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The Effectiveness of Derivative Actions as a Means of Protecting The Interests of Minority Shareholders in Limited Liability Companies

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Abstract: *This study examines Derivative Actions as a legal instrument to protect minority shareholders in Limited Liability Companies in Indonesia based on Law Number 40 of 2007. The main issue discussed is the effectiveness of Derivative Actions in ensuring fairness and balance of power between majority and minority shareholders. The purpose of this study is to analyze the legal framework of Derivative Actions in the Indonesian corporate legal system and evaluate its relevance to the application of Good Corporate Governance (GCG) principles. This study uses a normative (doctrinal) legal method with a juridical, conceptual, and case approach. Data was collected from primary, secondary, and tertiary legal materials and analyzed qualitatively through legal interpretation. The findings show that Derivative Actions provide a solid legal basis for minority shareholders to sue Directors or Commissioners who violate their fiduciary duties; however, their practical application is still limited due to procedural complexity and lack of legal awareness. This study concludes that Derivative Actions play a vital role in realizing corporate justice, improving management accountability, and strengthening transparency and responsibility in corporate governance in Indonesia.*

Keywords: Derivative Actions, Minority Shareholders, Corporate Governance

INTRODUCTION

Economic development in Indonesia has shown rapid progress, reflected in the increasing number of companies established and actively playing a role as drivers of business activities. The term "company" itself is an economic concept that is often used in the Commercial Code (KUHD). However, interestingly, the KUHD does not explicitly provide a definition or official explanation of the meaning of this word. Article 36 of the KUHD states that a limited liability company does not have a firm and does not use the name of one or more of its founders, but rather names itself based on its business objectives alone. This shows that the identity of a company does not depend on its founders, but rather on the objectives and business activities it carries out as an independent and professional legal entity.

In the process of establishing a Limited Liability Company (PT), a group of individuals is required to draft articles of association as the legal basis for the formation of a business entity, which must then be reported to and approved by the government. The deed of establishment as stipulated in Article 15 paragraph (2) of

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Law Number 40 of 2007 must contain at least eight important elements, namely: the name and domicile of the company; its objectives and purposes along with its business activities; the term of establishment; the amount of authorized capital; the paid-up capital; and the paid-in capital; details of the number, value, and classification of shares; the composition of the board of directors and commissioners; and provisions regarding the procedures for the use of profits and the distribution of dividends. In addition, the founders also need to prepare articles of association that serve as general guidelines in managing the organization and corporate governance, so that business activities can run in an orderly, transparent manner and in accordance with applicable legal principles.[1] In addition, the founders also need to prepare articles of association that serve as general guidelines in managing the organization and corporate governance, so that business activities can run in an orderly, transparent manner and in accordance with applicable legal principles.

The establishment of a Limited Liability Company (PT) is a form of business activity that plays an important role in supporting the dynamics of the national economy, thus requiring a regulatory system that is adaptive to the times. Based on the provisions of Article 1 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies, a Limited Liability Company (PT) is defined as a legal entity based on a capital partnership and formed through an agreement.[2] PTs conduct business activities using paid-up capital divided into shares and are required to comply with the provisions stipulated in the law and its implementing regulations. Therefore, the existence of PTs not only represents a means for capital-based economic activities, but also reflects legal responsibilities and structured governance in accordance with the principles of modern corporate law. Shares are a concrete manifestation of capital invested in a limited liability company. Shareholders are individuals or parties who participate in the financing of the company through the ownership of one or more shares. In this capacity, shareholders have a number of rights and obligations, including the right to receive dividends in accordance with the number of shares owned, and unless otherwise specified in the company's articles of association, shareholders also have the right to attend and vote at the General Meeting of Shareholders (GMS) and participate in important company decisions. In addition, shareholders are also entitled to receive a return on their fully paid-up shares in accordance with applicable regulations.

The main obligation of shareholders is to pay off the entire value of the shares for which they are responsible within the specified time. As long as this obligation has not been fully fulfilled, shareholders do not have the right to transfer their shares to other parties without the company's approval. In the context of implementing the principles of Good Corporate Governance (GCG), the position of shareholders plays a very strategic role. Through their position, it is possible to measure the extent to which shareholder rights are protected and how the principles of transparency, accountability, and fairness are applied in order to avoid practices that could potentially harm the interests of the company as a whole.[3] In a company, shares can be grouped based on the size of the ownership portion and the rights attached to the holder. In general,

[1] *Law No. 40 of 2007. (*n.d.). Regulation Database | JDIH BPK. Retrieved October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[2] *Law No. 40 of 2007. (*n.d.). Regulation Database | JDIH BPK. Retrieved on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[3] Novaliana, S., Akila, A., & Mafra, N. U. (2023). The Influence of Good Corporate Governance (GCG) and Ownership Structure on the Financial Performance of Banking Companies Listed on the Indonesia Stock Exchange for the Period 2016-2020. *Media Journal of Economic Vehicles, 20(3*), 549–562. https://doi.org/10.31851/jmwe.v20i3.13460

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this grouping is done by looking at the composition of the number of shares owned, resulting in the terms majority and minority shareholders. The main difference between the two lies in the level of control over the direction and policies of the company. However, shareholders with a relatively small ownership share can still have a major influence in determining the direction of the company, especially if they are able to utilize their strategic rights effectively and carefully.

In the structure of a Limited Liability Company (PT), the principle of "one share, one vote" applies, as stipulated in Article 84 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), unless the Articles of Association stipulate otherwise. This principle affirms that each share gives its holder one voting right, so that the amount of power in corporate decision-making depends on the number of shares owned. As a result, there is a difference in position between majority shareholders who have greater control and minority shareholders who have more limited influence.[4] However, the UUPT still provides legal protection for minority shareholders, especially in situations that have the potential to change the structure or continuity of the company, such as mergers, consolidations, takeovers, or spin-offs. This provision reflects the commitment of Indonesian corporate law to maintain a balance between power and justice among shareholders. The liability of shareholders in a limited liability company is limited to the number of shares they own. This is regulated in Article 3 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), which states that shareholders are not personally liable for obligations made on behalf of the company, nor for losses exceeding the value of the shares they own.[5] Based on the definition of shareholders according to Black's Law Dictionary, it can be understood that minority shareholders generally do not have the power to control the company's operations or determine the composition of the Board of Directors. To overcome this limitation, the concept of derivative actions was born, which is the legal right granted to minority shareholders to act on behalf of the company if other corporate bodies, such as the Board of Directors or Board of Commissioners, fail or neglect to protect the interests of the company. This mechanism is an important tool in maintaining the balance of power within the company and ensuring fair and accountable corporate governance.

Every shareholder, whether majority or minority, has the same legal standing in exercising derivative lawsuit rights. Through this mechanism, one or more shareholders representing at least 1/10 (one tenth) of the total voting shares are authorized to act on behalf of the company in suing directors and commissioners. A lawsuit can be filed in a District Court if it is proven that the actions or negligence of the directors and commissioners have caused losses to the company. This is in line with the provisions of Article 61 of Law Number 40 of 2007 concerning Limited Liability Companies, which stipulates that every shareholder has the right to sue the company if the decisions of the General Meeting of Shareholders (GMS), the directors, or the board of commissioners are deemed unfair, unreasonable, or made without a valid basis. This provision reflects the principles of fairness and balance in corporate governance, whereby every shareholder is given equal legal protection to maintain the integrity and accountability of company management.[6]

[4] *Law No. 40 of 2007.* (n.d.). Regulation Database | JDIH BPK. Retrieved on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[5] *Law No. 40 of 2007.* (n.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[6] *Law No. 40 of 2007.* (n.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

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The development and recognition of the derivative suit doctrine in the history of corporate law is the result of a long evolutionary process based on the need for corporate justice. Initially, there was dissatisfaction with the basic principles of corporate law that gave full authority to the board of directors to represent the company in court, while shareholders did not have similar rights. This condition created an imbalance in the mechanism for protecting the interests of the company itself. Therefore, legal experts and practitioners began to look for alternative ways to enable shareholders, especially minority shareholders, to uphold justice for the company. This long search finally gave birth to the concept of derivative suits, as a legal tool that provides shareholders with the opportunity to act on behalf of the company to protect its interests from detrimental actions by management.

The lawsuit triggered derivative lawsuits, particularly those related to the appointment of new Directors and Commissioners as part of the company's management restructuring.[7] The basis for the General Meeting of Shareholders' (GMS) decision to dismiss the previous Directors and Commissioners was based on the assessment that the old management no longer complied with applicable laws, even though their terms of office had not yet ended. In this context, because the derivative lawsuit was filed by minority shareholders to protect the interests of the company, they acted as litigation trustees or representatives acting on behalf of the company. Interestingly, in derivative lawsuits, the parties acting as plaintiffs and defendants are generally not the company itself, although in some legal systems, the company is still placed as a passive party in the judicial process. In such cases, the company often acts as a nominal defendant, i.e., a party that is formally the defendant but has very limited scope to defend itself. In the process, if a situation arises that could potentially harm the company's interests, it should be noted that not every lawsuit filed by shareholders on behalf of the company can be categorized as a derivative lawsuit. There are a number of criteria that must be met in order for this right to be exercised legally. Shareholders, for example, cannot file a derivative lawsuit if the actions or decisions of the board of directors in question can still be ratified by the General Meeting of Shareholders (GMS) with an ordinary resolution.

However, if the directors' actions cannot be ratified by the GMS because they constitute fraud against the minority or a form of fraud against minority shareholders, then a derivative lawsuit may be filed.[8] Such lawsuits only have legal force if the directors' actions in question were carried out by parties with dominant control over the company, and the decision was approved by a majority of independent shareholders who did not have a conflict of interest. This provision indicates that derivative lawsuits are essentially filed by certain shareholders, namely those who own at least one-tenth of all shares, but not for personal gain, rather for the interests and protection of the company itself. Therefore, derivative lawsuits are unusual, because under normal circumstances, the board of directors or other parties authorized by the board of directors in accordance with the provisions of the articles of association are authorized to act on behalf of the company. Therefore, legal actions filed by shareholders in the form of derivative suits are a special exception, as they demonstrate the active efforts of shareholders, especially minority shareholders, to ensure that the interests of the company remain protected when the management body is negligent or deviates from its obligations.

[7] Fitriani, R. (2012). Derivative Lawsuits by Minority Shareholders in Limited Liability Companies. *Riau Law Journal,* 2(*1*). https://doi.org/10.30652/jih.v2i01.491

[8] Subagiyo, D. T. (2015). Legal Protection for Minority Shareholders Due to Unlawful Actions by Directors According to the Limited Liability Company Law. Perspective: Journal of Legal and Development Issues. *Perspective, 20(1*), 49. https://doi.org/10.30742/perspektif.v20i1.122

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Upon closer examination, Law No. 40 of 2007 concerning Limited Liability Companies, which replaced Law No. 1 of 1995, still maintains the principle of "one share, one vote," whereby the number of shares owned determines the number of votes in company decision-making.[9] This principle, although reflecting the principle of proportionality in ownership, in practice often causes an imbalance of power between majority and minority shareholders. Minority shareholders are often in a weak position and have no significant influence on the direction of the company's policies and strategic decisions, especially when these policies have the potential to harm the interests of the company or themselves. In this context, various potential internal conflicts arise, both in closed and open limited companies, such as disputes over profit sharing, management, and corporate policies controlled by majority shareholders. This imbalance highlights the importance of legal protection for minority shareholders so that their rights are not ignored due to majority domination. As legal instruments, the doctrines of "piercing the corporate veil" and "ultra vires" provide a basis for minority shareholders to file derivative lawsuits on behalf of the company against directors or commissioners whose actions have harmed the company.[10] This protection is not only normative in nature, but also reflects the need to uphold the principles of good corporate governance through the application of business ethics and legal culture within the company.

In this case, the importance of protecting minority shareholders in Limited Liability Companies cannot be ignored, given their position, which is often vulnerable to the dominance of majority shareholders. Therefore, the provisions regarding derivative actions regulated in Law Number 40 of 2007 concerning Limited Liability Companies are a very strategic legal instrument to ensure balance and fairness in corporate ownership and decision-making structures. With this mechanism, minority shareholders have the means to hold directors or commissioners accountable for acting beyond their authority or causing losses to the company. This condition raises interesting legal questions for further study, namely the extent to which the effectiveness of derivative rights can be implemented as a form of legal protection for minority shareholders and how its application can reflect the principles of good corporate governance in practice. This is important to analyze, given that effective legal protection for minority shareholders is an important foundation for creating a fair, transparent, and sustainable investment climate in Indonesia.

METHODOLOGY

This study applies a normative legal approach (doctrinal approach), which is a legal research method that focuses on the analysis of legal norms as formulated in corporate regulations, court decisions, and doctrines developed in corporate legal practice.[11] The study was conducted through a review of primary legal materials in the form of provisions on limited liability companies and jurisprudence related to derivative actions, secondary legal materials such as scientific literature and opinions of corporate legal experts, as well as tertiary legal materials that support the clarity of the concept. This approach is used to interpret and evaluate the effectiveness of derivative action regulations as an instrument of protection for minority shareholders, while also assessing the alignment of their application with the principles of fairness and good

[9] *Law No. 40 of 2007. (*n.d.). Regulation Database | JDIH BPK. Retrieved October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[10] Rusli, T. (2018). Legal Protection for Minority Shareholders in the Company Acquisition Process. Pranata Hukum. *Pranata Law*, *13*(1).

[11] Muhdar, M. (2020, April 23). *Doctrinal and Non-Doctrinal Applied Approaches in Legal Research.* Unknown.https://www.researchgate.net/publication/340861898_penelitian_doctrinal_dan_non-doctrinal_pendekatan_aplikatif_dalam_penelitian_hukum_oleh_muhamad_muhdar_penerbit

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corporate governance. Through this study, this research aims to construct a comprehensive and argumentative legal framework regarding the position of derivative actions in the corporate legal system in Indonesia.

DISCUSSION

Development of Legal Protection for Minority Shareholders in the Development of Corporate Law in Indonesia

The evolution of legal regulations concerning shareholders in Indonesia shows a significant evolution in providing protection for minority shareholders. Since the enactment of several legal provisions governing share ownership and voting rights in the General Meeting of Shareholders (GMS), it can be seen that each era of legislation reflects the spirit of protection in accordance with the context of its time. During the period when the Commercial Code (KUHD) was in force, the provisions of Articles 36 to 56 did not explicitly recognize the concept of protection for minority shareholders as regulated in modern corporate law. However, the KUHD actually opened up space for indirect protection through a quota voting system in GMS decision-making that did not fully follow the one share, one vote principle.[12] This system provides an opportunity for minority groups to maintain proportional influence in important company decisions, while preventing absolute domination by majority shareholders.

Furthermore, although the Commercial Code does not explicitly regulate specific rules regarding the protection of minority shareholders, the spirit of such protection can be interpreted through provisions that require prudence in strategic decision-making. For example, the application of the supermajority principle in crucial actions such as amendments to the articles of association demonstrates a legal effort to maintain a balance of interests among shareholders. This provision confirms that fundamental changes in a company cannot be made unilaterally by the majority if they conflict with the company's basic principles and objectives. Therefore, even though the Civil Code does not formally use the term "protection of minority shareholders," its substance and spirit have become the basis for the development of the principles of justice and equality in Indonesian corporate law, which were later refined through the Limited Liability Company Law in the following period.

Initially, the corporate legal system regulated in the Commercial Code still placed the protection of minority shareholders in a limited position, through quorum mechanisms and quota principles aimed at balancing power between majority and minority shareholders. This principle was intended to ensure that important decisions in the General Meeting of Shareholders (GMS) could not be made based solely on a simple majority vote, but had to involve the approval of a certain number of votes, such as 2/3 or 3/4 of all valid votes. Philosophically, this provision reflects an effort to prevent absolute domination by the majority group and ensure that every policy adopted truly represents the interests of all shareholders, including minority shareholders. In addition, the application of the quota principle in Article 54 of the Civil Code is a concrete manifestation of the protection of minority shareholders.[13] This system regulates the voting rights of large shareholders to prevent imbalances in corporate decision-making. However, this system was later deemed

[12] Supreme Court Legal Information System. (no year). *Commercial Code*.
[13] Supreme Court Legal Database. (no date). *Commercial Law Code*.

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no longer in line with economic developments and modern corporate structures that demand efficiency and clarity in share ownership representation. Therefore, Law Number 4 of 1971 emerged as a milestone of reform by replacing the quota system with the one share, one vote principle, where each share has the same voting rights regardless of the number of shares owned by an individual.[14] This transformation marked a paradigm shift from a restrictive system to the strengthening of the principle of equal ownership, which also strengthened the legitimacy of shareholders in determining the direction of company policy.

In addition, the evolution of legal protection for minority shareholders reached a more mature form in Law No. 40 of 2007 concerning Limited Liability Companies. Through this law, the position of minority shareholders is not only formally guaranteed through voting mechanisms, but also substantially through the regulation of certain rights, such as the right to file derivative suits, the right to obtain company information, and the right to reject decisions of the General Meeting of Shareholders (GMS) that are considered detrimental.[15] This improvement demonstrates the national legal awareness of the importance of balancing the interests of the majority and minority as a prerequisite for good corporate governance. Thus, the long journey of the evolution of Indonesian corporate law shows a progressive commitment to creating a fair, transparent, and accountable corporate system, where the protection of minority shareholders is an integral part of modern corporate justice.

Meaning and Legal Position of Minority Shareholders in the Perspective of the Limited Liability Company Law

Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) does not explicitly define who is considered a minority or majority shareholder.[16] This regulation only affirms the rights and obligations of shareholders in general without making a clear distinction based on the number of shares owned. However, the rights regulated in the UUPT are essentially aimed at ensuring the protection of minority shareholders so that they are not harmed by the decisions of majority shareholders who have greater power in corporate policy-making. In other words, even though there is no article that directly defines minority status, the spirit of legal protection for groups of shareholders who are in a weak position remains an integral part of the corporate legal system in Indonesia.

In practice, the distinction between minority and majority shareholders is often determined based on the composition of share ownership and the rights attached to it.[17] Shareholders who control the majority of a company's capital generally have more dominant voting rights at the General Meeting of Shareholders (GMS), enabling them to control the direction of the company's policies and strategies. On the other hand, shareholders with a small number of shares often do not have enough power to influence corporate decisions, so they are categorized as minority shareholders. The distinction based on share ownership composition is the most common measure in determining the position of shareholders in the company's

[14] *Law No. 4 of 1971. (*no date). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/47559/uu-no-4-tahun-1971

[15] *Law No. 4 of 1971. (*n.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/47559/uu-no-4-tahun-1971

[16] *Law No. 40 of 2007. (*n.d.). Regulation Database | JDIH BPK. Retrieved on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[17] Fitriani, R. (2012). Derivative Lawsuits by Minority Shareholders in Limited Liability Companies. *Riau Law Journal,* 2(*1*). https://doi.org/10.30652/jih.v2i01.491

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power structure. However, in certain contexts, share ownership size is not always an absolute indicator in determining who controls the company. Shareholders with a relatively small number of shares can have a significant influence on the direction of company policy, for example, due to their strategic position in management or personal relationships with other shareholders. Therefore, the ability to control company operations is a more substantial aspect than simply the number of shares owned. This concept emphasizes that corporate control is not only determined by the quantity of ownership, but also by a person's capacity and position within the company's organizational structure.[18]

However, the UUPT implicitly refers to the size of share ownership as the basis for categorizing minority shareholders. Based on the applicable provisions, shareholders who own at least 10% of all shares issued by the company can be considered minority shareholders who have certain rights, such as filing derivative lawsuits or requesting the holding of a General Meeting of Shareholders (GMS). This category shows that the recognition of minority shareholders is not only limited to the amount of share ownership, but also to the protection of their rights so that they are not marginalized by the majority. Thus, the provisions in the UUPT reflect a balance between the principle of freedom of enterprise and the principle of fairness in the company's ownership structure.

Legal Analysis of the Provisions of Law Number 40 of 2007 in Providing Legal Protection for Minority Shareholders.

Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) provides a strong legal basis for the protection of minority shareholders' rights as part of efforts to achieve justice and balance in corporate structures.[19] One form of such protection is reflected in the authority of shareholders to file a lawsuit in a District Court if the decisions of the General Meeting of Shareholders (GMS), the Board of Directors, or the Board of Commissioners are deemed to be detrimental to their interests without fair and reasonable grounds. This provision is a legal tool that allows minority shareholders to correct corporate policies that deviate from the principles of fairness and propriety, while also affirming their position as legal subjects with equal rights in the company's ownership structure.

In addition, the UUPT grants shareholders the right to request that their shares be repurchased by the Company at a fair price if they disagree with certain actions taken by the Company, such as amendments to the Articles of Association, transfers or pledges of assets valued at more than 50%, or mergers, consolidations, takeovers, or spin-offs that could harm the Company.[20] However, this right is limited by Article 37 of the UUPT, which stipulates that the repurchase of shares may not cause the company's net assets to fall below the amount of paid-up capital plus mandatory reserves, and may not exceed 10% of paid-up capital, unless otherwise stipulated by capital market regulations. This restriction reflects a balance between protecting the interests of individual shareholders and the sustainability of the corporate entity itself.

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[18] Putra, F., & Adhitya Agri Putra. (2021). The Influence of Share Ownership Structure, Capital Structure, and Profit on Company Value. *Journal of Accounting, Finance, and Business, 14(1)*, 1–10. https://doi.org/10.35143/jakb.v14i1.4469

[19] *Law No. 40 of 2007. (*n.d.). Regulation Database | JDIH BPK. Retrieved October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[20] Ansory, W. A., & Nasution, K. (2022). Reformulation of the Law on Shareholder Lawsuits Below 1/10. *Bonum Commune Business Law Journal,* 109–122. https://doi.org/10.30996/jhbbc.v5i1.6041

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In addition, the UUPT also recognizes the right of minority shareholders to request a General Meeting of Shareholders (GMS) if necessary. This right is an internal control mechanism that allows minority groups to play an active role in the company's decision-making process and serves as a checks and balances mechanism against the potential domination of majority shareholders. Not only that, minority shareholders are also authorized to file lawsuits against members of the Board of Directors whose negligence or mistakes cause losses to the Company. This mechanism shows that corporate law not only places the Board of Directors and Commissioners as executive organs, but also as legal subjects who can be held accountable for actions that harm the Company.[21]

Legal protection for minority shareholders is strengthened by giving them the right to represent the company in filing lawsuits against the Board of Commissioners for negligence in carrying out their supervisory duties. Such negligence includes actions that are not carried out in good faith, lack of prudence, or deviation from the company's objectives and goals. Through this provision, the law establishes the principles of responsibility and prudence (fiduciary duty) as fundamental elements of corporate governance.[22] Minority shareholders are no longer passive parties, but have a strategic role in maintaining the integrity of the Company's management organs from practices that are detrimental to the Company.

The UUPT also grants every shareholder the right to request a special audit from the district court if there are allegations of illegal actions committed by the Company or its organs that cause losses to shareholders or third parties. This audit serves as a mechanism for transparency and accountability, allowing shareholders to gain access to material facts related to corporate actions.[23] In addition, shareholders also have the right to propose the dissolution of the Company through a General Meeting of Shareholders (GMS), which is the most extreme form of legal protection if the Company is deemed to have deviated from the interests of the corporation and its shareholders. To complement all these provisions, the principles of Good Corporate Governance (GCG) are the basic values that must be applied in all company activities. The TARIF principles, namely Transparency, Accountability, Responsibility, Independence, and Fairness, serve as ethical and normative guidelines for company organs in carrying out their duties and authorities.[24] Through the implementation of GCG, it is hoped that a balance between the interests of the majority and the minority will be created, as well as the prevention of abuse of authority within the company. Thus, the provisions in the UUPT not only function normatively, but also functionally, namely as a tool to realize corporate justice and effective legal protection for minority shareholders in the dynamics of the modern business world.

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[21] Hapsari, I. (2014). Corporate Governance Mechanisms and Derivatives. *Airlangga University Economic Journal, 24(2)*.

[22] Pahaso, S. (2015). The Position and Responsibilities of Founders of Limited Liability Companies (PT) Towards Companies Experiencing Bankruptcy According to Law Number 40 of 2007. *Lex Privatum,* 3(*2*).

[23] *Shareholder Rights in Indonesia. (*undated). Retrieved October 16, 2025, from https://business-law.binus.ac.id/2018/02/17/hak-hak-pemegang-saham-di-indonesia/

[24] Karsono, B. (May 10, 2023). *Good Corporate Governance: Transparency, Accountability, Responsibility, Independence, and Fairness (Literature Review). Dinasti International Journal of Management Science.* LPPM Universitas EKASAKTI. https://www.researchgate.net/publication/373917542_good_corporate_governance_transparency_accountability_responsibility_independency_dan_fairness_literature_review

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Legal Protection Efforts for Minority Shareholders as a Form of Justice in Limited Liability Companies.

In the Indonesian corporate legal system, protection for minority shareholders is a manifestation of the principle of justice in the operation of limited liability companies. Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) and Law Number 8 of 1995 concerning Capital Markets have regulated legal protection mechanisms for minority shareholders through two main forms, namely preventive and repressive protection.[25] These two forms of protection reflect the state's efforts to balance the position of majority shareholders, who have dominant control, with minority shareholders, who are often in a weak position in the company's strategic decision-making. Through these regulations, the law functions not only as a tool to control corporate behavior but also as a means to ensure that the rights of each shareholder are respected and protected proportionally. Preventive legal protection aims to prevent internal conflicts within the company by providing space for minority shareholders to participate fairly in corporate activities. The Limited Liability Company Law of 2007 explicitly grants fundamental rights to minority shareholders, such as the right to equal treatment, the right to vote at general meetings of shareholders (GMS), and the right of appraisal, which is the right to assess and reject corporate decisions that are considered detrimental to their interests.[26] These provisions are essentially aimed at maintaining a balance of interests among shareholders and preventing abuse of power by majority shareholders. However, even though this protection is regulated in positive law, in practice it is often not fully effective because the dominance of majority shareholders still has the potential to control the direction of company policy.

On the other hand, repressive legal protection is provided as a resolution mechanism in the event of a violation of rights or a dispute between shareholders and company organs. In this context, the Limited Liability Company Law of 2007 (UUPT), through Article 97 paragraph (6), grants minority shareholders who own at least one-tenth of all voting shares the right to file a lawsuit against members of the Board of Directors who act negligently or cause losses to the company.[27] This provision shows that the law provides access to justice for minority shareholders to demand legal accountability from management that deviates from the principles of prudence and accountability. Thus, this lawsuit instrument serves as a form of judicial oversight of corporate governance to ensure that it continues to operate in accordance with the principles of good corporate governance. Thus, repressive legal protection is provided as a settlement mechanism when there are violations of rights or disputes between shareholders and company organs. In this context, the Limited Liability Company Law of 2007, through Article 97 paragraph (6), grants minority shareholders who own at least one-tenth of all voting shares the right to file a lawsuit against members of the Board of Directors who act negligently or cause losses to the company.[28] This provision shows that the law provides access to justice for minority shareholders to seek legal accountability from management that deviates from the principles of prudence and accountability. Thus, this lawsuit instrument serves as a form of judicial

[25] *Law No. 8 of 1995.* (n.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/46197/uu-no-8-tahun-1995

[26] *Law No. 40 of 2007.* (undated). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[27] *Law Number 40 of 2007.* (undated). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[28] *Law Number 40 of 2007.* (undated). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

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oversight of corporate governance to ensure that it continues to operate in accordance with the principles of good corporate governance.

In addition, Law Number 8 of 1995 concerning the Capital Market strengthens the repressive protection mechanism for investors or minority shareholders in public companies. Through Article 111, the law grants the right to injured parties to file a lawsuit without any restrictions on the number of plaintiffs.[29] This provision expands the scope of legal protection by opening up opportunities for minority shareholders to seek collective justice in cases of violations in the capital market or manipulation that harms the interests of investors. Thus, through the Limited Liability Company Law of 2007 and the Capital Market Law of 1995, the state seeks to provide a comprehensive legal protection system, both in terms of prevention and law enforcement, as a tangible manifestation of justice and legal certainty for minority shareholders in the dynamics of the modern corporate world.

Recognition and Regulation of Minority Shareholder Rights in the Limited Liability Company Law.

Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) brought a breath of fresh air to corporate law reform in Indonesia. This regulation not only regulates the internal structure and mechanisms of companies, but also provides legal guarantees for the rights of minority shareholders, which were previously often ignored.[30] This regulation reflects the spirit of equality and justice in the business world, where every shareholder, regardless of the size of their ownership, has proportional legal protection. In this context, the UUPT explicitly regulates five main rights for minority shareholders, namely Personal Rights, Valuation Rights, Priority Rights, Derivative Actions, and Enquete Rights. Personal Rights are a form of recognition of the basic principle that every shareholder has the same standing before the law and the Company.[31] Through the provisions of Article 61 paragraph (1) of the UUPT, every shareholder is given the authority to file a lawsuit in the District Court if they feel aggrieved by actions or decisions of the Company, the Board of Directors, or the Board of Commissioners that are considered unfair or unreasonable. This right serves as a means of protection against arbitrary actions that could harm minority shareholders. However, this lawsuit can only be filed by shareholders who own at least ten percent of the total voting shares, so that the balance between individual interests and corporate stability is maintained.

The UUPT also provides guarantees to minority shareholders to maintain their economic value through Valuation Rights. This right allows shareholders to request that the Company buy back their shares at a reasonable price if they disagree with corporate decisions that could potentially harm themselves or the Company itself.[32] As stipulated in Article 62 paragraph (1), this right applies in important situations such as changes to the articles of association, mergers, consolidations, takeovers, demergers, or transfers of assets whose value exceeds fifty percent of the Company's total assets. Therefore, the Valuation Right serves as a corrective mechanism to maintain a balance of interests between minority shareholders and the Company's

[29] *Law Number 8 of 1995. (*undated). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/46197/uu-no-8-tahun-1995

[30] *Law Number 40 of 2007. (n*.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[31] Prasetya, A. F. E., Sriwidodo, J., & Sinaulan, R. L. (2024). Legal Analysis of Shareholder Rights in Limited Liability Companies : A Study of Article 72 of the Limited Liability Companies Law in the Context of Corporate Restructuring. *Pelita Law Journal,* 5(*2*), 202–217. https://doi.org/10.37366/jh.v5i2.5205

[32] Yobel, M. A. (2022). Legal Actions that Minority Shareholders Can Take to Protect Their Rights as Shareholders. *Bonum Commune Business Law Journal,* 1–9. https://doi.org/10.30996/jhbbc.v5i1.5659

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strategic policies. In addition, the Right of First Refusal is a concrete form of legal protection for minority shareholders against the dilution of their ownership due to the issuance of new shares. Based on Article 43 paragraphs (1) and (2) of the UUPT, any new shares issued must first be offered to shareholders in proportion to their ownership.[33] This provision ensures that minority shareholders have the same opportunity to increase their ownership before the shares are transferred to other parties. In addition, the price offered to minority shareholders must be equivalent to the price given to other parties, so that the principles of fairness and transparency are maintained in every corporate action.

One of the most progressive forms of protection regulated in the UUPT is Derivative Actions, which is the right of minority shareholders to sue the Board of Directors or Commissioners on behalf of the Company if there are allegations of misconduct or negligence in the management of the Company. In this mechanism, shareholders do not act for personal gain, but to protect the interests of the Company as a whole.[34] A lawsuit is filed if the actions of the Board of Directors or Commissioners have caused losses to the Company. If the lawsuit is won, the compensation obtained is not for the plaintiff shareholders, but for the Company. Therefore, Derivative Actions are an important tool in promoting accountability in corporate management.

In relation to Derivative Actions, the UUPT also recognizes the right of minority shareholders to propose the holding of a General Meeting of Shareholders (GMS) as stipulated in Article 79 paragraph (2).[35] In fact, if the Board of Directors is reluctant to hold a GMS, minority shareholders can submit a request to the District Court to order its implementation. In addition, Article 144 paragraph (1) also gives minority shareholders who own at least one-tenth of the total shares the right to propose the dissolution of the Company through a GMS if there are indications of actions by the Board of Directors or Commissioners that could harm the Company. This provision shows that the protection of minority shareholders is not only passive but also active in determining the direction of the Company's sustainability. The right of inquiry or investigation gives minority shareholders the legal authority to investigate the Company if there are allegations of irregularities, fraud, or harmful actions. Based on Article 97 paragraph (6), Article 114 paragraph (6), and Article 138 paragraph (3) of the Limited Liability Company Law (UUPT), minority shareholders representing at least ten percent of the total voting shares have the right to file a lawsuit or request an investigation by the District Court against the Board of Directors or Board of Commissioners.[36] This right serves as a form of oversight against potential abuse of authority in the management of the company, while strengthening the principles of transparency and good corporate governance. With Enquete Recht, minority shareholders have a strategic position in maintaining the integrity and accountability of the Company.

[33] N. A Wardani, T., M Polontoh, H., Prihatin, L., Tuhumury, H., & Na'afi, S. (2025). Protection of Minority Shareholders' Rights in Limited Liability Companies: Analysis of the Implementation of Limited Liability Company Law Provisions in Justice and Legal Certainty in the Modern Business Environment. *Journal of Law, Humanities, and Politics,* 5(*4*), 3674–3686. https://doi.org/10.38035/jihhp.v5i4.4534

[34] Subagiyo, D. T. (2015a). Legal Protection for Minority Shareholders Due to Illegal Actions by Directors According to the Limited Liability Company Law. Perspective: Journal of Legal and Development Issues. *Perspective, 20(1)*, 49. https://doi.org/10.30742/perspektif.v20i1.122

[35] *Law Number 40 of 2007. (n*.d.). Regulation Database | JDIH BPK. Retrieved on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

[36] *Law Number 40 of 2007. (n*.d.). Regulation Database | JDIH BPK. Accessed on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

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Overall, the recognition and regulation of minority shareholder rights in the UUPT reflect the state's commitment to creating a fair, accountable, and democratic business climate. These five rights not only serve as individual protection but also as an internal oversight mechanism in the management of the Company. With this legal instrument in place, it is hoped that there will no longer be a power gap between majority and minority shareholders. The improvement of the legal position of minority shareholders will ultimately contribute to the formation of sound corporate governance, encourage sustainable investment, and strengthen public confidence in the corporate legal system in Indonesia.

Legal Review of Derivative Actions as a Mechanism for Protecting the Interests of Minority Shareholders.

More specifically, derivative suits are a legal mechanism that serves as a means of protection for minority shareholders against potential abuse of power by corporate bodies, particularly the Board of Directors and Board of Commissioners.[37] These suits allow shareholders to act on behalf of the company's interests in demanding accountability from parties who have caused losses to the company. In other words, derivative suits are a manifestation of the active role of shareholders in ensuring the accountability of company management, as well as a means for the court to intervene legally to uphold the principle of corporate justice. The term "derivative" means that the right to sue exercised by shareholders is not an independent right, but a right derived from the primary rights of the company. Therefore, the legal action taken in a derivative lawsuit is not for the personal benefit of the shareholder, but to compensate for the losses suffered by the company as a whole. All forms of proceeds from this lawsuit, whether in the form of compensation or other forms of recovery, will belong to the company as a legal entity separate from individual shareholders.

From a legal perspective, a lawsuit can be categorized as a derivative lawsuit if it meets several key elements. First, there must be a lawsuit filed in court by a shareholder. Second, the lawsuit must be filed on behalf of the company, not for personal gain. Third, the defendants are directors or commissioners who are suspected of having committed unlawful acts or abuse of authority that resulted in losses to the company. Fourth, the main purpose of this lawsuit is to restore the company's condition, not to provide direct benefits to the plaintiff shareholders. In practice, derivative lawsuits have a number of restrictions to maintain a balance of interests between the various parties involved in the company. Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) allows shareholders to file derivative suits only against the Board of Directors and Board of Commissioners, given that these two bodies have fiduciary responsibilities to the company. This restriction aims to ensure that legal actions taken remain in line with the principle of fairness for all stakeholders, including creditors and employees.[38]

In addition, one of the basic principles that distinguishes derivative suits from direct suits is the principle of legal personality. A company as a legal entity has assets that are separate from the assets of its shareholders, so that the interests of the company cannot automatically be equated with the interests of individual shareholders. On the other hand, the Board of Directors, as the company's management, is

[37] Meikasari, S., & Rumawi, R. (2021). Principles of Good Corporate Governance in Exercising Minority Shareholder Rights According to Law Number 40 of 2007. *Yurisprudentia: Journal of Economic Law,* 7(*2*), 265–280. https://doi.org/10.24952/yurisprudentia.v7i2.5033

[38] *Law No. 40 of 2007. (n*.d.). Regulation Database | JDIH BPK. Retrieved on October 16, 2025, from https://peraturan.bpk.go.id/Details/39965

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burdened with fiduciary duties, namely the obligation to act in good faith and with full responsibility in managing the company for the benefit of the company and all shareholders, both majority and minority. In the context of modern corporate law, the existence of derivative suits is not only intended to protect the interests of minority shareholders, but also to maintain balance with the rights of third parties, especially creditors. The basic principle in corporate law emphasizes that the rights of creditors must take precedence over the rights of shareholders, especially in the event of liquidation or bankruptcy. Therefore, the derivative suit mechanism is regulated in such a way as to avoid potential conflicts between the interests of shareholders and creditors who have rights to the company's assets.

Theoretically, the legitimacy of shareholders to file a lawsuit on behalf of the company is based on two main theories, namely the Exception Procedure Theory and the Two-Nature Procedure Theory. The first theory views the right to sue granted to shareholders as an exception to the general principles of corporate law, because in principle only the Board of Directors has the authority to represent the company before the law. On the other hand, the second theory emphasizes that derivative lawsuits have two dimensions: first, as a form of shareholder claim against the company for compensation for losses; and second, as a lawsuit by the company against the party that caused the losses.[39]

On the other hand, shareholders who wish to file a derivative suit must meet several substantive and procedural requirements. One of these is that the actions of the directors being sued must not be actions that can be ratified by a General Meeting of Shareholders (GMS) with a simple majority vote. If the actions of the directors can be ratified by the GMS, then a derivative suit cannot be filed. In addition, the lawsuit can only be successful if the directors being sued are proven to have committed a serious breach of their fiduciary duties and have dominant control over the management of the company. Furthermore, several characteristics distinguish derivative suits from other corporate lawsuits. Before filing a lawsuit, shareholders must first request the Board of Directors to take legal action on behalf of the company. If the Board of Directors refuses or fails to do so, only then are shareholders entitled to file a derivative suit. In addition, all benefits derived from the lawsuit belong to the company, not the plaintiff shareholders. Conversely, all legal costs incurred are the responsibility of the company as the party represented in the lawsuit.

Overall, derivative suits are an important legal tool for ensuring the principle of checks and balances in corporate structures. Through this mechanism, minority shareholders are given the right to hold directors or commissioners accountable for actions that harm the company, even though they do not have majority power in corporate decision-making. Therefore, derivative suits not only function as a legal tool, but also as a manifestation of the principles of good corporate governance that emphasize accountability, transparency, and fairness for all stakeholders in the company.

[39] Bagus Padmanegara, I. P. (2024). The Position of Minority Shareholders in Policy Making and Protection as Shareholders of Public Companies. *Co-Value Journal of Cooperative Economics and Entrepreneurship, 14(*11). https://doi.org/10.59188/covalue.v14i11.4305

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CONCLUSION

Based on this study, it can be concluded that legal protection for minority shareholders in the Limited Liability Company system in Indonesia has undergone significant development. The main legal issue found is how minority shareholders can enforce their rights when there is abuse of authority by the directors or board of commissioners, given their quantitatively non-dominant position in company decision-making. This poses a challenge in ensuring the principles of fairness and accountability in corporate governance. The results of the study show that Law Number 40 of 2007 concerning Limited Liability Companies provides a strong legal basis for minority shareholders to protect their interests. In particular, derivative rights emerge as an effective mechanism that allows minority shareholders to act on behalf of the company to hold directors or commissioners who commit fiduciary violations accountable. Thus, derivative rights not only protect the interests of minorities, but also serve as an internal control tool to ensure that company management acts in accordance with the principles of good faith and fiduciary responsibility.

The effectiveness of derivative rights is evident in this mechanism's ability to bridge the power gap between majority and minority shareholders. Derivative rights provide both preventive and repressive measures: preventive through the obligation of management to consider the interests of minorities before making decisions, and repressive through the possibility of legal action in the event of abuse of authority. Thus, this mechanism legally guarantees equal rights and reduces the risk of losses arising from disproportionate corporate decisions. Another conclusion that can be drawn is that derivative rights have become a strategic instrument in building sound, transparent, and accountable corporate governance. Its implementation reflects the progress of Indonesia's corporate legal system in balancing the rights of majority and minority shareholders, while upholding the principle of checks and balances within companies. With this right, minority shareholders have a clear legal basis to demand accountability and ensure that company decisions are made fairly and responsibly.

Overall, this study confirms that derivative rights are an effective legal means of protecting the interests of minority shareholders in limited liability companies, while strengthening the principles of fairness and transparency in corporate governance practices in Indonesia. This mechanism proves that corporate law has moved towards a more democratic and accountable model, where the protection of minorities is not merely theoretical, but is realized through concrete legal instruments.

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