



Reconstruction of Human Rights Protection in the Criminal Justice Process Based on the Modern Criminal Law Paradigm in Indonesia

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Abstract

Background: Human Rights (*HAM*) protection in the criminal justice system is a primary indicator of the legitimacy of a modern rule-of-law state. Indonesia has normatively adopted the principle of *due process of law* through the 1945 Constitution, the Criminal Procedure Code (*KUHAP*), and international human rights instruments such as the *International Covenant on Civil and Political Rights (ICCPR)*. However, in practice, various human rights violations are still found, particularly during the investigation and evidentiary stages.

Objective: This research aims to reconstruct a model of human rights protection based on the modern criminal law paradigm.

Methods: The method used is normative juridical research employing statutory, conceptual, and case approaches.

Results: The results show that human rights protection in Indonesia remains procedural rather than substantive. Therefore, an integrative model is needed that combines the legal theories of Hart and Dworkin, as well as the *restorative justice* approach.

Conclusion: The findings demonstrate that an integrative model combining the *exclusionary rule*, pretrial reform, and *restorative justice* grounded in the legal theories of Hart and Dworkin constitutes the most viable framework for achieving substantive human rights protection in Indonesia's criminal justice system.

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INTRODUCTION

In modern legal development, the criminal justice system is no longer solely oriented toward punishment (crime control model) but also toward the protection of individual rights (due process model). This paradigm shift is a consequence of the development of the rule of law concept (*rechtsstaat*), which places humans as the primary subjects of law (Aida Ardini, 2026; Hikmah et al., 2026; Nur, 2023). However, in practice in Indonesia, there remains a gap between norms and implementation (*das sollen and das sein*). Practices of violence during investigations, the use of illegally obtained evidence, and the weak position of suspects indicate that the criminal justice system still tends to be repressive (Nasution, 2025; Saepudin, 2024; Sitompul, 2026).

As stated by Cesare Beccaria, criminal law must uphold the principles of rationality and humanity and reject all forms of state arbitrariness (Dwiyanti et al., 2024). Thus, a reconstruction of the human rights protection system is needed that is not only procedural but also substantive. Studies on human rights protection in criminal justice have been conducted extensively by both national and international scholars Harahap emphasizes that the Criminal Procedure Code (*KUHAP*) serves as the principal instrument for protecting suspects' rights. Meanwhile, Andi

Hamzah stresses the importance of the right to legal counsel as a fundamental element of a fair trial (Imada, 2025).

From an international perspective, Herbert L. A. Hart (2017) views law as a system of rules consisting of primary rules and secondary rules (Amalia et al., 2025). Ronald Dworkin complements this view with the concept of rights as trumps, namely that individual rights cannot be overridden by state policies (Hasbi et al., 2025). Furthermore, Tom R. Tyler (2003) emphasizes that legal legitimacy is largely determined by procedural justice (Kurniawati, 2025). Although numerous studies have been conducted, several fundamental weaknesses remain: first, the lack of integration between modern legal theory and Indonesian jurisprudential practice; second, approaches that remain normative and formalistic; and third, the limited reconstruction of a substantive human rights-based system (elysa Wardhani et al., 2025; Pujayanti et al., 2025; SARMILA, 2026).

Grounded in the foregoing analysis, this research pursues three interrelated objectives: to examine the normative regulation and practical implementation of human rights protection within Indonesia's criminal justice system; to evaluate the role of Constitutional Court and Supreme Court jurisprudence in reinforcing such protection; and to formulate a reconstructed human rights protection model grounded in the modern criminal law paradigm, capable of bridging the persistent gap between legal norms and practice in the field.

METHOD

This research employed normative legal research (*yuridis normatif*), which focused on analyzing legal norms contained in legislation, legal doctrines, and court decisions. This approach was chosen because the research aimed to examine and reconstruct the protection of human rights within the criminal justice system based on the positive legal framework and modern legal theory.

This research adopted several approaches. First, the statute approach was conducted by examining various laws and regulations related to human rights protection in the criminal justice process, including the 1945 Constitution, the *KUHAP*, Law No. 39 of 1999 concerning Human Rights, and Law No. 12 of 2005 concerning the ratification of the *International Covenant on Civil and Political Rights (ICCPR)*. Second, the conceptual approach was used to analyze relevant theoretical concepts, such as *due process of law*, presumption of innocence, exclusionary rule, restorative justice, and human dignity. This approach also referred to the thoughts of legal scholars such as Herbert L. A. Hart and Ronald Dworkin as the basis for reconstruction. Third, the case approach was conducted through the analysis of court decisions, particularly decisions of the Constitutional Court and the Supreme Court. The analysis focused on the *ratio decidendi* relating to human rights protection in the criminal justice process.

This research used three types of legal materials. Primary legal materials consisted of the 1945 Constitution, the *KUHAP*, the *ICCPR*, Constitutional Court decisions, and Supreme Court decisions. Secondary legal materials included legal textbooks, national and international scientific journals, and the opinions of legal scholars. Tertiary legal materials comprised legal dictionaries, legal encyclopedias, and other supporting references.

Legal materials were collected through library research, searches of scientific journal databases, and analyses of legal documents and court decisions.

The legal materials were analyzed qualitatively using several methods. Legal interpretation was conducted through grammatical interpretation, systematic interpretation, and teleological interpretation. Legal argumentation was carried out by constructing arguments based on modern legal theory, human rights principles, and jurisprudence. In addition, prescriptive analysis was employed because this research was not merely descriptive but also prescriptive, providing recommendations and reconstructing an ideal model for human rights protection.

Conclusions were drawn using the deductive method, namely by deriving conclusions from general norms to concrete cases through the integration of normative, theoretical, and jurisprudential analyses.

This research was structured into several main sections: Introduction, Literature Review (Conceptual Framework and Theoretical Framework), Research Method, Results and Discussion, and Conclusion.

RESULTS AND DISCUSSION

This research uses an integrative approach derived from several modern legal theories:

- (1) Legal Theory as a System Herbert L.A. Hart (2012). Hart divides law into primary rules (rules of conduct) and secondary rules (rules about rules) (Asa et al., 2025; Kurniati et al., 2025; Latipulhayat, 2016). Its relevance lies in the principle that human rights must form part of the rule of recognition; otherwise, the law loses legitimacy. The implication is that human rights protection is not merely an additional element but a core component of the legal system.
- (2) Rights as Trumps Theory Ronald Dworkin (2013). Dworkin asserts that individual rights cannot be overridden by state interests (Wacks, 2026). Its relevance is that the state cannot violate human rights for the sake of law enforcement efficiency. The rights of suspects must therefore remain protected. The implication is that the criminal justice system must be grounded in the protection of rights rather than the exercise of power.
- (3) Procedural Justice Theory Tom R. Tyler (2003). This theory emphasizes that legal legitimacy depends on procedural fairness, equitable treatment, and transparency in the legal process. Its relevance is that the process itself is as important as the outcome and contributes to increasing public trust (Ratih, 2025).
- (4) Judicial System Theory Mirjan Damaška (2001). Damaška classifies judicial systems into a hierarchical model (authoritarian) and a coordinative model (participatory) (Daniele, 2026). Its relevance is that Indonesia still tends toward the hierarchical model and therefore needs to transition to a more participatory model.
- (5) Restorative Justice Theory. This theory emphasizes victim recovery, offender-victim dialogue, and non-repressive dispute resolution. Its relevance lies in reducing state dominance and humanizing the legal system (Maulana & Agusta, 2021; Mustolih & Rahman, 2026).
- (6) Human Dignity Theory. This theory places human dignity as the highest value of law. Its relevance is that human rights concern not only procedure but also substance, requiring the legal system to remain human-oriented (Hidayat et al., 2024).

This research integrates these theories into a unified model: Hart's theory for legal system legitimacy, Dworkin's theory for the supremacy of individual rights, Tyler's (2003) theory for procedural justice, Damaška's theory for judicial system reform, and restorative justice for a humanistic approach (Ratih, 2025). This integration produces a human rights protection model based on substantive justice, human dignity, and a modern legal system.

The principal novelty of this research lies in its integrative approach. Rather than applying a single theoretical framework in isolation, it synthesizes Hart's rule of recognition, Dworkin's rights-as-trumps principle, Tyler's (2003) procedural justice theory, Damaška's comparative judicial systems theory, and the restorative justice paradigm into a coherent and operationally applicable model (Ratih, 2025). This multi-theoretical integration distinguishes the present research from prior studies that have predominantly adopted normative-formal approaches without offering a comprehensive reconstructive framework capable of addressing both the structural and cultural dimensions of human rights violations in Indonesia's criminal justice process.

Discussion

Regulation and Implementation of Human Rights Protection in the Criminal Justice System in Indonesia

a. Normative Regulation of Human Rights Protection

The protection of Human Rights in the Indonesian criminal justice system has been comprehensively regulated in various legal instruments at the constitutional, statutory, and international law levels that have been ratified.

At the constitutional level, Indonesia recognizes human rights through the 1945 Constitution, particularly in Articles 28A–28J, which guarantee: (a) the right to life; and (b) the right of every person to be free from discrimination before the law and from prosecution that is inconsistent with statutory provisions that apply equally to all persons. This demonstrates

that the Indonesian concept of the rule of law is inseparable from the protection of human rights.

In addition, the Criminal Procedure Code (*KUHAP*), as the *lex generalis* governing the criminal justice process, incorporates principles of human rights protection, including the presumption of innocence, the right to legal counsel, the prohibition of torture, and the right to a fair trial. At the conceptual level, the *KUHAP* functions as an instrument to limit state power in the law enforcement process.

At the international level, Indonesia has implemented the ICCPR through Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR). This ratification strengthens Indonesia's commitment to upholding the rights of suspects, including the right not to be tortured, the right to a fair trial, and the right to legal representation. Therefore, normatively, Indonesia possesses a relatively progressive legal framework for ensuring human rights protection throughout the criminal justice process.

b. Fundamental Principles of Human Rights Protection in Criminal Justice

It is impossible to conceptualize the protection of human rights in the criminal justice system without adherence to several fundamental principles underlying the operation of a modern legal system.

Due Process of Law. Due process of law means that every person must undergo fair and non-arbitrary legal procedures. This principle distinguishes a rule-of-law state from a power-based state. Due process of law essentially encompasses the following fundamental elements: the opportunity to be heard (*audi alteram partem*), a fair hearing, a public trial, and free access to a judicial tribunal operating within the framework of laws established by the representative body of the people. This principle also serves as a limitation on the authority of law enforcement officials.

Presumption of Innocence. The presumption of innocence is a universal principle in criminal law whereby every individual must be presumed innocent until a court decision has obtained permanent legal force. Nevertheless, this principle is frequently violated in practice, particularly during the investigation stage, where suspects are often treated as guilty before being proven so through a fair and lawful judicial process.

Equality Before the Law. Equality before the law means that no person should face discrimination in the application of legal protections and obligations. However, in practice, there remains an inherent structural imbalance between law enforcement officials and suspects, particularly regarding access to legal resources.

c. Implementation of Human Rights Protection in Criminal Justice Practice

Although human rights protection is normatively well regulated, its implementation within the Indonesian criminal justice system continues to face several serious problems.

Investigation Stage. The investigation stage is the most critical and vulnerable phase for human rights violations. Common practices include the use of physical and psychological violence, pressure to obtain confessions, and restrictions on access to legal counsel. This phenomenon demonstrates that the evidentiary system remains heavily dependent on the suspect's confession (confession-based system), which contradicts modern evidentiary principles. From an international human rights perspective, confessions obtained under coercion have no evidentiary value and must be excluded.

Prosecution and Trial Stage. At this stage, major issues include the imbalance between the prosecutor and the defendant, limited access to legal aid, and the minimal active role of judges in uncovering material truth. In many cases, judges tend to act passively by merely assessing the evidence presented by the prosecutor without conducting an in-depth examination of the legality of that evidence.

Evidentiary Stage. The evidentiary system under the *KUHAP* adopts a negative statutory evidentiary system (*negatief wettelijk bewijsstelsel*), which combines legally recognized forms of evidence with the judge's conviction. However, its principal weakness lies in the suboptimal application of the exclusionary rule, namely the rejection of evidence obtained unlawfully. Consequently, judicial decisions continue to be based on evidence obtained through human

rights violations, such as torture or coercion.

d. Analysis of the Gap between *Das Sollen* and *Das Sein*

The gap between norms and practice (*das sollen* and *das sein*) constitutes the primary issue in human rights protection in Indonesia. Normatively, human rights are strongly guaranteed, and the *KUHAP* is designed to be protective. Empirically, however, practices remain repressive, law enforcement officials maintain excessive dominance, and oversight of investigations remains weak. This condition indicates that human rights protection remains formal and procedural and has not yet reached the substantive level.

e. Critical Analysis Based on Modern Legal Theory

Hart's Perspective. According to Hart, effective law must possess legitimacy recognized through a rule of recognition. If human rights protection is not concretely implemented, legal norms lose their social legitimacy.

Dworkin's Perspective. Dworkin emphasizes that individual rights cannot be overridden in the name of law enforcement efficiency. In Indonesia, the persistence of repressive investigative practices indicates that institutional interests continue to take precedence over the substantive protection of human rights, directly contradicting Dworkin's principle of rights as trumps.

Procedural Justice Perspective. According to procedural justice theory, legal legitimacy depends more on the fairness of the process than solely on the outcome. Law will lose public trust when the judicial process is unjust.

f. Synthesis

Normatively, the Indonesian criminal justice system sufficiently protects human rights. However, in practice, various violations still occur. The principal weaknesses lie in the investigation stage, the evidentiary system, and weak oversight of law enforcement officials.

Normatively, the guarantee of human rights in the Indonesian criminal justice system is comprehensively regulated through the 1945 Constitution, the *KUHAP*, and international instruments such as the ICCPR. Foundational principles including due process of law, the presumption of innocence, and equality before the law have been formally incorporated into the national legal framework. At the implementation level, however, significant deficiencies persist, particularly during the investigation and evidentiary stages. The continued reliance on coercive interrogation methods, the treatment of the suspect's confession as the primary basis for prosecution, and the inconsistent application of the exclusionary rule collectively indicate that the criminal justice system retains a predominantly repressive character. From a Hartian perspective, this disjunction between normative prescription and institutional practice undermines the rule of recognition upon which legal legitimacy ultimately depends. Dworkin's framework further illuminates the problem: the systematic subordination of suspect rights to prosecutorial efficiency constitutes a direct violation of the principle that individual rights function as trumps against state interests. Accordingly, human rights protection in Indonesia remains substantially procedural and has yet to attain the substantive dimension demanded by modern criminal law theory.

The Role of Jurisprudence in Strengthening Human Rights Protection in the Criminal Justice System in Indonesia

a. The Position of Jurisprudence in the Indonesian Legal System

Jurisprudence is not formally positioned as the primary source of law in the Indonesian legal system, which adheres to the civil law tradition, unlike common law systems. *De facto*, however, jurisprudence plays a highly strategic role by filling legal vacuums (*rechtsvacuum*), interpreting ambiguous norms, and correcting legislative weaknesses.

In this context, the Constitutional Court and the Supreme Court, as the highest judicial institutions, possess the authority to formulate legal principles and procedural standards through judicial decisions incrementally. Within the framework of human rights protection, jurisprudence serves as a corrective instrument against repressive law enforcement. Thus,

jurisprudence is not merely subordinate to written law but also functions as a dynamic source of law capable of adapting to evolving values of justice and human rights.

b. The Role of Constitutional Court Jurisprudence

The Constitutional Court plays an important role in strengthening human rights protection through its authority to review laws against the 1945 Constitution. Through several decisions, the MK has expanded and deepened the meaning of human rights protection within the criminal justice system.

Expansion of Pretrial Objects

MK Decision No. 21/PUU-XII/2014. This decision represents a milestone in human rights protection because it expanded the scope of pretrial review, which had previously been limited, to include the determination of suspects, searches, and seizures.

The ratio decidendi of the MK held that the designation of a suspect constitutes part of coercive measures with the potential to violate human rights and therefore must be reviewable through the pretrial mechanism. Implications: strengthening oversight of investigators and preventing arbitrary criminalization.

The Right to Present Mitigating Witnesses

In MK Decision No. 65/PUU-VIII/2010, the MK affirmed that defendants possess a constitutional right to present witnesses who provide exculpatory evidence (a de charge witnesses). Ratio decidendi: "This right forms part of the principle of a fair trial and cannot be restricted by law enforcement officials." Implications: strengthening the principle of equality of arms and balancing the positions of the prosecutor and the defendant.

Obligation to Notify Commencement of Investigation

In MK Decision No. 130/PUU-XIII/2015, the MK required investigators to provide the SPDP to the prosecutor, suspect, and victim. Ratio decidendi: "Without notification, the suspect loses the opportunity to prepare a defense from the outset." Implications: transparency in the investigation process and protection of suspect rights from the earliest stage.

The Right to Legal Assistance

In MK Decision No. 42/PUU-XV/2017, the MK affirmed that the right to legal assistance is a constitutional right that cannot be reduced under any circumstances. Implications: the state is obligated to guarantee access to legal aid and reduce structural inequality.

Judicial Review More Than Once

MK Decision No. 34/PUU-XI/2013. This decision expanded access to justice by allowing the filing of judicial review more than once. Implications: protection against potential miscarriages of justice and prioritization of substantive justice.

a. The Role of Supreme Court Jurisprudence

The Supreme Court as the court of cassation, plays an important role in shaping evidentiary standards and human rights protection in criminal justice practice.

Application of the Exclusionary Rule. In MA Decision No. 1531 K/Pid.Sus/2010, the Court affirmed that evidence obtained unlawfully cannot be used as the basis for a verdict. Ratio decidendi: "Evidence obtained through unlawful means contradicts the principle of justice and must be excluded." Implications: preventing torture during investigations and strengthening fair evidentiary standards.

Confession Alone Is Insufficient as Evidence. In MA Decision No. 42 K/Kr/1965, the Supreme Court affirmed that a defendant's confession alone is insufficient to prove guilt. Implications: preventing convictions based solely on confessions and affirming the importance of corroborating evidence.

Prohibition of Coercion in Investigations. In MA Decision No. 1096 K/Pid/1998, the MA stated that confessions obtained through coercion are invalid. Implications: protection against torture and strengthening human rights within the evidentiary process.

Minimum Standard of Proof. In MA Decision No. 1554 K/Pid/1983, the Court affirmed the importance of at least two valid pieces of evidence in accordance with the *KUHAP*.

Procedural Defects Nullify Verdicts. In MA Decision No. 1986 K/Pid/1989, the MA stated that procedural violations may invalidate a verdict. Implications: recognizing procedure as an integral component of justice and human rights protection through procedural law mechanisms.

b. Analysis of the Role of Jurisprudence from a Legal Theory Perspective

Hart's Perspective. Jurisprudence may be understood as part of secondary rules, particularly within the functions of the rule of recognition and the rule of adjudication. Judicial decisions clarify the validity of legal norms in practice. Thus, jurisprudence strengthens legal legitimacy through judicial interpretation.

Dworkin's Perspective. According to Dworkin, judges do not merely apply the law but also interpret the moral principles underlying the law (law as integrity). In this context, the decisions of the Constitutional Court and the Supreme Court reflect efforts to establish human rights as a fundamental principle within the legal system.

Progressive Legal Perspective. Jurisprudence reflects law as a living system that develops according to societal needs. Judges are not merely "the mouthpiece of the law" but also agents of social change.

c. Limitations of Jurisprudence in Human Rights Protection

Although jurisprudence plays an important role, it still faces several limitations:

- 1) It is not formally binding (non-binding precedent).
- 2) Inconsistencies exist among judicial decisions.
- 3) Its effectiveness depends on judicial courage.
- 4) Not all decisions are implemented effectively.

Consequently, human rights protection through jurisprudence remains casuistic rather than systemic.

d. Synthesis

The jurisprudence of the Constitutional Court and the Supreme Court plays a significant role in strengthening human rights protection. These decisions expand the meaning of due process of law. Jurisprudence functions as a mechanism for correction, interpretation, and legal reform. However, this role remains suboptimal because of the structural limitations of the Indonesian legal system.

e. Argumentative Affirmation

Thus, jurisprudence constitutes an important instrument in the reconstruction of human rights protection within the criminal justice system. However, for jurisprudence to be effective, integration with legislation, consistency in judicial decisions, and strengthening the institutional position of judges are necessary. Human rights protection should not depend solely on case-by-case decisions but must become an integral part of a comprehensive legal system.

The jurisprudence of the Constitutional Court and the Supreme Court has played an important role in strengthening human rights protection. Constitutional Court decisions have expanded the meaning of due process of law, including through the expansion of pretrial objects, the strengthening of suspect rights, and the imposition of transparency obligations during investigations.

Meanwhile, through various decisions, the Supreme Court has affirmed important principles such as the prohibition against using unlawfully obtained evidence, the insufficiency of confessions as sole evidence, and the importance of lawful procedures in the evidentiary process. However, the role of jurisprudence remains limited because it is not generally binding and often remains casuistic in application. Consequently, human rights protection through jurisprudence has not yet been systematically integrated into the national legal system.

Reconstruction of a Human Rights Protection Model Based on the Modern Criminal Law Paradigm in Indonesia

a. The Urgency of Reconstructing the Human Rights Protection Model

One of the fundamental weaknesses of the Indonesian criminal justice system lies in the unequal power relations that create a repressive approach (crime control model), positioning the state as the dominant actor in addressing criminal conduct, while individuals particularly suspects and victims still lack equal protection. Although the normative framework has formally adopted the principle of due process of law, its implementation remains predominantly procedural and has not yet substantively realized the protection of human dignity as mandated by both domestic and international human rights instruments. This condition creates an urgent need to reconstruct a more comprehensive and integrative model of human rights protection based on the modern criminal law paradigm. In addition to addressing technical inadequacies in procedural law, this reconstruction is intended to redirect the systemic emphasis from a state-centered criminal justice system toward a human-centered system.

b. Philosophical Foundations of Reconstruction

The reconstruction of the human rights protection model in this research is based on several principal philosophical foundations:

Human Dignity as the Core Value. Human dignity must become the central value of the entire criminal justice process. Every action undertaken by law enforcement officials must respect the physical and psychological integrity of individuals. Implications: the absolute prohibition of torture and the protection of suspect rights from the outset of the process.

Substantive Justice. Justice must not be measured solely by procedural compliance but also by outcomes that reflect genuine justice. Implications: judges must actively pursue material truth, and procedural formalities must not sacrifice substantive justice.

Balance Between State and Individual. The criminal justice system must maintain a balance between the interests of law enforcement and the protection of human rights. Implications: limiting the authority of officials and strengthening oversight mechanisms.

c. Integrative Model of Human Rights Protection

The reconstruction proposed in this research is an integrative model that combines several approaches that have previously operated only partially into a unified system.

Integration of Modern Legal Theory

- a. Hart's Approach (Legal System Integrity). Human rights protection must form part of the rule of recognition within the legal system. This means that every legal norm must be assessed for conformity with human rights principles.
- b. Dworkin's Approach (Rights as Trumps). Individual rights must be placed above state interests. In this context, any law enforcement policy that violates human rights must be regarded as invalid.
- c. Procedural Justice Approach (Tyler). A fair legal process enhances the legitimacy of the legal system in the eyes of society. The synthesis of these three approaches forms the normative and moral foundation of a modern criminal justice system.
- d. Pillars of the Human Rights Protection Model Reconstruction

Strengthening the Exclusionary Rule

- a. Concept: The exclusionary rule is the principle that evidence obtained unlawfully must be excluded.
- b. Current Problem: It is not explicitly regulated in the *KUHAP*, and its implementation remains inconsistent.
- c. Reconstruction: Codification within the revised *KUHAP* and standardization of judicial application.
- d. Implication: Preventing torture and encouraging investigator professionalism.

Pretrial Reform

- a. Expansion of Authority: Following developments in jurisprudence, pretrial review must encompass the determination of suspects, seizures, and searches.
- b. Reconstruction: Pretrial proceedings should function as an expanded judicial oversight mechanism with active supervisory authority.
- c. Implication: Protection of human rights from the earliest stages of the process and prevention of abuses of authority.

Implementation of Restorative Justice

- a. New Paradigm: Restorative justice shifts the focus from punishment toward restoration.
- b. Reconstruction: Integration into the formal judicial system and application to certain categories of cases.
- c. Implication: Reducing overcriminalization and restoring social relationships.

KUHAP Reform

As the principal procedural instrument, the *KUHAP* must undergo comprehensive reform. The reform should focus on strengthening suspect rights, regulating the exclusionary rule, digitizing judicial processes, and ensuring transparency during investigations.

Strengthening the Role of Judges

Judges must transform from passive to active actors and from purely legalistic to progressive interpreters of the law. Reconstruction: judges should function as guardians of human rights by actively examining the legality of evidence.

Oversight of Law Enforcement Officials

Reconstruction: strengthening internal and external oversight mechanisms and enhancing transparency in the investigation process. Implication: increasing accountability and preventing human rights violations.

a. Integrative Human Rights Model

This reconstruction produces the following systemic model:

- 1) Input: legal norms and law enforcement officials.
- 2) Process: human rights-based investigations, fair evidentiary proceedings, and fair trials.
- 3) Control mechanisms: pretrial review, jurisprudence, and public oversight.
- 4) Output: substantive justice, protection of human rights, and legitimacy of the legal system.

b. Policy Direction

This reconstruction must be accompanied by concrete policies:

- 1) Legislation: revision of the *KUHAP* based on human rights principles and codification of the exclusionary rule.
- 2) Institutional Reform: strengthening oversight institutions and reforming law enforcement agencies.
- 3) Cultural Reform: shifting the paradigm of law enforcement officials and strengthening human rights education.

c. Critical Analysis

This reconstruction faces several challenges, including resistance from law enforcement officials, a repressive legal culture, and limited resources. Nevertheless, without reconstruction, the criminal justice system will continue to experience a crisis of legitimacy.

d. Synthesis

Based on the overall analysis, it can be affirmed that:

- 1) Human rights protection must become the core of the criminal justice system.
- 2) An integrative approach combining theory, norms, and practice is required.
- 3) Reconstruction must encompass normative, institutional, and cultural dimensions.

e. Argumentative Affirmation

The Integrative Model of Human Rights Protection Based on the Exclusionary Rule, Pretrial Mechanisms, Restorative Justice, and Modern Legal Theory constitutes the principal contribution of this research. It represents a paradigm shift from procedural justice toward substantive justice and justice based on human dignity.

CONCLUSION

Based on the foregoing analysis, three principal conclusions may be drawn. First, the normative framework governing human rights protection in Indonesia's criminal justice system is, in formal terms, reasonably comprehensive, having been established through the 1945 Constitution, the *KUHAP*, and the ratification of the ICCPR via Law No. 12 of 2005. Nevertheless, the practical implementation of these guarantees remains predominantly procedural, as evidenced by persistent violations at the investigation and evidentiary stages, including the use of coercion to obtain confessions and the inconsistent application of the exclusionary rule. Second, the jurisprudence of the Constitutional Court and the Supreme Court has made a significant contribution to strengthening human rights protection, most notably through the expansion of pretrial objects (MK Decision No. 21/PUU-XII/2014), the affirmation of the right to legal assistance, and the prohibition of coerced confessions as evidence. However, this jurisprudential role remains casuistic and nonbinding in character, thereby limiting its capacity for systemic reform. Third, and most significantly, this research proposes an integrative model of human rights protection grounded in the modern criminal law paradigm. This model synthesizes Hart's conception of legal system integrity, Dworkin's principle of rights as trumps, and Tyler's procedural justice theory, and is operationalized through four institutional pillars: (1) codification of the exclusionary rule within a reformed *KUHAP*; (2) expansion of pretrial oversight as a judicial control mechanism; (3) integration of restorative justice into the formal criminal process; and (4) reconstitution of the judicial role to position judges as active guardians of human rights. This integrative model constitutes the primary novelty of the research, representing a paradigm shift from procedural compliance toward substantive justice and human dignity. Its effective implementation requires coordinated legislative reform, institutional strengthening, and a cultural transformation in legal consciousness among law enforcement officials.

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AUTHOR CONTRIBUTION STATEMENT

Marsudin Nainggolan was responsible for the conceptualization of the study, research design, literature review, legal analysis, manuscript drafting, editing, and final approval of the manuscript for publication. The author has read and approved the final version of the manuscript.

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