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## Human Rights in the Indonesian Constitutional System Post-Amendment of the 1945 Constitution

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**Abstract:** The 1999–2002 amendments to the 1945 Constitution marked a significant transformation in Indonesia's constitutional framework, particularly with the inclusion of Chapter XA on Human Rights. This chapter contains a comprehensive catalogue of rights, civil, political, economic, social, and cultural, textually adopting norms from the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. This study aims to analyze these constitutional changes from a rights-based constitutionalism perspective and examine the gap between constitutional norms and the practical implementation of human rights in Indonesia. Using a normative-analytical approach and comparative constitutional law, this research finds that, while Indonesia's human rights catalogue aligns with international standards, its implementation still faces serious challenges, such as a low Fundamental Rights score (0.54) according to the World Justice Project (2023), and inconsistent judicial rulings. Comparative analysis reveals that Indonesia stands between the Philippines' strict scrutiny model and South Africa's transformative constitutionalism. The study recommends strengthening constitutional review standards, enhancing the capacity of non-judicial institutions, and integrating human rights education into national policy.

**Keyword:** Human Rights, 1945 Constitution Amendments, Rights-Based Constitutionalism, Judicial Review, Indonesia.

### INTRODUCTION

#### Background

Human Rights (HAM) is one of the fundamental pillars in the modern constitutional system. Since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the concept of human rights has undergone significant normative and institutional development in various countries, including Indonesia (Donnelly, 2019). The four amendments to the 1945 Constitution (1999–2002) were the most significant constitutional momentum in the history of Indonesian constitutionalism. One of the most progressive outcomes was the addition of Chapter XA on Human Rights (Articles 28A–28J), which affirmed the principle that human rights are not just moral norms, but justiciable constitutional rights (Butt, 2022). The explicit

placement of human rights in the constitution is in line with the global trend of post-Cold War constitutionalism, where many post-transitional democracies adopted a catalogue of rights that refers to the 1948 UDHR and the International Covenant on Civil and Political Rights (ICCPR 1966) (Davis and Versteeg, 2020). Theoretically, this reflects the paradigm of constitutionalism which emphasizes the limitation of state power through constitutional supremacy and the protection of citizens' rights (Stone Sweet, 2019). Butt (2022) noted that Indonesia has shifted the paradigm of human rights protection from a declarative model to a justiciable model, which provides greater opportunities for people to demand protection through constitutional justice mechanisms (Butt, 2022).

From the perspective of constitutional theory, the existence of human rights norms in the constitution is not only an instrument of limiting state power but also functions as a charter of rights that provides legitimacy for public participation and resistance to rights violations (Stone, 2019). Klare (1998) emphasized that a constitution that contains human rights norms has the potential for transformative constitutionalism, namely encouraging progressive social change through judicial interpretation and public policy (Klare, 1998).

However, the effectiveness of human rights protection is not only determined by written norms, but also by substantive rules of law (Thompson, 2019). Tamanaha (2019) reminded that the success of the rule of law rests on judicial independence, consistent law enforcement, and a supportive legal culture. In the context of Indonesia, the World Justice Project (2023) places Indonesia's Fundamental Rights score at 0.54 (scale 0–1), lower than Malaysia (0.61) and the Philippines (0.57), which shows that there is an implementation gap between normative recognition and factual realization (World Justice Project, 2023). This gap is also identified by International IDEA (2023) which highlights weak executive accountability, suboptimal public participation in legislation, and high restrictions on freedom of expression for national security reasons (International Institute for Democracy and Electoral Assistance, 2023). Landau (2020) emphasized that a constitution with a complete catalog of human rights remains vulnerable to abusive constitutionalism if the mechanism of supervision and public participation is not strong (Landau, 2020). In addition, the legal culture factor also affects the implementation of human rights. Lindsey & Butt's (2021) research found that some law enforcement actors still prioritize a formalistic approach rather than a progressive interpretation of human rights, so that the role of the Constitutional Court (MK) and Komnas HAM is very central as norm entrepreneurs (Lindsey and Butt, 2021). The global context shows that post-democratic transition, many countries face similar challenges. Research by Versteeg & Horley (2021) in the *International Journal of Constitutional Law* found that countries that experience post-authoritarian constitutional amendments often struggle to consistently maintain human rights protections in the absence of an independent constitutional judiciary and effective public participation (Versteeg and Horley, 2021). Indonesia, as the third largest democracy in the world, faces this dilemma, has a progressive legal framework, but implementation is not optimal.

This study is important to analyze how institutional design and constitutional norms after the amendment of the 1945 Constitution affect the effectiveness of human rights protection, as well as to identify structural, political, and legal cultural challenges that hinder the fulfillment of human rights in Indonesia.

### **Problem Formulation**

Based on the above background, this study formulates the main questions:

1. How do the constitutional changes after the amendment of the 1945 Constitution reconstruct the guarantee of human rights in the Indonesian constitutional system?
2. How have the human rights norms in Chapter XA of the 1945 Constitution been effectively implemented in the practice of government and the judiciary?

3. What are the factors that hinder the fulfillment of human rights in Indonesia, even though it has been constitutionally recognized and how does the effectiveness of Indonesia's human rights protection compare with other post-transition democracies in the Southeast Asian region?

## **METHOD**

This study uses a normative juridical approach combined with comparative analysis to examine the protection of Human Rights in the Indonesian constitutional system after the amendment of the 1945 Constitution (Hutchinson and Duncan, 2012). Primary data comes from the text of the constitution (the 1945 Constitution before and after amendment), laws related to human rights such as Law No. 39 of 1999, Law No. 12 of 2005, and relevant Constitutional Court decisions. Secondary data includes articles from international journals indexed by Scopus in the last five years, constitutional law monographs, and reports from international institutions such as the World Justice Project Rule of Law Index (2023) and the International IDEA Global State of Democracy (2023) (World Justice Project, 2023).

Data analysis was carried out through content analysis of constitutional documents to identify changes in the substance of human rights norms and the interpretation pattern of the Constitutional Court. Furthermore, a comparative analysis based on the functional comparative law framework is used to compare the mechanism for human rights protection in Indonesia with post-transition democracies in Southeast Asia (Zweigert and Kötz, 1998). The validity of the research is maintained through triangulation of sources, while reliability is strengthened by review from constitutional law experts (Halliday and Shaffer, 2015). This approach allows the study not only to photograph legal norms textually, but also to assess their effectiveness in dynamic political and social contexts.

## **Theoretical Framework**

The analysis in this study rests on five main theoretical frameworks that complement each other in understanding the dynamics of the protection of Human Rights (HAM) in the Indonesian constitutional system after the amendment of the 1945 Constitution:

### **1. Normative Constitutionalism Theory**

This theory views the constitution as an instrument limiting power and a guarantor of the basic rights of citizens (charter of rights) (Stone, 2019). Dixon & Ginsburg (2021) affirm that the effectiveness of the constitution is measured by its ability to internalize the values of democracy, human rights, and the rule of law into political practice (Dixon and Ginsburg, 2021). In the Indonesian context, Chapter XA of the 1945 Constitution is a manifestation of a commitment to normative constitutionalism.

### **2. Rule of Law Theory**

Referring to Tamanaha (2019), the rule of law has two dimensions: thin conception, which emphasizes legal procedural and certainty; and thick conception, which includes substantive values such as justice, equality, and accountability (Thompson, 2019). Human rights protection can only be effective if these two dimensions are met.

### **3. Judicial Review Theory and Counter-Majoritarian Difficulty**

Bickel (1962) raised a constitutional dilemma when a court overturned a majority decision to protect minority rights that could trigger tensions between democratic legitimacy and human rights protection (Bickel, 1962). In Indonesia, the Constitutional Court acts as the guardian of the constitution as well as a veto player who can correct human rights violations by the executive and legislature.

### **4. Transformative Constitutionalism Theory**

Klare (1998) views the constitution as an instrument of progressive social change that encourages the overhaul of the structure of inequality and injustice. Within this framework, the

human rights norms in Chapter XA of the 1945 Constitution are the drivers of socio-political transformation through progressive interpretation by the judiciary.

## **5. Judicial Resilience Theory**

Scheppele (2020) emphasized that judicial resilience is determined by internal integrity, public support, and a healthy institutional ecosystem. This theory is relevant to assess the capacity of the Constitutional Court in maintaining the protection of human rights in the midst of post-amendment political dynamics.

This theoretical framework is used to guide the analysis, by placing the constitution as a living document that continues to interact with social, political, and cultural developments in law.

## **Analysis**

### **1. Changes in the Substance of Chapter XA of the 1945 Constitution**

The 1945 Constitution Amendment of 1999–2002 marked a significant transformation in Indonesia's constitutional framework with the inclusion of Chapter XA on Human Rights. This is a transition from a structure-oriented constitution to a rights-oriented constitution in line with the thesis of the bill of rights constitutionalism that the modern constitution must contain a catalogue of justiciable rights and be equipped with its protective institutional design (Stone, 2019). The expansion of civil, political, economic, social, and cultural rights reflects the post-Cold War global normative convergence, namely the absorption of the UDHR (1948) and ICCPR (1966) standards into the national text, while placing Indonesia in the current of contemporary rights-based constitutionalism (Dixon and Ginsburg, 2021). This chapter expands the scope of human rights that was previously implicitly scattered in the body of the 1945 Constitution to 10 articles (28A–28J) that regulate civil, political, economic, social, and cultural rights. According to the theory of bill of rights constitutionalism (Stone Sweet, 2019), the addition of this extensive human rights catalog is an indicator of a shift from a constitution oriented to a constitution that is oriented to citizens' rights (Stone, 2019). Textually, Chapter XA adopts many of the norms of the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), such as the right to life (Article 28A), freedom of religion (Article 28E), and freedom of expression (Article 28F). However, as noted by Butt (2022), this constitutional change will only become effective if it is followed by institutional reforms that ensure the justitubility of these rights (Butt, 2022).

However, the recent literature emphasizes that a declaration of rights is only the initial stage; its effectiveness depends on three prerequisites: (i) adequate remedial design and judicial enforcement, (ii) alignment between national rights limitation clauses (Article 28J) and the ICCPR standard necessity–proportionality test, and (iii) an architecture of checks and balances that maintains judicial independence and legislative executive accountability (Versteeg and Horley, 2021). In this framework, Butt (2022) notes that institutional reform is needed to ensure justiability is central: written rights must be accompanied by procedural rules, inclusive standing, strong reason-giving, and cross-institutional compliance mechanisms.

Beyond judicial design, judicial resilience determines the sustainability of human rights protection. Cross-country studies show that constitutional courts protected by codes of ethics, conflict of interest mechanisms, and public legitimacy are better able to maintain the consistency of human rights decisions amid political pressure and populism (Popova and Lupu, 2023). At the same time, Indonesia's rule of law performance in the World Justice Project (2023) and the findings of International IDEA (2023) on participatory engagement and constraints on government powers indicate the implementation gap between the text of Chapter XA and practice confirming the urgency of strengthening meaningful participation in legislation, reason-giving transparency, as well as the capacity of supervisory institutions (World Justice Project, 2023)

Thus, Chapter XA is not just a catalog of rights, but a normative architecture that demands: (a) proportionality-based judicial operationalization that is in line with the ICCPR; (b) remedial design that ensures cross-agency compliance; and (c) an ecosystem of governance of parliaments, oversight agencies, and civil society, which ensures that constitutional rights function effectively in practice.

## **2. Implementation in Constitutional Practice**

Although normatively the post-amendment recognition of human rights is very strong, the gap between text and practice still occurs. Data from the World Justice Project (2023) shows that Indonesia's Fundamental Rights score is 0.54, lower than Malaysia (0.61) and the Philippines (0.57) which indicate weaknesses in freedom of expression, freedom of assembly, and protection from discrimination (World Justice Project, 2023). These findings are in line with International IDEA (2023) and Freedom House (2024) which recorded a decline in constraints on government powers and civil liberties indicators, as well as with HRMI 2024 data which showed stagnation scores for freedom from state abuse and empowerment rights (International Institute for Democracy and Electoral Assistance, 2023).

Jurisprudence, the Constitutional Court's decision also shows variations in human rights protection. Some progressive rulings, such as Decision No. 46/PUU-VIII/2010 on children out of wedlock, expanded the protection of rights based on the principle of equality. However, there are also decisions that are considered regressive, such as decisions related to restrictions on freedom of expression in the name of public order. This shows that judicial independence is a key factor in testing the effectiveness of human rights in Indonesia, in line with the concept of judicial resilience (Scheppelle, 2020) which emphasizes the court's ability to survive political pressure (Scheppelle, 2020).

Recent literature emphasizes that proportionality is the gold standard of modern constitutional enforcement; it demands strict necessity and balance, as well as transparent reasoning, especially in cases of expression/assembling that are strongly protected in GC No. 34 (Art. 19 ICCPR, 2021-update) and GC No. 37 (Right to Assembly, 2020).

At the institutional level, judicial independence is a key variable that explains the fluctuations in human rights protection. The theory of judicial resilience asserts that the court can only survive political pressure and populism if it is supported by internal integrity (code of ethics, conflict of interest, cooling-off) and procedural legitimacy (open hearing, *amicus curiae*, publication of adequate reasons for the decision) (Popova and Lupu, 2023). Comparative studies of the region show that constitutional courts that have a proceduralized engagement with the public (e.g. substantive public hearing, friend-of-the-court) is better able to maintain interpretive authority as well as accountability (Chen and Yeh, 2020). In the Indonesian context, recent research also highlights the importance of inclusive justiciability of standing rights, access to legal aid, and the design of effective remedies so that the rights in Chapter XA function as operational rights, not just declarations (Butt, 2023).

By combining external performance measures (WJP/IDEA/HRMI) and proportionality-based judicial reasoning frameworks, strengthening human rights protection requires three adjustments: (i) consistency in the application of proportionality tests and strict/heightened scrutiny for expression and gathering; (ii) strengthening safeguards of judicial independence and reason-giving that can be audited by the public; and (iii) expanding access to justice and remedial design across institutions (Constitutional Court, General Justice, Komnas HAM) so that compliance increases and the implementation gap narrows.

## **3. Comparison with Post-Transition Democracies**

Comparatively, the Philippines has a more detailed Bill of Rights in the 1987 Constitution, and its Supreme Court actively uses the doctrine of strict scrutiny in testing laws that restrict fundamental rights. The Supreme Court of the Philippines has consistently required proof that the restriction has a compelling state interest, uses a narrowly tailored method, and is the least

restrictive option (Hofileña and Abad, 2022). Meanwhile, South Africa, through the Constitution of the Republic of South Africa (1996), applies a transformative approach to constitutionalism (Klare, 1998), which requires the state to actively eliminate structural inequalities rather than simply restrain rights violations (Klare, 1998). This is supported by the Bill of Rights which can be justiciable directly in court, and by the Constitutional Court of South Africa which routinely uses the proportionality and reasonableness test in social and economic rights cases such as education, health, and housing (Bilchitz, 2021).

Indonesia is in between these two models and has a relatively comprehensive human rights catalog through Chapter XA of the 1945 Constitution, but its implementation still faces interpretive inconsistencies and depends on the courage and resilience of the judiciary in the face of political pressure (Opova and Lupu, 2023). The absence of an institutionalized doctrine of strict scrutiny and the lack of the use of tiered proportionality tests make human rights protection often ad hoc. This suggests that although the normative architecture is robust, its effectiveness requires the institutionalization of consistent constitutional testing standards, as the current comparative literature recommends (Barak, 2021).

Based on the document analysis, there are three main factors that hinder the fulfillment of human rights post-amendment, in the form of (a) overlapping authority between institutions (Komnas HAM, Ombudsman, MK, MA) that have not been integrated; (b) the dominance of large coalitions in parliament that tends to weaken the oversight function of human rights violations; (c) a formalistic approach in law enforcement that does not prioritize the principle of substantive justice (Tamanaha, 2019). This analysis shows that constitutional recognition of human rights does not automatically guarantee effective protection without the support of strong institutional design, meaningful public participation, and a progressive legal culture. This is in line with the transformative constitutionalism theory (Klare, 1998) which views the constitution as an instrument of social change that requires political commitment and progressive judicial interpretation (Klare, 1998).

## **RESULTS AND DISCUSSION**

### **Design and Practice from Rights on Paper to Rights in Action**

The amendment to the 1945 Constitution that gave birth to Chapter XA (Articles 28A–28J) was a monumental step in placing Indonesia on the paradigm of rights-based constitutionalism, where the constitution not only regulates the architecture of power but also provides a justiciable charter of rights. According to Stone Sweet (2019), these changes are in line with the post-1990s global trend, in which post-political transition countries sought to strengthen democratic legitimacy through the explicit recognition of a catalogue of rights in constitutional texts (Stone, 2019). However, the transition from rights on paper to rights in action requires three prerequisites: (a) enforceability through an independent judiciary, (b) effective legislative oversight mechanisms, and (c) meaningful public participation. In the Indonesian context, although the text of the constitution has covered civil, political, economic, social, and cultural rights, its substantive realization still faces an implementation gap (International Institute for Democracy and Electoral Assistance, 2023).

Quantitative data from the World Justice Project (WJP, 2023) shows Indonesia's Fundamental Rights score = 0.54 (scale 0–1), placing it below Malaysia (0.61) and the Philippines (0.57) (World Justice Project, 2023). The weakest indicators are freedom of expression, the right to assemble, and protection from discrimination. These findings are consistent with International IDEA (2023) which places Indonesia in the category of "mid-range performers" for participatory engagement and effective parliament, two variables that greatly determine the realization of human rights because they are directly related to the quality of deliberation and policy accountability (International Institute for Democracy and Electoral Assistance, 2023). Theoretically, this gap can be explained through the concept of

"enforcement deficit" (Hirschl, 2004) where formal recognition of human rights is not followed by institutional capacity to enforce it. International comparisons show that countries with similar scores in the WJP, such as South Africa, are able to address some of the gaps through transformative constitutionalism that emphasizes the proactive role of the state in realizing socio-economic rights through structural remedies (Klare, 1998). In contrast, Indonesia still tends to adopt a passive negative rights approach, recognizing rights, but not systematically requiring the state to fulfill and protect them through affirmative policies.

Thus, the main problem in post-amendment Indonesia is not a normative deficit, but a lack of implementation deficit. This requires a strategy for institutional reform, strengthening judicial capacity, and the implementation of stricter and more transparent human rights testing standards, so that Chapter XA truly functions as an instrument for the protection of rights, not just a normative declaration.

### **Judicial Review as a Lever for Human Rights**

After the amendment of the 1945 Constitution, the existence of the Constitutional Court became the main instrument to ensure the justiciability of constitutional rights. Theoretically, judicial review serves as a counter-majoritarian check mechanism, protecting minority rights from the tyranny of the legislative and executive majorities (Bickel, 1986). In the context of human rights, the Constitutional Court plays a strategic role because it is able to interpret the norms of Chapter XA progressively to close the gaps or weaknesses of legislation. Empirical data shows that from 2003–2023, around 31% of Constitutional Court rulings related to legal testing are directly related to human rights issues, ranging from freedom of expression, the right to privacy, to gender equality (Butt, 2022). Some progressive rulings, such as Decision No. 46/PUU-VIII/2010 on the recognition of children out of wedlock, expanded the scope of rights based on the principle of non-discrimination. However, there are also decisions that are considered regressive, such as restrictions on freedom of expression in the name of public order, which have drawn criticism for not applying the proportionality test strictly (Mulyadi and Prasetyo, 2021). In the comparative literature, judicial review is effective as a human rights lever if it meets three institutional conditions: (a) guaranteed judicial independence, including protection from direct political intervention (Ginsburg and Melton, 2015); (b) clear constitutional testing standards, such as strict scrutiny for fundamental rights or proportionality and reasonableness for socio-economic rights (Hofileña and Abad, 2022); (c) the accessibility of litigation mechanisms, including public interest litigation that provides space for vulnerable groups to test the constitutionality of a norm (Khosla, 2020).

The case in Indonesia shows that although the Constitutional Court is formally independent, political dynamics including populist pressure and media polarization can affect public perception of the legitimacy of decisions. The World Justice Project (2023) recorded a decrease in Indonesia's Constraints on Government Powers score from 0.65 in 2018 to 0.61 in 2023, which was influenced by the perception of judicial independence (World Justice Project, 2023). These findings are consistent with the concept of judicial resilience (Scheppele, 2020), which is the ability of the judiciary to survive from systematic political pressure (Scheppele, 2020).

Lessons from international comparisons show that the Supreme Court of the Philippines uses the doctrine of strict scrutiny for any restrictions on freedom of expression, so the burden of proof is on the government to show that the restrictions are compelling, necessary, and narrowly tailored (Bernas, 2020). The South African Constitutional Court routinely applies transformative constitutionalism to ensure that the courts not only passively interpret human rights, but also encourage affirmative policies to eliminate structural inequalities. Indonesia can take lessons from these two models to strengthen the function of the Constitutional Court as an effective human rights lever. Thus, judicial review in Indonesia has great potential to

bridge the gap between rights on paper and rights in action. However, this potential can only be realized if the Constitutional Court consistently uses strict testing standards, is open to public participation, and maintains its institutional resilience to political intervention.

### **The Role of Non-Judicial Institutions in Human Rights Enforcement**

In addition to the Constitutional Court, non-judicial institutions such as Komnas HAM, the Ombudsman of the Republic of Indonesia, and the National Commission on Anti-Violence against Women (Komnas Perempuan) played an important role in strengthening human rights enforcement after the amendment of the 1945 Constitution. According to the theory of multi-institutional enforcement (Landau & Dixon, 2019), the effectiveness of human rights enforcement does not only depend on the courts, but also on a network of supervisory agencies that are able to identify violations and encourage compliance from the executive and legislature (Landau and Dixon, 2019). Quantitative data shows that in 2023, Komnas HAM received 2,753 complaints of human rights violations, with 43.2% related to the right to justice and fair trial, and 25.7% related to freedom of expression (Komnas HAM RI, 2024). Meanwhile, the Ombudsman of the Republic of Indonesia reported 9,106 complaints of maladministration, of which 17% have the potential to affect the fulfillment of citizens' basic rights, such as the right to education and health services (Ombudsman of the Republic of Indonesia, 2024).

Normatively, the existence of these institutions is in line with the Paris Principles established by the UN General Assembly in 1993, which govern independence, broad mandates, and public access to human rights institutions. However, studies by the World Justice Project (2023) and International IDEA (2023) indicate that the main weakness of these institutions is the limited enforcement power of the recommendations issued, so it depends on the political will of the government and parliament (World Justice Project, 2023). In the comparative literature, the South African Human Rights Commission (SAHRC) has quasi-judicial authority to call witnesses and issue binding orders in cases of specific human rights violations. Similarly, the Human Rights Commission of Malaysia (SUHAKAM), although it does not have binding authority, maximizes the public shaming strategy through the widespread publication of investigative findings, thus pressuring the government to respond (Human Rights Commission of Malaysia, 2023). Indonesia can learn from these two models, especially in strengthening the follow-up mechanism of recommendations so that they do not stop at the administrative realm. From the perspective of the rule of law, the role of this non-judicial institution is complementary to the court mechanism. They serve as an early warning system and forum that is more accessible to vulnerable groups, thereby reducing the cost, procedural, and psychological barriers that are often encountered in litigation in court (Carothers, 2021). Strengthening the budget, authority, and protection of the independence of these institutions are prerequisites for optimizing the implementation of Chapter XA of the 1945 Constitution in practice.

### **CONCLUSION**

The amendment to the 1945 Constitution which gave birth to Chapter XA (Articles 28A–28J) is an important milestone in the paradigm shift of Indonesian constitutional towards rights-based constitutionalism. Normatively, this comprehensive catalogue of rights puts Indonesia on a par with other modern constitutions that prioritize the rights of citizens. However, the findings of the study show that there is a significant implementation gap, where the fulfillment of human rights still faces challenges in the form of a low Fundamental Rights score (0.54 according to WJP 2023) compared to neighboring countries such as Malaysia (0.61) and the Philippines (0.57)<sup>2</sup>. Post-amendment human rights protection is supported by three main pillars: constitutional judicial review, legislative-executive checks and balances mechanisms, and the role of non-judicial institutions such as Komnas HAM and the Ombudsman. However,

inconsistencies in judicial decisions, weak follow-up on recommendations of non-judicial institutions, and limited substantive public participation still hinder the optimization of Chapter XA of the 1945 Constitution. From a comparative perspective, Indonesia is in a position between the Philippines' strict scrutiny model and South Africa's transformative constitutionalism. The human rights catalog has been progressive, but the institutionalization of constitutional testing standards and enforcement through multi-actor institutions is not yet fully mature.

### **Recommendation**

Based on the findings of this study, there are several strategic steps that need to be taken to strengthen the protection of Human Rights in the Indonesian constitutional system after the amendment of the 1945 Constitution. First, strengthening constitutional review standards by the Constitutional Court, through the consistent application of strict scrutiny or proportionality tests in cases related to the restriction of fundamental rights. Second, increasing the capacity of non-judicial institutions such as Komnas HAM, the Ombudsman, and the Witness and Victim Protection Institute (LPSK) so that they can function as frontline institutions in monitoring, investigating, and advocating for human rights violations. Third, the integration of human rights education into the national curriculum at all levels of formal education, including continuous training for state apparatus and law enforcement. Fourth, the development of a more meaningful public participation mechanism in the legislation process, including the use of a transparent and accountable e-democracy platform. Fifth, strengthening the transparency and accountability of state institutions through data disclosure, periodic publication of human rights protection performance, and peer review mechanisms between institutions.

These recommendations are expected not only to bridge the gap between rights on paper and rights in action, but also to encourage the creation of an adaptive constitutional system that is consistent, progressive, and consistent with the principles of constitutional democracy and the rule of law.

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