

## Human Rights and the Rule of Law from the Perspective of Constitutional Democracy

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Info Articles	Abstract
<b>Article History</b> Received: 2025-07-03 Revised: 2025-07-13 Published: 2025-07-31	In the context of modern democracy, human rights (HAM) serve as the primary foundation for creating a just and sustainable social life. A state based on the rule of law, which upholds the principle of the supremacy of law, plays a crucial role in ensuring the protection and enforcement of human rights. This concept emphasizes that all citizens, including the government, are subject to the same law, thus preventing abuse of power and discriminatory practices.
<b>Keywords:</b> <i>Human Rights, Democracy, Constitutional.</i>	In Indonesia, human rights values are embedded in the Pancasila and the 1945 Constitution, but their implementation still faces various obstacles such as corruption, social inequality, and violations against minority groups. This research uses a normative-juridical approach through literature review and conceptual analysis. The results indicate that strengthening the rule of law can be achieved through judicial independence, improved legal education, and active public participation. Furthermore, globalization also influences the alignment between human rights and the rule of law through various international instruments. Therefore, strengthening the rule of law is crucial for realizing a just and inclusive society.

### I. INTRODUCTION

In the long process of Indonesia's development toward a just and prosperous society, the concepts of Human Rights (HAM) and the rule of law are two key, interrelated elements. Human rights are understood not only as fundamental rights possessed by every individual from birth, but also as moral and legal guarantees that protect human dignity from various forms of oppression. Meanwhile, a state based on the rule of law, or *rechtsstaat*, is a system of government that places the law as the supreme authority, applicable to all parties without exception, including those in power.

The relationship between the two is very close. Without a strong rule of law, human rights have the potential to remain merely a concept without concrete implementation. Conversely, a rule of law cannot ideally exist without human rights protection, as just law must be based on humanitarian values. In Indonesia, this effort has been ongoing since independence. Pancasila and the 1945 Constitution, especially after amendments, have accommodated various human rights principles such as the right to life,

freedom of expression, and equality before the law. However, in practice, gaps remain between norms and reality, such as cases of gross human rights violations, social conflicts, and practices of corruption and nepotism. In addition to internal factors, challenges also arise from global dynamics. Various international conventions, such as the ICCPR, encourage Indonesia to align its legal system with global human rights standards. Therefore, this study aims to examine how strengthening the rule of law can be a solution to effectively realizing human rights through legal reform, education, and public participation.

### II. RESEARCH METHODS

This research uses a systematic, normative-juridical approach to examine the relationship between human rights and the rule of law in Indonesia. This method focuses on conceptual and empirical analysis aligned with the values of Pancasila and the 1945 Constitution, without involving direct field research.

Some of the stages used include:

1. Literature study, namely collecting and analyzing primary legal sources such as the 1945 Constitution and international

conventions, as well as secondary sources such as books and reports related to human rights.

2. Conceptual analysis, by comparing the concepts of the rule of law and human rights and looking at the role of mechanisms such as independent judiciary and legal education in addressing various problems.
3. Empirical case studies, through the examination of real examples in Indonesia, such as the amendment of the 1945 Constitution and cases of human rights violations, to see the gap between theory and practice.

An interdisciplinary approach, combining legal, social, and political perspectives to produce applicable recommendations, is designed to make the discussion more systematic, relevant, and easy to understand.

### III. RESULTS AND DISCUSSION

#### A. Research result

This discussion continues the normative-juridical analysis from the previous introduction and methods, focusing on the intrinsic relationship between human rights (HAM) and the rule of law in Indonesia. As the foundation of constitutional democracy, the two are mutually supportive. Human rights provide moral substance, while the rule of law provides the institutional framework for their enforcement. Using literature studies and conceptual analysis, we will explore the basic concepts, implementation, challenges, strengthening mechanisms, and the influence of globalization, in order to align them with Pancasila and the 1945 Constitution as primary references.

#### B. Discussion

##### 1. Basic Concepts of Human Rights and the Rule of Law

Human Rights (HAM) are fundamental rights inherent in every individual from birth and cannot be revoked under any circumstances. These rights encompass various aspects of life, from civil and political rights to economic, social, and cultural rights, all aimed at safeguarding human dignity. In the Indonesian context, human rights values are not only universal but also rooted in the Pancasila

ideology, which emphasizes just and civilized humanity.

On the other hand, the concept of a state based on the rule of law (*rechtsstaat*) places law as the highest authority in state administration. All elements, both society and government, are required to comply with applicable legal regulations. This principle aims to prevent abuse of power and ensure justice and legal certainty. The relationship between human rights and the rule of law is complementary. The rule of law provides the institutional framework to guarantee human rights protection, while human rights provide a moral foundation to prevent the law from being misused as a tool of oppression. Without a harmonious relationship between the two, the system of government has the potential to lead to authoritarianism or instability.

##### 2. Implementation of Human Rights in the Indonesian Legal State

The implementation of human rights in Indonesia has undergone significant progress, particularly since the 1998 reforms. Constitutional changes through amendments to the 1945 Constitution provided greater scope for human rights protection, particularly through specific provisions in the chapter on human rights. Furthermore, the establishment of various institutions, such as the National Commission on Human Rights and the Constitutional Court, demonstrated the state's commitment to upholding human rights principles.

An independent judiciary is expected to guarantee justice without interference from any powerful party, allowing any human rights violations to be resolved objectively. However, the implementation of human rights is inseparable from evolving social and political dynamics. In practice, there is often a tension between traditional values and the demands of modernity, so upholding human rights requires consistency and commitment from all elements of the state. Without such support, human rights protection will remain a mere formality without any concrete implementation.

##### 3. Challenges in Human Rights Implementation

The implementation of human rights in Indonesia still faces various complex obstacles.

One of the main problems is the gap between written legal regulations and actual practice. Although regulations clearly stipulate human rights protection, their implementation is often suboptimal.

Furthermore, weak law enforcement is a serious obstacle. Many cases of human rights violations, especially large-scale ones, have not received a just resolution. This indicates problems with the independence and integrity of law enforcement officials. Political factors also influence the implementation of human rights. In some cases, the interests of power are prioritized over justice for victims. This situation often delays or even ignores the handling of human rights violations. Furthermore, low levels of public awareness of human rights pose a challenge. This lack of understanding leads to minimal public participation in monitoring human rights violations. Equally important, the prevailing culture of impunity prevents perpetrators of human rights violations from receiving appropriate sanctions, potentially leading to similar violations in the future.

#### 4. Mechanism for Strengthening the Rule of Law

Efforts to strengthen the rule of law to ensure the protection of human rights require concrete, systematic steps. One key step is to strengthen the position of human rights in the constitution, ensuring that all state policies are aligned with human rights principles.

Furthermore, regulations specifically addressing human rights protection are needed. The existence of human rights laws provides a crucial legal basis for prosecuting various forms of violations.

The role of independent institutions is also crucial. Institutions such as the National Human Rights Commission (Komnas HAM) and the Ombudsman serve as oversight of government actions, thereby preventing abuse of power.

In law enforcement, the principle of an independent and impartial judiciary must be truly realized. An independent judiciary is key to ensuring justice for all citizens.

Furthermore, public involvement is equally important. Public participation in monitoring

government policies can strengthen the legal system and ensure that human rights are truly respected in practice.

#### 5. Impact of Globalization and Recommendations

Globalization has had a significant impact on the development of human rights and the rule of law in Indonesia. Through various international conventions, countries are encouraged to align their legal systems with global standards. This provides an opportunity to improve the quality of human rights protection at the national level.

#### 6. The Role of Civil Society

Civil society plays a crucial role in strengthening the relationship between human rights and the rule of law. The existence of non-governmental organizations, activists, and advocacy groups acts as a counterweight to state power. They act as watchdogs, ensuring that the government fulfills its obligations to protect human rights.

Through various activities such as campaigns, advocacy, and litigation, civil society can push for policy changes that favor justice. This role has proven significant in Indonesia's history of reform, where public pressure successfully led to changes toward a more democratic system.

However, globalization also presents new challenges, particularly in the digital era. The rapid spread of information can trigger various forms of violations, such as hate speech, which has the potential to threaten freedom of expression. To address this, strategic steps are needed, such as the establishment of a special institution to handle human rights cases, improving legal education, and collaborating with international organizations to monitor human rights violations. This approach is expected to create a balance between local values and global standards. However, this role is not free from various obstacles, such as limited resources and pressure from certain parties. Therefore, a more open space is needed for civil society to actively participate in the law enforcement process.

## IV. CONCLUSION AND SUGGESTIONS

### A. Conclusion

Based on the discussion above, it can be

concluded that human rights and the rule of law are two inseparable concepts in realizing a just and dignified society. Human rights provide the foundation for human values, while the rule of law provides the mechanisms to uphold and protect them. In Indonesia, despite a strong constitutional foundation under the 1945 Constitution and the building of an inclusive and just democracy amidst global developments, the implementation of human rights still faces numerous challenges, such as impunity, corruption, and social inequality.

Therefore, efforts are needed to strengthen the rule of law through judicial reform, increased legal awareness, and public involvement. Therefore, strengthening the rule of law is not only a constitutional obligation but also a strategic step in building an inclusive and just democracy amidst global developments.

#### **B. Suggestion**

Based on the discussion above, here are some practical suggestions that can be implemented by the government, state institutions, and the public to strengthen the relationship between human rights and the rule of law in Indonesia. These suggestions are designed to be actionable, focusing on short- and long-term solutions, without neglecting local contexts such as Pancasila: Accelerate Institutional Reform: The government should immediately establish special human rights courts at the regional level, by reforming the Judicial Commission to increase judicial independence.

This will address impunity in serious cases such as the conflict in Papua, so that the rule of law truly protects civil and political rights. Integrate Human Rights Education into the National Curriculum: The Ministry of Education and Culture needs to include modules on human rights and the rule of law in Pancasila subjects, from elementary school to university, to raise awareness among the younger generation. This approach can be combined with digital campaigns to reach the wider community, reducing discrimination and ignorance that are at the root of violations. Encourage Wider Civil Society Participation: Engage NGOs and activists in national forums such as dialogues with the Constitutional Court, while revising laws that restrict freedom of expression. This will

strengthen the role of civil society as a watchdog, as proven effective during the 1998 Reformasi (Reformation) era, to ensure government accountability for socio-economic rights. Harmonization with global standards: Ratification and implementation of international conventions such as the ICCPR should be accelerated, with UN collaboration to monitor human rights violations in the era of globalization.

This recommendation includes training for law enforcement officials to align with Pancasila, avoiding conflicts between universal rights and local values. Regular Evaluation and Transparency: Establish an independent team to evaluate the implementation of the Human Rights Law annually, with public reporting involving civil society. This will bridge the gap between constitutional theory and practice, building public trust in the rule of law. These suggestions, if implemented gradually, can turn challenges into opportunities, realizing Indonesia as a model of a human rights-based state based on the rule of law.

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