

HUMAN RIGHTS TREATY BODIES

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ABSTRACT

This research examines the interplay between universality and particularism in human rights implementation, focusing on how global standards interact with local contexts. Universality represents universally applicable principles, particularly those based on international frameworks such as the Universal Declaration of Human Rights (UDHR), while particularism emphasizes interpretations influenced by cultural, historical, and social values. Using a qualitative method involving literature review and case study analysis, this research highlights Indonesia's approach in integrating universal human rights with local traditions. For example, the balance between individual religious freedom and collective harmony reflects a synthesis between global standards and local norms. The research findings reveal that human rights treaty bodies play an important role in monitoring compliance with international conventions through mechanisms such as periodic reporting, public comments, and investigations. However, resistance to universal principles, especially in issues such as gender equality and freedom of expression, emphasizes the need for flexible approaches to bridge global norms and cultural values. This discussion emphasizes that encouraging constructive dialogue and adopting adaptive strategies are crucial to achieving inclusive and sustainable human rights practices. This research provides valuable insights for policymakers and the international community in developing frameworks that balance global human rights standards with cultural diversity, ensuring equitable and effective implementation worldwide.

Keywords: human rights; particularism; treaty bodies; universality.

INTRODUCTION

Human rights are fundamental rights inherent in all individuals regardless of race, nationality or status (Hidayah, 2023; Romdoni et al., 2024). This concept has become a key pillar in realizing justice and humanity at the global level (Romdoni et al., 2024). Since the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948, the world has witnessed the evolution of various international instruments aimed at regulating, protecting and upholding human rights (Huminuik, 2024).

However, despite the existence of many comprehensive international legal documents, the implementation and enforcement of human rights still face major challenges (Berlyavskiy et al., 2020; Nehaluddin & Lilenthal, 2020). These challenges include the gap between the principle of universality and the need to respect cultural particularism, political resistance from some states, and resource constraints on oversight

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institutions (Cabrera, 2020; Kraatz et al., 2020). In addition, systematic and complex human rights violations, such as racial discrimination, child exploitation, and inhumane treatment, exacerbate the situation in many countries (Mezzina et al., 2022).

Human rights treaty bodies (HRTBs) were established to address this urgent need (Kattel, 2022; Ogunwale et al., 2023). HRTBs are not only responsible for monitoring the implementation of international treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), but also serve as an important forum for resolving disputes, providing guidance in difficult cases, and promoting a culture of mutual respect between states (Berlyavskiy et al., 2020).

In addition to their formal functions, HRTBs also serve as global education and advocacy platforms. By engaging civil society, non-governmental organizations, and academia, HRTBs strengthen global awareness of the importance of respect for human rights (Mosoh et al., 2024). In an increasingly interconnected world, these efforts have become highly relevant, especially amidst challenges such as globalization, armed conflict, climate change, and pandemics (Mishra, 2023).

This research aims to investigate the dynamics of universality and particularism in the application of human rights, analyze key cases that demonstrate the challenges faced by HRTBs, and evaluate Indonesia's contribution and engagement in supporting the work of HRTBs. By understanding the mechanisms, successes, and weaknesses of HRTBs, we can determine the strategic steps needed to strengthen human rights protection in the future.

LITERATURE REVIEW

2.1. Universality vs. Particularism

Universality argues that human rights apply to all individuals regardless of cultural or national context (Romdoni et al., 2024; SENER, 2021). Documents such as the UDHR support this perspective by emphasizing equality and dignity. Additionally, universality has been a key driver in the development of international legal frameworks for the protection of human rights, creating global standards that are binding on every member state. Examples include the International Covenant on Civil and Political Rights (ICCPR), which affirms basic rights such as freedom of expression, the right to a fair trial, and freedom from torture.

Particularism, on the other hand, emphasizes that the application of human rights should take into account the local context, including the different cultural norms, traditions and social values in each country (Fantini, 2020). This approach is often used to balance international norms with the unique needs and priorities of local communities (Armitage et al., 2020). For example, some countries use particularist interpretations for sensitive issues such as freedom of expression, women's rights, or freedom of religion, arguing that global norms may conflict with their societal traditions or beliefs.

The dynamic between universality and particularism results in a growing discussion about the extent to which global norms should be applied uniformly. This creates a challenge to navigate the boundary between the application of universal standards and respect for local cultural identities.

2.2. Mechanisms of HRTBs

HRTBs function under treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) (Olga,

2023). Their mechanisms include periodic state reporting, grievance redress, and public comment to ensure compliance with treaty obligations. One of the main mechanisms of HRTBs is state reporting, where member states are required to submit periodic reports on the steps they have taken to fulfill their obligations under the treaties.

For example, the Human Rights Committee is responsible for monitoring implementation of the ICCPR through the evaluation of state reports and constructive dialog with state representatives (Creamer & Simmons, 2019). These reports aim to identify progress as well as obstacles faced in protecting human rights. In addition to reporting, individual complaint mechanisms allow individuals to bring cases of violations of their rights to the international level if they do not get justice at the national level.

HRTBs also have the function of issuing public comments that provide official interpretations of treaty provisions (Huminuik, 2024). These commentaries help states, international organizations, and civil society understand their obligations in greater depth. For example, General Comment No. 36 on the right to life emphasizes the need for comprehensive protection of this right, including preventive efforts from threats such as the unjust death penalty, armed conflict, and environmental degradation.

While these mechanisms are designed to increase state accountability, the challenges facing HRTBs remain significant (Katsikouli et al., 2021). These include delays in the reporting process, lack of resources to support oversight, and gaps in civil society participation. As such, there is an urgent need to strengthen these mechanisms through structural reforms and improved international coordination.

METHODS

This research method is designed to analyze the relationship between universality and particularism in the implementation of human rights and how the mechanism of human rights treaty bodies functions in this context. The research approach used is qualitative with a document analysis method, which was chosen to further explore the principles of universality and particularism and their influence in the implementation of human rights at both the international and national levels. This approach allows a deeper understanding of the role of both concepts in human rights protection mechanisms in various countries.

Data collection was conducted through a literature review covering sources such as the Universal Declaration of Human Rights (UDHR), international instruments such as the ICCPR and ICESCR, official reports of human rights treaty bodies such as the CESCR and HRC, as well as general comments issued by relevant committees. In addition, case study analysis was applied to evaluate the implementation of human rights in Indonesia as an example of integration between universality and particularism, focusing on issues such as religious freedom and gender rights. Data analysis is conducted in three stages: identification of universality and particularism principles, exploration of human rights treaty bodies mechanisms, and comparison and local context to evaluate the effectiveness of both approaches in human rights implementation, especially in Indonesia.

RESULTS

4.1. Notions of Universality and Particularism

The analysis shows that universality refers to principles that are global in nature, transcending geographical, cultural and religious boundaries. This concept is widely

applied in the context of human rights and is universally recognized. On the other hand, particularism emphasizes local interpretations that are influenced by specific cultural contexts, history, and social values.

In Indonesia, it was found that the universality of human rights is integrated with local traditions and culture. An example is the implementation of religious rights that prioritizes the balance between individual rights and collective responsibility to maintain community harmony. This integration is in line with the principle of universality set out in international instruments such as the Universal Declaration of Human Rights (UDHR).

4.2. Universality in Human Rights Treaty Bodies

Research confirms that the principle of universality in human rights treaty bodies plays an important role in ensuring the recognition and protection of human rights worldwide without discrimination. Frameworks such as the International Bill of Human Rights, which includes the UDHR, ICCPR, and ICESCR, are key references to ensure such protection.

However, the implementation of universality faces challenges, especially resistance from local cultures in some countries that maintain local context-based interpretations. Nevertheless, reform efforts to strengthen universal adherence to human rights principles are ongoing.

4.3. Particularism in Human Rights Treaty Bodies

The results show that human rights applications that take into account the local context allow for better acceptance by certain communities. This process often involves the adaptation of cultural values to integrate global norms with local ones.

However, conflicts between universality and particularism can occur, especially in issues such as freedom of expression, gender rights and religious freedom. The research recommends a flexible approach and constructive dialog to achieve harmony between international standards and local norms. This approach is expected to result in inclusive and sustainable implementation.

4.4. Results of Case Settlement in Human Rights Treaty Bodies

States that have ratified international human rights conventions have a legal obligation to ensure individual rights are met in accordance with international standards. Violations of these standards can result in legal disputes at the international level. To implement these standards, states are required to take legislative measures at the national level so that individuals have access to recourse through domestic courts. In addition, international conventions provide additional implementation mechanisms at the global level to support national implementation.

4.5. Key Outcome:

4.5.1. Periodic Reporting Obligation: States that have ratified conventions must regularly submit reports on the implementation of human rights standards at the national level. These reports are used to measure the conformity of domestic laws with international conventions and increase transparency and public scrutiny.

4.5.2. General Comments: The Committee produced general comments that provide specific guidance on the implementation of the convention's provisions. It also clarifies certain provisions and contributes to the development of customary international law.

4.6. Petitions and Communications:

4.6.1 Individual Communications: The Committee receives individual complaints under certain optional protocols. Although the resulting recommendations are

not binding, the committee's views are widely recognized in international legal practice.

4.6.2 Inter-State Complaints: States can file complaints against other states, although this mechanism is rarely used due to the potential for political conflict and high diplomatic costs.

4.6.3 Investigation Mechanisms: Some treaties allow for investigations into alleged human rights violations based on credible reports. These investigations are conducted confidentially, with the results reported through annual official documents.

4.6.4 International Legal Settlements: The International Court of Justice (ICJ) has jurisdiction in resolving disputes between states related to the interpretation and application of international law. However, this mechanism is rarely utilized as many countries have reservations about its jurisdiction.

4.7. Implementation Example:

Committees such as the CESCR and HRC have effectively monitored the implementation of human rights through state reports, individual complaints, and public comments. The work of the committees has contributed significantly to bringing national practices into line with international standards, including through interpretations of the equality of rights.

DISCUSSION

The results show a tension between universality and particularism in the application of human rights. Universality, which emphasizes principles that apply globally regardless of cultural context, appears to play a central role in international instruments such as the UDHR, ICCPR, and ICESCR. However, the application of these universal principles often faces obstacles at the local level, especially when international norms conflict with local cultural values.

On the other hand, particularism provides a more contextualized approach and has the potential to increase local acceptance of human rights. In the case of Indonesia, this approach is seen through the integration of universal values with local traditions and culture. For example, religious rights are not only seen from an individual perspective, but also consider the social responsibility to maintain harmony in society. Such an approach emphasizes the importance of adapting international standards to the needs and values of local communities.

However, the tension between these two concepts also poses challenges. In the context of gender rights, freedom of expression and freedom of religion, conflicts between universal and local norms are evident. The results recommend a constructive dialog and a flexible approach to integrating international standards with local norms. This is important to ensure that the principle of universality is not seen as a form of "cultural homogenization," but as an adaptive framework.

In the context of human rights settlement mechanisms, efforts have been made through the system of human rights treaty bodies. Periodic reporting obligations are an important tool to ensure transparency and conformity of national laws with international standards. In addition, general comments provide essential guidance to clarify human rights implementation and help states understand their obligations in a practical context.

However, mechanisms such as individualized communications and international inquiries still face implementation challenges, especially in countries that perceive

international scrutiny as a threat to their sovereignty. Therefore, dialogue-based approaches and cooperation remain necessary to reduce this resistance.

It is important to note that while the recommendations and views generated by the committee are non-binding, their impact on strengthening international norms and influence on domestic law is significant. For example, general comments are often referenced in the formation of national policies as well as in international courts such as the European Court of Human Rights.

Overall, this discussion confirms that collaboration between the principles of universality and particularism can be key in improving the effectiveness of human rights implementation. A balanced approach between local flexibility and global frameworks is needed to create sustainable and inclusive harmony in protecting the rights of individuals around the world.

CONCLUSION

The relationship between universality and particularism in human rights reflects the challenges and opportunities in applying international standards to local contexts. Universality, as a globally recognized principle, offers a framework for protecting human rights without discrimination. However, particularism allows adaptation to specific cultural values, history and social norms, making acceptance and effective implementation of human rights easier to achieve. Case studies in Indonesia show that the integration of local traditions with international standards, such as in the issue of freedom of religion, helps create harmony between individual rights and collective responsibilities. In the context of human rights treaty bodies, this system provides a powerful tool to ensure compliance with international standards through periodic reports, public comments, individualized communications and inquiry mechanisms. While the recommendations and views of committees are not legally binding, their influence is significant in guiding the interpretation and implementation of human rights norms. However, resistance to universality, especially on issues of freedom of expression and gender equality, poses challenges that require a dialogical approach to address conflicts between global norms and local values. Therefore, it is important to promote a flexible approach that accommodates both concepts synergistically, so as to create a balance between universal standards and respect for cultural diversity. The results of this study provide important insights for policymakers and the international community to build an inclusive and sustainable human rights framework.

Declaration of Conflicting Interests

The authors declare that there is no conflict of interest of this article.

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