

POLITICS OF LIMITATION ON CIVIL AND POLITICAL RIGHTS IN INDONESIA

by Halili, Sunarso, Cholisin, Suharno

ABSTRACT

This study aims to: 1) examine the construction of the provisions on limitations on civil and political rights in Indonesia, and 2) analyze the congruence of political arrangements limiting civil and political rights in Indonesia with political restrictions on rights in the universal context.

This research is a content analysis with a qualitative approach. In this study the data referred to are data contained in three sources; the 1945 Constitution of the Republic of Indonesia, the Human Rights Law and the Law on Political Civil Rights Ratification. Procurement of data is done by unitization and recording. The instrument used in this study is the researchers themselves with the help of check lists and recording notes. Testing the validity of the data using semantic and predictive validity. The analysis used descriptive analysis and inferential analysis.

The results of this study reveal: First, the construction of the provisions of restrictions on civil and political rights in Indonesia can be identified from at least three provisions, namely the 1945 Constitution, the Human Rights Act (Law Number 39 of 1999), and Law on Legalization of Political Civil Rights (Law Number 12 of 2005). Based on the 1945 Constitution of the Republic of Indonesia and the Human Rights Act, the construction of the limitation includes several elements: a) In terms of legal form, the limitation must be in the form of a Law, b) In terms of objectives, to guarantee recognition and respect for the rights and freedoms of others and to fulfill just demands, c) In terms of consideration, namely considering morals, religious values, security, and public order in a democratic society. Second, the congruence of political arrangements limiting civil political rights in Indonesia with the politics of limiting rights in a universal context can be viewed from two aspects, namely locus and substance. From the locus side, the construction of rights restrictions in the 1945 Constitution of the Republic of Indonesia is basically not entirely congruent with the doctrine of limitation on rights in the universal context. Because the provisions of Article 28J of the 1945 Constitution and Articles 70 and 73 of the Human Rights Act do not explicitly mention the object of rights that can be limited. With this construction, the actual limitation can be read as generally applicable, not only to the categories of civil and political rights in the types of civil rights that can be derogated. While judging from the substance of the restrictions, the construction of restrictions on civil political rights in the 1945 Constitution of the Republic of Indonesia and the Human Rights Law are fully congruent with the limitations contained in the Syracuse Principle.

Kata Kunci: *Limitation of Rights, Civil and Political Rights, Syracuse Principles*