

PROTECTION OF HUMAN RIGHTS IN THE CRIMINAL JUSTICE SYSTEM: CONTEMPORARY CHALLENGES AND SOLUTIONS

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ABSTRACT

Objective: This research aims to comprehensively analyze the multifaceted challenges surrounding the protection of human rights within the criminal law system. Specifically, it seeks to identify the key obstacles hindering the realization of human rights in the criminal legal process and propose contemporary solutions to address these challenges. The study focuses on the Indonesian context to provide practical insights into the efforts made by the government to enhance human rights protection within the criminal justice system.

Theoretical Framework: The study is grounded in the premise that the criminal law system encompasses legal regulations governing criminal acts, with variations shaped by local laws, culture, and legal principles. Key components include criminal law, law enforcement, criminal justice, punishment, rehabilitation, and adherence to human rights principles.

Methods: The research relies on a comprehensive review of existing literature, legislation, and policy documents related to human rights in the Indonesian criminal justice system. It critically evaluates the challenges and proposes solutions based on a thorough analysis of the available data.

Result and Conclusion: The study reveals that Indonesia faces various challenges in ensuring human rights protection in the criminal justice system, including unequal law enforcement, violence, substandard prison conditions, corruption, discrimination, and violence against vulnerable groups. To address these challenges, the Indonesian government is actively working to reform the criminal law system, align it with international human rights standards, and prioritize justice and human rights protection within the criminal justice process.

Originality/Value: This research contributes to the ongoing discourse on human rights and criminal law by providing a detailed analysis of challenges and solutions in the Indonesian context. It highlights the importance of aligning domestic criminal law systems with international human rights standards for a more just and equitable society.

Keywords: Human Rights; Criminal Law; Judiciary; Challenges and Solutions.

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PROTEÇÃO DOS DIREITOS HUMANOS NO SISTEMA DE JUSTIÇA PENAL: DESAFIOS E SOLUÇÕES CONTEMPORÂNEAS

RESUMO

Objetivo: Esta pesquisa visa analisar de forma abrangente os desafios multifacetados que cercam a proteção dos direitos humanos no sistema de direito penal. Especificamente, procura identificar os principais obstáculos que impedem a realização dos direitos humanos no processo jurídico penal e propor soluções contemporâneas para enfrentar estes desafios. O estudo centra-se no contexto indonésio para fornecer informações práticas sobre os esforços envidados pelo governo para melhorar a protecção dos direitos humanos no sistema de justiça criminal.

Referencial Teórico: O estudo baseia-se na premissa de que o sistema de direito penal abrange regulamentos legais que regem os atos criminosos, com variações moldadas pelas leis, cultura e princípios jurídicos locais. Os componentes principais incluem direito penal, aplicação da lei, justiça criminal, punição, reabilitação e adesão aos princípios dos direitos humanos.

Métodos: A investigação baseia-se numa revisão abrangente da literatura, legislação e documentos políticos existentes relacionados com os direitos humanos no sistema de justiça criminal indonésio. Avalia criticamente os desafios e propõe soluções com base numa análise aprofundada dos dados disponíveis.

Resultado e Conclusão: O estudo revela que a Indonésia enfrenta vários desafios para garantir a protecção dos direitos humanos no sistema de justiça criminal, incluindo aplicação da lei desigual, violência, condições prisionais precárias, corrupção, discriminação e violência contra grupos vulneráveis. Para enfrentar estes desafios, o governo indonésio está a trabalhar activamente para reformar o sistema de direito penal, alinhá-lo com as normas internacionais de direitos humanos e dar prioridade à justiça e à protecção dos direitos humanos no processo de justiça penal.

Originalidade/Valor: Esta investigação contribui para o discurso contínuo sobre direitos humanos e direito penal, fornecendo uma análise detalhada dos desafios e soluções no contexto indonésio. Destaca a importância de alinhar os sistemas de direito penal nacionais com as normas internacionais de direitos humanos para uma sociedade mais justa e equitativa.

Palavras-chave: Direitos Humanos; Lei criminal; Judiciário; Desafios e soluções.

1 INTRODUCTION

The criminal justice system serves as a legal framework for the regulation of criminal acts, which are deemed unlawful. It is responsible for ascertaining the culpability of individuals accused of committing such acts and for meting out suitable penalties or sanctions. This system's configuration can exhibit significant divergence between nations, contingent upon the prevailing legal statutes, cultural factors, and jurisprudential underpinnings specific to each jurisdiction (Jurasz & Barker, 2021; Tongat, 2022). Promoting human rights within the criminal justice system presents a formidable global endeavor, and this challenge is particularly pronounced in Indonesia. Numerous hurdles must be surmounted in this pursuit, including disparities in law enforcement that often result in marginalized individuals experiencing unequal treatment and human rights violations. Additionally, the prevalence of violence and torture perpetrated by law enforcement agencies against defendants, prisoners, and detainees underscores the urgency of protection against such inhumane treatment (Mohammad & Conway, 2005).

Another critical issue is the overcriminalization of actions, which can create legal ambiguity and undermine the principles of justice. Poor prison conditions, characterized by overcrowding and inadequate healthcare, persist in many correctional systems globally, raising concerns about the rights of detainees and prisoners (Lines, 2006; Yadav et al., 2023). Corruption within law enforcement agencies further complicates human rights protection efforts, eroding trust in the justice system and impeding the safeguarding of individual rights (Bayley, 2002). Discrimination and violence against vulnerable groups, such as women, children, LGBT individuals, and ethnic or religious minorities, are pervasive within the criminal justice system, necessitating specialized protections (Graham, 2014). Moreover, limited access to justice,

particularly for remote and underserved communities, poses a significant barrier to obtaining adequate human rights protection. Furthermore, a punitive focus on incarceration within the criminal justice system may overshadow alternative approaches, such as rehabilitation, counseling, or supervision programs, which are often more effective and aligned with human rights principles. Inadequate safeguards for witnesses and victims in criminal cases hinder the pursuit of justice and the discovery of crimes. Addressing these multifaceted challenges necessitates concerted efforts from government authorities, civil society organizations, and human rights institutions to enhance and fortify the criminal law system, uphold international human rights standards, and prioritize justice and human rights protection within the criminal justice sphere.

Addressing disparities in law enforcement and preventing human rights infringements represent pivotal strides toward enhancing the criminal justice system. A fundamental aspect of this endeavor involves augmenting education and awareness concerning human rights and the intricacies of the criminal legal process, with a special focus on marginalized communities (Sasmito, 2017). This can be actualized through initiatives like legal education programs, social awareness campaigns, and the provision of easily accessible information regarding individual rights. Bridging the gap for disadvantaged communities entails bolstering their access to affordable and high-quality legal services, potentially encompassing the provision of free or subsidized legal aid for those in need. Moreover, stringent enforcement of anti-discrimination laws is indispensable to ensure that law enforcement is devoid of biases tied to socioeconomic status, ethnicity, religion, or gender. The imperative is to guarantee equitable and impartial treatment for all individuals, without exceptions. Establishing independent oversight bodies tasked with scrutinizing the conduct of law enforcement personnel is another instrumental strategy. These entities can investigate alleged human rights transgressions and furnish

recommendations for enhancements. Enhancing the training of law enforcement officials, spanning police officers, prosecutors, and judges, in human rights principles and their practical application is imperative. Such training fosters sensitivity to issues of inequality and discrimination. Promoting transparency within the law enforcement process and enforcing accountability for law enforcement actions are essential (Nurdin & Turdiev, 2021; Husen et al., 2023).

Public disclosure of reports on law enforcement activities and inquiries into human rights violations must be readily accessible. Civil society's active involvement in monitoring law enforcement and reporting human rights abuses is crucial. Non-governmental organizations (NGOs) and human rights advocacy groups play a pivotal role in scrutinizing the conduct of law enforcement personnel (Samanta & Hossain, 2022). Additionally, revisiting and revising criminal regulations that may impose excessive or unjust penalties on specific individuals is paramount. The goal is to preclude arbitrary deployment of the law. Establishing a secure channel for individuals who perceive themselves as victims of criminal law misuse or human rights violations serves as an avenue to report adverse incidents or behavior. Implementing these remedies necessitates collaborative efforts among the government, civil society, and pertinent institutions, fostering a criminal justice system that is more inclusive, equitable, and anchored in human rights principles. Against this backdrop, the author's interest lies in investigating the primary challenges confronting the endeavor to safeguard human rights within the Indonesian criminal system, as well as the contemporary strategies proposed or enacted to surmount these challenges.

2 THEORETICAL FRAMEWORK

Within the criminal law system, several pivotal elements warrant scrutiny, including criminal law itself, the machinery of law enforcement, the intricate web of the criminal justice apparatus, punitive measures and rehabilitation efforts, and the fundamental principles governing human rights (McKay, 2020). Criminal law comprises a compendium of legal norms and regulations delineating criminal transgressions and outlining the range of penalties that may be imposed upon perpetrators (Sznycer & Patrick, 2020). It encompasses the definition of criminal offenses, the requisite elements for establishing guilt, and the potential forms of punishment. Subsequently, law enforcement encompasses a cadre of personnel, such as police officers (Tompkins, 2005), prosecutors, and investigators, tasked with investigating criminal incidents, apprehending suspects, and ushering them into the criminal justice system (Pasillas et al., 2006). The criminal justice system encompasses the judiciary and adjudicators who preside over criminal cases, adjudicate guilt, and prescribe sanctions following a finding of guilt. Its tenets, which include the right to a defense, the principle of justice, and protection from torture, are intrinsic to the system's operation.

The criminal justice system is also responsible for determining the penalties or measures applied to individuals who have committed criminal acts (Safinatunnajah et al., 2022). The objectives of these punitive actions may encompass restoration, retribution, deterrence, or rehabilitation, and these goals vary depending on the specific legal system and cultural context of each country. Most global criminal justice systems are expected to align with principles of human rights, which entail safeguarding individual entitlements like freedom, privacy, and equitable treatment under the law (Syarifuddin, 2021; Hung et al., 2023; Alexander et al., 2023). Criminal law systems can be categorized into several types, including common law-based systems, which evolve through legal precedents and court rulings, and civil law-based systems, grounded in written regulations (Ferdiles, 2019). Additionally, some legal systems

incorporate elements from various legal traditions, reflecting the historical legal development of the nation. Indonesia's criminal justice system, for instance, is rooted in its own legal framework, as delineated in its criminal law code. In 2023, Indonesia introduced Law Number 1 of 2023, introducing a new Criminal Code to replace the previous one, marking a substantial milestone in the evolution of the country's criminal law. However, this legal reform spawns a host of queries and challenges regarding the protection of human rights within the criminal law framework. Safeguarding human rights within the context of criminal law remains paramount to prevent law enforcement from violating internationally acknowledged human rights principles.

Human rights encompass three fundamental facets essential to the existence of humans as social beings: integrity, freedom, and equality (Kotzé, 2014). The establishment of regulations to safeguard human rights within a legal state is imperative, with particular relevance to Indonesia (Aditya & Al-Fatih, 2021; Israhadi, 2015). Furthermore, legal experts emphasize the importance of fostering legal awareness within society, as this indirectly contributes to enhancing the attitudes of law enforcers and promoting justice and the protection of human dignity, order, and legal certainty as outlined in the 1945 Constitution. It is vital to recognize that the efficacy of legislation hinges on its implementation and enforcement. Even the most meticulously crafted laws may lose their purpose if law enforcement falters. Law enforcement serves as the driving force behind the execution of legislative provisions. Consequently, the purview of the criminal law system extends beyond law enforcement to encompass legal outputs and the judicial framework.

3 RESULTS

The method employed in this research is normative legal research, primarily focusing on the examination and analysis of secondary data comprising written materials relevant to the protection of human rights within the criminal law system. These written materials encompass a spectrum of sources, including legislation, books, scholarly papers, and various writings. The overarching purpose of this research is to delve into legal issues, specifically pertaining to the subject matter of interest, by synthesizing and critically evaluating existing legal literature and documents.

The data sources utilized in this study encompass three categories: primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials encompass authoritative legal documents and norms, including legislation that serves as the cornerstone of legal frameworks. Secondary legal materials are derived from library-based studies and encompass legal literature in the form of books and other publications. Tertiary legal materials complement primary and secondary sources and comprise references like comprehensive legal dictionaries and encyclopedias.

The research adopts a dual approach to fulfill its objectives. First, a conceptual approach is employed, which involves a meticulous examination of legal principles, thereby facilitating a comprehensive understanding of the subject matter. Second, a statutory approach is employed, which delves into the legislative aspects by seeking the legal rationale (reasoning and objectives) behind specific laws and their ontological underpinnings. In essence, the methodological approach and data sources utilized in this research collectively aim to facilitate an in-depth exploration and analysis of legal issues, enabling a nuanced understanding of the subject matter under examination and, where applicable, contributing to the discourse surrounding legal principles and legislative reasoning.

4 RESULTS AND DISCUSSION

4.1. Challenges in Providing Human Rights Protection in the Criminal Justice System

The initial challenge pertains to the Reform of the Criminal Code. The draft criminal code was officially endorsed as Law No. 1 of 2023, titled "Concerning the Criminal Code," during a session of the Indonesian Republic's House of Representatives in December 2022 (Butt, 2023).

This legislation is commonly referred to as the new Criminal Code, effectively supplanting the prior legal framework known as the "*Wetboek van Strafrecht*," as stipulated in Law No. 1 of 1946 concerning criminal law regulations, which has undergone multiple amendments and is herein referred to as the old Criminal Code. Significant alterations are embedded within this updated Criminal Code (Flora, 2022), particularly in sections relating to customary or indigenous laws that are prevalent within society (Arifin & Primadianti, 2023). While the previous Criminal Code failed to recognize the existence of unwritten laws, the new Criminal Code broadens the principle of legality. This expansion permits the initiation of criminal prosecutions based on laws existing within the societal fabric. Moreover, the new Criminal Code acknowledges the presence of unwritten laws that thrive and evolve within society, provided they align with the tenets of Pancasila and universally recognized legal principles. This principle is explicitly outlined in Articles 2, 12(2), and 597 of the new Criminal Code.

In the explanation provided in Article 2, it specifies that the term "law that lives in society" refers to customary laws, which determine the appropriateness of imposing penalties on individuals who engage in specific actions. To bolster the enforcement of these societal laws, they are regulated through regional ordinances. The wording in the phrase "law that lives in society" introduces a degree of legal ambiguity, as the new Criminal Code fails to offer a precise definition of this concept. Furthermore, the presence of this article within the latest Criminal Code signifies a shift in authority, indicating that the implementation of sacred

customary laws is no longer solely within the purview of indigenous communities but can be transferred to the state. Certain provisions address couples cohabiting without formal marriage bonds, which encompasses matters of adultery and cohabitation. The old Criminal Code was an inheritance from the Dutch colonial administration, reflecting the norms of Western society. It did not scrutinize a man and a woman assuming the roles of husband and wife while living together outside of wedlock, as long as mutual affection existed. This conduct diverges from the norms of Eastern society, and as such, sexual relations outside of marriage are categorized as adultery within the legal framework.

Under the provisions of the new Criminal Code, adultery is considered a criminal offense only when at least one of the involved parties is married, as delineated in Article 415, paragraph 1, within Part Four of the code, addressing adultery. This article stipulates that individuals engaging in sexual relations outside the confines of marriage can face a maximum penalty of one year in prison or a maximum fine of category II. It's important to note that the enforcement of this provision requires a complaint to be filed (classified as a complaint offense). The rules also specify who can file such complaints, including spouses for those who are married and parents or children for those who are not married, as articulated in paragraph 2: "There is no prosecution for criminal acts as referred to in paragraph 1 except upon complaints from husbands or wives for people who are married, parents or children for people who are not married."

The clarification provided in Article 415, paragraph 1 elucidates the concept of "not being a husband or wife" (Santoso, 2023), encompassing scenarios where:

1. A married man engages in sexual intercourse with a woman who is not his wife.
2. A married woman engages in sexual intercourse with a man who is not her husband.

3. An unmarried man engages in sexual intercourse with a woman, even if her marital status is known.
4. Unmarried women engage in sexual relations with married men, even if their marital status is known.
5. Both unmarried men and women engage in sexual intercourse without being bound by marriage.

In parallel, Article 415, paragraph 2 provides a specific definition, stating that a "child" in this context refers to a biological child who is sixteen years old. It is essential to note that this article falls under the category of complaint offenses, meaning that prosecution can only occur when a legitimate complaint is filed by a husband, wife, parent, or child. In the absence of such a complaint, as clarified in paragraph 2, prosecution cannot proceed. Similar provisions apply to Article 416, which pertains to cohabitation. This article outlines the following circumstances:

1. Any individuals cohabiting as if they were married, outside the bounds of legal marriage, may face a maximum penalty of six months' imprisonment or a maximum fine of the second category.
2. Prosecution for the offenses defined in paragraph 1 is contingent upon complaints filed by either a husband or wife for married individuals or by parents or children for those not married.

The subsequent article subject to reform pertains to criminal offenses related to corruption, encompassing several provisions within the Criminal Code, primarily entailing penalties that involve imprisonment and fines, comparatively milder than those outlined in the Corruption Crime Law. Here is a comparative analysis of the criminal stipulations within the Criminal

Code in contrast to those detailed in Law No. 31 of 1999, addressing corruption-related offenses. Initially, Article 607 of the Criminal Code is juxtaposed with Article 2, paragraph 1 of the Corruption Crime Law. Article 607 of the Criminal Code delineates that "Any individual who illicitly engages in activities that result in personal enrichment, benefiting another person or a corporate entity at the expense of state finances or the national economy, shall be subject to a sentence of life imprisonment or a minimum of 2 years and a maximum of 20 years of imprisonment, along with a fine ranging from category II to category VI." Conversely, Article 2, paragraph 1 of the Corruption Crime Law prescribes that "Any person who unlawfully engages in actions leading to self-enrichment, benefiting another individual, or a corporate entity, which may jeopardize state finances or the national economy, shall be liable to a sentence of life imprisonment or a minimum of four years and a maximum of twenty years of imprisonment, coupled with a fine ranging from at least two hundred million to a maximum of one billion rupiah."

Considering corruption's nature as an economic crime, there is a compelling argument for the augmentation of criminal fines. Numerous scholarly sources underscore corruption's classification as an extraordinary offense (Wedha & Nurcahyo, 2021). Consequently, a series of discrepancies vis-à-vis conventional regulations surfaced, including the delineation of minimum-maximum criminal penalties within the Corruption Crime Law. Suhadi, Chairman of the criminal chamber of the Supreme Court of the Republic of Indonesia, expounded that the new Criminal Code embodies decolonization, upholds democratic ideals, consolidates criminal law, and demonstrates responsiveness, adaptability, and harmony in delivering legal certainty and justice. He further highlighted the primary transformation in the new Criminal Code as the harmonization of criminal law. In the pre-revised Criminal Code, derived from the Dutch *Wetboek van Stracht for Nederlandsch-Indie*, the interpretation of an article could vary

due to the retention of foreign language in the rules underpinning the previous Criminal Code. Consequently, the new Criminal Code abolishes prior versions to establish transparent legal certainty and justice.

Certain voices have contended that the Criminal Code, enacted on January 2, 2023, introduces substantial alterations compared to the inherited Dutch Criminal Code. Notably, it eliminates the categories of "crimes" and "violations," addressing inconsistencies in the application of the concepts of *rechtsdelict* and *wetsdelict*. The forthcoming Criminal Code, effective for the next three years, governs criminal offenses based on extant societal laws or living law. In this updated Criminal Code, the principle of legality, enshrined in Article 1, paragraph 1, is retained while acknowledging the existence of living law as a foundation for punitive measures, as stipulated in Article 2 of the Criminal Code. It is crucial to note that the transformation of customary law into criminal law does not occur directly. Specific criteria must be met, including the prerequisite that customary law only applies where statutory law is absent. Provisions governed by customary law should not be duplicated in the Criminal Code, and customary law must align with the values embedded in Pancasila, the 1945 constitution, human rights principles, and the general legal tenets endorsed by the nation. Prof. Tuti, a member of the government's Draft Criminal Code formulation team, maintains that enforceable customary law must be initially codified in regional regulations, grounded in empirical research findings. Sanctions for customary offenses are restricted in scale, equivalent to a category II fine in the Criminal Code or Rp. 10 million.

In the latest iteration of the Criminal Code, the explicit inclusion of the element "intentionally" in the formulation of criminal acts has been omitted. Instead, every criminal act is presumed to be committed with intent unless negligence or culpability is established (Gless et al., 2016). Furthermore, the new Criminal Code encompasses provisions regarding incapacity for

responsibility, as delineated in Article 39. The legislation also addresses the incorporation of corporations as subjects of criminal law. A significant shift in the Criminal Code pertains to the purpose of punishment, which has transitioned towards prevention, correction, rehabilitation, conflict resolution, restoration of balance, fostering a sense of security and peace, and eliciting remorse from the convict. Importantly, the Criminal Code underscores that punishment should not degrade individuals concerning crime and human rights, aligning with the principles of the Convention Against Torture and Other Cruel, Unusual, and Degrading Treatment or Punishment (CAT), ratified through Law No. 5 of 1998. Moreover, the latest Criminal Code introduces the concept of forgiveness, as outlined in Article 54, paragraph 2 (Ali et al., 2023). This provision empowers judges to render decisions without imposing criminal penalties by considering five factors: the gravity of the offense, the personal circumstances of the offender, the circumstances at the time of the crime, subsequent events, and considerations of justice and humanity. This article represents a response to public outcry, where minor offenses led to severe punishments. This marks a transformative step in Indonesia's criminal law system. Furthermore, the new Criminal Code enhances the array of penalties for adults, encompassing imprisonment, house arrest, probation, fines, and community service as primary sanctions. Additionally, supplementary penalties encompass the revocation of specific rights, forfeiture of assets and currency, publication of the judge's verdict, restitution, annulment of particular licenses, and fulfillment of local customary obligations. Special penalties within the Criminal Code encompass the death penalty, which is subject to alternatives and can be coupled with a probationary period of ten years.

Law number 1 of 2023, which pertains to the criminal code, abolishes several existing laws, including Law No. 27 of 1999 concerning amendments to the criminal code related to crimes against state security, Law No. 4 of 1976 concerning amendments and additions to various

articles in the criminal law book pertaining to the extension of criminal law provisions, aviation-related crimes, and offenses against aviation facilities and infrastructure, Law No. 7 of 1974 concerning the regulation of gambling, Government Regulation in Lieu of Law No. 18 of 1960 addressing changes in fine amounts in the criminal code and other criminal provisions issued before August 17, 1945, Government Regulation in Lieu of Law No. 16 of 1960 addressing several amendments to the criminal law book, Law No. 1 of 1960 concerning modifications to the criminal law, Law No. 73 of 1958 declaring the enactment of Law No. 1 of 1946 regarding criminal law regulations for the entire territory of the Republic of Indonesia and amendments to the criminal law book, and Law No. 1 of 1946 concerning regulations regarding criminal law.

Additionally, Law number 1 of 2023, concerning the criminal code, also repeals certain other laws (Apripari et al., 2023), including Law No. 5 of 2018 concerning amendments to Law Number 15 of 2003 regarding the establishment of government regulations in lieu of Law Number 1 of 2002 addressing the eradication of criminal acts of terrorism into law, Article 6 and Article 7 of Law Number 15 of 2003 as amended by Law Number 5 of 2018, Law No. 19 of 2016 concerning amendments to Law Number 11 of 2008 addressing information and electronic transactions, Article 27 Paragraph 1, Article 27 Paragraph 3, Article 28 Paragraph 2, Article 30, Article 31 Paragraph 1, Article 31 Paragraph 2, Article 36, Article 45 Paragraph 1, Article 45 Paragraph 3, Article 45 A Paragraph 2, Article 46, Article 47, and Article 51 Paragraph 2 of Law Number 11 of 2008 as amended by Law Number 19 of 2016, Law No. 17 of 2016 concerning the determination of government regulations in lieu of Law Number 1 of 2016 regarding the second amendment to Law Number 23 of 2002 concerning child protection into law, Law No. 35 of 2014 concerning amendments to Law Number 23 of 2002 addressing child protection, Law No. 31 of 2014 concerning amendments to Law Number 13 of 2006

addressing the protection of witnesses and victims, Law No. 9 of 2013 concerning the prevention and eradication of terrorism financing crimes, Law No. 18 of 2012 concerning food, Law No. 7 of 2011 concerning currency, Law No. 6 of 2011 concerning immigration, Law No. 8 of 2010 concerning the prevention and eradication of money laundering crimes, Law No. 36 of 2009 concerning health, Law No. 35 of 2009 concerning narcotics, Law No. 24 of 2009 concerning the flag, language, national emblem, as well as the national anthem, Law No. 44 of 2008 concerning pornography, Law No. 40 of 2008 concerning the elimination of racial and ethnic discrimination, Law No. 11 of 2008 concerning information and electronic transactions, Law No. 21 of 2007 concerning the eradication of human trafficking crimes, and Law No. 13 of 2006 concerning witness and victim protection (Apripari et al., 2023).

4.2. Application of Human Rights in the Criminal Justice System

The incorporation of human rights into Indonesia's criminal justice system is an essential component of ensuring that the legal proceedings adhere to principles of fairness and human rights. This commitment to human rights is firmly rooted in the principle of legality, expressed as *nullum crimen, nulla poena sine lege*, which translates to "there is no crime and no punishment without law" (Moise, 2020). This principle serves as the cornerstone of Indonesia's criminal justice process, signifying that individuals can only be subject to penalties if their actions were deemed criminal under the prevailing law at the time of the offense (Murphy, 2010).

Within the judicial process, defendants are afforded a range of rights to ensure their understanding of and participation in the criminal justice proceedings (Moffett, 2025). These rights encompass the provision of legal counsel, the ability to communicate in a language they comprehend, and the entitlement to comprehensive information about their rights.

Furthermore, defendants are guaranteed the right to mount an effective defense during the judicial process. This entails access to competent legal representation, the opportunity to present evidence and call witnesses, and the right to appeal if found guilty. In summary, upholding human rights within the Indonesian criminal justice system is essential, and it is underpinned by the fundamental principle of legality. Defendants are granted various rights to ensure their comprehension of the legal process and to enable them to participate fully and fairly in their defense. These rights underscore the commitment to justice and human rights in Indonesia's criminal justice system.

Indonesia has ratified several international human rights agreements, such as the Universal Declaration of Human Rights and the Convention on Civil and Political Rights, committing to align its judicial decisions with these global human rights standards (Suryono, 2020). Ensuring the rights of the accused is a central tenet of this commitment, which includes safeguarding individuals from torture or inhumane treatment during detention or temporary custody, as well as guaranteeing access to adequate healthcare (Ernawati, 2019). In the realm of criminal court proceedings, it is imperative that trials remain open to the public and maintain transparency as a general rule (Garcia-Blanco & Bennett, 2021). This means that courtroom proceedings should be accessible to both the public and the media unless there are compelling reasons to preserve confidentiality or specific interests at stake. Additionally, parties testifying in trials or individuals acting as victims in criminal cases must be shielded from threats or undue pressure, especially when they play pivotal roles as witnesses in the case. This safeguarding of individuals' rights is essential to upholding the principles of justice and human rights within the Indonesian criminal justice system.

Cases involving children must adhere to internationally recognized child rights standards, which encompass measures like segregating them from adult inmates and adopting a

rehabilitative, rather than punitive, approach (Supaat, 2022). Furthermore, the criminal justice system must be attuned to the distinctive requirements of individuals with disabilities, ensuring their equitable and fair access to justice proceedings. The incorporation of human rights within Indonesia's criminal justice system underscores a crucial commitment to establishing a legal framework that upholds fairness, transparency, and the safeguarding of individual rights. Despite the existence of various challenges during its implementation, ongoing endeavors are focused on guaranteeing the adherence to human rights principles throughout every phase of the criminal legal process.

5 CONCLUSION AND SUGGESTIONS

In conclusion, Indonesia confronts a multitude of challenges when it comes to safeguarding human rights within its criminal justice system. Indonesia faces a myriad of challenges in its quest to ensure that its criminal justice system can effectively safeguard human rights. These challenges encompass issues such as the criminalization of activists and government critics, disparities in law enforcement, instances of violence and torture, and unequal access to justice. Nevertheless, the government and various stakeholders are actively engaged in efforts to address these issues, signifying a concerted effort to enhance the system. The study's findings underscore the importance of several contemporary solutions. Contemporary solutions to these challenges include initiatives aimed at raising awareness and enhancing legal education, improving access to legal services, enforcing anti-discrimination measures, establishing independent monitoring mechanisms, providing human rights training for law enforcement officials, and encouraging the active participation of civil society in overseeing law enforcement activities.



Furthermore, criminal law reform and an increased focus on transparency and accountability within the law enforcement process are pivotal steps toward achieving a criminal justice system that adheres to international human rights standards. In light of these findings, it is recommended that Indonesia continues its commitment to bolstering human rights protection in its criminal justice system. While challenges persist, the nation's dedication to fostering a fairer, rights-oriented judiciary is a promising stride toward ensuring justice for all individuals involved in the criminal justice apparatus. These efforts will not only benefit the citizens of Indonesia but also contribute to upholding the fundamental principles of human rights on a global scale.

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