



## THE ROLE OF LAW IN OVERCOMING DISCRIMINATION AGAINST MINORITY GROUPS IN THE SOCIAL ENVIRONMENT

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### ABSTRACT

*Discrimination against minority groups is a complex social problem in Indonesia. This study analyzes the role of law in protecting the rights of minority groups and overcoming discrimination. With a juridical-normative approach and case studies, this study finds that law is effective as a tool to regulate, protect and punish discrimination. The Human Rights Law and the Discrimination Eradication Regulation are strategic legal bases. Increasing public legal awareness and consistent implementation are urgently needed. Discrimination against minority groups is still a deep social problem in Indonesia. Law has a strategic role in overcoming this discrimination. This study aims to analyze the role of law in protecting the rights of minority groups and overcoming discrimination. The research method uses a juridical-normative approach and case studies. The results of the study show that law can act as a tool to regulate, protect and punish discrimination. Law No. 40 of 1999 concerning Human Rights and Government Regulation No. 57 of 2021 concerning the Eradication of Discrimination are effective legal bases. However, it is still necessary to increase public legal awareness and consistent implementation of the law*

**.Keywords:** law, Discrimination, Minority Group

## 1. INTRODUCTION

Research shows that these groups often face significant barriers to achieving academic achievement on par with their peers from the majority group. This is due to a variety of factors, including social prejudice, stereotypes, and internalized discrimination in the school environment. Education has a very important role in reducing stigma and discrimination against students from social minority groups. (Sari et al., 2022).

violations of religious freedom that often occur in minority religious groups, which are mostly carried out by the state. In fact, violence and racism are not only carried out by the state, for example violence and discrimination against the Ahmadiyah group, it turns out that it is also carried out by religious institutions such as the MUI, and also by other majority groups in society. (Mundzir, 2012).

Minority groups are groups that are distinguished from the rest of society based on their physical and cultural characteristics, causing them to be treated differently and often unfairly. This results in these groups facing systemic discrimination and marginalization. (Nella Sumika Putri, 2018).

In Law No. 39 of 1999 concerning Human Rights Regarding freedom of religion is regulated In Article 22 which states that;

1. Everyone is free to embrace their respective religions and to worship according to their religion and beliefs.
2. The state guarantees the freedom of everyone to embrace their respective religions and to worship according to their religion and beliefs.

While legal provisions function to achieve order in human relations in their social life. The law maintains the integrity of life in order to realize a psychological or physical balance in their lives, especially in social group life that feels pressure or inappropriateness of social ties. Therefore, the law will maintain the realization of justice in social life (society).

## RESEARCH METHODE

This method is carried out to utilize various secondary legal materials as data sources, including laws and regulations, scientific journals, legal literature, and online sources. Data collection is mainly carried out through a comprehensive review of existing literature. The data collected will be analyzed using qualitative descriptive methods to obtain meaningful insights from research findings. The research used in data collection in this article is an international journal, one of which is from issues that publish through articles or books that have been published. After the data has been successfully collected, the researcher analyzes it critically and then concludes it strongly.

## 2. RESULT AND ANALYSIS

The main function of law is as a tool to protect individual rights and interests. Legal protection is enforced through the provision of legal remedies for individuals whose rights are violated by others ( Rambe, 2024 ). This system is present to regulate and safeguard the collective interests of society, ensuring that individual rights are upheld and protected from all forms of interference. If these rights are violated, legal action can be taken to restore them. (Afrizal, Nizam Jaka,2024).

The concept of a state of law is actually not a new theory, in fact this theory has existed since ancient Greek civilization. In the work "Nomoi" Plato stated, a good state is organized based on good regulations or laws. (Ramli et al., 2019).

Minority groups will basically be related to groups of individuals who have a common background such as based on similarities in ethnicity, race, religion, or a particular language, so that it gives rise to an attitude of mutual respect between one another. Based on quantity, the number of minority groups is generally smaller when compared to the number of other residents of the country concerned. The definition of a minority according to Francesco Capotorti (in Anandhini, 2021) is a group that is numerically smaller when compared to the number of other residents in a country. Minority groups are then identified as groups with non-dominant positions. Members of minority groups have certain characteristics such as ethnicity, religion, and language that are different from other residents. Therefore, this group has a high level of solidarity to maintain and develop its culture and traditions.

In several countries, minority groups often experience discrimination, whether it is done directly or indirectly. In France for example, in 2009, the French National Human Rights Commission, HALDE, received 259 complaints of discrimination based on religion and belief, mostly involving Muslims. Discrimination was experienced in the fields of education, private employment, and access to public services ( Rambe et all, 2023) . In addition, a mosque in Seine-et-Marne was the target of vandalism and painted with Nazi symbols and a pig's head, while two other mosques were also the target of brutal graffiti in early February. The Islamophobia Observatory said that around 201 anti-Muslim acts were reported in 2012, which means a 28 percent increase compared to 2011. (Eny, Rudi, Eko, 2012).

In addition, Komnas HAM also offers the scope of minority groups for the Indonesian Context, namely: Racial Minority Groups Categorically, racial minority groups that receive special attention from Komnas HAM include three groups, namely Chinese, ethnic-religious groups such as Sikhs, Jews, Taoists, and others, as well as groups that in the Papua Special Autonomy Law are referred to as indigenous Papuans.

- **Ethnic Minority Groups** The definition of ethnicity is understood as a classification of humans based on beliefs, values, habits, customs, language norms, history, geography, and kinship relationships. When associated with ethnic classification, the language aspect actually becomes an important element that distinguishes one ethnic group from another. So ethnic diversity based on language differences is a fact of the high level of diversity in Indonesian society.
- **Religious and Belief Minority Groups** The state prioritizes the six religions mentioned in the explanation of Article 1 of Law Number 1/PNPS/1965, which guarantees freedom and facilities as well as assistance and protection. MPR Decree Number IV/MPR/1978 concerning the General Guidelines of State Policy (GBHN) has emphasized that "belief in the One Almighty God is not a religion". This is clearly a discriminatory act against groups in society whose beliefs are not included as "religions".

- Group of People with Disabilities Who are referred to as "People with Disabilities" in this case include those who have physical, mental, intellectual, or sensory limitations for a long period of time, when faced with various obstacles, these limitations can hinder their full and effective participation in society based on equality.
- Minority Groups Based on Gender Identity and Sexual Orientation The focus of discussion of this minority group is aimed at the LGBTI group (Lesbian, Gay, Bisexual, Transgender and Intersexual) who experience not only discriminatory actions on a daily basis, but also various forms of violence because they are considered "deviant".

In connection with this, several regions in Indonesia have recently often experienced social unrest based on ethnicity and religion. This is a very serious problem that if not resolved immediately will threaten national disintegration. Therefore, the problems faced by various regions in Indonesia are that there is still a lot of discrimination against the rights of minority groups, both religion, ethnicity, race and those related to positions and jobs for people with disabilities, so that until now it is felt that the rights of minority groups have not been fulfilled.

The motto "Bhinneka Tunggal Ika" which means different but still one is very appropriate with the social condition and cultural setting of Indonesia, as an expression that shows a serious desire to realize a nation and state of Indonesia that is united in diversity. Through the spirit of pluralism and multiculturalism, authoritarian centralism as a glue for national integration should be able to be deconstructed. (Ahmad fed yani syaifuddin, 2006)

As far as stereotypes or prejudices are only in thoughts and attitudes, not in real actions, then it still cannot be categorized as a discrimination issue. An action is said to be a discriminatory action when the differentiating categories made on the basis of stereotypes and prejudices above are used to prevent members of groups classified into different categories from obtaining the same rights in fulfilling various life needs. (Aichr, 2011).

Lately, the existence of these minority groups has often received less than expected treatment. Although constitutionally the state guarantees the existence of minority groups, in fact many groups cannot freely practice and develop their religion and beliefs. Until now, a number of violations of religious activities and beliefs still characterize the bad face of relations between the majority and the minority. Ironically, the emergence of this discriminatory treatment is actually carried out by the state through the issuance of a series of regulations which are then used as justification by the majority group to be hostile and marginalize minority groups. This kind of treatment occurs in several forms such as: claims of heresy against religious and belief groups, the closure of places of worship, prohibitions on developing and preaching beliefs, to restrictions on political rights and economic access.

In addition, people from hundreds of smaller local beliefs such as Kejawen (Javanese), Wiwitan (Sundanese), Kaharingan (Dayak), Parmalin (Batak), and adherents of religions such as Judaism, Sikhism, and Confucianism, are forced to choose one of six religions when they apply for an ID card. Individuals who are reluctant to list their beliefs risk being labeled "godless" by clerics or officials, and even being subject to criminal charges of blasphemy. (Ibid, 2006)

Law is for humans, so the implementation of law or law enforcement must provide benefits or usefulness to society. Law is not identical to justice (Rambe & Sihombing, 2024). Law is general, binding on everyone, and equalizing. Anyone who steals must be punished, where everyone who steals must be punished, without distinguishing who stole. Legal certainty is very identical to the understanding of legal positivism. Legal positivism argues that the only source of law is law, while justice means merely the application of law to concrete events ( Rambe et al, 2024). Law enforcement that prioritizes legal certainty will also bring problems if law enforcement against problems in society cannot be resolved based on conscience and justice. A sense of justice is an expectation that must be met in law enforcement ( Rambe et al, 2023).

In a sociological perspective, minorities refer to groups that have three characteristics. (Putro et al., 2021). First, its members are very disadvantaged due to discrimination by others; Second, they have group solidarity with a sense of shared ownership and feel fundamentally different from the majority group; and Third, they are usually physically and socially isolated from the larger community. However, the existence of minority groups must be recognized with the understanding that each individual has the same value as other individuals. Therefore, the way of dialogue and deliberation shows the reality of equality of position and human dignity (Permana, 2018).

Although Indonesia is a country of law, minority rights are often violated by many people, including the state. Even the most violations of minority group rights are carried out by the state, including violations of Freedom of Religion and Belief (KBB). Based on the Wahid Institute report in 2015, it was noted that the most violations were still committed by the state with 130 acts or 52%, while the rest, 119 acts (48%) were carried out by non-state actors. Likewise, in 2014, the state was more dominant than the non-state, with 98 acts (52%) while the rest were carried out by non-state actors with 89 acts or (48%). (The Wahid Institute in 2015).

### **3. CONCLUSION**

Regarding issues of violence, discrimination, and intimidation against minority groups, it is important for the state to immediately provide solutions to prevent similar cases from recurring. It is crucial to break the chain of intolerant attitudes that are detrimental to minority groups. Efforts needed by the government include reviewing policies that have the potential to create discriminatory attitudes, eliminating elements of interest that hinder the process of plurality, and taking a serious stance in preventing, overcoming, and resolving conflicts, including reparation for victims of intolerant actions. As stated by various parties, legal products exist, but they are not enough. Four are needed. A fundamental awareness of solidarity. Legal protection of the human rights of minority groups in Indonesia is regulated within the framework of the principle of equality before the law and non-discrimination, regulated in Article 28 D and Article 28 I of the 1945 Constitution, and is also stated in Article 3 Paragraph (3) of Law Number 39 of 1999 concerning Human Rights. Meanwhile, Article 27 of the International Covenant on Civil and Political Rights which has been ratified by Law Number 12 of 2005 concerning the Ratification of the ICCPR 1966 stipulates that the minority group cannot be denied its rights. Meanwhile, Law Number 39 of 1999 does not clearly mention protection for minority groups.

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