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Protection of Minority Rights to Equality Before the Law in the Legal System in Indonesia

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Abstract: Reform in Indonesia brings great expectancy for respect for human rights, including protection for minority groups. However, in reality, discrimination still occurs that is contrary to the ideals of the reform. This study aims to analyze legal protection for minority groups in Indonesia using normative legal methods through literature studies and analysis of laws and regulations. The results indicate that although there are various national legal instruments, such as the 1945 Constitution, and the Human Rights Law, and ratification of international instruments such as the ICCPR and ICERD, the implementation of legal protection for minority groups still faces various challenges. The main factors that hinder the effectiveness of this protection include structural discrimination, weak law enforcement, and the lack of concrete affirmative policies. Therefore, strategic steps are needed in the policy of protecting minority groups, including a more progressive human rights-based approach, strengthening regulations, and increasing the government's commitment to enforcing fair and equal legal protection for all citizens, including minority groups.

Keywords: Minority Rights, Equality Before the Law, Human Rights

INTRODUCTION

The reform era in Indonesia that began in 1998 marked a major change in the country's political and legal system, with the main goal of creating a more inclusive democracy, upholding the supremacy of law, and upholding human rights (HAM) (Tarigan, 2024). The reform brought various new policies aimed at eliminating authoritarian practices and ensuring that every citizen has equal rights before the law. This is reflected in various regulations, such as the amendment to the 1945 Constitution which affirms the basic rights of citizens, as well as the ratification of various international human rights instruments, such as the International Covenant on Civil and Political Rights (Rampen, 2022). In addition, the establishment of

institutions such as the National Human Rights Commission and the Constitutional Court is also an important step in strengthening legal protection for all Indonesian people.

Although various regulations have been drafted to protect the rights of citizens, minority groups still face discrimination and violence, both socially and structurally (Atqiya, 2025). Discrimination against minority groups, such as certain ethnicities, adherents of religions different from the majority, and vulnerable gender and sexual groups, still often occurs in various forms, ranging from unfair policies to repressive actions by officials or community groups (Fadhli, 2014). Weak implementation of the law and strong social bias mean that the rights of minority groups are not fully protected, creating inequality in the legal system that should guarantee equality for all citizens.

Discrimination against minority groups in Indonesia still occurs in various aspects of life, both social, economic, and legal. In the social aspect, minority groups often face stigma and unfair treatment from society, such as restrictions on practicing worship for certain religious groups or bullying of groups with different gender identities (Polii, 2024). In the economic aspect, access to decent work, health facilities, and education is often more difficult for minority groups than for the majority group (Seo, 2025). Meanwhile, in terms of law, minority groups often experience difficulties in obtaining fair legal protection, especially in cases involving discrimination based on religion, ethnicity, or sexual orientation (Salsabila, 2024).

Real examples of this discrimination can be seen in various cases that have occurred in Indonesia. One of them is the restriction on the construction of houses of worship for minority religious groups which often face rejection from the community or obstacles in obtaining permits from the local government. In addition, indigenous peoples also experience injustice in terms of land ownership, where their rights to customary land are often ignored or seized by corporations with the support of government policies.

This ongoing discrimination contributes to social inequality and injustice in society (Fitria, 2024). When minority groups do not get the same rights in various aspects of life, they tend to experience marginalization which leads to a wider social gap. This can also trigger horizontal conflict between residents and hinder equitable social development. Therefore, it is important for the state to ensure that the principles of equality and non-discrimination are truly implemented in policies and law enforcement, so that the rights of minority groups can be properly protected (Indra, 2018).

Legal protection for minority groups is urgent in order to uphold the principle of equality before the law and prevent discrimination. In a country based on the rule of law like Indonesia, every citizen has the same rights to receive recognition, guarantees, protection, and fair legal certainty (Muslih, 2017). However, in practice, minority groups often face obstacles in accessing these rights due to social stigma, policies that are not yet fully inclusive, and weak law enforcement against violations of their rights (Farrisqi, 2021). Therefore, the state must ensure that minority groups not only receive legal recognition but can also feel real protection in their daily lives.

The state has a crucial role in ensuring the fulfillment of minority rights through various legal instruments, policies, and fair enforcement mechanisms. The government must ensure that existing regulations can be implemented effectively to protect minority groups from discriminatory actions (Putri, 2024). One effort that can be made is to strengthen law enforcement against perpetrators of discrimination and increase minority groups' access to justice, both through the courts and human rights protection institutions (Irawan, 2024). In addition, education to the public regarding the importance of tolerance and equality also needs to be expanded to reduce stigma and negative prejudice against minority groups.

Legally, protection of minority groups has been regulated in various laws and regulations in Indonesia. Article 28D paragraph (1) and Article 28I of the 1945 Constitution

of the Republic of Indonesia emphasize that every citizen has the right to receive fair legal protection and is free from discriminatory treatment (Hambali, 2015). This is reinforced in Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law), which stipulates that everyone has the same rights before the law without discrimination, and has the right to fair treatment in the judicial process. In addition, Indonesia has also ratified the International Covenant on Civil and Political Rights (ICCPR), which emphasizes the state's commitment to protecting individual rights, including minority groups (Jailani, 2021). With these various legal bases, there should be no more loopholes for discrimination against minority groups in Indonesia. However, the main challenge remains in the implementation and enforcement of these regulations consistently and effectively.

One of the main challenges in implementing legal protection for minority groups in Indonesia is weak law enforcement (Sitompul, 2024). Although various regulations have recognized the rights of minority groups, their implementation is often ineffective. Many cases of discrimination and violations of minority rights are not followed up seriously by law enforcement officers, either due to a lack of commitment, political pressure, or a deep-rooted culture of impunity. This makes minority groups vulnerable to discriminatory treatment without any legal certainty that protects them in real terms (Hamidah, 2021).

Structural discrimination in various aspects of life is also a major obstacle to the protection of minority rights. In the economic sector, minority groups often have difficulty accessing jobs, public services, and economic resources due to social bias and less inclusive regulations. In the political and social fields, the representation of minority groups in government institutions and public policies is still very limited, so that their aspirations and interests are often ignored (Rambe, 2025). This inequality further weakens the position of minority groups in effectively demanding their rights.

To overcome this problem, a rights-based approach is needed in every state policy related to the protection of minority groups. This approach emphasizes that the protection of minority rights is not just a social policy, but rather the state's obligation to ensure that the rights of every individual are respected, protected, and fulfilled. This includes more inclusive policy reforms, strengthening law enforcement mechanisms, and increasing public awareness of the importance of diversity and equality. With a human rights-oriented approach, protection of minority groups can be more effective and sustainable, so that the principle of social justice can truly be realized in Indonesia (Armiwulan, 2015).

This study aims to analyze the extent to which the legal system in Indonesia protects minority groups, both in terms of regulation and implementation. By examining existing policies and identifying challenges in their implementation, this study seeks to provide a deeper understanding of the effectiveness of legal protection for minority groups. The relevance of this study lies in its contribution to encouraging the formulation of more inclusive policies and strengthening the principles of justice and equal rights for all citizens, as guaranteed in the constitution and international legal instruments. Thus, the results of this study are expected to be a reference for policy makers, academics, and the community in realizing a more just and equitable legal system for all groups.

METHOD

This study uses a normative legal approach, which focuses on the analysis of laws and regulations related to the protection of minority rights in Indonesia. This approach aims to examine the extent to which existing regulations, such as the 1945 Constitution, Law Number 39 of 1999 concerning Human Rights, and various ratified international legal instruments, provide guarantees of protection for minority groups. This study relies on secondary data obtained through literature studies, including laws and regulations, legal journals, and official documents from human rights organizations, both national and international. Through this

method, the study seeks to identify legal loopholes and implementation challenges in the protection of minority rights, as well as provide recommendations based on the principles of justice and non-discrimination.

RESULTS AND DISCUSSION

Legal Framework for the Protection of Minority Rights to Equality Before the Law in the Indonesian Legal System

The Indonesian Constitution has provided constitutional guarantees for the protection of minority rights through Article 28D and Article 28I of the 1945 Constitution. Article 28D paragraph (1) emphasizes that everyone has the right to recognition, guarantee, protection, and certainty of fair law and equal treatment before the law. This provision reflects the basic principle of the rule of law which emphasizes that every citizen, including minority groups, must receive equal legal treatment without discriminatory differences (Ridwan, 2022). In protecting minority rights, this article is the main foundation for the state in ensuring that every individual, regardless of ethnic background, religion, or other identity, can enjoy fundamental rights equally.

In addition, Article 28I paragraph (1) emphasizes that certain rights, such as the right to life, the right to freedom of religion, and the right to be recognized as a person before the law, are human rights that cannot be reduced under any circumstances (non-derogable rights). This means that in any situation, including emergencies, these basic rights must still be protected and respected. This protection is especially important for minority groups who often face the threat of discrimination and marginalization in various aspects of social, economic, and political life. Article 28I paragraph (2) explicitly prohibits all forms of discrimination and emphasizes that everyone has the right to protection against discriminatory treatment. It imposes an obligation on the state not only to prohibit discrimination in the national legal system, but also to take active action in protecting the vulnerable groups to discrimination, including minority groups. Therefore, the state has a responsibility to develop affirmative policies to ensure that minority rights are truly guaranteed in national life. The implementation of this article can be realized through legal policies that accommodate the interests of minority groups, such as legal protection for minority religious groups, recognition of the cultural rights of indigenous peoples, and stricter law enforcement against discriminatory acts.

The Human Rights Law is one of the national legal instruments that affirms the principle of non-discrimination and protection of individual rights, including minority groups. Article 3 of this law affirms that everyone has the same dignity and status since birth and has the right to recognition, protection, and fair legal treatment. This provision guarantees that there should be no different treatment that is detrimental to certain individuals or groups based on factors such as ethnicity, religion, race, or social status. Article 3 paragraph (3) explicitly prohibits all forms of discrimination, requiring the state to ensure that minority groups receive equal legal protection.

Article 4 of this law strengthens the guarantee of basic rights that cannot be reduced under any circumstances (non-derogable rights), including the right to personal freedom, religious rights, and equality before the law. This is the basis for the protection of minority groups who often face the threat of discrimination, both in social life and in the application of the law. The right to be recognized as a person before the law is also a critical guarantee for minorities so that they do not lose the legal status that can protect their rights.

Article 5 affirms that every individual has the right to fair and impartial protection before the law. This is important in the context of minority protection, given the ongoing practice of injustice in the justice system that often harms more vulnerable groups. Article 17 emphasizes that everyone without discrimination has the right to obtain justice in criminal,

civil, and administrative cases. This emphasizes that the state is obliged to guarantee equal access for minority groups in the justice system without any barriers or structural discrimination.

Article 18 guarantees that every individual who is arrested, detained, or prosecuted has the right to be considered innocent until proven guilty in a legitimate judicial process. It is crucial in preventing the unfair criminalization of minority groups. Article 29 guarantees the protection of the honor, dignity, and property rights of every individual, which is an important aspect in ensuring the security of minority groups from various forms of discrimination, including deprivation of property and threats to their private lives.

Article 27 of the International Covenant on Civil and Political Rights (ICCPR) emphasizes that ethnic, religious, and linguistic minorities shall not be deprived of the right to enjoy their culture, practice their religion, and use their language. This provision provides an international guarantee for minorities to maintain their cultural identity without state intervention or discrimination from the majority group. Indonesia has ratified the ICCPR through Law Number 12 of 2005, which legally binds the state to protect minority rights in the national legal system. Although there has been recognition in various regulations, its implementation still faces challenges, such as structural discrimination and policies that sometimes do not fully support the protection of minority groups.

Other international standards such as the UN Declaration of the Rights of Minorities and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also strengthen the protection of minorities by emphasizing the principle of non-discrimination and the obligation of states to take affirmative action to guarantee the rights of vulnerable groups. Indonesia has adopted some of these principles in national regulations, but their implementation still faces obstacles, including weak law enforcement and the lack of effective affirmative policies. The main challenge in adopting these international standards is ensuring that national policies and regulations are in line with human rights principles and that there is a real commitment from the government to uphold the protection of minority rights comprehensively.

Implementation of Minority Rights Protection and Enforcement of Equality for Minority Groups

The Indonesian government has implemented various policies and regulations to protect the rights of minority groups, both through the constitution and more specific laws and regulations. Law Number 39 of 1999 concerning Human Rights and Law Number 12 of 2005 which ratified the ICCPR are the legal basis for guaranteeing minority rights. In addition, several affirmative policies have been implemented, such as inclusive education programs for vulnerable groups, providing health insurance for the poor, and economic programs that encourage the participation of minority groups in the small and medium business sectors. These efforts aim to create equality in access to public services and basic rights.

In its implementation, the protection of minority rights still faces various obstacles, especially in law enforcement. Weak implementation of regulations often causes minority groups to experience discrimination, both in social, economic, and political aspects. For example, there are still cases where religious or ethnic minority groups face difficulties in obtaining permits to build places of worship or experience social persecution that is not firmly acted upon by the authorities. In addition, in some legal cases, there is still bias in the enforcement of justice, where minority groups often do not receive the same legal treatment as the majority group.

Another challenge that hinders the protection of minority rights is the low awareness of the public and law enforcement officers regarding the importance of non-discrimination.

Negative stereotypes against certain groups persist in society, which has an impact on their marginalization and limited access to various rights. The lack of training and socialization for law enforcement officers is also a factor that causes the protection of minority rights to be ineffective. Therefore, strategic steps are needed such as increasing public education, training for law enforcement officers, and strengthening affirmative policies to ensure that minority rights in Indonesia are truly protected and implemented properly.

One of the main challenges in enforcing equal rights for minority groups in Indonesia is the inequality in access to basic rights, such as education, employment, and public services. Discrimination still often occurs, both explicitly and in the form of policies that do not favor minority groups. In the education sector, for example, there are still cases where children from minority groups have difficulty obtaining quality education due to limited access or cultural discrimination. Similar things also happen in the world of work, where minority groups often face obstacles in obtaining decent jobs due to social prejudice and less inclusive company policies.

Injustice in the legal system is also a major challenge in protecting minority rights. In some cases, minority groups are more vulnerable to being criminalized or not receiving the same legal treatment compared to the majority group. Law enforcement officers who should be neutral and protect all citizens equally sometimes show bias in handling cases involving minority groups. This reflects that although various regulations have regulated the principle of non-discrimination, their implementation in the field is still far from ideal.

Lack of social awareness and empathy towards minority groups is also an obstacle to achieving equal rights. Society often has prejudices and negative stereotypes towards different groups, thus hindering the creation of an inclusive environment. Changing the perspective of society is essential to ensure that minority groups are no longer treated as second-class citizens. Multicultural education and equal rights campaigns must continue to be encouraged so that society better understands and appreciates diversity as part of the nation's identity.

In the novel *To Kill a Mockingbird*, Atticus Finch, a lawyer who fights for justice, says, "You never really understand a person until you consider things from his point of view... Until you climb inside of his skin and walk around in it." This quote reflects how important empathy is in understanding the struggles of minority groups (Fadhli, *The Position of Minority Groups in the Perspective of Human Rights and Legal Protection in Indonesia*, 2014). Without empathy and a desire to see the world from their perspective, it is difficult for society to realize true equality. Therefore, in addition to improving policies and stricter law enforcement, broader social changes are also needed to ensure that person, regardless of background, can enjoy their rights equally.

Efforts to Strengthen the Protection of Minority Rights in the Legal System in Indonesia

To strengthen the protection of minority rights in Indonesia, a Human Rights-Based Approach is needed in government policies. This approach requires that human rights principles be integrated into every policy, both at the national and regional levels. The government must ensure that every regulation made not only protects the rights of the majority but also provides equal protection for minority groups. In this way, minority rights are no longer considered a side issue, but rather an integral part of legal and social development in Indonesia.

Harmonization of laws and regulations that support the rights of minority groups is an important step in strengthening their protection. Currently, there are still several regulations that overlap or even conflict with the implementation of minority rights protection. Therefore, an evaluation of existing regulations is needed so that they can be harmonized by

international human rights standards, such as those stipulated in the International Covenant on Civil and Political Rights (ICCPR) ratified by Indonesia through Law Number 12 of 2005. This harmonization will clarify legal boundaries and ensure more effective protection for minority groups.

Increasing human rights awareness and education is key to reducing discrimination against minorities. Public campaigns that emphasize the importance of diversity and equal rights must be expanded so that the public better understands the importance of respecting differences. Mass media and social media can play a role in disseminating the values of inclusivity and suppressing discriminatory narratives that are still developing in society. Human rights education must also be introduced early in schools so that future generations grow up with a better understanding of the importance of respecting diversity.

Training for law enforcement officers in handling discrimination cases is also much needed. Many cases of discrimination against minority groups are not prosecuted firmly because officers do not understand human rights principles or are biased against certain groups. With comprehensive training, law enforcement officers can work more professionally and objectively in handling cases related to minority rights. This can also increase minority community trust in the legal system in Indonesia.

The role of Pancasila in the implementation of human rights for minority groups should also not be ignored. As the foundation of the state, Pancasila has values that emphasize the importance of social justice, unity, and respect for diversity. The implementation of Pancasila values in protecting the rights of minority groups must be reflected in state policies that uphold the rights of every citizen without exception. By instilling these values in government policies and practices, Indonesia can create a more harmonious and inclusive society.

Ultimately, realizing social justice for all people without discrimination is an ideal that must continue to be fought for. Protection of minority rights is the responsibility of the government and all elements of society. With a human rights-based approach, harmonization of regulations, increasing public awareness, training of law enforcement officers, and the application of Pancasila values, it is hoped that Indonesia can advance further in guaranteeing the rights of every individual, regardless of differences in background, ethnicity, religion, or culture.

CONCLUSION

The Indonesian Constitution, through Articles 28D and 28I of the 1945 Constitution, has guaranteed the protection of minority rights by affirming the principle of equality before the law and the prohibition of discrimination under any circumstances. This guarantee is reinforced by the Human Rights Law which emphasizes the principle of non-discrimination and protection of basic rights that cannot be reduced, as well as Indonesia's ratification of international instruments such as the ICCPR and ICERD which mandate respect for the rights of minority groups. Although there has been quite strong legal recognition, the implementation of the protection of minority rights still faces various challenges, including structural discrimination and weak law enforcement. Therefore, a real commitment is needed from the state to implement affirmative policies and guarantee that existing regulations can provide effective protection for minority groups in Indonesia.

Protection of minority rights in Indonesia still faces various challenges, ranging from weak implementation of regulations, and bias in law enforcement, to low social awareness of the importance of non-discrimination. Although various affirmative policies have been implemented, the gap in access to basic rights and social prejudice are still major obstacles. Therefore, strategic steps are needed in the form of strengthening human rights-based policies, increasing education and equality campaigns, and reforming the legal system to be more inclusive and fair for all citizens. With a combination of effective policies and broader

social change, it is hoped that minority rights can be truly protected and implemented in real life in everyday life.

Protection of minority rights in Indonesia must be realized through a Human Rights (HAM)-based approach, harmonization of regulations, increasing public awareness, and strengthening the capacity of law enforcement officers. By integrating human rights principles into government policies, adjusting regulations to international standards, and instilling Pancasila values in the practice of rights protection, Indonesia can create a more just and inclusive society. This effort is not only the responsibility of the government but also all elements of society in maintaining diversity and realizing social justice for all citizens without discrimination.

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