ABSTRACT

This article analyzes the emergence and development of the National Human Rights Action Plan (NHRAP) or Rencana Aksi Nasional Hak Asasi Manusia (Ranham) during Indonesian Reform era, 1998-2020. Ranham is recognized as a national strategic policy document that describes and explains; 1) how the state incorporates human rights principles and norms into its policies, and 2) how to measure its remarkable achievements. All Indonesian governments have adopted and implemented Ranham, which was enacted by Presidential Regulations during five phases in the two decades of the Reform era. Ranham was derived and mandated by the Vienna Declaration and Program of Action (VDPA) 1993. Up until recently, more than 70 states have formulated the Ranham, including Indonesia. This article discovers that the policy of Ranham during the Reform era reflects the national commitment to the human rights agenda. However, the lack of the conceptualization of human rights still impedes the development and reinforcement of the national human rights system.

Keywords: human rights; Ranham; VDPA.

INTRODUCTION

The fall of Soeharto on May 21, 1998 led to the accommodation of an effective political climate in adopting a new wave of democracy in Indonesia.\(^1\) By capitalizing national reform (reformasi) agenda,\(^2\) ‘the newly born’ of Indonesian regimes declare that their governance is different from that of ‘the old’ Old Order (Orde Lama regime) and embody better electoral democracy and rule of law by upholding human rights.\(^3\) However, what is incoherent, after more than two decades of reform, are today’s expectations still the same to that of launched in 1998? Tim Lindsey states that “the term is still used today, 20 years on, even though the spirit of radical reform that drove democratization is now distant.”\(^4\) In his second-term, President Joko Widodo has also continued Indonesian Ranham 2021-2025 as a fifth phase.\(^5\) Therefore, the term post-reform is currently used to indicate a robust inclination to assess the reinforcement of the national human rights system, while this condition today, as Lindsey said, is uncertain.\(^6\)

The establishment of reform era since 1998 has endorsed the remarkable efforts to be able to conduct total reform (reformasi total)\(^7\) movement within the direction of national developmental system including the embodiment of human rights.\(^8\) The emergence of the first National Human

---

2. see People’s Consultative Assembly Decision Namber XVII/MPR/1998 Concerning Human Rights
3. Menimbang Demokrasi Dua Dekade Reformasi, ed. by Syamsaddin Haris (Jakarta: Yayasan Pustaka Obor Indonesia, 2019), p. 7; See also Law No. 2 of 1999 Concerning General Election Indonesia carried out the first election in era reformasi on 7 June 1999.
6. Lindsey.
8. see People’s Consultative Assembly Decision Namber XVII/MPR/1998 Concerning Human Rights
Rights Action Plan (NHRAP) or Rencana Aksi Nasional Hak Asasi Manusia (Ranham) on August 15, 1998 was adopted by Presidential Regulation No. 129 of 1998. Such regulation indicates the manifestation of consciousness, awareness and strong commitment of the new Indonesian state to recognize and uphold human rights standards in Indonesia’s national system. In addition, the regulation also mentions that upholding human rights in Indonesia must consider custom or adat and religious values based on Pancasila and the Constitution of 1945.⁹

Furthermore, the amendment of the Indonesian Constitution 1945 from 1999 until 2002 has been a good momentum to rebuild a “new Indonesia” to explain further the constitutionality of human rights and strengthen the rule of law and constitutional democracy.¹⁰ Olle Törnquist emphasizes that constitutional reform is to foster human rights-based political democracy.¹¹ It implicates the reinforcement of domestic implementation and institutionalization of human rights. The state’s constitutional obligations of human rights, in particular the government, is enshrined clearly by article 28I paragraph (4) and also emphasized by Law No. 39 of 1999 concerning Human Rights that: “protection, promotion, enforcement, and fulfillment of human rights are state, particularly government, responsibility.” This is the most important national agenda to incorporate human rights into national development plan¹² and Ranham is obviously recognized as national agenda and movement.¹³

Indonesia Ranham has five phases since 1998 until now.¹⁴ Ranham has been enacted by the presidential regulations/instructions which obliged to all ministries/institutions and local governments to implement human rights standards. Ranham is a national rigorous agenda that encompasses collaborative partnership and synergy among three good ‘musketeers’ namely government, civil society organizations (CSOs) and national human rights institutions (NHRIs). The aforementioned three good ‘musketeers’, alongside with two decades of the Reform era, have been talking but could not work together to optimize conceptualization and institutionalization of human rights. Unfortunately, Ranham has been arranged and conducted from and by the government itself without good collaboration and meaningful engagement with CSOs and NHRIs. Stéphanie Lagoutte urges the reinforcement of state infrastructure in the work of the national human rights system (NHRS).¹⁵ Lagoutte asserts

---

⁹ See Article 1 para. (2) Presidential Regulation Number 53 of 2021 Concerning the National Action Plan for Human Rights 2021 - 2025.


¹³ Presidential Regulation Number 7 of 2005; Presidential Regulation Number 5 of 2010; Presidential Regulation Number 2 of 2015; Presidential Regulation Number 18 of 2020.

¹⁴ The first phase of Ranham based on Presidential Regulation Number 129 of 1998 as amended by Presidential Regulation Number 61 of 2003; the second phase of Ranham based on Presidential Regulation Number 40 of 2004; the third phase of Ranham based on Presidential Regulation Number 23 of 2011; the fourth phase of Ranham based on Presidential Regulation Number 75 of 2015; Presidential Regulation Number 33 of 2018 Concerning Amendments to Presidential Regulation Number 75 of 2015; and the fifth phase of Ranham based on Presidential Regulation Number 53 of 2021.

the significance of interaction process and communication between state and non-state actors.\textsuperscript{16}

At the international level, Ranham was created as the result of the World Conference on Human Rights which was held in Vienna, Austria, from June 14-25, 1993. This conference resulted in the creation of an important document that was called the Vienna Declaration and Programme of Action/VDPA. \textsuperscript{17} This document reflects a global commitment to promote and protect human rights around the world. VDPA declares that human rights are universal, indivisible, interdependent and interrelated. VDPA also highlights that human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of governments. In reference with the Ranham VDPA being established, The World Conference on Human Rights recommends that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human Rights. Azadeh Chalabi emphasizes that adopting NHRAP is required to effectively realized human rights, which is the means and end of development.\textsuperscript{18}

The presence of Ranham effectively enhances national efforts to reinforce human rights. Indonesia has regulations concerning human rights issues including ratification of the international and regional human rights instruments.\textsuperscript{20} This should endorse a national policy strategy to input and enforce the implementation of human rights in the national system. However, ELSAM finds the lack of human rights indicators in the implementation of Ranham.\textsuperscript{21} Incorporating a human rights-based approach to development meets with great obstacles to capitalize on the accentuation of the national development agenda. According to Obiora Okafor, et.al, political context changes the realization of Ranham.\textsuperscript{22} Azadeh Chalabi suggests a strategic shift towards modern Ranham.\textsuperscript{23} According to Sebastion Lorion, Ranham is the prism of norm diffusion.\textsuperscript{24} Notes despite the UPR’s recommendations yield efforts to implement Ranham, the growing conceptual ambiguity of Ranham must be avoided.\textsuperscript{25}

With great modalities, there are five phases of Ranham, so how VDPA 1993 influenced the establishment of Indonesia’a Ranham. This article focuses on analyzing the essence and development of Ranham during the Indonesia Reform era.

\textsuperscript{16} Lajoutte, pp. 177–94.
\textsuperscript{17} Vienna Declaration and Programme of Action.

\textsuperscript{19} Indonesia is a state-party to the major of international human rights law instruments, namely (1) (1) ICESCR ratified by Law No. 11 of 2005; (2) ICCPR ratified by Law No. 12 of 2005; (3) CERD ratified by Law No. 29 of 1999; (4) CEDAW ratified by Law No. 7 of 1984; (5) CAT ratified by Law No. 5 of 1998; (6) CRC ratified by Presidential Regulation No. 36 of 1990; (7) MWC ratified by Law No. 6 of 2012; and (8) CRPD ratified by Law No. 19 of 2011.

\textsuperscript{20} ELSAM, Mengukur Keberhasilan Berbasis Dampak; Usulan Praktis Untuk Monitoring Dan Evaluasi Pelaksanaan Ranham (Jakarta: ELSAM, 2021), p. 189.


\textsuperscript{24} Sébastien Lorion, p. 63.
Hence, the five-year-national agenda of Ranham has not only become sequential, but also can yield best practices for reinforcing the Indonesian national human rights system.

METHOD

Based on the main problems, this paper uses doctrinal qualitative legal research. This kind of research is also called normative legal research, focuses on legislation, principles, norms, and legal interpretations. National policy on Ranham promulgated by regulations during the Reformasi era is a unit of analysis in the field of human rights study. Within the explanatory approach as well, the paper explains the essence and development of Ranham in Indonesia. This paper also studies the VDPA 1993 which directly mandated the establishment of Ranham around the world. Therefore, comparison with the other countries, especially those preparing the Ranham with the baseline study, for example Australia, Netherlands, and Finland is needed. Further, the paper elaborates the enactment of Ranham in five phases during Indonesia government administrations including the debate on the relation between human rights norms and Pancasila. Mark van Hocke asserts the explanatory approach as follow, the existence of a rule will be ‘explained’ by the existence of a higher norm from which that rule is derived, or the existence of underlying values or principles, or of a larger network of legal rules and principles.

In this case, as a unit of analysis, Ranham is approached by political approach (político-legal) and historical approach (político-historical background). By employing these approaches, Ranham sees a legal policy or legal rule reflected in the political considerations affirmed in the regulations of Ranham. These approaches provide the position of Ranham as a key human rights policy document has nuanced legal formulations produced by ministries/institution and local governments both provinces and districts/municipalities. Institution of Ranham has historical development which adopted in two decades of reform. Such approach can assess the continuity and change of human rights development in Reform era.

FINDINGS AND DISCUSSION

A. VDPA 1993 and Its Impact to Indonesia’s Ranham

After the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the commitment of the international community was strengthened by the main human rights covenants, namely the ICCPR and the ICESCR in 1966. These human rights instruments greatly influenced positive developments for the promotion and protection of human rights in the world. To foster the development of the human rights movement, the United Nations firstly carried out the International Conference on Human Rights which was held in Tehran, Iran, from April 22 to May 13, 1968, or 25 years before the adoption of VDPA 1993. It becomes the main basis for ensuring positive efforts for enhancement of human life, freedom, and dignity.

Furthermore, through the 1993 VDPA, the recognition of human rights promotion and protection is a priority for the international community. The obligations and responsibilities of state and non-state actors towards effective efforts to embody the fulfillment of human rights have been increased at the national and regional levels. Based on this framework, the VDPA 1993 emphasizes the importance of collaboration in strengthening international and national human rights mechanisms to achieve the main goals of the United Nations. Interestingly, the VDPA 1993 asserts that development actually facilitates the enjoyment of all human rights.

VDPA is crucial due to its comprehensiveness which contains several important recommendations to governments and other actors in the international

27 Bhat, p. 8.
community on actions that can be done to improve the promotion and protection of human rights. This recommendation is not binding but its persuasive nature is compelling because of the importance of the opportunity and the fact that the recommendations are supported unanimously. 29

Ranham’s concept is based on the view that lasting improvement in human rights ultimately depends on the government and people from certain countries who decide to take concrete action to create change. Persuasion and sometimes external pressures can influence the government to act, but the fulfillment of human rights cannot simply be imposed from the outside. 30 The Handbook of the National Human Rights Plan of Action states clearly that Ranham is evidence of commitment to the UDHR as universal human rights standards. The Handbook states as follows:

A credible national action plan must be built on a commitment to universal human rights standards. An important element of any national action plan should be a commitment to the Universal Declaration of Human Rights. Embracing both civil and political rights and economic, social, and cultural rights, it constitutes the foundation of the international human rights system. In United Nations resolutions dealing with human rights, the nations of the world have time and time again unanimously reaffirmed the Universal Declaration. 31

This concept recognizes that no single country has a perfect human rights record. Each country is different, and any plan developed by the country should be adjusted to the political, cultural, legal, social, and economic circumstances. 32 To ensure the effective implementation of human rights, the commitment must come from within a country, with no exception of Indonesia. NHRAP is a conceptualized and institutionalized human rights standard within a national context.

However, Azadeh Chalabi urges that the obligation to adopt the NHRAP is an acknowledgment and effort by the state to implement human rights. 33 Thus, the purpose of the NHRAP is to ensure the implementation of human rights through the framework of the national human rights system. During the period of the Reform era, Indonesia has adopted Ranham as a national policy to promote and protect human rights. This commitment indicates new hopes to bring better life to Indonesia’s democracy. Thus, through Ranham, it makes an important strategy for optimizing national capacities in the promotion and protection of national human rights. Indonesia has a great power to form and mobilize human rights institutions through Ranham because the commitment to implement human rights is mandated by presidential regulations and should be carried out by government officials, both at the central and local levels.

1. The First Phase

Indonesia has the Ranham based on Presidential Regulation No. 129 of 1998 which was then amended by Presidential Regulation No. 61 of 2003. The first phase of Indonesian Ranham was established in the reign of President Baharuddin Jusuf Habibie (ruled from May 21, 1998- October 20, 1999). He was the third President after President Soekarno (ruled from 1945-1966) and President Soeharto (ruled 1966-1998). After the fall of Soeharto regime, Indonesia experienced significant changes. Among the most important changes was the reinforcement of the issues of democracy, decentralization, and human rights. 34

Although his term was short, President Habibie managed to carry and color a new era called the “Reform Era,” namely a new era for Indonesia to internalize the principles of

30 See further OHCHR, p. 8.
32 Sébastien Lorion, p. 27.
democracy and human rights. The term “reformasi pembangunan” (reform of development) was initially launched by People’s Consultative Assembly (MPR) to describe the significant process of embodiment the rules of reform in the national development agenda. As the highest state institution in Indonesia, MPR declared new national policies to enshrine the guidelines of national reform including general election, the limitation of president period, etc. In addition to the capacity of holding elections in 1999, President Habibie brought up new policies which conveyed Indonesia into a democratic climate such as the amendment of the Indonesian Constitution in 1945, the release of political prisoners as well as various legislative policies that accommodate the principles of democracy and human rights.

The first phase of Ranham established the five-year implementation of Indonesia’s human rights plan of action. Ranham asserts that human rights are not something new for Indonesia. More recognition is confirmed as follows:

Indeed, human rights are not alien to the people of Indonesia. The struggle to escape from the shackles of foreign invaders for hundreds of years is the struggle to realize the right to self-determination as the most fundamental human rights. Indonesia’s commitment in the promotion and protection of human rights in all parts of Indonesia derive from Panca sillla, particularly the second principle, which promulgates the just and civilized humanity, as well as the relevant clauses in the 1945 Constitution that was formulated before the introduction of the Universal Declaration of Human Rights by the United Nations in 1948. In addition, the values of customs, culture and religion of Indonesia are also a source of Indonesia’s commitment in the promotion and protection of human rights.

The first phase of Ranham attested to Indonesia’s commitment to the commitment of world action through the VDPA 1993 and the Second National Workshop on Human Rights arranged by Komnas HAM in Jakarta, October 22-24, 1994. The five-year period Indonesia’s Ranham was only implemented at the national level by establishment of a National Committee with the four main pillars, namely: (1) preparation for ratification of international instruments of human rights; (2) dissemination and education of human rights; (3) the implementation of human rights which are set out as a priority, and (4) implementation of the contents or the provisions of various international instruments of human rights that have been ratified Indonesia.

Foreign Minister Ali Alatas named it an effective instrument for fulfilling the important aspirations of the Indonesian people. Through the design of the first phase of Ranham, the human rights discourse had gained a good place.
in Indonesian society through the establishment and strengthening of centers for human rights studies and centers for women’s studies. Human rights training and seminars emerged as a form of reflection on the demands of constitutional democracy in Indonesia. However, the totality of implementation of Ranham was directed at the initiative of the government at the national and centralized level. The positive developments that resulted were still limited to discourse because fundamentally, the involvement of civil society, local governments and NHRI was not going well. Indeed, Ranham monitoring and evaluation were also not carried out at all.

After the 1999 elections, the Fourth Indonesian President was Abdurrahman Wahid (ruled October 20, 1999- July 23, 2001). With his National Unity Cabinet, Gus Dur, as he was called, also created many changes, including reforming the Indonesian government system by providing an open space for the climate of democracy and human rights. Gus Dur is known as a prominent social religious activist who concerned over human rights issues. His position endeavored to ensure a better condition of Indonesia democracy, rule of law and human rights. On November 23, 2000, Gus Dur signed the important regulation Law No. 26 of 2000 concerning the Human Rights Court.

In this regard, during the first phase of Ranham’s struggle, the operation of national human rights standards and mechanisms was no better than in the previous era. In addition to strengthening the discourse and growth of human rights institutions, Ranham tended to be elitist, and it was ineffective at preventing human rights violations.

2. The Second Phase

The second phase of Ranham began on May 11, 2004 through Presidential Regulation No. 40 of 2004. Similar to the first phase of Ranham, a period of five years also applied in the second phase of Ranham. In the second phase, Ranham was defined by the Fifth President of Indonesia, President Megawati Soekarnoputri (ruled July 23, 2001- October 20, 2004). She was the first female president in Indonesia and is a daughter of the first President, Soekarno. She was a Vice President of President Gus Dur prior to her term.

Based on Presidential Instruction No. 40 of 2004, the Provincial Committee of Ranham in each province was established. The Minister of Justice and Human Rights appointed as chairman of the National Committee together with the governor in each province, and which was held accountable to the governor and the National Committee. In this phase, Ranham has become a potential and significant human rights network around Indonesia, especially to develop a new national culture to respect, protect and fulfill of human rights.

Although the second phase of Ranham was established under President Megawati Soekarnoputri, but in fact, most of the implementation of Indonesia’s Ranham was under the control of the government of President Susilo Bambang Yudhoyono (SBY), who officially has become the sixth President since October 20, 2004.

---

41 See People’s Consultative Assembly Decree No. VII/ MPR/1999 Concerning Appointment of The President of the Republic of Indonesia.

42 In his term, many regulations have been adopted namely: Law Number 1 of 2000 Concerning Ratification of ILO Convention Number 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor; and Law Number 26 of 2000 Concerning Human Rights Court.

43 In this phase, Ranham has become a potential and significant human rights networking around Indonesia, especially to develop a new culture to protect and fulfill human rights.

44 People’s Consultative Assembly Decree Number III/ MPR/2001 Concerning the Appointment of the Vice President of the Republic of Indonesia Megawati Soekarnoputri as President of the Republic of Indonesia.

3. The Third Phase

The third phase of Indonesia’s Ranham was established on April 11, 2011 through Presidential Regulation No. 23 of 2011. When viewed closely, in fact the third Ranham should have begun in 2010 because the second phase of Ranham ended in 2009. There was a one-year gap in setting Indonesia’s Ranham causing a gap in the periodization of Ranham, of which the cause was uncertain. One explanation was that the main cause of this delay was due to administrative problems because of the preparation process steps to be more applicable as a characteristic of the third phase of Ranham.

The third phase of Ranham also emphasized the position of Indonesia’s Ranham as the state policy of human rights. Ranham was increasingly asserted to provide protection and fulfillment of human rights for every person in Indonesia by the state by performing the duty to serve a human rights-oriented society, and by building synergistic cooperation between public institutions and civil society. Throughout the formation of a third phase of Indonesian Ranham, one of the principal international human rights instruments ratified was the Convention on the Rights of Persons with Disabilities on last October 18, 2011. This was a significant advancement within the framework of the protection and fulfillment of human rights in Indonesia, especially for vulnerable groups.

The second and third phases of Ranham were marked by the ratification policy of the major of international human rights instruments recognized as international bill of human rights namely ICESCR which was ratified through Law No. 11 of 2005 and the ICCPR which was ratified through Law no. 12 of 2005. Moreover, the convention on the protection of migrant workers was ratified through Law 6 of 2012. The realization of this ratification policy was successfully ratified during the administration of President SBY. In addition, another positive development was the presence of a public communication service function (Yankomas). Yankomas was one of the main functions of the Ranham committee. It was promulgated in terms of its provisions and mechanisms through the Minister of Law and Human Rights of the Republic of Indonesia No. 23 of 2013 concerning Guidelines for Public Communication Services for the National Action Plan for Human Rights. Interestingly, Yankomas was a function of Ranham to strengthen the strategic role of the government in resolving allegations of human rights violations, both communicated and uncommunicated/yet communicated.

In the context of local government, as stipulated by Law No. 23 of 2014 which was also stipulated during the SBY administration, the principle of human rights became a reference in solving problems in local disputes. Additionally, the position of local legal products that were recognized as one of the legal products in the hierarchy of laws and regulations in Indonesia must comply with human rights parameters in the formation of regional regulations. This regulation was stipulated in the Joint Decree of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012 and No. 77 of 2012 mandated by Ranham as well.

4. The Fourth Phase

Through a commitment to the birth of “Great Indonesia,” an important jargon voiced during the 2014 presidential election, as stated in the Vision, Mission and Action Program of President Jokowi and Vice President Jusuf Kalla. Nine government priority agendas known as Nawacita were established. The human rights context,
specifically contained in the fourth point, is confirmed as follows:

We will reject the weak country by implementing reform on the legal system and enforcement that is free of corruption, dignified and trustworthy. We will prioritize corruption eradication consistently and reliably; eradicating the judicial mafia and strict action against corruption in the judicial environment; eradicating illegal logging, illegal fishing and illegal mining, eradicating banking crime and money laundering crimes; enforcement of environmental law; eradication of drugs and psychotropic substances; ensuring legal certainty in land ownership rights, land dispute resolution and opposing the criminalization of the re-prosecution of community land rights; protection of children, women and marginalized community groups, as well as respect for human rights and just solutions to cases of past human rights violations.

Interestingly, one of the important points in strengthening law enforcement must be based on justice. The “Jokowi-JK” Administration determined the importance of human rights education by including human rights content in the general education curriculum in elementary and junior high schools, as well as in the state apparatus curriculum such as the Indonesian National Armed Forces and Police.

Based on Presidential Regulation No. 75 of 2015, as amended by Presidential Regulation No. 33 of 2018 on April 10, 2018, which contained 46 Human Rights Actions, six strategies of Indonesian Ranham 2015-2019 were emphasized, namely: (1) strengthening Ranham: implementing institutions; (2) preparation of ratification and preparation of material for the report on the implementation of international human rights instruments; (3) preparation of regulations, harmonization of draft legislation and evaluation of legislation from a human rights perspective; (4) education and increasing public awareness about human rights; (5) the application of human rights norms and standards; and (6) community communication services.

Indonesia has actively been a part of international efforts since adopting United Nations Guiding Principles on Business and Human Rights (UNGP) in 2011. Ranham in Jokowi term expressly enacts BHRs as one of the 46 actions. This denotes good willingness of Governments to exercise their obligation of human rights as called “triad of state obligation,” namely, respect, protect and fulfill human rights. UNGP and its three pillars state that government must protect from human rights violation by the third party, namely corporation. Accordingly, government must formulate and compile BHRs-friendly regulations to embed and incorporate human rights into business activities.

Furthermore, Indonesia eventually had a national action plan on business and human rights (NAP-BHRs) in 2017. Unfortunately, the NAP-BHRs was originally not formulated by the government. Komnas HAM and Elsam had the main idea. The NAP-BHRs have been devoted to helping the implementation of UNGP in Indonesia. Absolutely, until now, the NAP-BHRs are still problematic because the essence of its manner regulation is convinced that it does not coherence with the principles of Indonesian legislation guidelines. In so doing, it means that Indonesia has a lack of vehicles to implement

54 See *Law of the Republic of Indonesia Number 12 of 2011 Concerning the Establishment of Legislation*. 

---

**JOKOWI-JK.pdf** [accessed 15 October 2022].


UNGP comprehensively and, of course, it affects discouragement to the future.

5. The Fifth Phase

The fifth phase of Ranham has emerged through the promulgation of Presidential Regulation No. 53 of 2021. This phase stresses the four segments of the most vulnerable groups, namely children, women, disabled persons and indigenous peoples. As a new regulation, Ranham is arranging to embrace all actors, including the business sector or corporations. In particular the women’s segment as vulnerable groups, Ranham emphasizes comprehensive increasing knowledge and awareness of the business sector to respect human rights such as women’s rights.

The Ranham in the first term of Jokowi was operated by the Joint Secretariat of Ranham. In this phase, Ranham is led by the ministry of law and human rights and arranged by National Committee of Ranham which comprises five ministries, namely (1) ministry of law and human rights; (2) ministry of social affairs; (3) ministry of home affairs; (4) ministry of the national development planning; and (5) ministry of foreign affairs. However, the working mechanism of joint secretariat, as stated in Article 5 para (4) of Ranham regulation, is not yet published hitherto.

This phase has not acknowledged UNGP as a paradigm shift to create a new Indonesian environment for business activities. Ranham focuses on the protection of four segments of vulnerable groups (women, children, disabled persons, and indigenous peoples). Nonetheless, Ranham has not explained how to implement UNGP related to business activities, particularly in affected groups. NAP-BHRs have not been implemented in this period. Therefore, the human rights due diligence mechanism, for example, is not found as mandatory for business sectors in their business activities and how to operate it.

Based on these phases, Ranham portrays the essence and development of conceptualization and institutionalization of human rights in Indonesia in the Reform era. Ranham is designed and articulated by presidential regulations/instructions. These national human rights policies reflect Ranham as a key performance of national commitment of human rights. Ranham becomes the ‘sexy’ program to be introduced by each regime that has a commitment to human rights, even though each phase of Ranham cannot connect with the continuing process in each phase. Ranham is not effective because it is not viewed, monitored, and evaluated in the true process of promotion and protection of human rights. Azadeh Cahalabi asserts as follows:

In order for a NHRAP to be implemented effectively, it must be among others well-designed (i.e. based on a comprehensive and evidence-based situation analysis, a general and special theory of planning, a realistic set of objectives, clear activities, realistic time frame, and performance indicators, etc), backed by adequate resources (technical, financial and human), enough social and political will, and carried out through a participatory, accountable, transparent, and empowering process.

B. Ranham and the NHRS

Ranham has significantly contributed to capitalizing on the infrastructure of the national human rights system. As a living document of human rights policy, Ranham has a strategic role in increasing the performance of Indonesia national system which committed to democracy and rule of law. Ranham is a good vehicle to engineer national equilibrium as mandated by Pancasila and Constitution 1945. Ranham is formed by the foundational national values and underpinned through national laws to uphold human dignity and embody social justice and welfare as an important part of the national goal. Hence, Ranham is recognized as a national asset to perform state obligation of human rights, namely obligation to protect, obligation to respect, and obligation to

---


A Critical Analysis of The Indonesian Human Rights
Majda El Muhtaj

fulfill. United Nations Resolution 48/121 affirms that VDPA 1993 is an important contribution to the development of Ranham around the world. VDPA must be implemented by states. The resolution is stated as follows:

Believe that the Conference has made an important contribution to the cause of human rights and that its results have to be translated into effective action by States, the competent organs of the United Nations and its family of organizations and other organizations concerned, as well as nongovernmental organizations. 57

Ranham is also the implementation of VDPA 1993 at the domestic level. The embodiment of a national human rights policy reflects compliance with international human rights standards and mechanisms. Steven LB Jensen, Stéphanie Lagoutte & Sébastien Lorion confirm the following:

This led to new forms of institutionalization emerging, and this time focusing more firmly on the domestic level. The 1993 Vienna World Conference on Human Rights marked a turning point for this process as it – among several other developments – represented an institutional shift taken by the international human rights regime that began to prescribe for states more specific organizational structures and processes in the domestic setting. The World Conference called for the establishment of National Human Rights Institutions (NHRIs) and the adoption of National Human Rights Action Plans (NHRAPs). 58

In its development, Ranham in several countries 59 is formed as a demand and manifestation of human rights policies at the national level. Ranham is a key element of human rights policy commitments at the national level. Sébastien Lorion asserts that the emergence of Ranham is a portrait of global diffusion and national reception, which signifies the meeting of agendas of international institutions and is implemented at the national level. 60 However, according to Sébastien Lorion there is a paradoxical impression that Ranham’s emergence in the world is more appearances after 2012 than in the 90s. This is due to pressure from demands for the presence of a universal periodic review (UPR), a mechanism of the UN Human Rights Council based on UN Human Rights Council Resolution 60/251 62 which applies to all countries.

The UPR mechanism works based on an assessment of the human rights trail of all UN member states to improve the human rights situation and overcome challenges to the enjoyment of human rights. The involvement of many elements, including CSOs and NHRIs, has a major influence on the objectivity of a country’s human rights assessment. 63 However, Ranham


59 In several countries there have a vary nomenclature of Ranham, such as (1) Australia, National Action Plan on Human Rights; (2) Latvia, National
60 Jensen, Lagoutte, and Lorion.
63 See The Universal Periodic Review of Southeast Asia, ed. by James Gomez and Robin Ramcharan (Thailand: Palgrave Macmillan, 2017), p. 217; See also UPR Indonesia at National Report submitted in accordance
has influenced the birth of sporadic and sectoral human rights policies. It is called sporadic because it is based on the will of a handful of elites, which are not planned and systematic. It is called sectoral because it is limited to a certain scope of authority and scope of application, to mention among them the following:

(1) Ministry of Law and Human Rights, there are:

(2) Minister of Marine Affairs and Fisheries Regulation No. 35/PERMEN-KP/2015 concerning Human Rights System and Certificate in Fishery Businesses.

(3) Chief Police Regulation No. 8 of 2009 concerning Implementation Human Rights Standard in the Field of Police Tasks.

In this context, Hikmahanto Juwana criticizes the development of human rights institutionalization by Ranham, which tends to use an elitist approach. This approach is built to be a single actor of human rights implementation by government itself, including local government. In addition, human rights improvement cannot be achieved because the black-letter law does not always reflect the reality. It is even merely a political rhetoric and tends to a conventional approach. After the fall of Soeharto in 1998 and the post-Reformasi, it turns out that there has not been a significant development of human rights enforcement. Hikmahanto Juwana states as follows:

From 1998–2003, the protection and promotion of human rights in Indonesia did not meet hopeful expectations. The downfall of Soeharto did not free Indonesia from human rights abuses. The efforts of successive administrations to improve the legal framework and to establish institutions have had minimal effect in contributing to the protection and promotion of human rights. ... The conventional top-down approach of governance, improving the legal infrastructure, even establishing new institutions, alone is not a panacea to human rights abuses. 65

Paradigmatic gap in human rights 66 in the political design of Indonesian human rights policy is also considered to have bad implications at the level of human rights practice, including the implementation of human rights at the local level. 67 Knut D. Asplund sees the reluctance and even resistance to human rights in Indonesia which is motivated by simplistic thoughts on human rights. 68 The reluctance to obey Ranham

---

68 Knut D. Asplund, “Resistance To Human Rights In Indonesia: Asian Values And Beyond,” Asia
lies with the state actors without a stern warning from the authorities that human rights violation must be avoided. Komnas HAM provides a report on the development of human rights conditions in Indonesia every year. The police and local government are the main actors whom the public complains about the most for alleged human rights violations. For the last five years development, even the business sector occupies the top three ranks with the National Police and the local government. It is hard to imagine if these three important actors are subject to the interests of corporate tyranny, which is characterized by arrogant, corrupt and against human rights.

Christof Heyns and Frans Viljoen encourage creative efforts at the national level to ensure that human rights legal norms can be internalized into the legal system and domestic culture. The challenge is the ability to use it to build domestic forces, namely domestic constituencies that will ensure its realization at the domestic level. This is important to strengthen the realization and assistance of human rights at the national level. Thus, the Ranham mandated in the VDPA is a form of acknowledgment of global acceptance of the importance of understanding and implementing human rights at the national level.

Thus, the construction of Ranham is the political direction of national human rights law.

Ranham compiled with the involvement of all components of policy makers initiated by the government. The politics of national human rights law reflects the determination and commitment of national human rights which becomes the reference and direction of the national policy. This is important to note because the actual implementation of human rights is in the domestic/national/local area. Julie A. Mertus emphasizes that the domestic level is essential for making human rights matter. The state has the role and modality to strengthen the position, framework, and interaction in the operation of a NHRS. This view is relevant to examining the NHRS that can reveal and assess the reality and complexity of human rights protection. Therefore, according to Stéphanie Lagoutte, the existence of a state infrastructure of the NHRS as a prerequisite for domestic human rights compliance is required while an NHRS is not the solution to the human rights compliance problem.

In enforcing state infrastructure in the operation of the NHRS, Lagoutte emphasizes the importance of continuous interaction and communication process between state actors and non-state actors. Furthermore, Lagoutte encourages testing the workings of the NHRS through step. When investigating how NHRS work in various contexts, the first step is to document and analyze whether the main components of the system are in place and how they work in practice. Lagoutte urges as follow:

Envisaging human rights protection as a system of actors, frameworks and interactions enables us to capture the reality and the complexity of the situation in context, develop a practical

---

73 Lagoutte.
74 Lagoutte.
generic approach to the various elements in play as well as take part in a normative effort to design better human rights protection and ensure human rights compliance at the domestic level. The notion of system underscores that human rights protection and promotion entail continuous processes of interaction and communication between a complex whole of state and non-state actors within a given legal and policy framework. International and regional human rights mechanisms recognize the existence of a state infrastructure of the NHRS as a prerequisite for domestic human rights compliance.

To strengthen the NHRS, of course, a strong infrastructure modality is needed in the national system. The state needs non-state actors to jointly collaborate and struggle to implement Ranham. This requires an open attitude to avoid claims of an elitist approach that tends to be closed and unaccountable while, in fact, Ranham’s design is an open and collaborative national model. During the Reform era, unfortunately, the Ranham policy as a manifestation of the national human rights policy has not been able to reflect the objective conditions of human rights fulfillment level in Indonesia. Herein lies the difficulty of measuring the achievements of human rights fulfillment during the two decades of reform. Baseline study is not found in the five phases of continuing Ranham. Indeed, a comprehensive and accurate baseline study is a key element in any systematic approach to the development of a national action plan.75

On the contrary, the baseline study in Australia and Finland Ranham was structured in clear and systematic stages through independent assessment. Australia established NAPHR in 1994 and was the first NAPHR in the world. Ten years later, Australia revised the Plan. The second NAPHR in 2004, Australia invited all stakeholders to engage national and international human rights consultations based on the UPR recommendations, including the priorities and the structure to ensure these human rights are implemented.76 The revised plan resulted in Australia’s National Framework for Human Rights; National Action Plan 2005.77 To strongly manage Australia’s commitment to human rights, National Framework was released again based on baseline study in 2010. The Baseline study of the NAPHR was done in 2011. The third NAPHR was launched in 2012 78 with a modern model of planning. 79

Finland is one of the twenty member states of the Council of Europe that developed the NAPHR following the adoption of the VDPA in 1993.80 Finland started forming the name National Action Plan on Fundamental and Human Rights (NAPFHR) in 2012-2013.81 The second term is 2017-2019. The third term of Finnish NAPFHR is 2020-2023 focusing on developing the monitoring of fundamental and human rights. An Independent evaluation through Human Rights Center (HRC) on the first NAPFHR in 2014 including Parliament’s recommendation was to develop the national human architecture. The evaluation recommended some observations and preparing to

75 OHCHR, p. 61.

next NAPFHR, as outlined that:

According to the evaluation, the Action Plan increased the visibility of Government human rights activities and brought various actors together to discuss key fundamental and human rights issues on the national level. The evaluation recommended that work within the framework of an action plan be continued during the next Government’s term of office. The evaluation did, however, criticize the first Action Plan for its fragmentation and stressed that the next action plan should focus on certain fundamental and human rights themes, which would better promote the realization of rights.  

Interestingly, the baseline study on the Finnish NAPFHR took place simultaneously. In 2014 HRC launched the baseline study focusing on human rights education and training. This baseline study was produced by the Minister of Education of Finland and then studied regarding democracy and human rights in Finland. Amnesty International criticizes the human rights policy of the Finnish Government in human rights education and training. In 2021, HRC also released the observation on the realization of the second Finnish NAPFHR. To manage the embodiment of human rights in Finland, HRC has authority to design the action plans of human rights including annual report. Dealing with the implementation of NAPFHR, the government of Finland reported its realization of human rights policy. Such a report is available and accessible.

**CONCLUSION**

The core essence of Ranham as an international commitment is the promotion and protection of human rights mandated by the VDPA 1993. Ranham is an embodiment of national commitment in the process of conceptualizing, institutionalizing, and implementing human rights at the national level. Ranham aims to improve the promotion and protection of human rights and strengthen the national human rights system. Within the framework of realizing the national commitment to human rights, Ranham should be prepared jointly by national stakeholders, including elements of the government, CSOs, and NHRIs.

Ranham is a product of the Reform era and is well developed as one of the important national human rights instruments. Ranham was launched and implemented based on Presidential regulations/instructions throughout the two decades of the Reform era. However, all phases of Ranham have not been able to become a benchmark for human rights-based approach to development. Ranham must be strengthened by the government’s open attitude to collaborating with academics, CSOs and NHRIs. The experiences of both Australia and Finland can serve as good models. Through the involvement of civil society and NHRIs in Ranham, national infrastructure will be able to strengthen the operation of Indonesia’s national human rights system. Parliament should also take this strategic political role to raise national endeavour to monitor, audit and evaluate the

---


83 In 2014, Finnish Government launched the NAP on Business and Human Rights.


development and achievements of Ranham Indonesia.

ACKNOWLEDGMENT

The author is very grateful to Mr. Fazli Rachman for his support in writing technique. The author is also very grateful to the reviewers for their valuable comments and suggestions for improving this paper.

REFERENCES


Forrester, Geoff, and R.J. May, eds., *The Fall of Soeharto* (Singapore: Select Books, 1999)

General Explanation of Presidential Instruction No. 129 of 1998 Concerning the National Action Plan for Indonesian Human Rights


Human Rights Center, *Human Rights Education in Finland* (Helsinki: HRC, 2014) [https://bin.yhdistysavain.fi/1598743/opkGq1e6r9v1yW0567TH0VGp4k/HR education in FIN_en.pdf.pdf]


*International Convention for the Protection of All Persons from Enforced Disappearance*


Law No. 2 of 1999 Concerning General Election

Law Number 1 of 2000 Concerning Ratification of ILO Convention Number 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor

Law Number 17 of 2007 Concerning National Long-Term Development Plan 2005-202

Law Number 19 of 1999 Concerning Ratification of the ILO Convention Number 105 Concerning the Abolition of Forced Labor

Law Number 2 of 1999 Concerning Political Party

Law Number 20 of 1999 Concerning Ratification of ILO Convention Number 138 Concerning Minimum Age for Admission to Employment

Law Number 21 of 1999 Concerning Ratification of ILO Convention Number 111 Concerning Discrimination in Respect or Employment and Occupation
Law Number 22 of 1999 Concerning Local Government
Law Number 26 of 1999 Concerning Repeal of the Law No. 11/PNPS/Year 1963 on the Eradication Subversive Activities; Law Number 28 of 1999 Concerning State Governance of Clean and Free from Corruption, Collusion and Nepotism
Law Number 26 of 2000 Concerning Human Rights Court
Law Number 3 of 1999 Concerning General Election
Law Number 3 of 1999 Concerning Prohibition of Monopolistic Practices and Unfair Business Competition
Law Number 31 of 1999 Concerning Eradication of Corruption
Law Number 8 of 1999 Concerning Customer Protection
Law Number 19 of 2011 Concerning Ratification of the Convention On The Rights of Persons With Disabilities
Law of the Republic of Indonesia Number 12 of 2011 Concerning the Establishment of Legislation
Lubis, Todung Mulya, In Search of Human Rights; Legal Political Dilemmas of Indonesia New Order 1960-1990, ed. by Nanda Akbar Ariefianto, Indonesian (Yogyakarta: CIRCA, 2021)
A Critical Analysis of The Indonesian Human Rights
Majda El Muhtaj

People’s Consultative Assembly Decision Number XVII/MPR/1998 Concerning Human Rights
People’s Consultative Assembly Decision Number X/MPR/1998 Concerning a Clean Country Management And Free Of Corruption, Collusion, and Nepotism
People’s Consultative Assembly Decision Number X/MPR/1998 Concerning Outlines of Reformasi in Development in Order to Saving and Normalization of National Life as State Direction
People’s Consultative Assembly Decision Nuo. IV/ MPR/1999 Concerning Outlines of the State Policy
People’s Consultative Assembly Decree No. VII/ MPR/1999 Concerning Appointment of The President of the Republic of Indonesia
People’s Consultative Assembly Decree Number III/MPR/2001 Concerning the Appointment of the Vice President of the Republic of Indonesia Megawati Soekarnoputri as President of the Republic of Indonesia
Pratiknya, Ahmad Watik, Umar Juoro, and Indria Samego, eds., Reform in Indonesia: Visions and Achievements of B.J. Habibie (Jakarta: RajaGrafindo Persada, 1999)
President Number 40 of 2004 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 7 of 2005 Concerning National Medium-Term Development Plan 2004-2009
Presidential Regulation Number 129 of 1998 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 18 of 2020 Concerning the 2020-2024 National Medium-Term Development Plan
Presidential Regulation Number 2 of 2015 Concerning the 2015-2019 National Medium-Term Development Plan
Presidential Regulation Number 23 of 2011 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 33 of 2018 Concerning Amendments to Presidential Regulation Number 75 of 2015 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 40 of 2004 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 5 of 2010 Concerning the National Medium-Term Development Plan 2010-2014
Presidential Regulation Number 53 of 2021 Concerning the National Action Plan for Human Rights 2021 - 2025
Presidential Regulation Number 53 of 2021 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 61 of 2003 Concerning Amendments to Presidential Regulation Number 129 of 1998 Concerning the National Action Plan for Indonesian Human Rights
Presidential Regulation Number 75 of 2015 Concerning the National Action Plan for Indonesian Human Rights
Robet, Robertus, “Meninjau Kembali Negara Organis; Hak Asasi Dan Demokrasi Pasca-Reformasi Di Indonesia,” in Kultur Hak Asasi Manusia Di Negara Iliberal, ed. by Robertus Robet and Todung Mulya Lubis (Serang.: Tangsel, 2020), pp. 137–60
2009-dan-rencana-ratifikasi-optional-protocol-t.pdf>


*Vienna Declaration and Programme of Action*

