REPOSITION OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS IN THE STATE LEGAL SYSTEM

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Abstract

The Universal Declaration of Human Rights (UDHR) is the foundational human rights declaration. The United Nations adopted it on December 10, 1948. The Universal Declaration of Human Rights is a global reference that establishes universal principles for achieving human rights. Although the Universal Declaration of Human Rights lacks official legal power, its fundamental concepts have become universal standards and are regarded as international law by many nations. Human rights have been codified in numerous international, national, provincial, and local/municipal legal texts. In this piece, the author employs a qualitative descriptive research methodology. It is said to be 'universal' because this right is stated to be a part of every human being's humanity, regardless of skin color, gender, culture, or religion; and it is said to be 'attached' because anyone possesses this right by virtue of his birth as a human being and not because of the grant of any authority institution. This privilege cannot be revoked by anyone because it is "attached." On the basis of the articles of all applicable Indonesian constitutions, it is possible to assert that the conceptualization of human rights in Indonesia has undergone a rigorous and protracted dialectical process. Incorporating human rights into the constitution demonstrates a commitment to upholding the law and human rights. In addition, different human rights provisions in the Indonesian constitution have been crafted to satisfy the needs and requirements for human rights protection in the personal, family, community, and national contexts.

Keywords: Declaration; UDHR; Human rights
INTRODUCTION

People were the first creatures that God made to reflect his likeness. As a consequence of this, they have been in possession of human rights that are inalienable, cannot be violated by anyone, and cannot be altered in any way. Human rights are the most fundamental individual rights, and they include the right to life in all of its political, legal, economic, social, and cultural expressions. These rights are regarded as the most fundamental individual rights. This right is a fundamental requirement that must be met by each and every individual and group of individuals, irrespective of their race, religion, gender, or any other distinguishing traits. Everyone's rights, not just human rights, need to be preserved in order to eliminate or significantly cut back on the many forms of arbitrary state acts and policies that are taken against particular persons. There is a widespread problem with violations of human rights. Human rights crimes committed against the Rohingya people are one example of the transgressions that took place.

As the 20th century came to a close, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which guaranteed these rights, were promised to individuals by the state. The fight for human rights experienced both highs and lows throughout the course of the century. In the Universal Declaration of Human Rights (UDHR) from 1948, which was the impetus for opposition to the human rights movement. The protection of human beings as a matter of international law is one of the challenges that the world must confront in the present day.

The efforts that have been made all over the world to protect individuals have led to the development of a new legal framework that is based on Article 14 of the Universal Declaration of Human Rights from 1948. This article affirms the right of individuals to seek protection from persecution in a foreign country. The United Nations Convention on the Status of Refugees from 1951 serves as the primary legal foundation for the modern-day protection of refugees from around the world. All refugees are in the same position, which is to say that they must defend the rights of others because they cannot return to their home country.

DUHAM was established as a response to the oppression perpetrated by Hitler and Mussolini through their respective ideologies of fascism and Nazism, both of which undermined human dignity at its core. In a similar vein, the horrors committed by Stalin, who used his unchecked power to destroy human values, are an example. The Universal Declaration of Human Rights (UDHR) in this context is not a reflection of the individualistic principles that are prevalent in the West; rather, the UDHR was conceived as a means of preserving the dignity of those people who were on the periphery of society in the West at the time. From this
point of view, it becomes clear that the realization of a more civilized and improved form of human dignity is the driving force behind the necessity and indispensability of human rights.¹

The declaration of the United Nations General Assembly on Human Rights on December 10, 1948, known as the Universal Declaration of Human Rights, also commonly abbreviated as DUHAM, was the first universal formulation regarding fundamental rights that are universal and must be protected. This declaration was relatively widely accepted at the time.² This declaration lays out fundamental rights that, due to the fact that they are deemed to be inherent in every person as a result of their humanity, they are obligated to be preserved and respected by the state, society, and all individuals. Because the loss of these fundamental rights would result in the loss of a person's human identity, it is fundamentally impossible for these rights to be taken away from a person or revoked in any way.³ The application of a sentence that is based on a law that is currently in effect may, however, result in the loss of some of these rights under specific conditions and for a very restricted set of reasons.⁴

The concept of human rights is a right as a gift from God Almighty that is inherent in human beings, is natural, universal, and eternal, and is related to human dignity. Since human rights are the fundamental rights of all human beings, regardless of any differences, this means that the concept of human rights is a right. Every recognized and respected human being possesses the same human rights, regardless of gender, skin color, nationality, religion, age, political beliefs, social standing, language, or any other status. This is true regardless of any other status as well. The people of Indonesia are aware that human rights are not static concepts but rather have a long and complex history, and that their actualization is something that evolves over time in the context of society, the nation, and the state.⁵

**METHODS**

In the course of writing this research, we will be using a normative-empirical research approach. The method of research known as normative or doctrinal research is a type of research that looks at written regulations, legal principles, and

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legal doctrines in order to find answers to questions regarding current legal issues. A qualitative descriptive method was used to analyze the data that was obtained from the study. This method involves the data being obtained, arranged systematically after being selected based on the problems, and then checked for conformity with the applicable provisions.

RESULTS AND DISCUSSION
1. History of the Development of Human Rights
   a. Medina Charter “Shahifatul Madinah”

The Medina Charter, also known as the Medina constitution and referred to by Muslims as the shahifatul madinah, is a document that was drafted by the Prophet Muhammad SAW in the year 622 AD as a formal agreement between himself (as the leader) and all of the important tribes and clans in Yathrib, which this charter later changed its name to become Medina. It is known as the Medina Charter. This charter was written in as much detail as was feasible with the primary goal of putting an end to the violent struggle that had been raging in Medina between the Bani 'Aus and the Bani Khazraj.

It was declared at the beginning of the Medina Charter that "all human beings are one people (umatan wahidah), who were born from the same source." This was done in reference to the fact that all humans descended from a single ancestor. In this sense, it recommends to us that fundamentally every individual human or group has equal rights among all other human beings and that there is no distinction in any regard, such as skin color, race, nation, and so on. However, according to Islam, there is one feature of human beings that makes a difference and has a higher degree than other people, and that is worship and faith in Allah. All human beings are equal before the creator, but this aspect of human beings in Islam is what makes a difference.

The Medina Charter is a political charter that outlines guidelines for Muslims (Muhajirin and Ansar), Christians, Jews, and Paganists in the city of Medina to follow in order to coexist peacefully. The Medina Charter is the result of the Prophet's conception, which was inspired by the Koran. In essence, it contains freedom of religion, the right of each group to regulate life according to their beliefs, economic independence between groups, human rights, and others.

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Additionally, it emphasizes the existence of a general obligation, which is participation in joint defense efforts against external enemies and joint bearing of the costs of war.\(^9\)

b. Magna Charta

Although the Magna Charta, which was published in England in 1215 and is commonly referred to as the "forerunner" of human rights, this description is not entirely accurate, the idea that it was the "forerunner" of human rights is widespread. The Magna Charta document solely contains a "political conspiracy" between King John and the nobles over the division of authority, particularly in order to decrease the power of the king. Even if it touched some of the rights and liberties of the common people, what was being fought for was the interests of the aristocrats.

Human rights were more essential than the power of the monarch, and the protection of citizens' rights was always based on legal rules. The principles that were put forward by the British nobles regulated the limits of the king's power.

The United Kingdom has a long tradition of being a leader in the battle for human rights across Europe. Additionally, the United Kingdom is home to a great number of national philosophers that advocate for human rights, such as John Locke, who is widely regarded as the person who first articulated the idea of human rights in Western philosophy. The two historical records that are going to be discussed both provide insight into the past of the fight for human rights in the United Kingdom. The first important document is the Magna Charta Libertatum (1215), which was ratified by King John Lockland in that year. This clause is frequently cited as the point of departure for the concept of human rights. The nobles and the king came to an agreement in the Magna Carta about how power should be distributed. The control of the rights of citizens on the basis of legal principles is the Magna Charta's core purpose. One of these is the outlawing of arbitrary punishment and detention, as well as the seizure and sale of personal property. The second topic is the Bill of Rights (1689). This treaty was a response to the English revolution of 1688, which resulted in the overthrow of the monarchy. The Bill of Rights placed a significant amount of emphasis on the rights of citizens and included provisions for the removal of the king.

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c. Bill of Rights (1689)

The International Bill of Rights, often known as the Universal Declaration of Human Rights (UDHR), is the primary document that governs the most fundamental rights and liberties enjoyed by all people.\(^\text{10}\)

The "Glorious Revolution" (revolution without bloodshed) in 1688 led to the creation of the Bill of Rights. This revolution was the result of the struggle of the English parliament against the kings of the Stuart Dynasty and subduing the Monarchy under the authority of the English parliament. The "Glorious Revolution" was a bloodless revolution. A regulating legislation that outlines the rights and liberties of individuals and establishes the line of succession for the king is at the core of the Bill of Rights.\(^\text{11}\)

In the annals of human rights advocacy, the adoption of the Declaration of Independence by the United States of America in 1776 is seen as a watershed moment. The American people began their fight for a bill of rights in 1789, which would later be incorporated into the United States Constitution in 1791. The bill was dubbed the Bill of Rights.

In general, the rights that are fought for are political rights. Some examples of these rights include the right to equality, the right to liberty, and the right to vote. As was said earlier, the notions of legal and political philosophy that were evolving at that time had a significant impact on this conflict. One example of this is the concept of natural law, which was developed by John Locke (1632-1714) and Jean-Jacques Rousseau (1712-1778).

Article 2, which regulates the fundamental principles of equality and non-discrimination with regard to the fulfillment of human rights and fundamental freedoms, prohibits "differences of any kind such as race, color, sex, language, religion, politics or different opinions, national, ethnic or social origin, property, birth or other status." This provision is part of the regulation that governs the basic principles of equality and non-discrimination.

d. Declaration of Independence (1776)

In addition to England, the United States and France are two additional countries that have played an active role in the fight to defend human rights throughout history. This can be observed from the Declaration of Independence that was written in 1776, which was a declaration of independence that created the basis for the people of the United States to be free from the tyranny of the British.

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The ideas expressed in this declaration were derived from the work of John Locke and other European philosophers, including Montesquieu and J.J. Rosseau, among others from France. As a consequence of this, the structure is virtually identical to the one used in French.12

The adoption of the Declaration of Independence by the American people in 1776 served as the impetus for their nation's independence from British authority. The principles that were reflected in this declaration were originally derived from the philosophies of John Locke (1689-1755) and J.J. Rosseau (1712-1778). Thomas Jefferson, who later went on to become the president of the United States, is credited with drafting this declaration, which includes the passage that reads as follows (Mansyur Effendi, 2005): "We consider these (following) truths self-explanatory: that all human beings are created equal; that their creator has granted them certain inalienable rights; that among these rights is the right to life, freedom, and the pursuit of happiness." That in order for people to be able to guarantee these rights, they form a government, which then gains the appropriate power based on the consent that is ordered. That anytime a system of government works against the accomplishment of these goals, the people have the right to reform it or get rid of it."

The declaration made in French is actually quite similar to the formulation that has been presented above. The distinction between the two is that the United States statement does not use the term God but rather "The Creator." For example, the United States declaration states, "All Men Are Created Equal and Are Endowed by Their Creator with Certain Unalienable Rights." The American and French declarations of independence are the first "Coherent Catalogues of Fundamental Rights and Freedoms" and are referred to as "Human rights," whereas the Magna Charta and the Bill of Rights are concessions obtained by the king. Therefore, the declaration is the first step in the development of the concept of "Human Rights."13

e. Declaration Des Droit de L’home et du Citoyen (1789)

Following the French Revolution, the French people issued a declaration recognizing human rights, which included a prohibition on arrests made at the arbitrator's whim (without reason). It is known as the Declaration of the Rights of Man and the Citizen in France. This document, which forms the basis of the French Revolution and contains provisions regarding the principles of constitutional government, rule of law, and basic rights of citizens, is known as the

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Declaration des droits de l'homme et du citoyen in France. Then, in the year 1948, the United Nations produced a declaration on human rights through the Universal Declaration of Human Rights (UN UDHR), also known as the General Declaration of Human Rights (GDHR). The UN UDHR is comprised of thirty articles.\(^{14}\)

**f. The 4 Freedom (1789)**

It was stated in one of the speeches that the President of the United States delivered in front of Congress on January 6, 1941, that it was necessary to protect and defend human rights, which at that time, their dignity and essence as beings who existed had been trampled on by the aggressors of Nazi Germany. This was stated in one of the speeches that the President of the United States delivered. The rights that President Roosevelt was referring to are commonly referred to as "The Four Freedoms" or simply the four freedoms. These rights are as follows: (a) Freedom of Religion; (b) Freedom of Speech and Thought; (c) Freedom from Wants; and (d) Freedom from Fear.

In a manner that is consistent with the history of the process of democratic progress, which was initially restricted to political democracy, the history of the process of articulating human rights that took place in the Western world follows suit. Before the 18th century, the acknowledgment of human rights was still restricted to rights that were solely political in nature, such as equal rights to liberty, the right to independence, and so on. This continued until the 18th century. But topics of human rights in relation to social issues, economic topics, cultural topics, educational topics, and so on have not been discussed at all. The concept of natural law had a significant impact on the development of rights in the eighteenth and nineteenth centuries, when such rights were first articulated (Natural Law).

**g. Preamble to the 1945 Constitution**

The Medina Charter and the Constitution of 1945 both have clauses in them that discuss the foundation of religious harmony. Which indicates that followers of various religions are required to coexist peacefully. It is unacceptable to let differences in religious practice stand in the way of social cohesion.\(^{15}\)

The Constitution of the Republic of Indonesia of 1945, which establishes freedom of expression as part of the basic law, is a broad agreement (consensus) reached by citizens about fundamental norms (grundrnom) and fundamental rules.

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\(^{15}\) Ahmad Sukardja, *Piagam Madinah dan Undang-Undang Dasar 1945*, Jakarta, Sinar Grafika, 2012. hlm.5
(grundgesetze) in the functioning of the state. This agreement is largely concerned with common aims and aspirations, the rule of law as the foundation for governing the state, as well as the institutions and procedures that make up the forms of administration for the state. According to this Law, Indonesia is a country that is built on law (also known as a machtssstaat), rather than a country that is based on simple authority (machtsstaat). In addition, the nation abides by a constitutional system, which means that the government is founded on the constitution (basic law), rather than on absolute power (unlimited power). The Constitution acts as a guideline for the implementation of "constitutional democracy," which refers to the practice of democracy whose ideological and teleological goals are the formation and fulfillment of a constitution. This practice of democracy was named after the document that serves as its guiding document.16

h. Universal Declaration of Human Rights by the United Nations

The Declaration or Universal Declaration of Human Rights is a 1948 recommendation accepted and ratified by the United Nations General Assembly. The UN has issued a statement on human rights and set a number of guidelines in order to defend the human rights of every citizen in every country. There are thirty articles included in the Universal Declaration of Human Rights.

In 1948, the United States General Assembly issued the Universal Declaration of Human Rights, which included a list of fundamental human rights as "a common standard of success for all persons and nations" (preamble). Since then, numerous other instruments in the form of legally binding international agreements or global or regional declarations with no legal force have been approved. These texts contain more information on the rights enumerated in the Universal Declaration of Human Rights, or they explore other rights.17

Prior to the formation of the Universal Declaration of Human Rights, historically there were actually several provisions governing human rights. The provisions referred to include: 1). Magna Charta, England (1215); 2). Bill of Rights, England (1689); 3). Declaration of Independence, USA (1776); 4). Bill of Rights USA.

2. The Characteristics of Human Rights

a. Human rights are the scientific rights inherent in every human being at birth.

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Human rights who have rights are humans (individuals), apart from individuals (humans) no one has human rights. This means that only human individuals have human rights.  

Adhering to this fundamental restriction, it is possible to assert that human rights have existed as long as humans have, as there is only one prerequisite for having human rights: being a human being. The issue is how the law governs human rights as a norm established by authorities with binding and coercive authority.  

There are three components of human rights that need to be preserved in order to establish human freedom to act in accordance with the standards that are in place. If we consistently remember to respect human dignity, these three areas have the potential to go swimmingly. Every person has their own set of rights, and those rights must be respected by everyone else. In light of the widespread perception that human rights in Indonesia are not being adequately protected or promoted, the Indonesian government is obligated to address this problem. The Constitution of the Republic of Indonesia, which was written in 1945, includes provisions for the protection of human rights. The preamble to the Constitution that was ratified in 1945 as well as the articles that were ratified in 1945 all included statements regarding human rights. According to the law, everyone possesses rights such as the right to work, education, and health insurance, amongst other rights. Therefore, the government should always give comfort and welfare to the society in order to ensure that people have access to education, employment, and adequate medical care. The people need to be given what it is that they have earned. They are required to receive assistance since society is a very significant component of the state.

b. Human Rights are Means of Maintaining Human Dignity and Human Dignity according to His Noble Human Nature

The Universal Declaration of Human Rights (UDHR) is a reflection that underpins the revolutionary aspirations for all countries around the world. It was declared by the general assembly as a common standard of achievement for all peoples and countries with the intention that every individual and social organization, always remember this declaration by working to promote respect for

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these rights and freedoms through teaching and education, and through other means progressive, both national and international scope, to guarantee universal and effective recognition and compliance, both among the peoples of the member countries of the United Nations.

The president of the General Assembly noted that the adoption of this proclamation was a major achievement, a step ahead in a great evolutionary process. Forty-eight countries supported the declaration, none opposed it, and eight countries did not vote. This is the very first time that an organized community of nations has made a declaration of human rights and fundamental freedoms, and it took place at this particular event.

A prologue and thirty articles that regulate human rights and fundamental freedoms are included in the Declaration. These rights and freedoms are universal, meaning that everyone, regardless of gender or location, is entitled to them. The conceptual groundwork is laid out in Article 1, which declares that "All human beings are born equal and free in their rights and dignity."

They have been given the gifts of reason and conscience, and they are obligated to treat one another with a sense of brotherhood. As a result, the basic assumptions have been defined by the article in the form of a declaration, which states that the right to freedom and equality is a right that humans are born with, which cannot be revoked and cannot be discriminated against; and because humans are rational and moral beings, humans are different from other creatures on earth, and as a result, humans are entitled to certain rights and freedoms that are not enjoyed by other creatures.21

c. Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a form of standard human rights agreement (HAM) that applies universally. This universality implies that everyone, in whatever country he is located, has the same right to life.22

The conclusion of World War II and the atrocities committed by Nazi Germany against millions of Jews during the Holocaust served as the impetus for the creation of the Universal Declaration of Human Rights (UDHR). On December 10, 1948, in Paris, France, the General Assembly of the United Nations formally approved and adopted the declaration. Even though the idea of human rights did not emerge until the 17th and 18th centuries after the common era (AD)

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and was established in Europe and the United States, its roots can be found in the more honorable traditions of earlier eras. Long before the rationalistic and secular conception of human rights came into existence, the religious traditions that were present in a variety of ancient civilizations had already laid a foundation that was sufficient for the formation of human rights. Even while it is not sufficient on its own to create a human rights foundation for a plural society, this religious tradition is a potential alternative for greater human rights enforcement. This is because it provides a framework for human rights.  

The Indonesian Constitution, Viewed Through the Lens of Human Rights (HAM) Realizing the long history of universal humanity with all of its dynamics has had an influence on the development of thought, particularly within the Indonesian state administration, and this is an important point to note. It is also important to note that this realization has had an influence on the development of thought. It has come to everyone's attention that concepts of human rights do not magically materialize out of thin air, free of the "cost" of significant effort and personal sacrifice. Aside from that, it is difficult to conceive of a sincere commitment to bolstering, implementing, and defending human rights without being linked to the basis and evidence of awareness of the meaning and purpose of the human person's life itself. This is because it is difficult to imagine a human being living their life without a sense of the meaning and purpose of their own existence.  

CONCLUSIONS  
The Universal Declaration of Human Rights is a document that was approved by the General Assembly of the United Nations on December 10, 1948, at the Palais de Chaillot in Paris, France, in accordance with Resolution 217 A of the General Assembly of the United Nations (III). This declaration is a general guideline saying that human rights should be protected internationally. The western world, which includes Europe, was the first to speak up for human rights; but, if one looks at the history of human rights, one can see that England was the primary voice pushing for change. John Locke, a philosopher who lived in England during the 17th century, is credited with articulating concepts or formulating natural rights. His name is associated with this body of work. The publication of the Magna Charta, the outbreak of the American revolution, and the beginning of the French revolution were three significant

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events that left an indelible mark on the progression of human rights in the western world.

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