding of these various theories is crucial in creating a human rights protection system that not only has legal certainty but is also fair, responsive to the social context, and capable of protecting the dignity of every individual at the global level.

B. Suggestion

Based on the findings of this study, it is recommended that future legal studies further synergize the moral-based natural law paradigm with legal positivism so that human rights policies not only have formal certainty but also substantive justice. Scientific development needs to be directed at finding common ground between universalism and cultural relativism to create a model of human rights protection that is applicable in a pluralistic society. Furthermore, legal practitioners are recommended to integrate the principle of justice as equality in the distribution of rights and resources to strengthen the foundations of a just society.

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