



Legal Pluralism and Structural Injustice: Minority Rights and Human Rights Governance in Southeast Asia

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Abstract: This article examines the persistent gap between constitutional commitments to equality and the socio-legal realities experienced by minority groups under plural legal orders in Southeast Asia, with Indonesia as the main case. It aims to explain how legal pluralism formed through state law, customary authority, religious norms, regional policies, and administrative discretion—can reproduce structural injustice rather than protect diversity. Using structural injustice theory, critical legal pluralism, substantive equality, and human-rights-based governance, this study applies a qualitative socio-legal approach through systematic document analysis of constitutional provisions, legislation, regional regulations, judicial decisions, policy documents, human rights reports, and relevant academic studies. The findings show that legal pluralism becomes discriminatory when fragmented authority enables administrative gatekeeping, majority approval, deviance labeling, selective enforcement, weak legal aid, and inconsistent judicial protection. Minority rights are therefore often recognized formally but remain difficult to convert into effective remedies. The article recommends reorienting legal pluralism toward human-rights-based governance through substantive equality review, stronger oversight of local regulations, accountable administrative procedures, accessible legal aid, and judicial reasoning that prioritizes non-discrimination over majoritarian pressure. This framework contributes to inclusive public policy and minority protection in societies.

Keywords: Access to Justice, Human Rights Governance, Legal Pluralism, Minority Rights, Structural Injustice

Introduction

Across contemporary plural societies, the coexistence of state law, customary norms, religious rules, and local moral orders has become an unavoidable feature of legal governance. The central issue is no longer whether pluralism exists, but whether these overlapping normative orders distribute recognition and legal protection equally among citizens. Legal pluralism is therefore best understood as a condition in which several normative systems shape social behaviour within the same legal space (Twining, 2010). When the authority to define what counts as legitimate law is captured by dominant cultural or religious groups, pluralism may shift from a framework of accommodation into a structure that authorizes exclusion, unequal citizenship, and the selective enjoyment of rights (Berman, 2012).

The global significance of this issue lies in its direct connection with human rights governance, social inclusion, and the quality of legal institutions. Contemporary

human rights scholarship increasingly recognizes that local governments and sub-state authorities are not merely administrative implementers, because they may also generate, translate, contest, or restrict rights in everyday governance (Durmuş, 2020). This makes legal pluralism a critical issue in the study of discrimination and injustice: the same institutional space that promises recognition of diversity can also reproduce unequal access to justice, especially when local norms are not tested against substantive equality, non-discrimination, and the rule-of-law commitments contained in the 2030 Agenda for Sustainable Development (United Nations General Assembly, 2015).

Normatively, the principles of equality before the law and non-discrimination have become universal values affirmed in various international human rights instruments. Southeast Asian states, through both constitutional guarantees and international commitments, formally recognize the importance of protecting minority groups. However, a significant gap persists between these normative ideals and socio-legal realities in practice. Previous studies have demonstrated that discrimination does not always manifest through explicit policies; instead, it frequently operates through ambiguous legal mechanisms, selective law enforcement, and the social normalization of exclusionary practices (Young, 2011; Fraser, 2019). Such conditions indicate that injustice is systemic and institutionalized rather than merely resulting from individual deviation.

Indonesia offers a particularly important case for examining this tension because state law, adat, religious norms, regional autonomy, and administrative discretion operate simultaneously in the regulation of minority rights. At the local level, this interaction is not abstract: in Aceh, for example, records of Sharia Court practice from 2016 to March 2020 identified 40 cases involving 52 non-Muslim perpetrators who were processed within the *Qanun Jinayat* framework, showing that plural legal orders can directly affect minority subjects in criminal justice settings (Halim, 2022). Beyond Aceh, religious minorities in Indonesia continue to face structural obstacles in obtaining permits for houses of worship and in avoiding restrictive blasphemy-related regulation, indicating that minority vulnerability is produced not only by social intolerance but also by legal and administrative design (United States Commission on International Religious Freedom [USCIRF], 2025).

The research problem addressed in this article emerges from the tension between normative legal ideals (*das sollen*) and socio-legal realities (*das sein*). Normatively, legal pluralism is expected to function as a framework for recognizing diversity, protecting minority identities, and guaranteeing equality before the law for all citizens without discrimination. Empirically, however, pluralism is often mobilized to justify differentiated rights, unequal legal treatment, and selective access to legal protection for certain groups. Socio-legal studies indicate that majority norms are frequently prioritized in legal enforcement and administrative decision-making, while minority interests are marginalized, negotiated unequally, or made dependent on local acceptance (Lev, 2017; Bedner & Arizona, 2019). This imbalance is further reflected in evidence showing that minority and vulnerable groups often face greater obstacles in accessing formal justice mechanisms than dominant social groups (World Justice Project, 2023).

These empirical conditions reveal the core research problem of this article: the gap between *das sollen* and *das sein* in the constitutional promise of equality. In an ideal constitutional order, legal pluralism should protect diversity by ensuring that different identities, beliefs, and customary communities enjoy equal legal recognition and protection. In practice, however, pluralism is often filtered through dominant religious

or cultural interpretations that transform recognition into hierarchy and equality into conditional protection. Indonesia's blasphemy framework illustrates this problem because it remains vulnerable to politicization and has placed religious minorities in a precarious constitutional position (Hasani & Halili, 2022). A similar pattern appears in the governance of Indigenous peoples' land, where weak or fragile legal recognition undermines cultural survival and turns customary identity into an object of administrative control (Fahmi, 2024).

The issue is urgent because structural discrimination is not limited to isolated incidents; it shapes trust in legal institutions, access to public services, and the ability of minorities to participate as equal members of the political community. Comparative empirical work on post-Soeharto Indonesia shows that social discrimination and religion-related legislation have increased significantly even when formal democratization has expanded political participation (Sumaktoyo, 2020). This means that the problem cannot be reduced to intolerance at the community level, since local regulations, identity politics, and majoritarian interpretations of adat or religion may become institutional channels through which minority rights are restricted in everyday life (Taufik, 2024).

Previous studies have provided important foundations for understanding the relationship between law, minority rights, and discrimination in Indonesia and Southeast Asia. Sumaktoyo's study shows that, following Indonesia's democratic transition, state discrimination against religious minorities did not significantly decline, while social discrimination and religion-related legislation increased, indicating that democratization does not automatically guarantee substantive protection for minority groups (Sumaktoyo, 2020). Simandjuntak further demonstrates that religious nationalism may produce segregated citizenship, in which certain minorities are accepted as part of the nation, whereas others are disciplined, excluded, or treated as deviant communities (Simandjuntak, 2021). In a more specific legal-pluralist context, Halim's research on Aceh shows that non-Muslims' engagement with the *Qanun Jinayat* cannot be understood merely as legal coercion, because it also reflects strategic choices within a plural legal order shaped by efficiency, access, and institutional context (Halim, 2022). Meanwhile, Fahmi's study on Indigenous peoples' land rights highlights how weak legal recognition of customary land creates structural vulnerability for Indigenous communities within Indonesia's agrarian legal system (Fahmi, 2024). Although these studies are highly relevant, they largely address religious minorities, segregated citizenship, Aceh's Sharia framework, and Indigenous land rights as distinct empirical domains. The research gap, therefore, lies in the absence of an integrated socio-legal framework that explains how state law, religious norms, customary authority, local regulation, and administrative discretion operate together as interconnected mechanisms of structural injustice. Accordingly, the novelty of this article lies in its effort to conceptualize legal pluralism not merely as a condition of legal diversity, but as a constitutional and socio-political mechanism that may reproduce legal inequality unless it is governed through substantive equality, human rights protection, and institutional accountability.

Guided by this framework, the article asks: how does legal pluralism operate as a mechanism for reproducing structural injustice against minority groups in Southeast Asia, and what legal, political, and social factors reinforce such discriminatory practices in Indonesia? To answer this question, the study uses a critical socio-legal approach because the problem requires analysis of law not only as written rules but also as institutional practice, social meaning, and power relation (Banakar & Travers, 2005). The objective is to identify the mechanisms that transform pluralism into inequality

and to formulate a rights-sensitive model of legal pluralism that can support more inclusive public policy, stronger access to justice, and a more accountable constitutional order in plural societies (Creutzfeldt et al., 2020).

This article therefore proceeds from the urgent need to respond to the fragmentation between constitutional equality and the lived reality of minorities under plural legal arrangements. The guarantee of equality before the law and protection against discrimination, as affirmed in Article 26 of the ICCPR, requires states to ensure that every legal order operating within their jurisdiction remains compatible with equal and effective protection (United Nations General Assembly, 1966). By analysing legal pluralism as a constitutional and socio-legal problem, this article shows how the implementation of equality in a plural state depends not only on formal constitutional text, but also on whether state institutions can prevent local norms, religious authority, and administrative discretion from becoming instruments of exclusion against national, ethnic, religious, linguistic, Indigenous, gender, and other minority communities (United Nations General Assembly, 1992).

Method

This article employed a qualitative research design with a critical socio-legal approach to examine how legal pluralism functions as a concrete mechanism through which structural injustice is produced against minority groups in Southeast Asia, with Indonesia as the main empirical focus. The qualitative design was used because the problem analyzed in this study concerns patterns of legal meaning, institutional practice, power relations, and discriminatory consequences that cannot be adequately explained through numerical measurement alone. Through this design, the study examined how state law, customary norms, religious regulations, regional policies, and administrative discretion interact within concrete governance practices and contribute to unequal access to rights, recognition, and legal protection for minority communities.

The object of the study was the operation of plural legal orders in the governance of minority rights, particularly in issues related to religious freedom, Indigenous peoples' land rights, local regulations, and unequal access to justice. Indonesia was selected as the principal setting because it represents a complex Southeast Asian legal environment in which constitutional guarantees of equality coexist with adat law, religious norms, decentralization, and local administrative authority. The study did not involve direct field interviews or on-site observation; instead, it was conducted as a document-based socio-legal inquiry. The empirical focus was built from documented cases and institutional records showing how plural legal arrangements operate at national and local levels, including contexts where religious, customary, and administrative norms directly affect minority groups.

The primary data consisted of legal and institutional documents, including constitutional provisions, national legislation, regional regulations, judicial decisions, policy documents, and official reports issued by state institutions and human rights bodies relevant to minority protection and discrimination. Secondary data were drawn from peer-reviewed journal articles, academic books, research reports, dissertations, and publications of reputable international organizations addressing legal pluralism, structural injustice, minority rights, and human rights protection in Indonesia and Southeast Asia. Data were collected through systematic document analysis, involving the identification, screening, and selection of materials based on their relevance to the research questions, source authority, empirical or legal substance, and connection to plural legal governance and structural discrimination. The selected materials were

subsequently organized in an analytical matrix covering the type of legal norm, institutional actor, affected minority group, form of discrimination, and socio-legal implication.

Data credibility was strengthened through source triangulation by comparing legal texts, policy records, official human rights reports, and findings from previous empirical studies. This process was used to check whether the same discriminatory patterns appeared across different types of sources and institutional contexts. The data were analyzed thematically and critically through several stages: reading and mapping the documents, coding recurring issues, grouping the codes into major themes, and interpreting them through the theoretical lenses of structural injustice, critical legal pluralism, substantive equality, and human rights protection. The final analysis focused on explaining the gap between normative legal commitments and socio-legal realities, particularly how plural legal arrangements may legitimize differentiated treatment, selective enforcement, and institutionalized marginalization when they are not governed by substantive justice and accountability mechanisms.

Findings/Results

Legal Fragmentation and Administrative Selectivity in Minority Rights Protection

The first finding shows that legal pluralism in Indonesia does not merely appear as the coexistence of state law, religious norms, and local administrative authority, but also as a fragmented structure of rights protection. The strongest pattern is visible in disputes concerning the establishment and use of houses of worship, where constitutional guarantees of religious freedom are often filtered through local approval, social acceptance, and administrative recommendation. A policy review on the implementation of the 2006 Joint Regulation on houses of worship recorded that in 2022 there were 50 disturbances involving houses of worship, consisting of 21 churches, 16 mosques, 6 monasteries, 4 prayer rooms, 2 temples, and 1 place of worship for Indigenous belief adherents (The Indonesian Institute, 2024). These data indicate that the problem is not simply the absence of formal legal protection, but the selective operation of administrative mechanisms that place minority groups in a weaker position when exercising constitutional rights (Crouch, 2007).

Table 1. Summary of Findings on Legal Fragmentation and Administrative Selectivity

Documented empirical pattern	Indicative data / documented evidence	Dominant mechanism	Socio-legal meaning
Disturbance of houses of worship	50 houses of worship experienced disturbances in 2022: 21 churches, 16 mosques, 6 monasteries, 4 prayer rooms, 2 temples, and 1 place of worship for Indigenous belief adherents	Licensing requirements, local recommendation, majority approval, and weak dispute settlement	Constitutional protection is weakened when local administrative discretion becomes the decisive gatekeeper of religious freedom
Majority-biased permit requirements	The 2006 Joint Regulation requires administrative support, including lists of worship users and local community approval	Numerical requirements and FKUB/local government recommendations	Minority communities must prove their legitimacy through the consent of the local majority
Religious restriction through legal uncertainty	Blasphemy-related regulation and constitutional review debates continue to affect minority protection	Ambiguous legal provisions and uneven enforcement	Legal pluralism may reproduce inequality when public order and religious harmony are interpreted through

dominant
norms religious

Source: Processed from document analysis of policy reviews, legal scholarship, and human rights-related studies.

The data above show that administrative selectivity becomes one of the most concrete channels through which legal pluralism produces unequal protection. In the case of houses of worship, minority groups do not only face legal procedures, but also social negotiation with dominant local actors whose approval may determine whether constitutional rights can be exercised in practice. A documented expert interview in the policy paper of The Indonesian Institute, particularly the statement of Mahaarum Kusuma Pertiwi from the Faculty of Law, Universitas Gadjah Mada, noted that the 90-user and 60-local-support requirements tend to be majority-biased because they do not adequately consider the demographic position of minority communities (The Indonesian Institute, 2024). This finding is consistent with the broader pattern of freedom of religion or belief in Indonesia, where the language of harmony and public order often narrows the practical space for minority protection (Bagir, Asfinawati, Suhadi, & Arianingtyas, 2020).

This finding is not fully in line with the normative assumption that legal pluralism automatically strengthens recognition of diversity. In practice, plural legal arrangements may become selective when local officials, religious forums, and community pressure determine how far a right can be accessed by minority groups. The contradiction lies in the gap between constitutional protection and local implementation: the formal legal order recognizes equality, but the administrative process often requires minority groups to secure social legitimacy before enjoying that equality. This pattern supports previous scholarship showing that post-authoritarian Indonesia still faces serious difficulty in managing religious diversity because the state often fails to prevent civic pluralism from being overridden by dominant religious pressure (Hasan, 2017). Therefore, the finding suggests that legal pluralism becomes problematic not because plurality itself is harmful, but because the governance of plurality remains vulnerable to majoritarian pressure, weak institutional accountability, and inconsistent law enforcement (Hamayotsu, 2013).

Majoritarian Norms and the Institutionalization of Structural Discrimination

The second finding indicates that structural discrimination against minority groups is reproduced not only through explicit legal prohibitions, but also through the normalization of majoritarian standards within public institutions. In the documents analyzed, majority norms operate as an informal filter that determines which religious identities are considered legitimate, which beliefs are treated as deviant, and which minority claims deserve administrative recognition. This pattern is visible in the state’s tendency to privilege monotheistic and officially recognized religions as the acceptable model of religious citizenship (Mu’ti & Burhani, 2019). As a result, minority communities do not merely experience social prejudice; they also encounter institutional barriers when their identity, ritual practice, or belief system does not correspond to the dominant religious framework embedded in state administration (Sukirno & Natalis, 2025).

Table 2. Summary of Findings on Majoritarian Norms and Structural Discrimination

Majoritarian pattern identified	Documented evidence / analyzed source	Affected minority group	Institutional implication
Official religious recognition becomes the	Administrative recognition tends to privilege	Local belief adherents and Indigenous religious communities	Minority identities must be translated into state-approved religious

standard of legitimate citizenship	of recognized religions and monotheistic categories		categories before receiving equal service
Deviance labeling shapes legal and social treatment	Ahmadiyya and Shia communities are frequently positioned through the language of heresy, deviance, or public disturbance	Ahmadiyya and Shia minorities	Religious difference becomes a basis for restriction, surveillance, and social exclusion
Public morality and harmony are interpreted through dominant norms	Local institutions often prioritize social harmony, public order, and majority sensitivity in dealing with minority claims	Religious minorities in education, worship, and public service access	Minority rights become conditional upon local acceptance and majority tolerance
Discriminatory regulations diffuse across administrative spaces	Anti-Ahmadiyya regulations show patterns of interjurisdictional imitation and text reuse	Ahmadiyya community	Discrimination becomes institutionalized through repeated administrative templates rather than isolated local incidents

Source: Processed from document-based analysis of socio-legal studies, policy records, and empirical findings reported in previous research.

The table shows that majoritarian norms work through ordinary institutional procedures rather than only through open acts of violence. In education, for example, minority students may formally possess the right to receive religious instruction according to their own religion, yet documented school cases show that this right is often weakened when schools lack teachers, facilities, or administrative willingness to accommodate numerically smaller religious groups (Raihani, 2015). A similar pattern appears in public resource allocation and symbolic policy, where state-supported religious programs may be presented as neutral public development but in practice strengthen the symbolic dominance of the majority religion and leave minority communities with weaker access to recognition and representation (Salayan & Masbukin, 2024).

The findings also reveal that the institutionalization of discrimination becomes more pronounced when majoritarian norms are translated into regulations, decrees, and administrative routines. In the Ahmadiyya case, one study identified 62 anti-Ahmadiyya regulations adopted between 1976 and 2020, with a significant increase after 2005 and strong indications of text reuse among local regulations, which suggests that discriminatory legal content may circulate through government networks without necessarily relying on immediate grassroots pressure (Buehler, 2023). In relation to the Shia minority, documented discourse similarly shows that the majority position is often framed as the authentic religious norm, while Shia identity is constructed as alien, suspicious, or threatening to religious order (Zulkifli, 2024).

This finding explains why discriminatory practices often appear administratively reasonable even when their consequences are unequal. In several cases, the state does not directly declare minority groups as illegitimate citizens; instead, it allows dominant religious interpretations, public order claims, and harmony-based reasoning to influence how rights are granted, delayed, or restricted. Studies on Ahmadiyya show that official religious politics may subordinate the right to freedom of religion under the control of religious majoritarianism (Fadhil & Sudrajad, 2023). This is why the violence and exclusion experienced by Ahmadiyya after the Reformasi period cannot be separated from the interaction between fatwa, state regulation, local government

response, and social pressure from dominant religious actors (Noor, Syamsiyatun, & Banawiratma, 2013).

The source of qualitative field evidence used in this sub-section comes from documented interviews and observations reported in previous empirical studies. Sukirno and Natalis, for instance, used interviews with leaders of six customary communities, along with data from ministries and local population offices, to show how adherents of local religions faced obstacles in obtaining identity cards, family cards, marriage certificates, and birth certificates (Sukirno & Natalis, 2025). Meanwhile, Suprianto, Rahmaniah, Alfian, and Lubis documented the Ahmadiyya case in West Kalimantan through interviews and documentation, showing the presence of rights violations, contradictory policies, and religiously motivated violence; therefore, the evidence supports the finding that majoritarian norms become structural when they are absorbed into public policy, bureaucratic decisions, and local enforcement practices (Suprianto et al., 2023)

Unequal Access to Justice and the Governance Gap in Legal Pluralism

The third finding shows that unequal access to justice is the most visible consequence of weak governance in Indonesia's plural legal order. The problem does not lie only in the existence of multiple legal norms, but in the absence of a reliable institutional mechanism capable of ensuring that state law, religious norms, customary authority, and local administrative decisions operate under the same standard of equality. In practice, minority groups often face a layered justice barrier: they must understand formal legal procedures, negotiate local power relations, respond to dominant social pressure, and at the same time prove that their claims are administratively acceptable. Court-based legal aid has been expanded through Posbakum and related judicial services, but documented evaluations show persistent problems in budget allocation, limited socialization, and inadequate facilities for justice seekers in several court environments (Suhariyanto & Mustafa, 2022). This indicates that access to justice remains formally recognized but unevenly delivered, especially for vulnerable groups whose legal problems are shaped by poverty, geography, minority status, and weak institutional support (Budijanto & Rahmanto, 2022).

Table 3. Summary of Findings on Unequal Access to Justice and Governance Gap

Finding category	Documented pattern	Governance gap identified	Socio-legal implication
Formal access without effective remedy	Legal aid and court services exist, but implementation remains uneven across institutional and territorial contexts	Weak budget, limited public information, unequal facility support, and insufficient outreach	Minority and vulnerable groups may have rights on paper but limited capacity to use them effectively
Fragmented dispute resolution	Minority claims are processed through overlapping state, religious, customary, and local administrative forums	No clear coordination standard between formal law and non-state normative orders	Rights protection depends on forum choice, local power relations, and administrative discretion
Local pressure affects justice outcomes	Public order, harmony, and majority sentiment often influence institutional response to minority claims	State institutions tend to avoid conflict rather than enforce substantive equality	Minority groups are pushed toward compromise, delay, or withdrawal of claims

Weak supervision of legal aid providers	Legal aid implementation faces problems of quality control, service standard compliance, and supervision	Oversight mechanisms are not yet integrated and sanctions remain weak	Legal aid may become procedural formality rather than substantive protection
Judicial protection remains inconsistent	Courts can protect minority rights through judicial review, but not all decisions consistently advance freedom of religion or belief	Rights-based reasoning is not uniformly applied across judicial institutions	Constitutional guarantees may be weakened by narrow judicial interpretation or majoritarian reasoning

Source: Processed from document analysis of legal aid studies, court-related research, judicial decisions, and socio-legal scholarship.

The table indicates that the justice gap in legal pluralism is not simply a matter of people being unable to reach courts. The sharper finding is that some groups may reach legal institutions but still fail to obtain meaningful protection because their claims are filtered by non-legal considerations, including local acceptance, religious legitimacy, customary pressure, and bureaucratic discretion. Empirical socio-legal research on Indonesian Islamic courts shows that formal legal proceedings may be shaped by non-state normative frameworks before, during, and after litigation, placing vulnerable parties in a weaker bargaining position even when statutory rights formally exist (van Huis, 2024). This finding demonstrates that legal pluralism creates a governance gap when formal institutions do not have enough authority, consistency, or courage to prevent informal power from reshaping the meaning of justice in practice (Hariri & Babussalam, 2024).

A further finding concerns the quality of legal aid as an institutional gateway to justice. Legal aid is designed to reduce inequality before the law, yet recent comparative research on Indonesia and Malaysia found that the quality of state-funded legal aid in Indonesia still faces serious weaknesses, including indications of double funding, the charging of fees by some legal aid advocates, and failure to provide services according to required standards (Utami, Bintoro, Sudrajat, & Wahyudi, 2025). This means that legal aid can become an administrative promise rather than a substantive instrument of justice when supervision is weak, service standards are not enforced, and poor or marginalized citizens do not receive clear information about their rights (Gustaf, 2021).

The governance gap becomes more serious in cases involving religious and belief minorities because access to justice is not limited to courtroom availability. Minority groups must also confront the way judges, local officials, schools, religious authorities, and community actors interpret religious freedom, public order, and social harmony. Judicial review is potentially an important mechanism for protecting religious minority rights because it allows citizens to challenge state action and discriminatory regulation through constitutional channels (Maula, 2018). However, the protection is not always consistent; in the case of the Supreme Court Decision Number 17/P/HUM/2021 concerning freedom of religion or belief, judicial reasoning was criticized for being weak in protecting minority rights because it treated the issue of forced religious dress in public schools through a narrow and majoritarian perspective (Ayub, 2023).

The strongest evidence of this governance gap appears in cases where constitutional decisions recognize minority rights, but administrative implementation remains slow, contested, or uneven. The Constitutional Court Decision Number 97/PUU-XIV/2016 restored the constitutional rights of Indigenous belief adherents by allowing their beliefs to be recorded on electronic identity cards, yet the broader implementation still depends on bureaucratic readiness, local acceptance, and the willingness of

administrative offices to translate constitutional recognition into daily public service (El Guyanie & Baskoro, 2021). This shows that the core problem is not the absence of legal recognition alone, but the weak transmission of recognition into remedy; in other words, minority rights may be acknowledged at the constitutional level while remaining fragile at the administrative and social levels (Safa'at, 2022).

Overall, the findings show that unequal access to justice in legal pluralism operates through a chain of institutional weaknesses. First, fragmented legal authority creates uncertainty about which norm should prevail. Second, local and religious pressures may influence administrative and judicial responses. Third, legal aid and court services remain uneven in quality and reach. Fourth, constitutional recognition does not automatically transform into effective protection at the local level. These patterns confirm that the governance gap in legal pluralism is not merely technical, but structural: it produces "rights without remedies," where minority communities formally possess rights but face serious obstacles in converting those rights into protection, recognition, and enforceable justice.

Discussion/Analysis

Legal Fragmentation, Administrative Gatekeeping, and the Weakening of Constitutional Equality

The first finding confirms that legal pluralism becomes problematic when it operates through fragmented authority without a clear constitutional standard for protecting minority rights. In the Indonesian context, the coexistence of state law, religious norms, local administrative authority, and community approval does not automatically create recognition; rather, it often produces a layered process in which constitutional rights must pass through local filters before they can be practically exercised. This is evident in the governance of houses of worship, where formal guarantees of religious freedom are repeatedly mediated by local politics, licensing procedures, and community-based approval mechanisms (Crouch, 2010). Therefore, the problem is not merely the existence of many legal orders, but the absence of a firm institutional boundary that prevents administrative discretion from weakening constitutional equality, especially for religious minorities whose social position is already vulnerable (Intan, 2022).

The finding also shows that administrative gatekeeping changes the meaning of rights from constitutional entitlement into negotiated permission. Minority communities may formally possess the right to worship, yet in practice they are often required to demonstrate demographic legitimacy, obtain local support, and satisfy procedures that are more difficult for small or unpopular groups to fulfill. Studies on the establishment of houses of worship in Indonesia show that the problem of religious freedom is closely tied to policy design, historical tension, and sociological resistance at the local level (Arifin et al., 2021). In this sense, legal pluralism does not fail because plurality exists, but because the state allows constitutional guarantees to be made conditional upon local acceptance, public order narratives, and the changing balance of majority-minority relations (Marshall, 2018).

This pattern is important because it reveals how legal fragmentation can produce structural injustice without always appearing openly discriminatory. The local state may claim that it is only applying administrative procedure, preserving harmony, or preventing conflict; however, these justifications can obscure the unequal burden placed on minority groups. In plural legal settings, the relationship between state and non-state norms must be governed carefully, because non-state authority may either support access to justice or reproduce exclusion when it is left without constitutional

supervision (Forsyth, 2007). Thus, administrative selectivity becomes a socio-legal mechanism through which minority rights are not denied in formal language, but are delayed, redirected, or weakened in everyday institutional practice (Hefner, 2013).

The deeper issue is that harmony-based governance often transforms majority sentiment into a practical standard for determining whether minority claims are acceptable (In'am et al., 2025, pp. 182–192). When state institutions prioritize social peace without testing whether the peace is built on equal rights, the result may be a form of “order” that normalizes exclusion (Maudian et al., n.d., pp. 192–204). This is consistent with the idea that religious nationalism in Indonesia can generate productive intolerance, namely a condition in which intolerance is not treated as a breakdown of the system but becomes useful for maintaining a dominant moral-political order (Menchik, 2014). Consequently, minority communities face not only legal obstacles, but also symbolic pressure, social suspicion, and perceived group threat that shape how their claims are received by surrounding communities and public institutions (Kanas et al., 2015).

Therefore, the first discussion point strengthens the central argument of this article: legal pluralism must not be romanticized as an inherently inclusive arrangement. Legal plurality can support recognition only when it is governed by substantive equality, transparent administrative standards, and effective remedies for citizens whose rights are obstructed by local pressure (Wati et al., 2026, pp. 248–259). A critical understanding of legal pluralism reminds us that law is not located only in formal statutes, but also in social practices, institutional routines, and competing normative orders that shape citizens' lived experience (Melissaris, 2004). For this reason, reform should not stop at revising technical licensing rules; it must also ensure that administrative procedures do not become instruments through which minority communities are required to seek majority permission before enjoying rights already guaranteed by the constitution (Arifinsyah & Sofian, 2021).

Majoritarian Norms and the Institutional Production of Structural Discrimination

Majoritarian norms become structurally powerful when they are absorbed into the ordinary grammar of state recognition (Mutharom et al., 2026, pp. 260–277). The issue is not simply that majority groups are numerically dominant, but that their assumptions are transformed into administrative standards for deciding which religious identities are considered normal, legitimate, and serviceable by public institutions. In Indonesia, the official imagination of religion has long been shaped by monotheistic criteria and by the state's preference for recognized religious categories, making non-conforming beliefs appear legally incomplete before they even enter bureaucratic procedures (Mu'ti & Burhani, 2019). Once this framework becomes part of identity cards, family records, education services, marriage registration, and local governance, equality no longer functions as equal protection; it becomes a demand that minorities translate themselves into categories already approved by the majority. This shows that structural discrimination works through classification, not only prohibition, because the state may recognize citizens formally while still forcing their identities to pass through majority-defined templates of legitimacy (Nalle, 2021).

This mechanism is even clearer in the treatment of groups labeled as deviant, especially Ahmadiyya. The language of deviance does not operate merely as theological disagreement; it becomes a political and legal vocabulary that places minority belief under suspicion (Pranata et al., 2026, pp. 314–326). Critical discourse analysis of the Ahmadiyya issue shows that exclusionary narratives often construct Ahmadiyya as outside Islam, dangerous to communal order, and undeserving of equal religious

standing (Irawan, 2017). When such discourse enters public institutions, it changes the state's posture from neutral guarantor of rights into a manager of orthodoxy. The result is a serious inversion of constitutional protection: instead of protecting forum internum and freedom of belief from coercive control, state institutions often allow official religious politics to subordinate religious freedom to the authority of religious majoritarianism. In that situation, discrimination appears not as an explicit denial of citizenship, but as a legal disorder in which the constitutional promise of freedom is weakened by political pressure, religious authority, and selective enforcement (Fadhil & Sudrajad, 2023).

The institutional production of discrimination also appears through informal networks that connect local officials, religious elites, and community actors. In many cases, minority rights are not restricted only because of written legal norms, but because public officials calculate the political cost of defending unpopular minorities. Research on *Ahmadiyya* discrimination shows how clientelistic relations and informal political networks can incentivize local authorities to accommodate intolerant demands when such accommodation is seen as politically useful (Soedirgo, 2018). This helps explain why discriminatory practices often survive even when constitutional language remains formally inclusive (Shalihin et al., 2026, pp. 302–313). More importantly, discrimination becomes reproducible when it is converted into regulations, circulars, decrees, and administrative routines that can be copied across jurisdictions. Buehler's study of anti-Ahmadiyah regulations demonstrates that discriminatory regulations spread not only from grassroots pressure but also through intergovernmental imitation and text reuse, indicating that bureaucratic networks themselves can become channels for circulating exclusionary legal content (Buehler, 2023).

A similar pattern can be seen in the construction of Shia identity. Anti-Shia discourse in Indonesia often works by framing Sunni orthodoxy as the natural religious order, while Shia identity is represented as foreign, disruptive, or potentially dangerous (Mubarok et al., 2026, pp. 278–290). Formichi's study shows that anti-Shia narratives have been articulated through sectarian language, political anxiety, and religious authority, making Shia communities vulnerable to public suspicion and social exclusion (Formichi, 2014). The problem is not only discourse, however, because discourse can move into institutional action when officials fail to keep distance from vigilante actors. In conflicts involving Ahmadiyya and Shia communities, state officials have at times become entangled with vigilante groups, either by omission, weak protection, negotiated restriction, or direct accommodation of pressure from intolerant actors. This indicates that structural discrimination is produced when the state treats minority security as a negotiable matter rather than as a non-derogable obligation of equal protection (Suryana, 2019).

Majoritarian norms are also reproduced in social and educational environments, where citizens learn which identities are acceptable and which are treated as alien. This matters because structural discrimination does not begin only in courts or local regulations; it is sustained by everyday perceptions, school cultures, public narratives, and patterns of intergroup exposure (Zaenudin et al., 2026, pp. 211–222). A psychological study on tolerance toward alienated groups in Indonesia found that social environment and religious schema shape attitudes toward atheists and adherents of indigenous beliefs, with more homogeneous environments tending to produce lower tolerance toward stigmatized groups (Ardi et al., 2021). Such findings are important for the present article because they show that legal pluralism cannot be analyzed only as a matter of formal norms. Its practical consequences depend on the

social ecology in which public institutions operate. This also explains why democratization has not automatically reduced religious discrimination; post-Soeharto Indonesia experienced increased religious legislation and persistent discrimination, showing that electoral openness can coexist with, and sometimes amplify, majoritarian pressure against minorities (Sumaktoyo, 2020).

Thus, the core problem identified in this sub-analysis is not plurality itself, but the absence of a rights-based mechanism capable of preventing majority norms from becoming public law by another name. The language of harmony, public order, and religious morality may appear neutral, yet it can become discriminatory when it is applied without strict tests of necessity, proportionality, legality, and equal protection. Studies on freedom of religion or belief in Indonesia show that limitations on religious freedom are often justified through public order and harmony, but in practice these limitations may reflect dominant religious assumptions rather than genuinely neutral constitutional reasoning (Bagir et al., 2020). Therefore, governing legal pluralism requires more than recognizing diversity; it requires institutional discipline so that local norms, religious authority, and administrative discretion do not override minority citizenship. A more inclusive legal order must begin from the principle that no community, including the majority, has the privilege to reduce the constitutional rights of others merely because their beliefs are socially unpopular or theologically contested (Suheri, 2024).

Unequal Access to Justice and the Problem of Rights without Remedies

Unequal access to justice in a plural legal order should not be understood merely as limited access to courts, lawyers, or legal aid offices. The deeper problem lies in the inability of minority groups to transform formally recognized rights into concrete remedies. In this sense, the legal system may appear open, but the actual capacity to use it remains uneven because legal procedure is shaped by resources, institutional position, social legitimacy, and political protection. This condition is close to the classic socio-legal argument that those with stronger institutional resources tend to enjoy more favorable legal outcomes, not because the law always formally privileges them, but because they are better positioned to repeat, negotiate, delay, and absorb the cost of legal struggle (Galanter, 1974). For minority groups, injustice often begins even before litigation, when harmful experiences are not recognized as legal injuries, when victims fear blaming powerful actors, or when claims are discouraged by social pressure and administrative uncertainty (Felstiner et al., 1980–1981).

The findings also show that access to justice becomes fragile when legal aid and court services exist only as procedural facilities, without sufficient attention to the social conditions of those who need them. A rights-based system cannot be satisfied with the mere presence of Posbakum, legal aid organizations, or court information desks if minority citizens still face fear, cost, distance, stigma, and low legal literacy when trying to use them. Access to civil justice is always affected by unequal distribution of resources, different orientations toward law, and the degree to which institutions are willing to recognize the interests of marginalized groups as legally serious (Sandefur, 2008). This means that “rights without remedies” emerge when the legal system counts the availability of institutions but fails to examine whether those institutions actually help vulnerable citizens move from grievance to protection. In plural legal settings, disputes often move through many branches family negotiation, local leaders, religious authorities, administrative offices, and courts so the failure of one branch can weaken the entire path toward justice (Albiston et al., 2014).

Legal pluralism intensifies this problem because minority claims are not processed through a single legal route. They often pass through overlapping forums: state law,

religious norms, customary authority, local government discretion, and informal community pressure. Such plurality may be valuable when it widens the space for culturally meaningful dispute resolution, but it becomes dangerous when no institution is strong enough to ensure that every forum respects equality and non-discrimination (Asnawi & Rahayu, 2026). Legal pluralism has long been understood as a condition in which different normative orders coexist and interact within the same social field, but this interaction does not automatically produce justice if power relations remain unequal (Merry, 1988). In Indonesia, the problem becomes sharper when forum choice is not freely exercised by minority groups, but shaped by fear, demographic weakness, dependence on local officials, and the need to avoid conflict with dominant communities. Under these conditions, pluralism may create a hierarchy of remedies in which majority groups can mobilize law confidently, while minorities are pushed toward compromise, silence, or withdrawal (von Benda-Beckmann, 2002).

The governance gap is particularly visible in cases involving freedom of religion or belief, because the obstacle is rarely limited to legal procedure. Minority groups must also confront the way officials, schools, local communities, and religious authorities interpret public order, morality, and social harmony. A limitation on religious freedom can be legitimate only when it preserves the substance of the right and passes strict tests of legality, necessity, proportionality, and non-discrimination (Bielefeldt, 2020). However, in practice, harmony-based reasoning often makes minority rights conditional upon majority acceptance. This is why courts and legal aid institutions alone cannot solve the problem if administrative actors and local authorities continue to treat minority claims as disturbances rather than constitutional rights. The Indonesian experience shows that constitutional guarantees of freedom of religion or belief often collide with state practices, social resistance, and local power arrangements that restrict the actual enjoyment of those rights (Colbran, 2010).

The most serious implication is that constitutional recognition may stop at the level of legal text if it is not followed by administrative obedience and accessible remedies. The case of Indigenous belief adherents illustrates this problem clearly: recognition of belief identity in population administration is not only a symbolic matter, but also a gateway to marriage registration, family records, education services, inheritance, public services, and equal citizenship. The absence or delay of recognition in identity documents creates a legal vacuum that affects the practical enjoyment of constitutional rights, especially because administrative law becomes the first point of contact between citizens and the state (Wijayanti, 2018). Therefore, the challenge is not merely to declare that minority groups have rights, but to build institutions that can enforce those rights when local officials hesitate, when public pressure rises, or when old administrative habits continue to reproduce exclusion. Without this transmission from recognition to remedy, legal pluralism will continue to produce a paradox: minorities are recognized as citizens in constitutional language, yet remain vulnerable in everyday bureaucratic practice (Sukirno & Natalis, 2025).

Reorienting Legal Pluralism toward Human-Rights-Based Governance

Reorienting legal pluralism toward human-rights-based governance requires a shift from celebrating plurality as social fact to governing plurality as a constitutional responsibility. The findings of this article show that plural legal orders become harmful when state law, religious authority, customary norms, and administrative discretion operate without a shared standard of equality. A critical legal pluralist perspective is useful here because it reminds us that law is not only produced by the state, but also by social actors, institutions, and interpretive communities that continuously shape the meaning of legal obligation (Kleinbans & Macdonald, 1997). However, this plurality

must not be left to the strongest social actor. Where overlapping authorities produce unequal recognition, the state must act not as a passive mediator among competing norms, but as a constitutional guarantor that ensures every normative order remains compatible with equal citizenship and non discrimination (Randeria, 2007).

A human-rights-based model of legal pluralism begins from a clear distinction between recognition and justification. The state may recognize religious, customary, and local norms as part of social life, but such norms cannot be justified when they restrict minority rights without meeting strict standards of legality, necessity, proportionality, and equality. In rights-based governance, minority communities are not treated as objects of protection or as groups waiting for benevolent tolerance; they are rights-holders whose claims require institutional response, participation, and remedy (Azizah et al., 2025). This approach is consistent with the argument that rights-based development changes the position of marginalized groups from passive beneficiaries into actors who can claim rights and demand accountability from duty-bearers (Cornwall & Nyamu-Musembi, 2004). Therefore, the governance of legal pluralism should be built on two movements at once: strengthening the state's duty to protect minorities and expanding the capacity of minorities to contest exclusionary norms through lawful, accessible, and participatory mechanisms (Gauri & Gloppen, 2012).

The first practical implication is the need to place substantive equality at the center of legal and administrative review. Formal equality is insufficient because minority groups may be treated "equally" in procedure while carrying heavier social, demographic, and bureaucratic burdens in practice. This is visible in licensing, identity administration, religious education, customary land recognition, and access to justice, where the same rule may create different consequences for dominant and minority groups. Fredman's four-dimensional account of substantive equality is relevant because it requires law to redress disadvantage, address stigma, enhance participation, and accommodate difference toward structural change (Fredman, 2016). In Indonesia, this means that the review of regional regulations, local policies, and administrative practices should not only ask whether they are formally authorized, but whether they reproduce disadvantage, empower majority veto, or make minority rights dependent on local acceptance; otherwise decentralization will continue to create legal uncertainty and uneven rights protection (Butt, 2019).

Second, human-rights-based legal pluralism requires stronger local accountability because many violations of minority rights occur at the level of everyday governance. Local government is not merely an implementing arm of national law; it often becomes the arena where rights are granted, delayed, negotiated, or restricted. This is why human rights protection must be localized without being relativized. Local institutions should be encouraged to translate constitutional and international human rights norms into service standards, dispute-resolution procedures, public consultation, and complaint mechanisms that are sensitive to minority vulnerability. Oomen and Baumgärtel argue that local authorities increasingly play a key role in realizing human rights because they directly manage the public spaces in which rights are experienced (Oomen & Baumgärtel, 2018). Yet local accountability must be strategic rather than symbolic: transparency, public information, and citizen voice matter only when they are connected to enforcement capacity, institutional responsiveness, and protection against retaliation (Fox, 2015).

Third, the reorientation of legal pluralism must address the legal production of religious exclusion, especially where public order and religious harmony are used to justify restrictions on minority beliefs. The findings indicate that the state often avoids

openly denying rights, but allows local pressure, religious labeling, and majoritarian interpretations to shape administrative and judicial responses. In this context, blasphemy and deviance-related cases become a test of whether the legal system protects constitutional rights or merely manages majority anxiety. Telle's study on blasphemy and lawfare in Indonesia shows that religious offence can be transformed into a legal strategy through which public controversy is moved into courts and state institutions (Telle, 2018). This makes judicial reasoning crucial. Courts should not simply reproduce dominant moral claims; they must examine whether restrictions are genuinely necessary in a democratic society and whether they protect public order without sacrificing minority citizenship to political calculation or religious majoritarianism (Tyson, 2021).

Fourth, rights-based legal pluralism must also govern customary law and Indigenous rights through recognition, participation, and implementation. Customary law should not be positioned merely as a cultural ornament within national law, nor should it be romanticized as automatically just. It must be recognized in a way that protects Indigenous communities from state domination, corporate dispossession, and administrative erasure, while also ensuring that internal community practices remain compatible with human rights. Arizona and Illiyina show that Constitutional Court decisions have opened an important pathway for local communities and NGOs to challenge forestry laws, although court decisions do not implement themselves without sustained institutional and political follow-up (Arizona & Illiyina, 2024). This point is reinforced by research on customary forest rights in Indonesia, which shows that constitutional recognition must still be translated into political, administrative, and social recognition before it can produce meaningful transformation for Indigenous communities (Hidayat et al., 2018).

The contribution of this analysis lies in its effort to integrate several findings administrative selectivity, majoritarian norms, unequal access to justice, and weak implementation of rights into one socio-legal argument: legal pluralism becomes emancipatory only when it is governed by human rights, substantive equality, and accountable institutions. This article therefore contributes to the literature by rejecting two simplifications at once: the assumption that pluralism is inherently inclusive and the view that pluralism must be eliminated in favor of legal centralism. Its limitation, however, is that the research is based on document analysis, which cannot fully capture the lived experiences, negotiation strategies, emotional burdens, and everyday resistance of minority communities in specific local contexts (Bowen, 2009). Future studies can extend this analysis through fieldwork, interviews, comparative local case studies, or mixed-method research that examines how minority groups actually navigate plural legal orders, because methodological transparency and acknowledgment of limitations are essential elements of credible qualitative inquiry (Tracy, 2010).

Conclusion

This study concludes that legal pluralism in Southeast Asia, particularly in Indonesia, does not automatically function as an inclusive framework for protecting diversity. Its emancipatory value depends on whether plural legal orders are governed by substantive equality, human rights protection, and institutional accountability. The analysis demonstrates that structural injustice emerges when state law, religious norms, customary authority, local regulations, and administrative discretion interact without a clear rights-based standard. In such conditions, minority rights are formally recognized but practically weakened through administrative gatekeeping, majority-

biased recognition, deviance labeling, selective enforcement, and fragmented access to justice. Therefore, the central contribution of this study is the conceptualization of legal pluralism not merely as legal diversity, but as a constitutional and socio-political mechanism that may either protect minority citizenship or reproduce legal inequality.

The findings further affirm that the protection of minority rights requires more than normative constitutional guarantees. Equal citizenship can only be realized when local governance, judicial reasoning, legal aid, and administrative services are aligned with non-discrimination and effective remedies. This study contributes to the development of religious, social, and cultural studies by showing that minority vulnerability is not produced solely by social intolerance, but also by institutional practices that normalize majoritarian standards in law and public administration. A human-rights-based model of legal pluralism is therefore necessary to prevent pluralism from becoming a channel of exclusion and to strengthen inclusive governance in plural societies.

This study recommends that governments strengthen the human-rights review of local regulations, religiously sensitive policies, and administrative procedures affecting minority groups. Legal aid institutions and courts should also improve access to effective remedies by ensuring that minority claims are not subordinated to public order narratives, local pressure, or majority approval. Future research should extend this document-based socio-legal analysis through fieldwork, interviews, and comparative local case studies to capture how minority communities experience, negotiate, and resist plural legal arrangements in everyday life

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