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Strengthening Institutional Mechanisms for Human Rights Protection within Constitutional Principles

*Yevhen Leheza** 
Dnipro Humanitarian University, Ukraine
yevhenleheza@gmail.com

Oleksandr Yunin 
Dnipro State University of Internal Affairs, Ukraine
junin@ukr.net

Mykhailo Burdin 
Kharkiv National University of Internal Affairs, Ukraine
burdin@univd.edu.ua

Viktoriya Melnykovich 
Dnipro State University of Internal Affairs, Ukraine.
Viktoriamelnykovich@gmail.com

Vasyl Shevchenko 
University of Internal Affairs, Ukraine.
vasyl.shevchenko93@gmail.com

Abstract

Human rights protection still faces challenges in ensuring the integration of constitutional principles and the effectiveness of institutional implementation during globalization and increasing complexity of modern state governance. This study analyzes the constitutional principles and institutional mechanisms of human rights protection in Ukraine and Indonesia, identifying their characteristics, similarities, and differences, and developing a model for strengthening institutions based on the rule of law that is integrated with international standards and responsive to



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contemporary challenges. This study uses a normative juridical method with a conceptual and comparative approach to analyze legal doctrine, regulations, and institutional practices in both countries. The research findings indicate that the rule of law is the main foundation of the human rights protection system, while justice, equality, and legality serve as operational principles in maintaining the balance of constitutional values, resolving legal conflicts, and addressing regulatory gaps. Legality is substantively interpreted not only as compliance with norms but also as an indicator of the effectiveness of state administration and a guarantee of legal certainty. This study confirms that the effectiveness of human rights protection requires systemic strengthening of institutions and regulatory architecture based on the rule of law. Therefore, it is necessary to strengthen institutions that integrate the principles of justice, equality, and legality in the design of regulations and state oversight mechanisms in order to bridge the normative and empirical gaps in the implementation of human rights protection.

KEYWORDS: Constitutional principles; Human rights; Institutional strengthening; Legality; Rule of law

Abstrak

Perlindungan hak asasi manusia masih menghadapi tantangan dalam memastikan keterpaduan antara prinsip konstitusional dan efektivitas implementasi kelembagaan di tengah perkembangan globalisasi dan kompleksitas tata kelola negara modern. Penelitian ini menganalisis prinsip-prinsip konstitusional dan mekanisme kelembagaan perlindungan hak asasi manusia di Ukraina dan Indonesia, mengidentifikasi karakteristik, persamaan, dan perbedaannya, serta mengembangkan model penguatan kelembagaan berbasis supremasi hukum yang terintegrasi dengan standar internasional dan responsif terhadap tantangan kontemporer. Penelitian menggunakan metode yuridis normatif dengan pendekatan konseptual dan komparatif melalui analisis doktrin hukum, regulasi, dan praktik kelembagaan di kedua negara. Temuan penelitian menunjukkan bahwa supremasi hukum merupakan fondasi utama sistem perlindungan hak asasi manusia, sedangkan keadilan, kesetaraan, dan legalitas berfungsi sebagai prinsip operasional dalam menjaga keseimbangan nilai konstitusional, menyelesaikan konflik hukum, dan mengatasi kesenjangan regulasi. Legalitas dimaknai secara substantif tidak hanya sebagai kepatuhan terhadap norma, tetapi juga sebagai indikator efektivitas penyelenggaraan negara dan jaminan kepastian hukum. Penelitian ini menegaskan bahwa efektivitas perlindungan hak asasi manusia memerlukan penguatan kelembagaan dan arsitektur regulasi berbasis supremasi hukum secara sistemik. Oleh karena itu diperlukan penguatan kelembagaan yang mengintegrasikan prinsip keadilan, kesetaraan, dan

legalitas dalam desain regulasi serta mekanisme pengawasan negara guna menjembatani kesenjangan normatif dan empiris dalam implementasi perlindungan hak asasi manusia.

KATA KUNCI: *Penguatan kelembagaan; HAM; Legalitas; Prinsip konstitusional; Supremasi hukum*

Introduction

The current stage of statehood development is characterized by the growing role of institutional mechanisms in ensuring and protecting human rights, which are directly enshrined at the level of constitutional principles. In the context of globalization and the increasing influence of international standards, states are forced to adapt their legal systems to universal approaches in the field of human rights, ensuring the effectiveness of national institutions.¹ This is of particular importance for countries that are in a state of legal system transformation or face internal and external challenges. Ukraine and Indonesia are examples of states with different legal traditions but similar tasks in strengthening institutional mechanisms for protecting human rights. For Ukraine, the relevance of the problem is due to the conditions of martial law, the need to ensure a balance between security and human rights, and European integration processes.² The relevant issues in Indonesia are related to the need to harmonize national approaches based on the *Pancasila* ideology with international human rights standards and ensure the effectiveness of specialized institutions.³

In modern scientific literature, considerable attention is paid to the issues of constitutional consolidation of human rights and the functioning

¹ Jackie Smith and Michael Goodhart, "Human Rights Globalization: How Local and Global Actions Institutionalize Human Rights," *Journal of Human Rights* 23, no. 2 (2024): 125–33, <https://doi.org/10.1080/14754835.2024.2324202>.

² Pavlo Liutikov et al., "Human Rights And Freedoms Under The Conditions of Martial State: Legal Regulation, Directions of Improvement," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (2023): 623–33, <https://doi.org/10.29303/ius.v11i3.501>.

³ Geofani Milthree Saragih, Ade Sathya Sanathana Ishwara, and Rengga Kusuma Putra, "Evaluation of the Implementation of Pancasila Values and Human Rights Enforcement in Indonesian Judicial System Through Constitutional Approach," *Reformasi Hukum* 28, no. 3 (2024): 202–17, <https://doi.org/10.46257/jrh.v28i3.1082>.

of institutional mechanisms for their protection. Ukrainian scholars study the role of the Constitutional Court of Ukraine, the institution of the Verkhovna Rada Commissioner for Human Rights, and the impact of the practice of the European Court of Human Rights on the national legal system.⁴ Separately, the issues of reforming the judiciary, anti-corruption institutions, and digitalization of justice as components of an effective mechanism for the protection of human rights are analyzed.

Foreign studies devoted to Indonesia focus on the analysis of the activities of the National Human Rights Commission of the Republic of Indonesia, the functioning of the Constitutional Court of Indonesia, and the development of specialized human rights institutions.⁵ At the same time, attention is paid to the influence of cultural and legal features, in particular the ideology of Pancasila, on the formation of a human rights model.⁶ Researchers also consider the problems of the effectiveness of implementing decisions of human rights bodies and ensuring their independence.⁷

Despite a significant number of scientific works, the issue of comparative analysis of the institutional mechanisms for the protection of human rights in Ukraine and Indonesia in the context of constitutional principles remains insufficiently researched. This especially applies to a comprehensive comparison of the impact of legal traditions, institutional architecture, and modern reforms on the effectiveness of ensuring human rights. The scientific novelty of the study lies in the implementation of a systematic comparative analysis, which allows the identification of common

⁴ Roman I Blahuta et al., "Enhancing Human Rights Protections in Ukrainian Law Enforcement: National Compliance with EU Standards," *Yuridika* 39, no. 1 (2024): 1–30, <https://doi.org/10.20473/ydk.v39i1.45461>.

⁵ Hendrik Salmon and John Tumba Jacob, "The Role of Law and Human Rights in the Formation of State Institutions: A Comparative Study of Indonesia and Nigeria," *Jurnal Suara Hukum* 7, no. 1 (2025): 218–44, <https://doi.org/10.26740/jsh.v7n1.p218-244>.

⁶ Pika Sari et al., "Protection of Human Rights in Pancasila Democracy," *DiH: Jurnal Ilmu Hukum*, 2024, 190–201, <https://doi.org/10.30996/dih.v20i2.10872>.

⁷ Laode Husen et al., "Implementation of Legal Guarantees for Human Rights Protection in Indonesia," *Journal of Law and Sustainable Development* 11, no. 4 (2023): e624, <https://doi.org/10.55908/sdgs.v11i4.624>.

trends and differences and the development of practical recommendations for improving the relevant mechanisms.

Previous research offers diverse perspectives on international human rights protection mechanisms. For example, research by Alexander C.S. and J. Todres emphasizes the need for measurable accountability methods, highlighting the importance of data-driven monitoring to assess shortcomings in the implementation of human rights protections.⁸ In their assessment of human rights due diligence in business, R. McCorquodale and J. Nolan point out that there is little oversight and enforceability, which reflects larger systemic flaws.⁹ Whereas Dębrowska-Kłosińska emphasizes the need for institutional resilience, highlighting how crises, such as the pandemic, expose weaknesses in human rights protections.¹⁰ In line with this, research by Nampewo et al. advocates coordinated measures to fulfill the right to health, urging greater cooperation between states and civil society.¹¹ Furthermore, Douch et al. argue that using human rights as a condition of aid can increase compliance but risks becoming politicized.¹² These studies highlight the strengths and structural weaknesses of the existing processes, bolstering the argument made in this article for institutional reform and global collaboration.

Contemporary human rights studies emphasize the complexity of threats to human rights, which are transnational, multidimensional, and

⁸ Charlotte S Alexander and Jonathan Todres, "Evaluating the Implementation of Human Rights Law: A Data Analytics Research Agenda," *University of Pennsylvania Journal of International Law* 43 (2021): 1–78, <https://ssrn.com/abstract=3878473>.

⁹ Robert McCorquodale and Justine Nolan, "The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses," *Netherlands International Law Review* 68, no. 3 (2021): 455–78, <https://doi.org/10.1007/s40802-021-00201-x>.

¹⁰ Patrycja Dąbrowska-Kłosińska, "The Protection of Human Rights in Pandemics—Reflections on the Past, Present, and Future," *German Law Journal* 22, no. 6 (2021): 1028–38, <https://doi.org/10.1017/glj.2021.59>.

¹¹ Zahara Nampewo, Jennifer Heaven Mike, and Jonathan Wolff, "Respecting, Protecting and Fulfilling the Human Right to Health," *International Journal for Equity in Health* 21, no. 1 (2022), <https://doi.org/10.1186/s12939-022-01634-3>.

¹² Mustapha Douch et al., "Aid Effectiveness: Human Rights as a Conditionality Measure," *World Development* 158 (2022): 105978, <https://doi.org/10.1016/j.worlddev.2022.105978>.

influenced by technological developments and globalization. For example, Brodowski highlights that contemporary human rights crimes, such as terrorism, cybercrime, and pandemics, require structural and legislative adjustments in international security organizations through strengthened coordination and technological modernization, including expanded mandates and cross-agency collaboration to respond to these threats more effectively.¹³ Similarly, Landman asserts that efforts to eradicate modern slavery still face limited effectiveness due to unclear definitions, weak reporting, and the hidden nature of exploitative practices, where legal frameworks and law enforcement mechanisms lag behind the dynamics of exploitation as a major obstacle.¹⁴ These studies emphasize that technological developments and globalization create new risks to human rights, particularly in the form of the misuse of artificial intelligence, digital oppression, and mass surveillance, which demonstrate the increasingly complex challenges of human rights protection in the contemporary era.

Although various studies have examined human rights protection mechanisms and the impact of globalization and technological developments on the emergence of contemporary human rights threats, there is still a lack of studies that integrate analysis of constitutional principles with the effectiveness of institutional design from a comparative perspective across countries. Furthermore, studies that simultaneously link normative and empirical evaluations of human rights protection systems in Ukraine and Indonesia within a single, systematic analytical framework are still relatively limited. Therefore, this study aims to comprehensively analyze the constitutional principles and institutional mechanisms of human rights protection in Ukraine and Indonesia, identify their characteristics, similarities, and differences, and formulate a model for

¹³ Dominik Brodowski, "Cybercrime, Human Rights and Digital Politics," in *Research Handbook on Human Rights and Digital Technology* (Cheltenham: Edward Elgar Publishing, 2025), 94–109, <https://doi.org/10.4337/9781035308514.00013>.

¹⁴ Todd Landman, "Measuring Modern Slavery: Law, Human Rights, and New Forms of Data," *Human Rights Quarterly* 42, no. 2 (2020): 303–31, <https://doi.org/10.1353/hrq.2020.0019>.

strengthening institutions based on the rule of law that is aligned with international standards and responsive to contemporary challenges.

Methods

This study adopts a normative juridical method by integrating an analytical framework based on dialectical, systemic, and comparative approaches. The analytical framework is used to examine the relationship between constitutional principles—the rule of law, justice, equality, and legality—and the development of institutional mechanisms to protect human rights. The dialectical method is used to understand the dynamics of institutional development in the context of sociopolitical change, while the systemic approach positions human rights protection mechanisms as a whole, consisting of various institutional elements. The normative analysis is conducted through a dogmatic method that draws on the tradition of legal doctrine research and grammatical, systematic, and teleological legal interpretation to examine the consistency and coherence of constitutional norms.

The comparative approach is operationalized by referring to the comparative legal tradition developed within the functional approach, which emphasizes the comparison of institutional functions and the application of norms in the legal systems of Ukraine and Indonesia. The analysis is conducted by preparing a comparative matrix that includes variables such as constitutional norms, institutional structures, authorities, and law enforcement practices. The research stages include the following: (1) identification and preparation of analytical indicators based on constitutional principles; (2) mapping and classification of norms and institutional designs in each legal system; (3) comparative analysis of institutional structures, authorities, and functions; and (4) preparation of an analytical synthesis based on comparative findings. This study examines the normative and institutional characteristics of human rights protection mechanisms.

Discussion

The Principles of Equality, Justice, and Legality as Foundations of the Rule of Law

The principle of equality requires ensuring equal opportunities, creating real chances for members of society to compete with one another, with sufficient chances of success, conditioned by equality before the law and the courts, equality of human rights and obligations, and adherence to the principle of non-discrimination. The specific content of the concept implies main aspects that differ significantly from each other: first, equal respect within a certain scheme of the decision-making process—the requirement to show equal respect for everyone’s opinion. Second, objective attitude—the requirement of equal consideration of equal cases. Third, equality of distribution—the requirement that everyone receives an equal share of a certain benefit. Fourth, equality of result: the requirement that individuals should find themselves in the same conditions after the distribution procedure. Equality requires behaving the same way in the same cases and behaving differently in different cases.¹⁵ Plato also emphasized this with a rather apt statement: “For the unequal, equal would become unequal.”¹⁶

The problem of equality has always been relevant because it has always been associated with the democratic legal status of human beings and citizen and the establishment of a just public order in the country.¹⁷ The embodiment of this principle in legal acts testified to the democratic path of development of the state. In the Constitution of Ukraine, it is reflected in

¹⁵ Elizabeth Anderson, *Freedom and Equality, The Oxford Handbook of Freedom* (New York: Oxford University Press, 2018).

¹⁶ Gerasimos Santas, “Plato on Inequalities, Justice, and Democracy,” in *Philosophical Studies Series* (Cham: Springer International Publishing, 2018), 161–77, https://doi.org/10.1007/978-3-319-96313-6_7.

¹⁷ Daniel Viehoff, “Democratic Equality and Political Authority,” *Philosophy & Public Affairs* 42, no. 4 (2014): 337–75, <https://doi.org/https://doi.org/10.1111/papa.12036>.

Article 24, which proclaims that citizens have equal constitutional rights and freedoms and are equal before the law.

The formulation of the idea of equality in society and law included several important moments, including historical, cultural, religious, financial, and political factors. In the natural environment, people freely dispose of their freedom and property, and all are equal without exception. Natural law teaches people that, since they are all equal and independent, they should not to cause damage to the life, health, freedom, or property of another, which requires peace and preservation of all humanity. Absolute equality is impossible because it contradicts the natural and spiritual essence of human beings.¹⁸ However, conditional (formal) equality exists, and the need for its existence does not cause objections. Such awareness of equality contains a universal character and requires a similar attitude toward people regardless of their individuality and characteristics. From a legal point of view, equality implies equal opportunities—rights and freedoms—as well as uniform direct obligations for all people and social groups.¹⁹

Therefore, the existence of the principle of formal equality guarantees the status of law as a regulator of the social life of people, and the absence of formal equality indicates the absence of law. Considering the above, we can conclude that the transfer of a greater degree of freedom to individual people compared with others violates the legal equality between people. All people are equal by nature and endowed with inalienable rights to life and freedom.

The principle of justice consists of an equal legal scale of behavior and a strict correspondence of legal responsibility to the offense committed. It is reflected in the very content of the law, has an evaluative character, and

¹⁸ Tom Angier, *Natural Law Theory* (Cambridge: Cambridge University Press, 2021), <https://doi.org/10.1017/9781108580793>.

¹⁹ Monika Florczak-Wątor, "Equality Rights," in *Writing Constitutions* (Cham: Springer International Publishing, 2024), 247–84, https://doi.org/10.1007/978-3-031-39622-9_7.

finds its expression in rights and obligations, measures of encouragement and punishment, etc. All branches of law attempt to implement the foundations of justice in the social relations regulated by them. The entire legal system stands guard over justice, serves as a means of its expression and consolidation, protection, and defense. The principle of justice to the greatest extent expresses the general social essence of law, the desire to find a compromise between participants in legal relations, between a person and society, and between a citizen and the state. Justice can be defined as a separate property, one of the numerous manifestations of the rule of law, and as a holistic, integral feature of the legal order, which is built on the principles of the rule of law.²⁰

The approach, which holds that good faith is an internal criterion, while justice and fairness are external or objective measures of legal quality, positions justice as the basis for the practical recognition of human dignity as the pinnacle of the hierarchy of values in a democratic society.²¹ From a natural law perspective, justice is understood as the application of moral demands that also become legal demands in legislative action, in line with the essence of human rights.²² Furthermore, justice is often interpreted as the proportionality between the means used and the goals to be achieved.

The principle of justice can be considered at several generalization levels. The first level provides the greatest degree of generalization and includes the following requirements: equality, humanism, compliance of legal norms with moral ones, and hierarchy in the protection of social relations. The second level of the principle of justice of legal responsibility

²⁰ Sir John Laws, "The Rule of Law: The Presumption of Liberty and Justice," *Judicial Review* 22, no. 4 (2017): 365–73, <https://doi.org/10.1080/10854681.2017.1407068>.

²¹ Sooraj Kumar Maurya, "Justice and Quality of Life: A Philosophical Perspective," in *Social Indicators Research Series* (Cham: Springer Nature Switzerland, 2026), 1–23, https://doi.org/10.1007/978-3-032-10812-8_1.

²² Jonathan Crowe, *Natural Law and the Nature of Law* (Cambridge: Cambridge University Press, 2019), <https://doi.org/10.1017/9781108653237>.

is revealed through the principles of legality, inevitability, humanism, individualization, and guilt of action.²³

Justice cannot be considered independently of other principles of both legal responsibility and criminal law.²⁴ The principle of justice of legal responsibility is an idea, a basic principle enshrined in the system of norms that provide for legal responsibility, which consists of equality, respect, and protection of human rights and freedoms, compliance of legal norms with moral norms, categories of reasonableness and conscientiousness, and consideration of the hierarchy of personal, public, and state interests.

The category of legality is complex in its content and essence. In legal scientific literature, legality is considered as a principle of forming a legal state or as its feature; as a way of governing society; and as a regime of strict implementation of the law. In addition, legality is interpreted as a set of requirements and guarantees that ensure order in the state. Much attention in the legal literature is paid to such categories as “regime of legality,” “method of legality,” and “state of legality,” etc. The compilers of the legal encyclopedia note that legality is a political and legal phenomenon that reflects the legal nature of the organization of social life, the organic connection between law and power, and law and the state.²⁵

Within the framework of a broad approach to understanding the essence of legality, its content includes not only the general obligation of legal provisions for all subjects of law but also the rule of law, equality of subjects of law before the law, and the effectiveness of the work of the state

²³ Amit Pundik, “Freedom and Generalisation,” *Oxford Journal of Legal Studies* 37, no. 1 (2017): 189–216, <https://doi.org/10.1093/ojls/gqw016>.

²⁴ Olena Volobuieva et al., “Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine,” *Yustisia* 12, no. 3 (2023): 262–77, <https://doi.org/https://doi.org/10.20961/yustisia.v12i3.79443>.

²⁵ Jiří Příbáň, “Sociology of the Rule of Law: Power, Legality and Legitimacy,” in *Research Handbook on the Sociology of Law* (Cheltenham: Edward Elgar Publishing, 2020), 110–23, <https://doi.org/10.4337/9781789905182.00017>.

apparatus.²⁶ The principle of legality is a legal phenomenon that reflects the need for society and state power to act lawfully within the framework of legal norms enshrined in all sources of law. At the same time, acting lawfully means adhering to its basic requirements in the process of implementing the principle of legality. The requirements of legality must be observed equally by all state authorities, officials, enterprises, institutions, organizations, and citizens.²⁷

Legality as a principle of law is an idea, a principle that lays the foundation (is the starting point) for the development and functioning of law. As a principle of law, legality is characterized by the following features: 1) the universality of the requirements of the law; 2) the supremacy and unity of the law; 3) the equality of citizens before the law and the court; and 4) the inevitability of the responsibility of subjects for the committed offense.²⁸ As a principle of behavior of legal subjects and a working principle of state bodies and officials, legality demands the voluntary fulfillment of obligations and the exercise of legitimate rights and interests within the legal framework, with guarantees in the form of constitutional consolidation of human and citizen rights and freedoms, the creation of conditions for voluntary compliance with the law, equality of subjects' rights, accountability for violations, and the application of the permissive principle that everything that is not prohibited by law is permitted.²⁹ Thus, legality not only functions as a normative principle in the legal structure but also as a guideline for behavior that ensures order, certainty, and accountability in the legal relationship between the state and citizens.

²⁶ Martin Krygier, "The Rule of Law: Pasts, Presents, and Two Possible Futures," *Annual Review of Law and Social Science* 12, no. 1 (2016): 199–229, <https://doi.org/10.1146/annurev-lawsocsci-102612-134103>.

²⁷ Jason N E Varuhas, "The Principle of Legality," *The Cambridge Law Journal* 79, no. 3 (2020): 578–614, <https://doi.org/10.1017/S0008197320000598>.

²⁸ Dan Meagher, "The Common Law Principle of Legality," *Alternative Law Journal* 38, no. 4 (2013): 209–13, <https://doi.org/10.1177/1037969x1303800402>.

²⁹ Suparman Marzuki and Mahrus Ali, "The Settlement of Past Human Rights Violations in Indonesia," *Cogent Social Sciences* 9, no. 1 (2023), <https://doi.org/10.1080/23311886.2023.2240643>.

Strengthening Institutional Mechanisms for Human Rights Protection: A Comparison of Ukraine and Indonesia

Strengthening institutional mechanisms for the protection of human rights in Ukraine and Indonesia requires a comprehensive approach that considers both constitutional principles and the actual effectiveness of the functioning of relevant institutions. A comparative study of these countries identifies differences in legal models and the potential for mutual borrowing of effective practices.

In the constitutional dimension, both countries enshrine human rights and freedoms as a fundamental value of the state. The 1996 Constitution of Ukraine contains an extensive catalog of rights and freedoms oriented toward European standards and the principle of the rule of law.³⁰ The Constitution of Indonesia (with changes after the reforms of 1999–2002) also provides for a system of fundamental rights, but its peculiarity is the integration of the principles of *Pancasila*, which combine legal, moral, and religious principles.³¹ This determines different approaches to the institutionalization of human rights: in Ukraine, through legally formalized guarantees, and in Indonesia, through a combination of law and social values.

Judicial institutions play a key role in ensuring human rights in both countries. In Ukraine, this is the system of courts of general jurisdiction and the Constitutional Court of Ukraine, which exercises constitutional control and ensures the supremacy of the Constitution.³² In Indonesia, the Constitutional Court (Mahkamah Konstitusi) operates, which has broader powers, in particular regarding the resolution of electoral disputes and

³⁰ "Constitution of Ukraine," Bulletin of the Verkhovna Rada of Ukraine (1996).

³¹ Nadirsyah Hosen, "Religion and The Indonesian Constitution: A Recent Debate," *Journal of Southeast Asian Studies* 36, no. 3 (2005): 419–40, <https://doi.org/10.1017/S0022463405000238>.

³² Igor Bychkov, "Constitutional Court of Ukraine in the System of State Authorities of Ukraine," *Leges et Vita* 342, no. 6–7 (2020): 62–67.

control over political processes.³³ The comparison shows that the Indonesian model demonstrates greater flexibility and efficiency, whereas the Ukrainian model is more integrated into the European legal space through the practice of the European Court of Human Rights.

A separate element of the institutional mechanism is the institution of the Ombudsman. The Verkhovna Rada Commissioner for Human Rights in Ukraine has significant supervisory powers, including the right to submit constitutional submissions.³⁴ In Indonesia, the National Commission on Human Rights (Komnas HAM) operates, which performs both supervisory and advisory functions.³⁵ At the same time, the effectiveness of these institutions depends on their level of independence, resource provision, and political support.

The interaction of national bodies with international structures is a significant factor in strengthening institutional mechanisms. Ukraine is actively integrated into the European system of human rights protection, which provides an additional level of control through the European Court of Human Rights (ECHR).³⁶ Although Indonesia focuses on universal UN mechanisms and regional initiatives within ASEAN, although the level of their institutional development is lower compared to that of European countries.³⁷

³³ Saldi Isra and Pan Mohamad Faiz, "The Indonesian Constitutional Court: An Overview," in *Courts and Diversity* (Brill | Nijhoff, 2024), 55–94, https://doi.org/https://doi.org/10.1163/9789004691698_004.

³⁴ Victor Muraviov and Nataliia Mushak, "Constitutional Justice in Ukraine," in *Encyclopedia of Contemporary Constitutionalism* (Springer International Publishing, 2023), 1–5, https://doi.org/10.1007/978-3-319-31739-7_63-1.

³⁵ Nukila Evanty, "Komnas HAM: Discrepancies Between Its Mandate and the Indonesian Constitutional Framework," in *National Human Rights Institutions in Southeast Asia* (Springer Singapore, 2020), 141–62, https://doi.org/10.1007/978-981-15-1074-8_7.

³⁶ Oksana Dufeniuk, "The ECHR Impact on the Formation of Supranational and National Human Rights Paradigm (Ukrainian Context)," *Ideology and Politics Journal. Universal Norms in a Time of Sovereigntism* 1, no. 17 (2021): 232–51.

³⁷ Nurhidayatuloh Nurhidayatuloh and Febrian Febrian, "ASEAN and European Human Rights Mechanisms, What Should Be Improved?," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 06, no. 01 (2019): 151–67, <https://doi.org/10.22304/pjih.v6n1.a8>.

The comparative analysis allows us to identify areas for strengthening institutional mechanisms. For Ukraine, increasing the efficiency of the execution of court decisions, strengthening the institutional capacity of the judicial system, and ensuring the stability of constitutional justice are relevant. At the same time, it is advisable to take into account Indonesia's experience in expanding the functional capabilities of constitutional control and the efficiency of considering socially significant cases. For Indonesia, borrowing European standards of judicial independence, strengthening legal guarantees of human rights, and developing mechanisms for judicial protection are promising.

Thus, strengthening institutional mechanisms for the protection of human rights in both countries should be based on a combination of national traditions and international standards. The comparative study demonstrates that the effectiveness of such mechanisms is determined not only by regulatory provisions but also by the actual functioning of institutions, the level of their independence, and the ability to ensure the practical implementation of human rights and freedoms.

Table 1. *Components of an institutional mechanism for human rights protection*

Mechanism element	Content and constitutional basis	Functional purpose
Normative	System of constitutional principles (Art. 1, 3, 21, and 22 of the Constitution of Ukraine)	Creation of a legal framework and standards for protection
Organizational	A set of state authorities (Courts, Ombudsman, and Constitutional Court of Ukraine)	Direct implementation of protective functions
Procedural	Procedure for appeal and procedures for considering cases	Determination of an algorithm for restoring violated rights
Control	Monitoring compliance with human rights standards	Supervision of the legitimacy of the actions of government entities

Table 1 shows that the institutional mechanism is not just a list of institutions, but a functional unity of four key components, each of which is based on a specific principle.

First, the normative and value component (Principle of the Rule of Law). This is the ideological core of the mechanism. It determines that laws must comply with the principles of justice and humanism. The Constitution is a norm of direct action. Any action taken by a state body is evaluated not only by the “letter” of the law but also by its compliance with human rights.

Second, the subject-institutional component (Principle of Separation of Powers) determines the system of bodies that provide protection. In essence, no branch of government has a monopoly on protection. The courts ensure justice. The Ombudsman exercises parliamentary control. The Constitutional Court guarantees the consistency of laws with the Constitution.

Third, the procedural and functional component (Principle of Fairness and Accessibility) is a set of procedures that a person can use to

protect their rights. In essence, the mechanism is effective only when the procedures are clear, fast, and accessible (for example, the institution of a constitutional complaint).

Fourth, the control and guarantee component (Principle of Legality and Responsibility) ensures the inevitability of the restoration of rights and the responsibility of the state. In essence, the state is responsible to individuals for its activities. This includes a system of checks and balances and supervision of the legitimacy of the actions of officials.

The interconnection of components through constitutional filters. Each element of the mechanism passes through the “filters” of constitutional principles, which transform the formal structure into a real instrument of protection.

Table 2. *The Transformation of Components Under The Influence of Principles*

Component	Constitutional “filter”	Result for the individual
Authorities	Principle of equality	Equal protection for all individuals, regardless of status.
Legal norms	Principle of legal certainty	A person knows their rights and the consequences of their actions.
Judicial procedure	Principle of justice	The court’s decision is not only legal but also objectively fair.
Actions of officials	Principle of legality	The official acts exclusively within the limits set by the Constitution.

Table 2 shows the relationship between the components of the legal system and the constitutional “filter” and their implications for individuals. First, the principle of equality applies in terms of authorities, which demands equal legal protection for every individual regardless of social,

economic, or other status. Second, the principle of legal certainty applies in the context of legal norms, ensuring that everyone can clearly understand their rights and the legal consequences of every action they take. Third, the principle of justice applies in judicial procedures, requiring that court decisions not only be legally valid but also reflect objective justice. Fourth, the principle of legality applies to the actions of officials, requiring every official to act solely within the limits of authority established by the Constitution.

Principles perform three key roles within the institutional mechanism, i.e., first, stabilizing, which does not allow the mechanism to collapse under the influence of political changes.³⁸ Second, corrective, which allows protection bodies to make decisions when there is a gap in the law (analogy of law). Third, integrative, which ensures that the national protection system is combined with international standards (for example, the norms of the Council of Europe).³⁹ The essence of the components in the constitutional context is that the person is the center around which all the activities of state institutions are built. The institutional mechanism becomes a formal bureaucratic machine devoid of human rights content without adherence to the principles of the rule of law and justice.

Strengthening the institutional mechanism for the protection of human rights in Indonesia is underpinned by a combination of constitutional principles, the activities of specialized bodies, and the gradual updating of legislation to address modern challenges. The basis of this system is the 1945 Constitution of Indonesia, which, after amendments, significantly expanded the catalog of human rights and freedoms. In particular, Section XA (Articles 28A–28J) enshrines fundamental rights,

³⁸ Oleksandr Krupytskyi et al., “Standards and Safeguards Stemming from the Right to Respect for Private Life and the Right to a Fair Trial: Applicability with Respect to Administrative-Law Matters of Civil Service,” *Revista Eletrônica Direito e Sociedade - REDES* 12, no. 3 (2024): 1–12, <https://doi.org/10.18316/redes.v12i3.11977>.

³⁹ Oleh Shkuta et al., “National Security in the Conditions of the Russia-Ukraine War: Legal Regulation and Islamic Law Perspectives,” *Al-Ahkam* 34, no. 1 (2024): 99–120, <https://doi.org/https://doi.org/10.21580/ahkam.2024.34.1.20413>.

including the right to life, freedom of thought, religion, and expression, as well as guarantees of protection against discrimination and torture. The provision of Article 1(3) is important, according to which Indonesia is defined as a state based on the rule of law, emphasizing the importance of the rule of law in the functioning of all state institutions.

Constitutional principles determine the content of human rights and the institutional mechanisms for their implementation. The key role in this process is played by the Constitutional Court of Indonesia (Mahkamah Konstitusi), whose activities are regulated by Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court, which monitors the compliance of laws with the Constitution and acts as a guarantor of compliance with fundamental rights and freedoms. The practice of 2024 demonstrates the strengthening of the court's role in resolving cases concerning citizens's electoral rights and in interpreting norms on restrictions on human rights.⁴⁰ Thus, the court is gradually forming a stable constitutional jurisprudence focused on protecting individual rights.

An important element of the institutional mechanism is the National Human Rights Commission (Komnas HAM), established in accordance with Law No. 39 of 1999 on Human Rights. This body performs the following functions: monitoring, investigating human rights violations, and preparing recommendations for state authorities. In the 2024–2025 period, the activities of Komnas HAM will be enhanced by expanding the use of digital tools for filing complaints, strengthening cooperation with international organizations, such as the Office of the United Nations High Commissioner for Human Rights, and a special focus on investigating human rights violations in high-conflict areas, particularly in Papua.⁴¹

⁴⁰ A Zarkasi et al., "Indonesia's 2024 Election: Constitutional Court Perspectives on Electoral Violations," *Sriwijaya Law Review*, 2025, 372–98, <https://doi.org/https://doi.org/10.28946/slrev.v9i2.4584>.

⁴¹ Roni Sulistyanto Luhukay, "Reforming The Authority Of The National Human Rights Commission From A Legal Perspective," *JURNAL LEGALITAS* 18, no. 2 (2025): 154–75, <https://doi.org/10.33756/jelta.v18i2.30937>.

Specialized institutions aimed at protecting individual categories of the population operate in parallel. These include the Commission on Violence against Women (Komnas Perempuan), whose activities are regulated by Presidential Regulation No. 65 of 2005, in conjunction with Presidential Regulation No. 8 of 2024, as well as the Commission for Child Protection (KPAI), established based on Law No. 23 of 2002 on Child Protection, which was later amended by Law Number 35 of 2014. Presidential Regulation Number 61 of 2016 concerning the Indonesian Child Protection Commission regulates the institution, duties, functions, and authority of the Indonesian Child Protection Commission. Their activities in 2024–2025 have become more effective due to the implementation of Law No. 12 of 2022 on Crimes of Sexual Violence, which provides a comprehensive approach to protecting victims, including legal, psychological, and social assistance.⁴² Judicial practice in recent years indicates an increase in the number of cases in this area, which is an indicator of both an increase in the level of trust in institutions and improved mechanisms for access to justice.

A significant stage in the development of the human rights system was the introduction of the new Criminal Code (Law No. 1 of 2023), which began to be actively applied in 2024–2025. Its adoption aimed at modernizing criminal legislation, humanizing punishments, and strengthening the protection of victims' rights. At the same time, several provisions have drawn criticism from the international community and human rights activists, in particular due to the possibility of restricting freedom of expression and interference in private life.⁴³ This indicates the need to

⁴² Topo Santoso and Hariman Satria, "Sexual-Violence Offenses in Indonesia: Analysis of the Criminal Policy in the Law Number 12 of 2022," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 10, no. 1 (2023): 59–79, <https://doi.org/https://doi.org/10.22304/pjih.v10n1.a4>.

⁴³ Simon Butt, "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?," *Griffith Law Review* 32, no. 2 (2023): 190–214, <https://doi.org/10.1080/10383441.2023.2243772>.

ensure a balance between public interests and compliance with fundamental rights.

The regulation of the digital sphere deserves special attention, in particular, the application of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. This law is controversial as its provisions are often used to restrict freedom of speech, particularly against journalists and public activists.⁴⁴ In response to criticism, there is a gradual clarification of law enforcement practice, including through decisions of the Constitutional Court aimed at preventing abuse.

Thus, strengthening the institutional mechanism for the protection of human rights in Indonesia is a complex and dynamic nature. It is manifested in the strengthening of the role of the Constitution as a source of human rights, the development of a network of specialized bodies, the intensification of judicial control, and the adaptation of legislation to modern challenges. Simultaneously, this process is accompanied by certain contradictions, which necessitate further improvement of legal regulation and institutional practice in order to ensure real and effective protection of human rights and freedoms.

⁴⁴ Chaerul Shaleh et al., "Human Rights in the Control of Digital Public Space Freedom: A Collaborative Approach Based on Islamic Law Principles," *Jurnal Hukum Islam* 23, no. 1 (2025): 1–36, <https://doi.org/https://doi.org/10.28918/jhi.v23i1.01>.

Table 3. *Strengthening the institutional mechanism for human rights protection in Ukraine and Indonesia*

Criterion	Ukraine	Indonesia
Constitutional basis	Constitution of Ukraine 1996 (Chapter II “Rights, Freedoms, and Duties of Man and Citizen”)	Constitution of Indonesia 1945 (amended 1999–2002, Chapter XA “Human Rights”)
Basic principles	Rule of law (Article 8), direct effect of the norms of the Constitution, and inalienability of rights	<i>Pancasila</i> , balance of rights and duties, and social harmony
National institution	VRU Commissioner for Human Rights	Komnas HAM
Constitutional control	The Constitutional Court of Ukraine	Mahkamah Konstitusi
Judicial protection	Courts of general jurisdiction and administrative courts	General and specialized courts
Specialized bodies	NABU, SBI, and NACP	Komnas Perempuan and Komisi Perlindungan Anak
International mechanisms	ECHR	UN treaties
Implementation guarantees	Judicial protection and constitutional complaints	Komnas HAM investigations
Reforms 2024–2025	Judicial reform and digitalization	Strengthening Komnas HAM
Problems	Martial law and court workload	Enforcement of decisions and government influence

Table 3 compares Ukraine and Indonesia, demonstrating two configurations of human rights protection that have developed within different legal traditions and institutional architectures. To explain these differences, this analysis used a multilevel governance and institutional

effectiveness framework,⁴⁵ emphasizing that the effectiveness of human rights protection is determined not solely by constitutional normative design but by the capacity of institutions to operationalize norms through mechanisms that possess enforceability, accountability, and accessibility.

Within this framework, Ukraine represents a model of an externally reinforced multilevel system rooted in the European legal tradition, where the rule of law and integration with international human rights protection mechanisms are key foundations.⁴⁶ The linkage to the ECHR extends the scope of protection to the supranational level and forms an external accountability loop that enhances state compliance through external oversight.⁴⁷ At the domestic level, constitutional norms have a direct effect, enabling the justiciability of rights before the courts. This is reinforced by the role of the Constitutional Court of Ukraine, the general and administrative justice systems, and the existence of specialized institutions, such as the anti-corruption bodies, reflecting the differentiation of functions and oversight specialization within a multilevel institutional structure.⁴⁸ Overall, this configuration results in a relatively robust protection model in the adjudication and enforcement dimensions and is more vertically integrated between the national and international levels.

However, this strength is also accompanied by a number of structural limitations. Reliance on supranational mechanisms can create trade-offs in

⁴⁵ Martino Maggetti and Philipp Trein, "Multilevel Governance and Problem-solving: Towards a Dynamic Theory of Multilevel Policy-making?," *Public Administration* 97, no. 2 (2019): 355–69, <https://doi.org/10.1111/padm.12573>.

⁴⁶ Katarzyna Wolczuk, "State Building and European Integration in Ukraine," *Eurasian Geography and Economics* 60, no. 6 (2019): 736–54, <https://doi.org/https://doi.org/10.1080/15387216.2019.1655463>.

⁴⁷ Iryna Izarova et al., "Protection of Rights of Internally Displaced Persons amid Military Aggression in Ukraine," *The Age of Human Rights Journal*, no. 20 (2023): e7711, <https://doi.org/10.17561/tahrj.v20.7711>.

⁴⁸ Michal Natorksi, "Resilience in EU Crisis Interventions in Ukraine: A Complexity Perspective," *Journal of Contemporary European Studies* 31, no. 4 (2022): 1086–1105, <https://doi.org/10.1080/14782804.2022.2097205>.

sovereignty, particularly during geopolitical tensions and armed conflict.⁴⁹ Furthermore, high judicial workloads and states of emergency can undermine the effectiveness of human rights protection implementation. Thus, while international integration raises accountability standards, its effectiveness remains highly dependent on domestic institutional capacity and political stability.

In contrast, Indonesia embodies an internally driven institutional system model that combines universal human rights standards with the ideological values of *Pancasila*.⁵⁰ In this model, constitutional principles adopt international norms and internalize them into a normative framework that balances individual rights and collective interests. The institutional structure is dominated by an institution-centered approach, with Komnas HAM as a quasi-independent body with a broad investigative and normative mandate. The existence of thematic institutions, such as the National Commission on Violence Against Women (Komnas Perempuan) and the Indonesian Child Protection Commission (Komnas Perlindungan Anak), demonstrates issue-based institutional differentiation that strengthens the capacity to respond to more specific human rights violations.

However, from an institutional effectiveness perspective, the Indonesian model still faces an implementation gap, namely the gap between normative recognition and practical implementation. The limited binding force of recommendations from human rights institutions and weak enforcement mechanisms hinder the transformation of authority into real effectiveness. Furthermore, the absence of a supranational judicial mechanism causes the protection system to rely more on internal capacity. On the one hand, this situation strengthens national legal sovereignty, but

⁴⁹ Johannes Karreth, Patricia Lynne Sullivan, and Ghazal Dezfuli, "Explaining How Human Rights Protections Change After Internal Armed Conflicts," *Journal of Global Security Studies* 5, no. 2 (2020): 248–64, <https://doi.org/10.1093/jogss/ogaa002>.

⁵⁰ Santy Santy, "Exploring the Intersection of Pancasila and Human Rights in Indonesian Law," *Sinergi International Journal of Education* 2, no. 2 (2024): 76–87, <https://doi.org/https://doi.org/10.61194/education.v2i2.142>.

on the other hand, it reduces external pressure that could encourage increased state compliance and accountability.

Comparatively, the two countries demonstrate different paths to institutional strengthening: through externalization (Ukraine) and institutional internalization (Indonesia). This difference is reflected in the orientation of the protection system: Ukraine tends to be court-centered with strong integration into international judicial mechanisms, whereas Indonesia is more institution-centered with a combination of national justice and independent non-judicial institutions. These differences in orientation directly impact variations in levels of enforcement, accountability, and access to justice within each system.

In 2024–2025, the two countries demonstrated converging strategies for strengthening their human rights, particularly through institutional reform and digitalization to improve access to justice. Ukraine emphasized modernizing its justice system in a conflict-affected context.⁵¹ Indonesia focused on strengthening the capacity of human rights institutions and improving their responsiveness to regional conflict dynamics.⁵² However, the effectiveness of these reforms remains highly dependent on the independence of these institutions and their ability to consistently implement decisions.

Theoretically, these findings confirm that strengthening institutional mechanisms for human rights protection is nonlinear and determined by the interaction between external pressures, internal capacity, and normative legitimacy. The Ukrainian model demonstrates that international integration can improve enforcement and accountability, but has the potential to create external dependency. Conversely, the Indonesian

⁵¹ Anja Mihr, “Transitional Justice in Ukraine,” in *Polarization, Shifting Borders and Liquid Governance: Studies on Transformation and Development in the OSCE Region*, ed. Anja Mihr and Chiara Pierobon (Cham: Springer Nature Switzerland, 2024), 409–27, https://doi.org/10.1007/978-3-031-44584-2_25.

⁵² Eko Iswahyudi, “Human Rights and Legal Reforms in Indonesia: Challenges and Progress,” *The Journal of Academic Science* 2, no. 2 (2025): 734–43, <https://doi.org/10.59613/ydvwta66>.

model demonstrates flexibility and contextual adaptability, but it requires strengthening implementation capacity and institutional coercion.

Therefore, the most relevant strategy for both countries is a selective adaptation approach. Ukraine needs to strengthen the resilience of domestic institutions to reduce dependence on external mechanisms, while Indonesia needs to increase the binding power of human rights institutions' decisions and strengthen their execution and accountability mechanisms. Within this framework, promising areas for strengthening include increasing the independence of human rights institutions, digitizing access to justice, integrating international standards into national legislation, and increasing the efficiency of implementing the decisions of human rights institutions. Thus, institutional strengthening goes beyond the normative level and can result in effective, adaptive, and accountable human rights protection.

Conclusion

The dynamics of human rights protection systems in Ukraine and Indonesia demonstrate that the effectiveness of institutional strengthening depends on the configuration of constitutional design, institutional capacity, and linkages with international mechanisms. Ukraine represents an externally integrated model of protection through its linkages with the ECHR, the Constitutional Court of Ukraine, and a multilayered judicial system that strengthens legal enforcement and accountability. In contrast, Indonesia has developed a Pancasila-based model with the National Human Rights Commission as the primary actor, demonstrating contextual flexibility but still facing implementation challenges due to limited binding power and enforcement mechanisms. These findings confirm that the effectiveness of human rights protection does not depend on a single universal model but rather on the balance between external pressures, internal capacity, and normative legitimacy within the state system. This study also demonstrates the importance of strengthening institutional

design and regulatory architecture that are adaptive to contemporary challenges based on the rule of law. This study provides a conceptual foundation for the development of empirical and sociolegal research on institutional effectiveness, judicial digitalization, institutional independence, and compliance with human rights rulings from a comparative perspective across countries, although it uses a normative-comparative approach that does not fully capture the empirical dynamics and sociopolitical factors of implementation.

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