

Human Rights Protection in the Modern Rule of Law

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ABSTRACT

The protection of human rights is a fundamental element in the concept of the modern state of law because the law not only functions as a tool to regulate people's lives, but also as an instrument of protection for the basic rights of citizens. This study aims to analyze the effectiveness of human rights protection regulations in the perspective of the modern legal state and examine the urgency of discussing these regulations in contemporary legal developments. The research uses normative juridical methods with a statutory approach and a conceptual approach. The source of legal materials consists of primary legal materials in the form of laws and regulations and secondary legal materials in the form of books, scientific journals, and academic articles for the last five years. The results of the study show that the effectiveness of human rights protection regulations is influenced by the quality of regulations, harmonization of laws and regulations, law enforcement, independence of legal institutions, and public legal awareness. In addition, technological developments and social transformation have caused the protection of human rights to continue to be adapted to the dynamics of modern law. Therefore, strengthening regulations, reforming laws, and improving the quality of law enforcement are important steps in realizing a democratic, fair legal state, and able to provide optimal human rights protection.

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1. | INTRODUCTION

The concept of the state of law is one of the main foundations in the modern constitutional system that places the law as the basis in the implementation of the life of the nation and state. In the state of law, every action of the government or society must be based on the provisions of the applicable law to ensure the creation of justice, legal certainty, and protection of citizens' rights. The existence of the state of law is not only interpreted as the supremacy of laws and regulations, but also reflects the protection of human rights as an integral part of the principles of democracy and social justice. The protection of human rights is an important indicator in assessing the extent to which a country implements the principles of the rule of law effectively and fairly. Therefore, the relationship between the state of law and the protection of human rights is very closely linked in the modern legal system.

In the context of national law, the protection of human rights has gained constitutional legitimacy through the 1945 Constitution of the Republic of Indonesia, especially in Articles 28A to 28J which regulate various forms of basic rights of citizens. In addition, the strengthening of human rights protection is also realized through Law Number 39 of 1999 concerning Human Rights which emphasizes that human rights are a set of rights inherent in the nature and existence of human beings as creatures of God Almighty that must be respected, upheld, and protected by the state, law, government, and every person. The regulation shows that the protection of human rights is not only a moral responsibility, but also a legal obligation that must be implemented in every aspect of state administration.

The development of the modern legal system also presents new challenges to the protection of human rights. Social changes, the development of information technology, digital transformation, and the dynamics of democratic life have led to the emergence of various increasingly complex legal issues. In this situation, the state is required to be able to present regulations that are adaptive and responsive to the development of society without ignoring the principles of human rights protection. According to Asshiddiqie (2021), it is not enough for the modern legal state to rely only on the rule of law, but must also be able to guarantee substantive protection of people's rights in various dimensions of life. This view shows that the effectiveness of regulations is one of the important factors in determining the success of human rights protection in the modern legal state.

On the other hand, the existence of regulations governing the protection of human rights often faces challenges in their implementation. Jurdi (2020) explained that the main problem in the state of law does not only lie in the existence of laws and regulations, but also in the consistency of law enforcement and the law's alignment with the principles of justice. This shows that the effectiveness of regulations cannot be measured solely from the existence of legal norms, but also from the ability of these regulations to provide real protection for people's rights. Thus, the discussion of the

effectiveness of regulations is important to assess the extent to which the law is able to carry out its function as an instrument for the protection of human rights.

In addition to the effectiveness of regulations, discussions about the protection of human rights are also becoming increasingly important due to changes in the legal paradigm in modern society. The development of technology and globalization has caused the scope of human rights protection to no longer be limited to conventional rights, but also includes the right to privacy, freedom of expression in the digital space, the protection of personal data, and the right to a sense of security in the use of information technology. Indra (2021) stated that the modern legal state must be able to adapt its legal system to the social development of society so that the law remains relevant and able to provide optimal protection. Therefore, the discussion on human rights protection regulations is very urgent to ensure that legal developments remain in line with the principles of democracy and social justice.

The urgency of the discussion on the protection of human rights is also influenced by the importance of maintaining a balance between state power and the rights of citizens. A democratic state of law places the law as a tool to limit power so that arbitrary actions do not occur in the administration of government. According to Adnan et al. (2022), the principle of the rule of law must be realized through the recognition of citizens' rights, equality before the law, and the existence of an effective legal protection mechanism. Thus, regulations that regulate the protection of human rights have a strategic position in maintaining legal stability, democracy, and protection of the interests of society in general.

Based on this description, this study seeks to analyze the effectiveness of human rights protection regulations in the perspective of the modern legal state and examine the urgency of discussing these regulations in the development of contemporary law. This research is important to provide an understanding of the relationship between the rule of law, the effectiveness of regulations, and the protection of human rights in the modern legal system. The research questions in this study are: (RQ1) how effective is the regulation of human rights protection in the perspective of the modern legal state? and (RQ2) why is the discussion of human rights protection regulations important and urgent in the development of contemporary law?

2. | RESEARCH METHOD

This research uses a normative juridical research method that focuses on the study of legal norms, legal principles, legal theories, and laws and regulations related to the protection of human rights in the perspective of the modern legal state. Normative juridical research is a method of legal research that places law as a system of norms built through laws and regulations, court decisions, doctrines, and legal principles that develop in society. This approach is used because the main object of the research is oriented towards the analysis of regulations as well as the concept of human rights protection in the national legal system. According to Sinaulan (2018), normative legal

research aims to identify and analyze legal principles that are the basis for the formation and application of law in order to achieve certainty and legal protection for society.

The research approaches used include statute approach and conceptual approach. The legislative approach is carried out by examining various regulations related to the protection of human rights, including the 1945 Constitution of the Republic of Indonesia, especially Articles 28A to 28J concerning human rights, Law Number 39 of 1999 concerning Human Rights, Law Number 26 of 2000 concerning the Human Rights Court, and Law Number 1 of 2023 concerning the Criminal Code. The conceptual approach is carried out through the study of various legal theories and doctrines related to the rule of law, legal protection, democracy, and human rights put forward by legal experts. The approach is used to gain a comprehensive understanding of the relationship between regulatory effectiveness and human rights protection in modern legal developments.

The legal materials used in this study consist of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations directly related to the protection of human rights and the concept of the rule of law, while secondary legal materials include books, scientific journals, academic articles, and previous research results that are relevant to the research topic. The references used are focused on scientific publications for the last five years to be in line with contemporary legal developments and relevant to the research context. In addition, this study also uses various doctrines and opinions of legal experts as a theoretical basis in analyzing the effectiveness of human rights protection regulations. According to Asshiddiqie (2021), a normative approach in legal research is needed to understand how law is formed, applied, and developed in responding to the dynamics of modern society's life.

The technique of collecting legal materials is carried out through literature studies by identifying, inventorying, and reviewing various legal sources relevant to the research. Furthermore, the collected legal materials were analyzed using a qualitative descriptive analysis method. The analysis is carried out by connecting the provisions of laws and regulations, legal theory, and the concept of human rights protection to obtain an overview of the effectiveness of regulations in the perspective of the modern legal state. Through this method, this research is expected to be able to provide a systematic and comprehensive analysis of the protection of human rights as an important part of the implementation of a democratic and just state of law.

3. | RESULTS

The Effectiveness of Human Rights Protection Regulations in the Perspective of the Modern Legal State

The protection of human rights is one of the fundamental elements in the concept of the modern state of law. The state of law not only places the law as the basis for the administration of government, but also makes the law an instrument of protection for the rights of the community. In the legal state system, the existence of regulations has

a strategic function to create legal certainty, justice, and protection for every citizen. Therefore, the effectiveness of human rights protection regulations is an important indicator in assessing the quality of the implementation of the rule of law. Effective regulation is not only measured by the existence of formal legal norms, but also by the extent to which these regulations can be applied consistently in people's lives.

In the context of national law, the protection of human rights obtains a constitutional basis through the 1945 Constitution of the Republic of Indonesia, especially Articles 28A to 28J which regulate various basic rights of citizens. The strengthening of protection was then clarified through Law Number 39 of 1999 concerning Human Rights which emphasizes that the protection of human rights is the responsibility of the state, government, law, and society. In addition, Law Number 26 of 2000 concerning the Human Rights Court provides a legal basis for the mechanism for resolving human rights violations through the judicial process. The presence of these various regulations shows the state's commitment to building a legal system that guarantees the protection of human rights normatively.

Nonetheless, the effectiveness of human rights protection regulations depends not only on the existence of the rule of law, but also on the implementation and enforcement of the law in practice. Asshiddiqie (2021) states that the modern legal state must be able to guarantee substantive protection of people's rights through fair and non-discriminatory law enforcement. This view shows that regulations will lose their effectiveness if they are not accompanied by a consistent law enforcement mechanism. In many conditions, the main problem lies not in the lack of regulation, but in the weak implementation of legal norms in social and administrative life.

The effectiveness of regulations is also influenced by the quality of synchronization between laws and regulations. In the modern legal country, regulatory harmonization is needed so that there is no overlap of norms that have the potential to cause legal uncertainty. Nasir (2020) explained that legal certainty is one of the main principles of the state of law that must be realized through clear, consistent, and effectively applicable regulations. When the regulation of human rights protection is not in sync with social developments and the needs of the community, the law will experience difficulties in carrying out its function as a tool to protect the rights of citizens. Therefore, legal reform is an important part of increasing the effectiveness of human rights protection regulations.

In addition to regulatory harmonization, the effectiveness of human rights protection is also closely related to the existence of independent and professional law enforcement agencies. Jurdi (2020) stated that a democratic state of law must ensure law enforcement that is free from power intervention so that the law can provide fair protection to the community. In this perspective, the effectiveness of regulations cannot be separated from the integrity of legal institutions and law enforcement officials. Good regulation will be difficult to achieve the goal of legal protection if it is not supported by a transparent and accountable law enforcement system.

The development of modern society also affects the effectiveness of human rights protection regulations. Digital transformation, the development of information technology, and globalization present new forms of rights violations that were not previously specifically regulated in the conventional legal system. Indra (2021) explained that modern law must be able to adapt to the social development of society in order to remain relevant in providing legal protection. In this context, the existence of Law Number 1 of 2023 concerning the Criminal Code is part of efforts to reform national law to adapt the legal system to the development of modern society. The regulatory update shows that the effectiveness of the law requires the ability to adapt to social changes and technological developments.

The effectiveness of human rights protection regulations is also related to public legal awareness. Anggraeni and Damayanti (2022) explained that the success of law enforcement is influenced by factors of legal substance, law enforcement officials, facilities and facilities, legal culture, and the level of public awareness of the law. In this perspective, good regulation requires the support of a strong legal culture so that legal norms can be accepted and implemented effectively in people's lives. Therefore, legal education and increasing public awareness of human rights are an important part of supporting the effectiveness of regulations.

In a modern legal state, the effectiveness of human rights protection regulations must also be measured by their ability to provide a sense of justice and protection to society at large. Sari (2020) stated that legal protection has a preventive and repressive function, namely preventing violations of the law and providing a settlement mechanism in the event of a violation of rights. Thus, effective regulation is not only oriented towards punishment, but also on efforts to prevent and protect citizens' rights in a sustainable manner.

Based on this description, it can be understood that the effectiveness of human rights protection regulations in the perspective of the modern legal state is influenced by various factors, including the quality of regulations, the harmonization of laws and regulations, the independence of law enforcement agencies, the ability of the law to adapt to social developments, and the legal awareness of the community. Effective regulations must be able to ensure the substantive protection of people's rights through a legal system that is fair, consistent, and responsive to the times. Thus, the success of the modern state of law is largely determined by the ability of regulation to create a balance between legal certainty, justice, and the protection of human rights.

The Urgency of Discussing Human Rights Protection Regulations in Contemporary Legal Developments

The discussion of the regulation of human rights protection in the development of contemporary law has a very high level of urgency because human rights are a fundamental element in the modern legal state system. In the state of law, the existence of the law not only functions as a tool of social control, but also as an instrument of protection of the basic rights of society. The development of modern society,

characterized by technological advances, globalization, and changes in social interaction patterns, has caused the scope of human rights protection to become increasingly broad and complex. Therefore, regulations governing the protection of human rights must continue to be discussed and developed in order to be able to adapt to the dynamics of contemporary society's lives.

The urgency of discussing human rights protection regulations can be seen from the importance of maintaining a balance between state power and citizen freedom. In the concept of the state of law, law has a function to limit power so that arbitrary actions do not occur in the administration of government. Jurdi (2020) explained that a democratic state of law must place the law as a means of supervision over the use of state power while ensuring the protection of people's rights. Thus, human rights protection regulations are important to ensure that any government action remains within the legal corridor and does not violate the principles of justice.

In addition to the limitation of power, the discussion of human rights protection regulations is also urgent due to the development of increasingly complex forms of rights violations. In the digital age, human rights are no longer limited to conventional rights such as the right to life, freedom of opinion, and equality before the law, but also include the right to privacy, personal data protection, freedom of expression in the digital space, and the right to information security. Indra (2021) stated that the development of information technology requires the legal system to be able to present adaptive regulations so that legal protection for the community can still be guaranteed. Therefore, discussions on human rights protection regulations need to be carried out on an ongoing basis so that the law is able to keep up with the development of modern society.

The urgency of human rights protection regulations is also related to efforts to create legal certainty in people's lives. In the modern legal state, legal certainty is the main principle that must be realized through clear, consistent, and effectively enforceable regulations. Adnan et al. (2022) explained that regulatory uncertainty has the potential to cause legal uncertainty which can ultimately reduce the protection of people's rights. Therefore, the discussion of human rights protection regulations is important to ensure that the legal system has the ability to provide fair and equal legal protection to all citizens.

In the context of national law, the urgency of protecting human rights is reflected in various regulations that provide guarantees for citizens' rights. The 1945 Constitution of the Republic of Indonesia through Articles 28A to 28J regulates various forms of citizens' basic rights as part of the principle of the state of law. This arrangement is strengthened through Law Number 39 of 1999 concerning Human Rights which emphasizes that the protection of human rights is the obligation of the state and the government. In addition, Law Number 26 of 2000 concerning the Human Rights Court provides a legal basis for the mechanism for resolving human rights violations through the judicial process. The presence of these regulations shows that the discussion of

human rights protection has a strategic position in the development of the national legal system.

Contemporary legal developments also show that the protection of human rights is an important part of maintaining the stability of democracy and the social life of the community. Asshiddiqie (2021) states that the modern legal state must be able to provide protection for people's rights substantively, not just a normative formality. This shows that human rights protection regulations not only function as a legal symbol, but must also be able to create a sense of justice and security in society. Thus, the discussion of human rights protection regulations is important to ensure that the law remains relevant to the needs of modern society.

The urgency of discussing human rights protection regulations is also influenced by the need for legal reform in the face of the times. Social transformation and technological developments have led to the emergence of various new legal problems that require continuous regulatory adjustments. In this context, Law Number 1 of 2023 concerning the Criminal Code is a form of national law reform that aims to adapt the legal system to the development of contemporary society. The presence of the new regulation shows that the legal system must be dynamic in order to remain able to provide effective protection for people's rights.

In addition, the discussion of human rights protection regulations is also important in increasing public legal awareness. Anggraeni and Damayanti (2022) explained that legal awareness is an important factor in the successful implementation of the law in society. Good regulations will be difficult to run effectively if people do not understand their rights and obligations in the legal system. Therefore, discussions on the protection of human rights are not only needed in academic and legislative contexts, but also in efforts to build a legal culture that upholds the principles of justice and respect for people's rights.

Sinaulan (2018) stated that legal protection has a preventive and repressive function in safeguarding people's rights. The preventive function aims to prevent rights violations, while the repressive function aims to resolve disputes and provide justice in the event of a violation of the law. In this perspective, the urgency of discussing human rights protection regulations lies in efforts to create a legal system that is not only able to punish violations, but also to prevent the abuse of power and violations of citizens' rights.

Based on this description, it can be understood that the discussion of human rights protection regulations has a very important urgency in the development of contemporary law. Regulations on the protection of human rights are needed to maintain a balance between state power and citizens' rights, create legal certainty, adapt the law to modern technological and societal developments, and strengthen democratic systems and the rule of law. Therefore, the development of human rights protection regulations must continue to be carried out so that the law is able to provide fair, effective, and relevant protection to the needs of modern society.

4. | CONCLUSION

The protection of human rights is a fundamental element in the concept of the modern legal state because law basically functions not only as a tool to regulate people's lives, but also as a means of protection of the basic rights of citizens. From the perspective of the state of law, the existence of regulations has an important role in creating legal certainty, justice, and protection of the community from arbitrary actions. The Constitution and various laws and regulations governing human rights show the state's commitment to ensuring the protection of people's rights normatively and institutionally. However, the effectiveness of human rights protection regulations is not only determined by the existence of the rule of law, but also influenced by the quality of implementation, law enforcement, harmonization of regulations, independence of legal institutions, and the level of legal awareness of the community.

Contemporary legal developments show that the challenges of human rights protection are increasingly complex due to social transformation, information technology developments, and globalization. This condition causes the scope of human rights protection to expand not only on conventional rights, but also includes the protection of digital rights, privacy, information security, and freedom of expression in the digital space. Therefore, human rights protection regulations must continue to be updated and adjusted to the development of society so that they remain relevant and able to provide effective legal protection. The discussion of human rights protection regulations is very important because it is directly related to efforts to maintain a balance between state power and citizen freedom in the modern democratic system.

Thus, the protection of human rights in the perspective of the modern legal state requires a legal system that is adaptive, responsive, and oriented towards substantive justice. An effective state of law must be able to present regulations that not only provide formal legal certainty, but also ensure the protection of people's rights in real life in social life. Therefore, strengthening regulations, reforming laws, improving the quality of law enforcement, and strengthening public legal awareness are important steps in realizing a democratic, just state of law system that is able to optimally protect human rights.

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The authors declare that there is no conflict of interest.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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