



Legal Politics and Fulfillment of Citizens' Basic Rights in Indonesia's Democratic State

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Abstract

The purpose of this study is to analyze the state's responsibility in fulfilling the fundamental rights of every citizen. It is a descriptive-normative research, utilizing both statute and policy approaches. The data for this study were collected using library research methods and will be analyzed through qualitative techniques. The study found that the fulfillment of fundamental rights such as education (8.69 million) and poverty alleviation (9.57% or 26.36 million). However, the fulfillment of fundamental right to employment has not been optimally realized, reaching only (8.42 million). Therefore, the government must take strategic measures to address these issues through more concrete legal politics that directly cater to the interests of all layers of society.

Keywords:

Citizen; Politics of Law; Right.

A. INTRODUCTION

A state is a complete integration and primary organization of political power. The state is a complex concept referring to the organization of political power. The state is a fundamental aspect of human civilization and essential for maintaining the integrity of political power.¹ The

state is responsible for managing the relations within the society and maintaining sovereignty, independence, and integrity of the country's territory.² The state is a societal agency that holds the power to manage human relations within society and the phenomena of power within the society. Humans live

¹ Aleksey V. Zyrianov, "System-Synergetic Approach to Studying the Essence of State Power," *RUDN Journal of Law* 25, No. 1 (December 15, 2021): 248-262, <https://doi.org/10.22363/2313-2337-2021-25-1-248-262>, p. 251.

² Vitaly Viktorovich Goncharov *et al.*, "Enhancing the Role and Place of the State Council of the Russian Federation and Plenipotentiaries of the President of Russia in the Federal Districts in Coordinating the System of Executive Power in the Country and Overcoming Centrifugal Political Trends," *Laplage Em Revista* 7, No. 2 (May 10, 2021): 496-503, <https://doi.org/10.24115/S2446-6220202172817>, p. 498.

in an atmosphere of cooperation while simultaneously experiencing antagonism and contradictions. The state is an organization in a certain territory that can legally impose its power on all other power groups and can determine the methods and limits of power to be used in communal life, whether by individuals, groups, or associations, or by the state itself. In this way, social integration becomes one of the key instruments for achieving social unity and promoting equal opportunities across various segments of the population, including children, adolescents, retirees, and individuals with disabilities.³

The fundamental rights of every citizen are enshrined in the Constitution of the Republic of Indonesia, specifically in Articles 27, 28, 29, and 31. These provisions mandate the state to ensure the fulfillment of every citizen's rights, particularly those related to basic human needs. The Constitution grants the state full authority to regulate, manage, and administer the government, utilizing the

potential of natural resources as outlined in Article 33, paragraph (3). Thus, the constitution must be viewed not as a static document, but as a living and evolving framework, continuously adapting to the development and dynamics of society, and serving as the foundational principle of state governance.⁴

Power within an organization can be derived from religious legitimacy, the ideological legitimacy of elites, or pragmatic legitimacy. However, power grounded in these forms of legitimacy inherently undermines human equality by positioning certain groups above others. Legitimacy itself can stem from pragmatic, moral, or cognitive factors, and organizations possess the capacity to monitor and critique governance. This ensures that government actions align with the public interest, rather than merely serving the interests of specific elites.⁵ Powerful groups may seek to export their domestic ideologies and impose their legitimacy on other states.⁶ Legitimacy is a relational attribute, shaped by public

³ O. Voronkova *et al.*, "Social Integration As A Direction For Humanization Of Economic Relations And Improvement of Social Welfare," *Socio Economic Challenges* 3, No. 4 (2019): 52-62, [https://doi.org/10.21272/sec.3\(4\).52-62.2019](https://doi.org/10.21272/sec.3(4).52-62.2019), p. 54.

⁴ Udiyo Basuki, Adi Sulistiyono, and Isharyanto, "Dynamics of the 1945 Constitution: Reflection on 74 Years of Constitutional Republic of Indonesia," in *Proceedings of the 3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)* (Paris, France: Atlantis Press, 2019): 170-173. <https://doi.org/10.2991/icglow-19.2019.44>, p. 170.

⁵ M.Z Syafiq Zakiyah *et al.*, "Diskursus Publik dan Relevansi Dengan Legitimasi Kekuasaan Dari Teori Habermas," *Public Sphere: Jurnal Sosial Politik, Pemerintahan dan Hukum* 3, No. 2 (2024): 9-17, <https://doi.org/https://doi.org/10.59818/jps.v3i2.807>, p. 13.

⁶ Tobias Lenz, Alexandr Burilkov, and Lora Anne Viola, "Legitimacy and the Cognitive Sources of International Institutional Change: The Case of Regional Parliamentarization," *International Studies Quarterly* 63, No. 4 (December 1, 2019): 1094-1107, <https://doi.org/10.1093/isq/sqz051>, p. 1098.

beliefs and perceptions concerning the exercise of authority.⁷ It plays a key role in helping secular elites navigate political and economic challenges associated with policy implementation.⁸ Grassroots organizations can employ various strategies to gain legitimacy, such as framing their issues in ways that resonate with the broader public.⁹ Furthermore, power derived from these forms of legitimacy can evolve into absolute power, with the fundamental assumption that a particular group possesses the exclusive authority to govern and understands best how to manage state affairs. This concentration of power, rooted in religious, ideological, or pragmatic legitimacy, can ultimately lead to authoritarian governance.¹⁰

Legal Politics is the policy of state organizers regarding what is used as the criteria for imposing punishment, which includes the formation, application, and

enforcement of the law.¹¹ In another sense, legal politics refers to the policies of state organizers, which are fundamental in determining the direction, form, and content of laws to be formed, as well as the criteria for imposing punishment. Legal politics concerns the policy of state organizers regarding the criteria for criminal punishment, meaning the imposition of a sentence by a judge. Legal politics often involves the selective application of the law based on political objectives or policies.¹² Legal politics can involve discussions about what constitutes an offense, who is considered to have violated the law, and what punishment or consequences should be imposed. Social values, public opinion, and national security are some examples of variables that can significantly influence criminal justice policies. It is important to remember that criminal law regulations can represent society's

⁷ Jonas Tallberg and Michael Zürn, "The Legitimacy and Legitimation of International Organizations: Introduction and Framework," *The Review of International Organizations* 14, No. 4 (December 5, 2019): 581-606, <https://doi.org/10.1007/s11558-018-9330-7>, p. 599.

⁸ Alberto Bisin, Avner Seror, and Thierry Verdier, "Religious Legitimacy and the Joint Evolution of Culture and Institutions," *Advances in the Economics of Religion* (2019): 321-332, https://doi.org/10.1007/978-3-319-98848-1_20, p. 326.

⁹ Rashedur Chowdhury, Arno Kourula, and Marjo Siltaoja, "Power of Paradox: Grassroots Organizations' Legitimacy Strategies Over Time," *Business & Society* 60, No. 2 (February 17, 2021): 420-453, <https://doi.org/10.1177/0007650318816954>, such as grassroots organizations (GROs), p. 438.

¹⁰ Otong Syuhada, "Wanprestasi Pemerintah Terhadap Warga Negara Dalam Perspektif UUD 1945 Dikaitkan Dengan Konsep Teori Kontrak," *Journal Presumption of Law* 1, No. 2 (October 31, 2019), 1-13, <https://doi.org/10.31949/jpl.v1i2.86>, p. 2.

¹¹ Adit Saputra, "Peningkatan Pembangunan Ekonomi Melalui Politik Hukum Omnibus Law," *At-Tanwir Law Review* 2, No. 2 (August 30, 2022): 155-161, <https://doi.org/10.31314/atlarev.v2i2.2026>, p. 155.

¹² Subaidah Ratna Juita, Muhammad Junaidi, and Supriyadi Supriyadi, "Legal Politics of Criminal Responsibility In Reform Policy," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 23, No. 1 (March 11, 2024): 72-82, <https://doi.org/10.31941/pj.v23i1.3993>, p. 74.

opinions on justice and security, political goals, and value choices within the context of legal politics. We can better understand how these variables interact and shape the criminal justice system of a country through the analysis of legal politics.

The authority to establish state organs under the President, along with their main tasks and functions, allows the government greater freedom to regulate and manage every aspect of national life, both in terms of human resources and natural resources. Therefore, there is no reason for the government to shirk its responsibility related to fulfilling the rights and basic needs of its citizens. The existence of the executive branch in a democratic state has the function and authority to implement or amend laws formed by the legislative branch as a representation of the people's sovereignty.

In the concept of the *trias politica*, the idea of the separation of powers emerges, dividing power into several branches: the *Executive*, the body authorized to implement laws; the *Legislative*, the body authorized to form laws; and the *Judicial*, the body authorized to oversee the implementation of government based on the law. This concept aims to create a balance in organizing and running the government to ensure checks and balances, allowing these branches to

control each other. Therefore, it is hoped that no power becomes concentrated in only one branch, and the state's ideal of achieving the welfare of all its citizens can be realized. The separation of powers is a fundamental principle of government involving the division of power among various branches of government, emphasizing the importance of dividing governmental powers to protect individual freedoms and promote democratic governance. In the Westminster system, the Doctrine of the Separation of Powers is a useful tool for jurisprudential analysis, as long as it is applied within the context of other principles, such as parliamentary sovereignty and judicial independence.¹³ The meaning and juridical consequences of the terms "division of powers" and "separation of powers" vary. Although these two ideas are often combined, their application may differ depending on the situation. The concept of the separation of powers is often understood more loosely in the Westminster system, which is rooted in English legal traditions, according to which the division of powers is usually not as rigid as in certain other legal systems. Therefore, the interpretation and regulation of specific laws can affect how one understands the juridical consequences of the phrases "separation" and "division." It is important to remember that the

¹³ Neil Parpworth, "2. Separation of Powers," in *Constitutional and Administrative Law* (Oxford: Oxford University Press, 2022), 18-36, <https://doi.org/10.1093/he/9780192856579.003.0002>, p. 24.

understanding and use of these ideas in different legal systems may vary, depending on the political history, legal traditions, and constitution of a country.

The Republic of Indonesia adopts a democratic system of government, which is clearly stated in the 1945 Constitution, specifically in Article 1, paragraph (2), which states that "Sovereignty is in the hands of the people and is exercised according to the Constitution." Democracy can be defined as a form of power or sovereignty (*cratos*) from the people (*demos*). The common understanding of democracy is a form of government where the highest power is held by the people and is carried out directly by the people and/or their representatives through a mechanism of free elections. From its concept, democracy signifies power, which includes political and governance meanings. However, both in practice and concept, *demos* contains a discriminatory meaning; *demos* refers only to a particular group of people based on tradition or formal agreements, who can control access to sources of power and claim prerogative rights in decision-making processes related to government and public affairs. In a normative sense, democracy is something that a country

ideally aims to establish or implement, as exemplified by the phrase "government of the people, by the people, and for the people." This normative expression is usually translated into each country's constitution.¹⁴

Legal politics play a strategic role and substantive position in determining the direction and goals of the state. Legal politics is legal or official policies about the law that will be enforced, either by making new laws or replacing old laws to achieve the goals of the state, as outlined in the Preamble of the 1945 Constitution. The concept of legal politics is mentioned in the Preamble of the 1945 Constitution in Indonesia.¹⁵ The formation of a regulation/policy by the government as a manifestation of legal politics should not ignore the interests of each citizen, especially those related to basic human needs because it is they who will then become the object in the implementation of the regulations/policies. The government is required to keep consistent and continuous in exercising its authority based on the constitution and other organic laws and regulations.

The issue of forming and implementing legal politics as a tool for the government to organize and

¹⁴ Otong Syuhada, "Fenomena Budaya Politik Parokial Dan Perwujudan Demokrasi Pancasila Dalam Perspektif Hukum Tata Negara," *Journal Presumption of Law* 2, No. 1 (April 30, 2020): 1-18, <https://doi.org/10.31949/jpl.v2i1.336>, p. 5.

¹⁵ Donny Eddy Sam Karauwan, "Rekonstruksi Politik Hukum Responsif Progresif sebagai Upaya Reformasi Regulasi untuk Mewujudkan Tujuan Negara," *JPPPI (Jurnal Penelitian Pendidikan Indonesia)* 9, No. 1 (31 Maret, 2023): 226-236, <https://doi.org/10.29210/020221922>, p. 226.

manage governance arises when legal politics transforms into something that must be implemented and obeyed. Often, law becomes a tool to perpetuate power. Almost all forms of authoritarian government hide behind legal products under the name of legal engineering. Law transforms into a one-eyed giant that is feared because it no longer speaks of justice but in the context of power.

To create laws that can protect the people, ensure fair treatment, and uphold the rights of every citizen, there must be regulations used as guidelines in the drafting of laws, as fundamental rules applicable from the initial process of formation to when those regulations are enforced in society.¹⁶

The basic rights of citizens are no longer the primary target and goal that must be fulfilled, and the weakening and reduction of citizens' rights are becoming increasingly visible. Ironically, the people, as the holders of sovereignty, are powerless to reject and/or oppose government policies that are deemed harmful. In a democratic system, the

state has an obligation to protect and uphold the fundamental rights of each citizen. By recognizing each person's right to their citizenship, they can obtain those rights.

The state must be able to bridge the complexity of cultural claims and the gap between universality as one of the dynamics of human rights and the political and social regulation of society's changing life.¹⁷ On the other hand, citizens are an essential element and the main component of the state's status because of the reciprocal relationship between citizens and their state. Every citizen has rights and obligations toward their state; on the other hand, the state has obligations toward its citizens to provide protection, welfare, educate the nation, and fulfill their basic needs.

The legal demands of citizens in Indonesia are based on the 1945 Constitution, which guarantees the right to a healthy environment. These demands are often filed under civil procedural law, targeting government negligence in environmental management.¹⁸ ¹⁹

¹⁶ Sopiani and Zainal Mubaroq, Politik Hukum Pembentukan Peraturan Perundang-Undangan Pasca Perubahan Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, *Jurnal Legislasi Indonesia* 17, No. 2 (Juni 2020): 146-153. <https://doi.org/10.54629/jli.v17i2.623>, p. 147.

¹⁷ Adil Çamur, "Embracing Diversity, Upholding Universality: A Moral Discourse on Human Rights," in *Sosyal Bilimlerde Akademik Araştırma ve Değerlendirmeler-VI* (Özgür Yayınları, 2023), 1-10, <https://doi.org/10.58830/ozgur.pub402.c1770>, p. 4.

¹⁸ Ulfanora Ulfanora, "Right to Sue (Citizen Law Suit) Air Pollution as an Alternative Dispute Settlement," *Nagari Law Review* 7, No. 3 (June 4, 2024): 555-66, <https://doi.org/10.25077/nalrev.v.7.i.3.p.555-566.2024>, p. 58.

¹⁹ Stefany Ismantara, "Citizen Lawsuit: Pelindung Hak Konstitusional Dalam Sistem Hukum Indonesia," *Journal Equitable* 8, No. 2 (June 30, 2023): 294-310, <https://doi.org/10.37859/jeq.v8i2.4984>, p. 301.

Citizens' demands are one way for citizens to fight for their rights that have been guaranteed by the constitution and laws, and they can serve as a tool to advocate for the right to a good and healthy environment.^{20 21} Another research conducted by Affandi (2017) discusses the state's responsibility in fulfilling the right to education under the 1945 Constitution. Article 31, paragraph 1 of the 1945 Constitution states that every citizen has the same right to obtain knowledge through education, and how the state should normatively fulfill this responsibility.²² Furthermore, research conducted by Zaini on legal politics and human rights in Indonesia, particularly the state's obligation to fulfill and protect human rights guaranteed by the Indonesian constitution, focuses normatively on the state's duty to meet and protect human rights.²³

Unlike previous researches, this study focuses on the framework of a democratic state. This study focuses on efforts to ensure the fulfillment of the basic rights of Indonesian citizens.

Understanding the state's obligations toward basic rights seems to be the main topic, with a focus on issues such as unemployment, poverty, and education. The best implementation of citizens' basic rights has not yet been achieved in terms of unemployment, poverty, or education. A more comprehensive picture of the lack of realization of basic rights can be obtained by analyzing specific facts, such as the number of affected citizens. The government needs to act quickly and strategically to resolve the enforcement of basic rights. This highlights the importance of taking decisive action to strengthen citizens' ability to fulfill their basic rights. Legal politics that directly and concretely impacts the interests of all social classes should be used to find solutions. This reflects the need for laws that are more focused and have a direct influence on the realization of basic rights.

The purpose of this research is to investigate in detail how the Indonesian government's responsibility is reflected in initiatives to enforce citizens' basic

²⁰ Gracia Gracia and Mella Ismelina Farma Rahayu, "Gugatan Citizen Law Suit: Progresivitas Penyelesaian Sengketa Lingkungan Hidup Dalam Praktik Hukum Di Indonesia," *Syntax Literate: Jurnal Ilmiah Indonesia* 8, No. 11 (November 10, 2023): 6252-6271, <https://doi.org/10.36418/syntax-literate.v8i11.13871>, p. 6264.

²¹ E K Purwendah *et al.*, "Public Participation in Environmental Protection: Citizen Law Suits in the Indonesian Civil Justice System," *IOP Conference Series: Earth and Environmental Science* 1030, No. 1 (June 1, 2022): 1-10, <https://doi.org/10.1088/1755-1315/1030/1/012022>, p. 4.

²² Hernadi Affandi, "Tanggung Jawab Negara Dalam Pemenuhan Hak Atas Pendidikan Menurut Undang-Undang Dasar Tahun 1945," *Jurnal Hukum Positum* 1, No. 2 (June 30, 2017): 218-243, <https://doi.org/10.35706/positum.v1i2.848>, p. 220.

²³ Naya Amin Zaini, "Politik Hukum dan HAM (Kajian Hukum Terhadap Kewajiban Pemenuhan Dan Perlindungan Hak Asasi Manusia Dalam Konstitusi Indonesia)," *Jurnal Panorama Hukum* 1, No. 2 (December 10, 2016): 1-16, <https://doi.org/10.21067/jph.v1i2.1412>, p. 2.

rights, with an emphasis on areas such as unemployment, poverty, and education.

B. RESEARCH METHODS

This study is descriptive-normative research with statute and policy approaches, using secondary data, including primary, secondary, and tertiary legal materials. The purpose of this research is to analyze and to explain the legal politics in relation to fulfillment of the basic rights of citizens in the context of a democratic state in Indonesia. The data for this study was obtained through literature study techniques, encompassing various relevant literature and regulations pertinent to the research topic. The collected data is then reviewed and analyzed qualitatively.

C. RESULTS AND DISCUSSIONS

A state is a sovereign territorial unit. Within its boundaries and territory, every state holds supreme and exclusive power. A state can be defined as an organization of power established under a consensus among society and serves as a tool to achieve common goals.

In principle, a state is established with a specific purpose. According to the social contract theory or societal consensus theory, the state is formed based on the consensus of society within its social traditions. This theory emphasizes that a state is not inherently tyrannical, as its continuity lies within the social contract between the citizens

and state institutions (natural state) and the existence of the state itself.

J.J. Rousseau has his own perspective on the formation of a state. According to him, the existence of a state is based on the agreement of its citizens to improve themselves through political organization along with the Government. The government itself does not have a contractual basis; it is only political organizations which are established through contracts.

Due to his thoughts, Rousseau is recognized as the founder of a state form where sovereignty resides with the people through its political organizations. In other words, he is also recognized as the pioneer of the concept of a democratic state rooted in popular sovereignty, meaning that the people are sovereign and the state's rulers are merely representatives of the people performing their duties as mandate holders entrusted by the people.

Indonesia, as an independent state, received the charter of sovereignty from the Netherlands on November 1, 1949. Since then, Indonesia has been recognized as an independent nation and part of the international world order. The 1945 Constitution of the Republic of Indonesia (UUD 1945) was enacted on August 18, 1945 by the Preparatory Committee for Indonesian Independence (PPKI). The 1945 Constitution, as the basic norm (*grundnorm*) guiding the governance and administration of the state, also serves as a form of political and/or social contract between citizens and those authorized

to govern and manage the state. The 1945 Constitution, among other things, regulates and establishes the basic rights of every Indonesian citizen without exception. Therefore, anyone holding governmental power is obliged to fulfill and uphold these rights.

The proclamation of independence demanded the renewal or replacement of laws inherited from the Japanese and Dutch colonial eras. From the perspective of the legal system, the proclamation represented a total transformation, fundamentally altering the legal structure. It brought Indonesia to new aspirations and legal realities that were entirely different from the colonial period. This transformation reflected a shift in societal traditions, from being a colonized nation to becoming a free and independent society. The purpose of the law also underwent a reversal, from serving to maintain and preserve colonialism to filling independence with a spirit that changed from colonialism to nationalism. Consequently, changes to the previously applicable positive laws enacted during the colonial period became essential. This reform was not only necessary to reflect the values of independence but also became a crucial part of legal politics. Through this

process, the law could develop into a solid foundation for a sovereign and just national life.

Globalization, which emerged in the 1980s, has significantly impacted all dimensions of national life. In the context of state politics, for example, globalization has altered political power dynamics in modern states and among citizens. Political scientists identified three theoretical-practical approaches contributing to the transformation of politics in several countries, including Indonesia. First, Economic development, often measured by GDP per capita, is a significant predictor of democratization. As economic growth occurs, it tends to develop a prosperous middle class demanding greater political accountability and democratic governance.²⁴

Second, democratization, which occurs due to a social structure of this approach, is based on Barrington Moore's concept in *Social Origins of Dictatorship and Democracy*, which highlights that the middle class became a demographic force to be reckoned with. Their critical stance and demands toward governance encouraged the emergence of political democratization in the country.²⁵ Third, democratization arose from resistance

²⁴ Sergey I. Malozemov and Roman S. Tarasov, "Determining the Level of Economic Development as the Most Important Variable of Society's Democratization in System Theories," *Economic History* 16, No. 2 (August 20, 2020): 193-202, <https://doi.org/10.15507/2409-630X.049.016.202002.193-202>, p. 197.

²⁵ Iqra Anugrah, "Kembali Membela Militansi Dan Keharusan Perjuangan Kelas," <https://indoprogress.com/2013/11/kembali-membela-militansi-dan-keharusan-perjuangan-kelas/>, diakses 24 September 2023.

among political elites. This approach refers to Schmitter's theorization in *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies*, which emphasizes the opposition forces' flow in voicing reform against authoritarian governance.²⁶

The legal politics of the Indonesian government are built through a lengthy process involving all elements of the nation. Active citizen participation is essential for the government to formulate and determine policies or regulations to govern and manage the state to achieve the national goals of creating a just, prosperous, and thriving society. In the context of administrative law, Carl Friedrich defines policy as "an action directed toward the goals of an individual, group, or government in a specific environment, considering certain obstacles while seeking opportunities to achieve desired objectives."²⁷ In principle, those who formulate policies hold the power to implement them. Scholars emphasize public policy aspects, assuming that every society has common goals. These shared objectives are to be achieved through collective efforts, requiring binding plans set out in policies formulated by the authorities—in this case, the government.

The discourse on law and public policy is inseparable from issues of the state, governance, and the dynamics of government administration. The outcomes of governance often crystallize into legal products and public policies that may not always serve the public interest; instead, they are sometimes designed to benefit particular groups. Ideally, the state plays a crucial role in providing comprehensive, universal, and non-discriminatory welfare to its citizens.

Upon closer examination, the fundamental notion of the state as an entity that issues a set of rules and policies remains abstract, whereas governance itself is a concrete concept. The government, as the state's agent, carries out legal actions, while the state is viewed as the framework or arena for governance. The government, as an *Organ of State*, can be understood broadly or narrowly. Broadly, the government includes all state organs—executive, legislative, and judicial branches—that act on behalf of the state. Narrowly, the government refers to the executive branch as the legal authority. In the context of the state, the executive branch differs somewhat from the legislative and judicial branches, as it directly manages

²⁶ Jonathan Pinckney, Charles Butcher, and Jessica Maves Braithwaite, "Organizations, Resistance, and Democracy: How Civil Society Organizations Impact Democratization," *International Studies Quarterly* 66, No. 1 (February 9, 2022): 1-14, <https://doi.org/10.1093/isq/sqab094>, p. 4.

²⁷ Kementerian Lingkungan Hidup dan Kehutanan, "Modul Kebijakan Kehutanan Terkait Tenurial", https://elearning.menlhk.go.id/pluginfile.php/845/mod_resource/content/1/pengertian_kebijakan.html, diakses 24 September 2023.

daily governance functions based on the principle of separation and distribution of state powers.

In the Unitary State of the Republic of Indonesia, the executive branch bears the primary responsibility for fulfilling the fundamental rights of its citizens. Although, according to the 1945 Constitution, the President's position is equal to other high state institutions, in practice, the President is granted broader authority. This authority includes not only performing governmental functions as head of government but also serving as head of state. In a presidential system, the President holds extensive rights as head of bureaucracy, representing the state internationally, and as both head of state and head of government, as stipulated in the constitution. The President of Indonesia is *Primus Inter Pares*, occupying a more advantageous and critical position in controlling governance.

The President's position as both Head of State and Head of Government includes prerogative and political rights, allowing involvement in governmental and legislative affairs. These rights include drafting and enacting laws to replace legislative products, issuing regulations in lieu of laws (Perppu), and controlling recruitment for strategic and vital government positions. The President also has privileges to appoint individuals to critical roles, such as cabinet members, the Chief of Police (Kapolri), the Commander of the Indonesian National Armed Forces

(TNI), Supreme Court judges, Judicial Commission members, Constitutional Court members, and others, as regulated by law.

The broad powers held by the government often lead to arbitrariness and oppression of the people. Historical evidence consistently shows that power in the hands of rulers is not always directed toward public welfare. Often, power is manipulated to serve personal interests and those of close allies. The fourth paragraph of the preamble to the 1945 Constitution outlines Indonesia's state objectives: to protect all Indonesians, promote general welfare, educate the nation's life, and contribute to world order based on independence, eternal peace, and social justice. Thus, Indonesia aspires to achieve a society that is just, prosperous, and equitable, fostering harmony and peace throughout the nation.

Fulfilling the fundamental rights of every citizen is a primary goal of national life, particularly in democratic countries. Legal politics, as embodied in regulations and policies, must serve as a means to achieve this goal. The essence of legal politics is to establish legal policies and products created by authorities and implemented within a state, with shared goals to build the envisioned nation.

However, history reveals a consistent gap between expectations and reality. Despite government efforts to realize these ideals and address the disparity between expectations and outcomes, the results remain suboptimal, leaving many

citizens without access to justice—a challenge that may take generations to resolve.²⁸

The realization of legal politics in legislation underscores Indonesia's identity as a rule-of-law state. The state is obligated to conduct national legal development in a planned, integrated, and sustainable manner within the national legal system, ensuring the protection of the rights and obligations of all Indonesians as enshrined in the 1945 Constitution

Respecting the fundamental rights of every citizen reflects a form of protection that upholds human dignity. Human rights are fundamental, inherent from birth, and tied to the dignity and worth of every individual as a creation of God Almighty. These rights must not be violated or taken away by anyone.

The tangible realization of the fulfillment of citizens' basic rights by the government is carried out through various policies and regulations in the form of organic laws as the implementation of constitutional mandates. The laws and organic regulations are as follows:

1. *On the right to equality before the law and government:* a) Criminal acts that use the principle of equality of all human before the law. b) The Civil Code concerning unlawful acts (Article 1365 of the Civil Code). Unlawful

acts are actions that harm others and demand the perpetrator to compensate for the loss. c) Law No. 39 of 1999 on Human Rights, Article 43 Paragraph (1): "Every citizen has the right to be elected and to vote in general elections based on equal rights through direct, public, free, secret, honest, and fair voting as stipulated in the applicable laws and regulations." Paragraph (2): "Every citizen has the right to participate in government directly or through a representative chosen freely, according to the procedures set forth in the laws and regulations." d) Law No. 5 of 2014 on State Civil Apparatus, Article 60: "Every government agency must publicly announce to the public the need for a civil servant position." Article 61: "Every Indonesian citizen has the same opportunity to apply to become a civil servant after meeting the requirements."

2. *On the right to work and a decent living:* a) Law No. 6 of 2023 on Job Creation, Chapter II on Principles, Goals, and Scope, Article 3, Clause b, states, "guaranteeing every citizen employment and fair and decent treatment in the work relationship." b) Law No. 13 of 2023 on Manpower, Article 4 Clause c, states that the purpose of labor development is:

²⁸ Todung Mulya Lubis dalam Kumbul Kusdwidjanto Sudjadi dan Yusuf Setyadi, "Problematika Proses Peradilan Perkara Pelanggaran Ham di Indonesia". *Journal of Islamic and Law Studies* 5, No. 1, 2021: 45-53, <https://doi.org/10.18592/jils.v5i2.5790>, p. 46.

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- “to provide protection for workers in achieving welfare,” and Clause d states that “improving the welfare of workers and their families.”
3. *On the right to freedom of association and assembly*, expressing thoughts verbally and in writing, etc.: a) Law No. 16 of 2017 on Community Organizations, Article 1 Paragraph (1): “Community Organization, hereinafter referred to as Ormas, is an organization established and formed by the community voluntarily based on common aspirations, desires, needs, activities, and purposes to participate in development and achieve the objectives of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.” b) Law No. 9 of 1998 on Freedom of Expression in Public, Article 1 (1): “Freedom of expression is the right of every citizen to express thoughts verbally, in writing, and so on, freely and responsibly in accordance with the provisions of applicable laws and regulations.”
 4. *On the right to life and the right to defend life*: a) Law No. 39 of 1999 on Human Rights (Article 4): “The right to life, the right not to be tortured, the right to personal freedom, thoughts, and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be prosecuted are human rights that cannot be reduced under any circumstances and by anyone.”
 5. *On the right to form a family and enter into marriage*: a) The Civil Code, Part I: Conditions and Requirements for Marriage, Article 28: “The principle of marriage requires the free consent of the prospective husband and wife.” Article 29: “A man who has not yet reached the age of eighteen and a woman who has not yet reached the age of fifteen may not marry. However, if there are important reasons, the President may revoke this prohibition by granting a dispensation.” b) Law No. 1 of 1974 on Marriage, Article 1: “Marriage is the physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family (household) that is happy and eternal based on the One and Only God.” Article 2 Paragraph (1): “Marriage is valid if carried out according to the law of each religion and belief.” Paragraph (2): “Every marriage must be registered according to the applicable laws and regulations.”
 6. *On the right of children to grow and develop and be protected from violence*, Law No. 35 of 2014 on Child Protection, Article 1 Paragraph (2): “Child protection is all activities to guarantee and protect children and their rights to live, grow, develop, and participate optimally according to human dignity and receive protection from violence and discrimination.”

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7. *On the right to fulfill basic needs in education and to benefit from knowledge, science, technology, arts, and culture*, Law No. 20 of 2003 on the National Education System, Article 5 Paragraph (1): "Every citizen has the same right to obtain quality education." Paragraph (3): "Citizens in remote or disadvantaged areas and indigenous communities are entitled to receive special educational services." (5) "Every citizen has the right to improve education throughout life."
 8. *On the right to advance oneself in collectively fighting for one's rights*, Law No. 5 of 1960 on Basic Agrarian Law, Article 2 Paragraph (3): "The authority derived from the right to control the state as referred to in Paragraph (2) of this article is used for the maximum welfare of the people, in happiness, prosperity, and independence within society, as well as the independent, sovereign, just, and prosperous legal state of Indonesia." Article 4 Paragraph (1): "Based on the right to control the state as referred to in Article 2, various rights over land surfaces are determined, which may be given to and owned by individuals, either alone or together with others and legal entities."
 9. *On the right to citizenship status*, Law No. 12 of 2006 on Indonesian Citizenship, Article 2: "Indonesian citizens are native Indonesians and other nationals who are legalized by law as citizens. Indonesian citizenship can only be obtained under the requirements set forth in Law No. 12 of 2006."
 10. *On the right to embrace a religion and belief*, Law No. 39 of 1999 on Human Rights, Article 22 Paragraph (1): "Everyone is free to embrace their religion and worship according to their respective religions and beliefs." Paragraph (2): "The state guarantees the freedom of every person to embrace their religion and belief."
 11. *On the right to communicate and obtain information*, Law No. 11 of 2008, as amended by Law No. 19 of 2016 on Electronic Information and Transactions, Article 4: "The utilization of information technology and electronic transactions is conducted with the goal of: Educating the nation's life as part of the global information society; developing trade and the national economy to improve the welfare of the people; enhancing the effectiveness and efficiency of public services; providing opportunities for everyone to develop their thinking and abilities in using and optimizing technology responsibly; ensuring security, justice, and legal certainty for information technology users and providers." Article 4 Paragraph (1): "Every person has the right to obtain public information in accordance with the provisions of this law." Paragraph (2) states: "Every person

has the right to: a. view and know public information; b. attend public meetings that are open to the public to obtain public information; c. obtain copies of public information through requests in accordance with this law; d. disseminate public information in accordance with applicable laws." Paragraph (3) states, "Every public information applicant has the right to submit a request for public information along with the reason for the request." Paragraph (4): "Every Public Information Applicant has the right to file a lawsuit in court if their request for Public Information is obstructed or fails in accordance with the provisions of this law."

12. *On the right to protection of property and the threat of fear of doing or not doing something*, Law No. 23 of 2014 on Regional Government, Article 12 Paragraph (1), Clause e: Government affairs that are obligatory in relation to basic services include public order, security, and community protection.
13. *On the right to political asylum*, Law No. 39 of 1999 on Human Rights (Article 28 Paragraph (1)) states that "everyone has the right to seek asylum to obtain political protection from another country."

On the right to a good environment and health services: A) Law No. 32 of 2009 on Environmental Protection and Management, Article 3 Clause b: "Environmental protection and management aim to ensure the safety,

health, and lives of humans." Clause c: "Ensure the sustainability of life for living creatures and the preservation of ecosystems." Clause f: "Ensure justice for both current and future generations." Clause g: "Ensure the fulfillment and protection of the right to a good environment as part of human rights." b) Law No. 36 of 2009 on Health, Article 4: "Everyone has the right to health." Article 5 Paragraph (1): "Everyone has the same right to access resources in the health sector." Paragraph (2) states, "Everyone has the right to receive health services that are safe, high-quality, and affordable." Paragraph (3) states, "Everyone has the right to independently and responsibly determine the health services they require for themselves."

D. CONCLUSIONS

Based on this study, the fulfillment of citizens' basic rights as the obligation of the state as mandated by the 1945 Constitution has not been effectively realized through existing regulations and policies. This occurs because the process of forming laws and regulations often fails to follow the proper procedures, influenced by the competing interests that disregard the principles of good regulation-making. The Academic Manuscript, which should contain the foundation, facts, and background of a regulation, is often overlooked in the legislative process. As a result, the efforts to achieve the nation's ideals of justice, prosperity, and well-being for all citizens

are still unfulfilled and seem to remain mere discourse.

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