

The Impact of Legal Pluralism on Human Rights Protection in Health Services

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ABSTRACT

This research aims to analyze the influence of legal pluralism on the realization of human rights protection within the national health service system and to identify the juridical and sociological obstacles arising from normative conflicts between state law and local customary norms. A normative juridical approach is employed, focusing on the analysis of various regulations, norms, and legal doctrines pertaining to human rights protection in the healthcare system, supported by library research techniques involving primary, secondary, and tertiary legal materials analyzed qualitatively through legal interpretation. Interaction between state law and local norms frequently exhibits a dominative-subordinative pattern that triggers tension, where rigid formal health regulations often clash with beliefs or traditional customs held by local communities. Individuals are often placed in vulnerable positions when forced to choose between formal medical procedures and obedience to customary authority, resulting in various human rights violations such as access discrimination, disregard for informed consent, and the denial of life-saving medical actions that contradict human rights principles. Neglect of this legal pluralism creates a dangerous zone for fundamental human rights, necessitating concrete steps such as policy synchronization, formalization of safe traditional medical practices, strengthening legal literacy, and cross-element dialogue to harmonize state law and local norms, thereby ensuring consistent and equitable rights to health.

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1. INTRODUCTION

The legal pluralism that lives in Indonesian society creates its own complexity because the enactment of the state legal system based on national laws and regulations simultaneously coexists with the existence of customary law and religious norms that are still very strongly influential in various regions. The interaction between positive legal systems that tend to be positivistic-formalistic

and non-state legal systems that are sociological-traditional often cause friction when applied in the realm that touches on the most fundamental human rights, namely the right to health services. This condition puts the community in a vulnerable position due to the uncertainty of which legal authority actually provides the most optimal protection in the event of malpractice, denial of medical treatment, or discrimination in access to health that stems from the difference in interpretation of norms between formal law and local norms that are developing in the region (Adhar & Hidayah, 2026).

The implementation of health services in the country today is often faced with a sharp clash of values between the standard of medical operational procedures that are strictly regulated by the state through health laws and local wisdom or customary law that still upholds traditional medicine practices or decisions based on certain customary hierarchies. Fundamental problems arise when the right to individual health, which is universally recognized as a human right, is neglected or marginalized due to the dominance of the forces of customary norms that are collectively binding but less responsive to urgent and individual medical needs. This tension reaches a crucial point when an individual must choose between obtaining modern medical care guaranteed by the country's human rights protections or complying with customary/local norms that may substantially hinder the accessibility and effectiveness of medical measures, so that the protection of the right to health becomes highly subjective and depends on the power of the prevailing norms in that place.

The government through various national legal instruments has actually tried to guarantee the right of every citizen to the highest degree of health, but the reality on the ground shows that the implementation of these policies still faces resistance caused by the inconsistency between international human rights standards and the sociological realities of a pluralistic society. Neglect of the aspect of legal pluralism in national health policy often makes regulations made at the center do not touch the root of the problems that occur at the community level, resulting in a gap between written legal norms and community legal behavior that actually limits access to health for vulnerable groups. This situation clearly creates a legal loophole that can be exploited by certain parties to commit human rights violations by taking refuge behind the legitimacy of tradition or customary authority, which ultimately places citizens as objects that are not optimally protected when demanding the right to quality and humane health services (Estede et al., 2025).

Analysis of its impact requires serious attention because it is not uncommon for policies taken to unify health standards to trigger prolonged horizontal conflicts if they do not pay attention to the sociological and anthropological aspects of the local community. The protection of human rights in health services requires recognition of the diversity of the existing legal system, but it must still place basic human rights as the main principle that must not be violated by any legal system, be it state law, customary law, or religious law. The failure to synergize legal pluralism with human rights principles has the potential to damage the joints of health justice that should belong to everyone without exception, so that a reconstruction of thinking is needed that places individual health rights as the central point of every applicable legal system.

The main objective of this study is to analyze how legal pluralism affects the realization of human rights protection in the national health service system and identify juridical and sociological obstacles that arise due to the conflict of norms between the state legal system and the legal norms of local communities.

2. METHODS

This research uses a normative juridical method that focuses on the analysis of various laws and regulations, norms, and legal doctrines related to the protection of human rights in the health service system. This approach was chosen to dissect the synchronization between the positive laws of the state and the local norms that live in society, in order to see the compatibility between the legally applicable

legal norms and the principles of protection of health rights regulated in the constitution. The main focus is directed at the inventory of legal principles, vertical and horizontal synchronization, and comparison of norms to gain an in-depth understanding of how the law should regulate the right to health in the midst of the diversity of existing legal systems.

Data collection is carried out through a literature study technique that collects various primary, secondary, and tertiary legal materials through searching authoritative law books, reputable scientific journals, and relevant official government documents. This procedure involves a systematic selection of literature to ensure that each source is directly related to issues of legal pluralism and human rights in the health sector. The researcher conducts a critical reading of these legal texts in order to map the position of each regulation and local norm in the structure of the protection of individual rights, so that the collected data can be the basis for a strong argument for the legal analysis to be built.

Data analysis is carried out using a qualitative method that prioritizes a legal interpretation approach, namely conducting a systematic interpretation of literature materials to find solutions to the problems that have been formulated. This process includes a step of deduction from abstract legal norms to the reality of problems occurring on the ground, then developing coherent arguments to explain the impact of legal pluralism on the fulfillment of human rights. The results of this legal reasoning are then synthesized to provide recommendations or conceptual frameworks that are able to bridge the conflict of norms between the state legal system and community law, so that the protection of citizens' health rights is maintained consistently and fairly.

3. FINDINGS AND DISCUSSION

Interaction Patterns between State Law and Local Norms (Customary/Religious Law) in Regulating Access and Standards of Health Services in the Community

The interaction between state law and local norms in the health sector often shows a dominative-subordinative pattern, where state formal rules try to impose uniform medical standards on people with heterogeneous cultural backgrounds. The state stipulates that health services must meet scientific, hygienic, and medically standardized criteria to ensure patient safety, but sociological realities show that societies often prioritize treatment methods rooted in ancestral traditions or certain religious interpretations that are considered more attuned to their communal identity. Tension arises when state regulations require certain medical measures, while local norms provide rejection based on hereditary beliefs or habits that are deeply rooted as part of the daily life of the local community (Kusmiati, 2025).

The position of the community as a subject of law is faced with a crossroads when it comes to choosing between compliance with formal medical procedures or compliance with customary authorities that oversee health practices in their environment. The interaction pattern that often occurs is a form of implicit negotiation, where people tend to implement accommodation strategies while still following formal medical recommendations while still carrying out traditional rituals or medicine in parallel as a form of psychological and spiritual protection. This condition proves that state law is not completely able to shift the existence of local norms, but rather creates a hybrid space where state health service standards must compromise with practices that are sociologically recognized by the community but legally have not received formal recognition.

Health regulations made by the state are often rigid and do not take into account the cultural sensitivities that exist in each region, creating passive resistance from people who feel that these health standards are foreign to their lifestyle. Regulations requiring childbirth procedures in health facilities, for example, are often challenged in regions that still rely on baby shamans as central figures with deep emotional and historical ties. The community sees local norms as more personalized and affordable protection, while state law is seen as an impersonal, formal institution, which then clarifies the pattern

of interaction characterized by suspicion and distance between official health care providers and beneficiaries (Bachri, 2024).

The perspective of customary law and religious norms in this case performs a function of social control that often ignores the rights of individuals to health in order to maintain collective harmony or adherence to religious doctrines that are believed. Often, customary authorities or religious leaders have a greater deciding vote than the recommendations of medical professionals in determining whether a patient should receive certain modern medical procedures or treatments. The dominance of these local norms works through a social sanction mechanism that makes individuals feel morally bound not to violate the rules of their community, so that state medical standards are often reduced or even ignored in order to maintain the social status of individuals within their group.

Integration between state law and local norms can actually work synergistically if there is room for recognition of traditional medical practices that are based on empirical evidence and do not endanger human life. The ideal interaction pattern requires dialogue between law enforcement officials, health workers, and community leaders to find common ground that respects cultural freedom while guaranteeing the right to health as a universal human right. The absence of this communication bridge actually causes state laws to look dull due to the lack of legitimacy in the eyes of the public, while local norms become an obstacle if they are not aligned with globally recognized health security standards (Hasan et al., 2024).

The success of regulating access to health depends largely on the extent to which state laws are able to embrace local values without sacrificing the integrity of human rights protection for every citizen. The current pattern is still dominated by formalistic approaches that tend to ignore local wisdom, so there are often disconnections that cause the effectiveness of health services to not reach the expected targets. Neglect of legal pluralism in the health sector will only prolong normative conflicts, which ultimately put citizens in the vulnerable position of having to bear the consequences of the tug-of-war between two legal systems that are supposed to work together for the common good.

The harmonization of norms is the key to changing the pattern of interaction from a confrontational to a collaborative form, where state health rules act as a general protection umbrella and local norms function as humanistic support tools. This effort requires the recognition that every human being has the right to quality health services in accordance with his dignity, without having to feel alienated from the cultural roots that have shaped his identity. This alignment does not mean eliminating pluralism, but rather managing this diversity so that health services are able to reach all levels of society in a fair, safe manner, and still respect the values that live in society (Japar et al., 2024).

Law Number 17 of 2023 concerning Health affirms that everyone has the right to access quality and safe health service facilities, but the reality of legal pluralism often creates normative clashes that hinder the implementation of this right. Article 173 of the law mandates the guidance and supervision of traditional medicine practices, which should be the starting point for integration so that local methods do not clash with national medical standards. Disharmony arises when communities are caught between the obligation to comply with state health regulations and social pressure to follow customary norms that may not be in line with formal medical procedures, so that the individual's right to quality health care is often reduced by dominant local authorities.

Efforts to bridge the gap between the state legal system and local norms require concrete steps in the form of synchronization of policies that respect human rights as guaranteed in Article 28H paragraph (1) of the 1945 Constitution. This constitutional provision guarantees everyone's right to health care, which means the state has an obligation to ensure that there are no local norms that prevent citizens from accessing life-saving medical measures. The existence of local norms that limit access to health is a serious challenge for the state, so derivative regulations are needed that are able to mediate

this norm conflict so that the protection of citizens' constitutional rights remains a top priority without having to negate evolving cultural values (Muslim et al., 2026).

A preventive approach through the integration of local wisdom into national health policies needs to be realized by involving community leaders in the health education process so that they understand that state medical standards are there to protect human dignity. Article 175 of the Health Law regulates the recognition of traditional medicine as part of the nation's cultural heritage, but this recognition must be accompanied by strict safety standards to prevent harm to patients. The change in interaction patterns from confrontation to collaboration is urgent so that local norms transform into partners that support the attainment of the highest degree of public health, while ensuring that every individual's right to a healthy life is not sacrificed by practices that cannot be medically accounted for.

Forms of Human Rights Violations that Arise as a Result of the Inconsistency between the Application of Positive Law and the Enactment of Pluralistic Norms in Health Services

Discrimination against access to health services emerges as the most obvious human rights violation when rigid customary norms or religious doctrines close the door to certain groups to obtain crucial medical care. Moral boundaries set by local communities often trigger negative stigma against patients with certain medical conditions, such as infectious diseases or mental health disorders, who are legally positive and should be entitled to the right to privacy and medical treatment without prejudice. Social pressure to adhere to this interpretation of traditional norms causes many individuals to lose the opportunity to heal because they fear being ostracized or perceived as violating the unwritten laws imposed by dominant groups in the region where they live (Novemyanto et al., 2025).

Ignoring informed *consent* often occurs when an individual's health decision is taken entirely by family authorities or customary leaders without considering the patient's own wishes and autonomy rights. This situation shows the dominance of a collective value system that deprives a person of the right to determine the fate of his or her own body, especially when modern medical procedures are considered to be contrary to the principles of trust held by the local community. This violation of the right to autonomy is a serious loophole because state law is often defeated by the hegemony of local norms that consider adherence to tradition an absolute obligation that goes beyond the rule of written law.

Rejection of life-saving measures is a very tragic manifestation of the violation of the right to life due to the clash between the standard of medical operational procedures and custom-based prohibitions or narrow religious understanding. Many cases show that patients who actually need surgical intervention or blood transfusions are strictly forbidden to obtain them for reasons that are only recognized by local customary authorities, so that the positive laws that guarantee the right to survival of citizens become powerless. The loss of life that could have been prevented through medical action is clear evidence that the inconsistency between state law and the pluralism of local norms has created a danger zone for the most fundamental human rights (Pradhani, 2021).

Neglect of the right to accurate health information is another form of violation that arises because people believe more in rumors or myths spread by traditional figures than in objective and scientific medical explanations. Patients' right to know their health conditions transparently is often hampered by the existence of local norms that limit communication between medical personnel and families, so that actions taken are not based on correct knowledge. This condition puts citizens in manipulative uncertainty, where they lose control of health care choices due to the dominance of authorities who use ignorance as a means of control in their daily lives.

Abuse of authority in traditional medicine practices that do not have standard medical standards is often left unchecked due to the strong cultural legitimacy of society. The lack of protection for patients who are victims of malpractice by traditional medicine practitioners indicates a gap in legal

responsibility, where the state seems to lose the authority to demand accountability for actions that harm the health of citizens. Citizens harmed by irresponsible medical practices can often only resign because lawsuits against medical practitioners are considered to be against tradition or against the will of a locally respected community (Pratiwi & Elta, 2026).

Violations of the right to a decent standard of living include aspects of health services that do not meet humanitarian requirements due to the neglect of practices that degrade the dignity of patients. Customary norms that sometimes allow unhygienic health procedures or physically torturous medical procedures are considered a form of ritual that should not be disturbed, even though this is contrary to everyone's human right to treatment that respects physical dignity and safety. Standardization or standardization of health services is often difficult to achieve because the state tends to be reluctant to intervene that is considered offensive to the public, so that the protection of the right to humane health remains a utopia in the midst of a strong grip on norm pluralism.

The failure of the legal system to guarantee protection for vulnerable groups, such as women and children, in the interaction between positive law and pluralistic norms often results in systemic injustices. Women's right to safe and quality reproductive health services is often hampered by patriarchal norms that restrict access to health based on the authority of the husband or the decision of the extended family. The absence of effective legal protection for these individuals in the face of the pressures of local norms makes human rights only theoretical, while in real practice, they remain victims of the inconsistencies of the legal system that fails to provide the certainty of protection for basic health rights that should be guaranteed by the state (Rahmadani & Jumantoro, 2026).

Violations of *informed consent* as stipulated in Article 276 of the Health Law are a tangible manifestation of the inconsistency between the right to individual autonomy and the hegemony of local norms that often ignore the will of patients. The law requires medical personnel to provide clear information to patients before action is taken, but many individuals in the community are caught up in collective decision-making forced by family or traditional leaders. This situation suggests that patients' right to refuse or consent to medical procedures is often not fully fulfilled due to sociological pressures, so that legal protections provided by the state become ineffective when dealing with customary authorities who consider individual decisions to be community decisions.

The protection of patients' right to life neglected due to tradition-based prohibitions is diametrically opposed to the state's obligation to guarantee the right to survival as affirmed in Law Number 39 of 1999 concerning Human Rights. Article 9 of the law clearly states that everyone has the right to live, maintain life, and improve his standard of living, which includes the right to adequate health services. When local norms impede the medical interventions necessary to sustain life, there is a neglect of the most basic human rights, so the state must act decisively to guarantee that an individual's right to life cannot be overridden by customary rules or religious interpretations that have no scientific basis (Sijabat & Widjaja, 2025).

The state's responsibility in dealing with traditional medicine malpractice remains a big homework because there are legal loopholes in processing cases involving medical practitioners who do not have official permits. Article 440 of the Health Law provides for criminal and civil liability for health workers who commit negligence, but the scope of this rule is often difficult to apply to traditional medical practices that operate outside of formal state supervision. The lack of legal certainty in taking action against violations that occur due to medical interventions that do not meet medical standards makes it difficult for patients to get justice, so sharper regulations are needed to ensure that every party providing health services, both modern and traditional, is legally responsible for patient safety.

Policy Formulation to Harmonize Legal Pluralism to Ensure Consistent Protection of Human Rights in the Health Service Sector

The formulation of legal policies that are responsive to pluralism in the health sector requires an integrative approach that is able to marry the certainty of state law with local wisdom without sacrificing universal human rights. The government must codify or at least formalize traditional medical practices that are proven to be safe and beneficial to the community, so that these activities receive legal recognition and strict supervision of health standards. This step aims to provide legal protection for patients while providing operational certainty for traditional practitioners so that they can work in accordance with nationally recognized medical safety principles (Wicaksono, 2025).

The empowerment of health workers in areas with strong local wisdom must be done through culturally sensitive-based training that allows them to be a bridge between modern medical standards and community beliefs. Medical personnel no longer just carry out their functions as health technicians, but rather act as educators who are able to conduct persuasive negotiations with traditional leaders or religious leaders to find common ground in every necessary medical action. This role transformation allows for an equal dialogue between modern medicine and local values, so that people feel involved in the decision-making process without having to feel alienated from their cultural identity.

The establishment of an ethics council or cross-element coordination forum at the local level is a strategic mechanism to deal with norm disputes that arise in the field between formal rules and customary law. This forum ideally involves community leaders, legal experts, health experts, and local government representatives who serve as mediators in the event of a rejection of medical measures or health policy conflicts. The existence of this institution ensures that citizens' rights to health are not determined unilaterally by customary authorities, but rather through considerations that consider medical, juridical, and sociological aspects proportionately (Yuniar et al., 2026).

The application of the principle of *affirmative action* in health policy needs to focus on protecting vulnerable groups who are often victims of the dominance of discriminatory local norms. The state must establish specific non-negotiable standards of protection, such as access to emergency services and reproductive health, that apply absolutely throughout the region without being affected by local customary or religious norms. The enforcement of these absolute standards serves as a safety net so that the individual's right to life and health is not eroded by traditional practices that are contrary to human dignity.

Strengthening legal literacy and public health through massive socialization programs is an absolute requirement to create collective awareness about the limits of cultural freedom in health practice. The government needs to prepare communication materials that are easy to understand by various levels of society regarding the rights of patients guaranteed by the constitution, so that everyone has the courage to demand access to quality health. This increase in the intellectual capacity of the community will slowly change their perspective in seeing state law not as an enemy of tradition, but as a protective tool that ensures their survival and welfare (Bakri, 2026).

Bureaucratic reform in the health sector must involve periodic evaluation of the effectiveness of existing regulations to ensure that the policies designed truly address the root causes of sociological problems at the site level. This evaluation must be open and involve the participation of the wider community to identify legal loopholes that have often been used to limit human rights. The government's responsibility in adapting health policies to changing sociological realities will increase public trust, so that state laws gain strong legitimacy in the midst of a pluralistic society.

The central government needs to provide flexibility for local governments in formulating standard operating procedures that are tailored to local cultural characteristics, but remain within the corridor of human rights protection established by national law. This strategy creates a hierarchical but mutually

supportive legal order, where the diversity of the legal system in Indonesia is actually an asset that enriches the protection of the right to health for all citizens without exception.

4. CONCLUSION

Legal pluralism in Indonesia, which brings together formal medical standards with customary or religious norms, often creates a clash of values that hinders the fulfillment of human rights to health services. These inconsistencies trigger various rights violations, ranging from access discrimination to ignoring *informed consent* and the right to life, which demand policy integration through regulatory synchronization, strengthening public literacy, and cross-element dialogue as an effort to ensure consistent protection of health rights for all citizens.

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