

HUMAN RIGHTS IN THE FRAMEWORK OF PANCASILA IDEOLOGY

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Abstrak

Kajian ini menganalisis konsep dan implementasi hak asasi manusia (HAM) dalam kerangka ideologi Pancasila, dengan mengeksplorasi perspektif teoretis dan praktis. Kajian ini menelusuri dasar historis dan filosofis HAM yang berakar pada teori hukum alam serta dikembangkan melalui kontribusi tokoh-tokoh seperti John Locke, Edmund Burke, dan Jeremy Bentham, serta penerapannya dalam sistem sosial-budaya dan hukum di Indonesia. Dengan menggunakan metode kualitatif deskriptif, penelitian ini memanfaatkan data dari literatur akademik, dokumen hukum, dan interpretasi Pancasila yang berfokus pada prinsip Ketuhanan, Kemanusiaan, Persatuan, Demokrasi, dan Keadilan. Hasil penelitian menunjukkan bahwa Pancasila mengintegrasikan prinsip-prinsip universal HAM dengan realitas sosial-budaya Indonesia, yang menjadi panduan dalam menyelesaikan masalah kemanusiaan dan mendorong persatuan dalam masyarakat yang beragam. Namun, tantangan seperti perdebatan historis tentang inklusi HAM dalam UUD 1945 dan isu-isu kontemporer seperti rasisme dan diskriminasi masih tetap ada. Penelitian ini menyimpulkan bahwa Pancasila berfungsi sebagai ideologi dasar untuk menjunjung tinggi martabat manusia, keadilan, dan kesetaraan. Untuk mengatasi tantangan tersebut, diperlukan upaya untuk mendidik masyarakat, mempromosikan toleransi, dan memastikan dukungan pemerintah terhadap inisiatif yang memperkuat nilai-nilai kemanusiaan dan solidaritas, sehingga menegaskan pentingnya HAM dalam mencapai persatuan, perdamaian, dan kesejahteraan nasional.

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Abstract

This study analyzes the concept and implementation of human rights (HAM) within the framework of Pancasila ideology, exploring both theoretical and practical perspectives. It examines the historical and philosophical foundations of human rights, rooted in natural law theory and developed through contributions from figures such as

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John Locke, Edmund Burke, and Jeremy Bentham, as well as their application in Indonesia's socio-cultural and legal systems. Employing a descriptive qualitative method, the study utilizes data from academic literature, legal documents, and interpretations of Pancasila, focusing on its principles of Divinity, Humanity, Unity, Democracy, and Justice. The findings reveal that Pancasila integrates universal human rights principles with Indonesia's socio-cultural realities, guiding the resolution of humanitarian issues and fostering unity in a diverse society. However, challenges such as historical debates over the inclusion of human rights in the 1945 Constitution and contemporary issues like racism and discrimination persist. The study concludes that Pancasila serves as a foundational ideology for upholding human dignity, justice, and equality. To address these challenges, efforts are needed to educate citizens, promote tolerance, and ensure government support for initiatives that strengthen human values and solidarity, highlighting the importance of human rights in achieving national unity, peace, and prosperity.

INTRODUCTION

Indonesia is a nation founded and developed with Pancasila as its national identity. Indonesians embrace Pancasila as both a way of life and a state ideology, integrating its fundamental values and principles into their behavior, attitudes, and character. As a constitutional state, it can be asserted that every aspect of governance in the Republic of Indonesia must adhere to the applicable laws, including matters related to human rights (Danugroho, 2022a).

Human rights are universal values, and as a member of the global community, the Indonesian nation and state cannot afford to be apathetic. The implementation of human rights within Indonesia's legal framework must be supported by clear and firm laws and regulations, including mechanisms for their enforcement and protection. According to Raharjo, an objective review reveals that human rights are inherent to human beings and must be respected and recognized by the government (Nasution & Zein, 2006).

Our country is a nation that operates all systems and aspects of life based on rules derived from the sovereignty of the people themselves (Badan Penelitian dan Pengembangan HAM, 2009). The demand for resolving cases of human rights violations led to the establishment of Law Number 39 of 1999 concerning Human Rights, followed by Law Number 26 of 2000 concerning the Human Rights Court. These laws were enacted to address various issues of human rights violations, particularly serious violations.

The statement above can be interpreted to mean that human rights are not confined to any specific limitations; they encompass both highly virtuous and deeply unethical actions. Human rights are based on God's gift, inherent and granted to humans from birth. However, the realization of human rights does not imply that they can be fully exercised without restriction, as this could infringe upon the rights of others. Disregarding the rights of others in the pursuit of one's own is inhumane and constitutes a violation of human rights, whether consciously or not. It must be understood that the exercise of human rights is always bound by the rights of others (Cranston, 1973).

December 10 is celebrated as Human Rights Day. According to many beliefs, Human Rights Day marks the birth of a just and free human civilization, liberated from all forms of oppression and exploitation. Human rights are the fundamental rights inherent to every person as a human being, often referred to as human rights (Jauhariah, 2016). These rights are inherent simply because one is human, and they must be possessed by all individuals without exception. Human rights are neither granted nor imposed; they are inherently derived from the dignity of being human (Jauhariah, 2016; Danugroho, 2022b).

A sense of responsibility towards humanity does not emerge suddenly, nor does it create global human rights values without considering various factors such as religious views, security, and societal peace, which significantly influence respect for human rights. Law enforcement and legislation are instruments of political decisions and actions, which David Trubeck refers to as "purposive human action." A well-ordered legal system should aim to provide justice for all individuals. The fundamental principle of justice is the recognition that all people possess equal rights and dignity, irrespective of differences in religion, culture, race, or gender. The most essential rights are rooted in human nature and humanity itself. The humanity of every individual is a sacred trust and a noble concept bestowed by God Almighty (Putri et al, 2023).

Theoretically, human rights are embedded in the relationship between humans and God, or creatures and their Creator. Fundamentally, all human beings hold equal positions and possess the same rights without any form of distinction (Asshidiqie, 2006). Pancasila serves as the ideology of our nation and a source of inspiration for human rights in Indonesia. Additionally, Pancasila upholds human values as its core principles. The ideology of Pancasila, formulated by Soekarno, Moh. Hatta, and others, represents the main ideas that have been developed into what is now recognized as the ideology of Pancasila. This ideology acts as the spearhead, embodying the soul and spirit that strive to realize the principles of justice (Nurcholis, 2005).

Based on these considerations, The objective of this study is to analyze the concept and implementation of human rights within the framework of Pancasila ideology, both from theoretical and practical perspectives. This research aims to explore the historical and philosophical foundations of human rights, including their roots in natural law theory and their development in international contexts. Additionally, the study seeks to examine the application of human rights principles in Indonesia, focusing on their integration into the nation's socio-cultural and legal systems as guided by Pancasila. By addressing historical debates, contemporary challenges, and societal dynamics, this research endeavors to highlight the role of Pancasila in promoting human rights and fostering unity and harmony in Indonesia's diverse society. Ultimately, the study aspires to contribute to the understanding of how Pancasila serves as a foundational ideology for upholding human dignity, justice, and equality.

METHOD

This study employs a descriptive qualitative method aimed at analyzing the concept and implementation of human rights within the context of Pancasila ideology. This approach enables the researcher to explore the origins of human rights through theoretical analysis, including the thoughts of figures such as John Locke, Edmund Burke, and Jeremy Bentham, and their influence on the development of international human rights. Furthermore, the study highlights the application of human rights in Indonesia, both from a historical perspective, such as debates during the drafting of the 1945 Constitution, and in contemporary contexts, including issues of religious tolerance, discrimination, and

racism. The data utilized includes academic literature, legal documents, and interpretations of Pancasila as the foundation of the state, encompassing the principles of Divinity, Humanity, Unity, Democracy, and Justice. Through this method, the study not only describes the relationship between human rights and Pancasila but also emphasizes the importance of implementing human rights values to maintain unity and integration in a diverse society. This approach is particularly relevant in analyzing how Pancasila serves as a foundation for promoting human rights in the national and state life of Indonesia.

RESULT AND DISCUSSION

Fundamental Concepts of Human Rights Thought

Human rights are inherent rights possessed by every individual simply because they are human. These rights are not granted by society or established through positive law but are rooted in the inherent dignity of human beings (Naning, 1983). Regardless of differences in gender, language, culture, or nationality, every individual is entitled to these rights, reflecting the universal nature of human rights. These rights are also inalienable, meaning that no matter how poorly someone is treated or how severe the injustice they endure, they remain human and retain these rights.

The ideas mentioned above stem from the natural rights theory, which is rooted in the natural law theory. This theory, originally developed by Saint Thomas Aquinas, was later expanded by Hugo de Groot (Grotius), who removed its theistic origins and reframed it as a product of rational secular thought. Following the Renaissance, John Locke introduced the concept of natural rights, which served as the foundation for the "rights revolution" during the revolutions in England, the United States (US), and France in the 17th and 18th centuries.

Pancasila is generally understood as the embodiment of five principles. These principles represent the soul of the Indonesian people, providing the life force that drives the nation toward continuous improvement, both physically and mentally, in the pursuit of a just and prosperous society. Recognition of Pancasila's existence is imperative and non-negotiable. This means that everyone within the territory of the Republic of Indonesia is obligated to respect Pancasila as the way of life of the Indonesian people. Moreover, Pancasila serves as the psychological foundation of the people and the state of the Republic of Indonesia (Henni, 2015).

On the other hand, human rights refer to rights inherent in every human being from birth, valid throughout their lifetime, and cannot be contested by anyone. Human rights are intrinsic to humans as creations of Allah SWT, encompassing rights such as the right to life, safety, freedom, and equality, which cannot be violated by anyone and are regarded as sacred. Additionally, human rights are natural rights that cannot be separated from the essence of humanity. They are fundamental rights rooted in the character of every individual and cannot be revoked by anyone.

The idea of human rights based on the concept of natural law faced serious challenges in the 19th century. Edmund Burke, an Irish thinker troubled by the French Revolution, was one of the prominent opponents of the natural rights theory. Burke accused the drafters of the Declaration of the Rights of Man and of the Citizen of propagating "scary fictions about human equality." For Burke, the declarations born out of the French Revolution represented flawed ideas and false hopes for humanity, which he viewed as destined to endure an uncertain and difficult existence. However, the most notable critic of the natural

rights theory was Jeremy Bentham, a utilitarian philosopher from England. Bentham's primary critique was that the theory of natural rights is unverifiable and lacks empirical confirmation.

Human life and civilization have undergone various developments over time. One of these developments is the understanding and interpretation of human rights. In the context of human rights, the state serves as the primary legal subject because it is the main entity responsible for protecting, upholding, and advancing human rights. The term "human rights" is a direct translation of the term human rights. In Indonesia, the term HAM is commonly used. While there are several interpretations of human rights that define them differently, they essentially share the same core meaning. One such interpretation defines human rights as inherent rights possessed by individuals from birth as part of their existence in society (Manan, 2001).

The meaning of human rights must not be understood in a univocal way (having a single meaning) but rather analogously, allowing for both commonalities and differences. Although human rights are fundamentally inherent in human nature, it is a relatively recent phenomenon that some parts of humanity have recognized the importance of human rights for establishing a well-ordered society. The state also formulated human rights that were pre-constitutional in nature, meaning they existed before the drafting of the 1945 Constitution. This indicates that ideas and concepts related to human rights preceded the Constitution's formulation. Consequently, statesmen sought to integrate human rights into the 1945 Constitution and establish regulations for their implementation. The values of human rights vary in scope, content, and application, depending on the culture, character, and ideology of each nation (Alkostar, 2000).

Human rights are inherent to every human being, making them universal. Wherever there are humans, there are human rights. These rights must be respected and upheld without exception. Fundamental human rights are not contingent upon recognition by individuals, society, or the state. Humans receive these basic rights directly from God according to their nature (*secundum summam naturam*). Any form of violation of these rights, such as slavery, discrimination, mass killings, or religious oppression, is fundamentally opposed to justice and humanity (Prinst, 2001).

The concept of natural rights, derived from natural law, is a defining characteristic of the American Declaration of Independence and the French Declaration of Human Rights. Much of the emphasis on natural rights originates from John Locke's Second Treatise of Government. Locke's definition of natural rights became a pivotal moment in the historical development of political ideas surrounding human rights. The declarations of human rights in the 17th and 20th centuries were heavily influenced by John Locke's ideas. The inalienable natural rights, recognized as political values during the American and French revolutions, were rights championed by John Locke.

These rights include the right to life, the right to freedom, and the right to property. Although many in 18th-century Europe discussed and debated human rights, human rights were constitutionally established for the first time in America through the Unanimous Declaration of Independence. Human rights serve as the foundation of independence, freedom, peace, and justice. Consequently, human rights encompass all aspects necessary for humans to maintain their humanity, including political, economic, social, and cultural dimensions. However, in the political realm, human rights can also be used as a tool of political leverage by one country against another (Nowak, 2005).

There are several principles of human rights on an international scale. The first is the principle of equality, which asserts that all human beings are fundamentally the same, without distinctions based on gender, skin color, ethnicity, culture, religion, or nationality. The second is the principle of non-discrimination, which guarantees every individual the right to be free from discrimination. The third is the principle of dependency, emphasizing that the fulfillment of certain rights often depends on the fulfillment of other rights, either partially or entirely. The fourth principle is reciprocity. The fifth is the principle of universalism, regarded as the highest principle, where human rights are universally applicable to all people, everywhere (Prasetyo, 2001). Human rights in Indonesia experience various dynamics, characterized by struggles to uphold them, including challenges in their rejection and application. Numerous efforts have been undertaken to promote and uphold human rights in Indonesia.

Human Rights Law and Its Relation to Pancasila

Human rights in Indonesia are rooted in the ideology of Pancasila. This means that the implementation of human rights must align with the principles established in the Pancasila ideology. It emphasizes that the realization of human rights in Indonesia is not entirely unrestricted but must adhere to the provisions outlined by Pancasila. The Pancasila ideology encourages people to consider the dynamics of the nation's realities. Indonesian leaders have sought to formulate laws as a framework to regulate human behavior through legal authority, not only in the form of codified regulations but also in their practical implementation (Astuti, 2015).

After examining the explanation above regarding human rights and the Pancasila Ideology, it becomes evident that humans are positioned with noble dignity as creatures of God Almighty, aware of their dual nature as both individual and social beings (Kaelan, 2002). Based on this truth, fundamental rights and obligations can be outlined in relation to each precept of Pancasila.

The first precept emphasizes human rights as the freedom to determine one's religion without coercion and the liberty to choose personal beliefs. This includes mutual respect among different faiths and the freedom to practice worship according to one's religion or beliefs. The second precept highlights human rights in the form of mutual recognition of equality, rights, and obligations among individuals. This recognition fosters an attitude that rejects discrimination based on ethnicity, race, religion, belief, gender, social status, or skin color. Furthermore, it promotes humanitarian actions and eliminates all forms of slavery, abuse, exploitation, and discrimination.

The third precept reflects human rights through the prioritization of unity, integrity, and collective interests over individual desires. The Indonesian people are encouraged to sacrifice for the state and national interests when needed. With a love for the motherland and pride in their identity as Indonesians, they strive to strengthen national unity and harmony based on *Bhinneka Tunggal Ika* (Unity in Diversity). Meanwhile, the fourth precept underscores that all elements of Indonesian society have equal rights and obligations. However, in exercising these rights, individuals must prioritize the common good and refrain from imposing their will. The principle of deliberation, carried out in a spirit of kinship, ensures decisions are made responsibly, morally accountable to God Almighty, and aligned with truth, justice, and human dignity.

Finally, the fifth precept conveys that Indonesians should develop noble values that reflect mutual cooperation, fairness, and a balance between rights and obligations. It encourages a spirit of social solidarity, the avoidance of discrimination, intolerance, and exploitation, and refraining from actions that harm others. However, the formulation of human rights in Indonesia has not always been smooth or universally accepted. The early history of human rights faced various debates and challenges among statesmen. This was evident during the drafting of the 1945 Constitution by BPUPK members in July 1945, which encountered significant difficulties. Despite these challenges, human rights in Indonesia continue to be upheld within the framework of solidarity and mutual cooperation.

The growing complexities surrounding human rights in Indonesia can be analyzed from both theoretical and juridical perspectives. Broadly, there are three distinct views on human rights in the country. The first group believes that Indonesia, with its Pancasila ideology, upholds humanity, justice, and civilization. They argue that the 1945 Constitution explicitly guarantees several fundamental rights for its citizens. In contrast, the second group opposes the concept of human rights. They contend that human rights, as an idea rooted in liberal ideology, are incompatible with the culture, character, and ideology of the Indonesian nation. This group, associated with Soekarno, asserts that human rights could hinder the effective functioning of government, even when it has good intentions. Lastly, the third group defends human rights, pointing to evidence of human rights violations. They aim to raise awareness among the populace about their fundamental rights and the need to protect them.

Soekarno, as one of the prominent figures opposing the inclusion of human rights in the 1945 Constitution, provided several arguments for his stance. First, he believed that the rights of citizens, as individual rights, could lead to conflicts and contradictions within society if incorporated into the Constitution. Second, he viewed human rights as rooted in individualism, which he associated with liberalism, capitalism, and colonialism—ideologies that contradicted Indonesia's values. Finally, Soekarno argued that human rights were less significant compared to more urgent issues, such as achieving social justice for all Indonesian people.

Human rights, as the foundation of human independence, must serve as a driving force toward achieving the ideal of humanity's perfection. Moreover, the concept of human rights is expected to foster a better, more peaceful, and prosperous life. The formulation of human rights within the Pancasila ideology has been carefully crafted by statesmen. However, in practice, these rights have not been fully realized by all Indonesians. This is evident from the persistence of various humanitarian issues that continue to arise. Therefore, efforts are needed to raise awareness among Indonesians to embody and practice human values in their daily lives (Chazawi, 2002).

Indonesia, as a country rich in cultural, ethnic, linguistic, religious, and social diversity, must uphold human rights in its social life. By adhering to human values, Indonesia can become a peaceful nation free from humanitarian issues. Pancasila, as the state ideology, provides clear guidance on how human rights should be implemented in Indonesia. These guidelines are reflected in the interpretations of human rights within the framework of Pancasila (Naning, 1983). Therefore, as citizens who uphold the Pancasila ideology, Indonesians must strive to apply all forms of human values as well as fulfill the rights and obligations embedded within the Pancasila principles.

Unity and cohesion within a country are essential elements for its stability. With unity and oneness, a nation can achieve peace, prosperity, and strength (Supeli, 2001). Therefore, the Indonesian people must uphold the unity and integrity envisioned by the nation's

founding fathers. One way to preserve this unity and integrity is by applying the principles of human rights embedded in the ideology of Pancasila. As a nation with diverse religions and beliefs, Indonesians must strive to maintain unity to foster religious tolerance and harmony across the country (Supriyanto, 2014).

Human rights in the ideology of Pancasila emphasize that every individual must respect and uphold tolerance in matters of religion. This includes refraining from imposing one's religion on others, interfering with others' worship practices, or persecuting or discriminating against people of different faiths (Syarbaini, 2003). Unity and harmony in Indonesia can only be achieved if all Indonesians apply and embody the values of human rights in their daily lives. Without this, Indonesia will remain plagued by various humanitarian issues, such as the increasing prevalence of racism in recent years. Therefore, it is imperative for all elements of society in Indonesia to work together to uphold human values and eradicate all forms of intolerance or divisive attitudes that threaten national unity.

CONCLUSION

Human rights are inherent and universal rights rooted in the dignity of human beings, transcending differences in gender, ethnicity, religion, or nationality. The concept of human rights, deeply influenced by natural law and further developed by thinkers such as John Locke, has served as a foundation for modern human rights frameworks. In Indonesia, the ideology of Pancasila integrates these universal principles with the nation's socio-cultural realities, emphasizing the values of divinity, humanity, unity, democracy, and justice. These principles serve as a guide for addressing humanitarian issues and fostering unity within Indonesia's diverse society. However, the implementation of human rights in Indonesia faces challenges, including historical debates over their inclusion in the 1945 Constitution and the persistence of issues such as racism and discrimination. To uphold human rights effectively, efforts must be made to educate citizens, promote tolerance, and ensure government support for initiatives that strengthen human values and solidarity. As a unifying ideology, Pancasila underscores the importance of human rights as a means to achieve peace, justice, and the harmonious coexistence necessary for national stability and prosperity.

REFERENCES

- Alkostar, A. (2000). *Negara tanpa hukum (Catatan pengacara perjalanan)*. Universitas Islam Indonesia.
- Asshidiqie, J. (2006). *Hukum acara pengujian undang-Undang*. Konstitusi Press.
- Astuti, G. F. Y. (2015). Relevansi hukum adat dalam pembaharuan hukum pidana di Indonesia. *Pandecta*, 10(2), 195-214.
- Badan Penelitian dan Pengembangan HAM. (2009). *Panduan penelitian di bidang HAM*. Departemen Hukum dan HAM Republik Indonesia.
- Chazawi, A. (2002). *Pelajaran hukum pidana bagian 1 stelsel pidana teori-teori pemidanaan dan batas-batas berlakunya hukum pidana*. PT Raja Grafindo.
- Cranston, M. (1973). *What are human rights*. Basics Book.
- Danugroho, A. (2022a). *Mengartikan ketahanan nasional*. Pustaka Aksara.
- Danugroho, A. (2022b). *Pendidikan dalam kacamata ketahanan nasional*. Jejak Pustaka.
- Henni, M. (2015). Analisis yuridis normatif sinkronisasi patron daerah dengan hak asasi manusia. *Jurnal Humanus*, 14(1), 80-91.
- Bakri, R. A., Putri, V. A. A., Purwanto, E., & Danugroho, A. (2024). Human rights in the framework of Pancasila ideology. *Journal of Humanities and Civic Education*, 2(1), 42-50.

- Jauharih. (2016). *Dinamika hukum & HAM*. Penerbit Cintya Press.
- Kaelan. (2002). *Filsafat Pancasila*. Paradigma.
- Manan, B. (2001). *Reformasi keadilan dan penegakan hukum di Indonesia*. Universitas Islam Indonesia.
- Naning, R. (1983). *Cita dan citra hak-hak asasi manusia di Indonesia*. Lembaga Kriminologi Universitas Indonesia.
- Nasution, A. & Zein, A. (2006). *Instrumen internasional pokok hak asasi manusia*. Yayasan Obor Indonesia.
- Nowak, M. (2005), U. N. *Covenant on civil and political rights*. CCPR Commentary, 2nd revised edition. N.P. Engel Verlag.
- Nurcholis, H. (2005). *Teori dan praktik pemerintahan dan otonomi daerah*. Grasindo.
- Prasetyo, E. (2001). *Hak asasi manusia kejahatan negara dan imperialisme modal*. INSIST.
- Prinst, D. (2001). *Sosialisasi dan diseminasi penegakan hak asasi manusia*. Citra Aditya Bakti.
- Putri, A., Amanda, D., Yanti, R. F., Amin, A., & Batubara, A. K. (2023). Hak asasi manusia dalam perspektif Islam. *Al-Wasathiyah: Journal of Islamic Studies*, 2(2), 195-208.
- Supeli, K. L. (2001). Tak ada jalan pendek menuju rekonsiliasi. *Jurnal Demokrasi dan HAM*, 1(3), 1-24.
- Supriyanto, B. H. (2014). Penegakan hukum mengenai hak asasi manusia (HAM) menurut hukum positif di Indonesia. *Jurnal Al- Azhar Indonesia Seri Pranata Sosial*, 2(3), 151-168.
- Syarbaini, S. (2003). *Pendidikan Pancasila di perguruan tinggi*. Ghalia Indonesia.