

PORTRAIT OF THE DEVELOPMENT OF LEGAL PROTECTION FOR INDONESIAN CITIZEN THAT EMBRACE FAITHS/BELIEFS: BETWEEN PRINCIPLE OF RIGHTS RECOGNITION AND DISCRIMINATION

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ABSTRACT

The diversity that Indonesia has as a country, which consists of ethnicity, religion, belief, regional language and tradition is a gift from the Almighty Creator, requires the presence of the state to provide protection for the right to embrace religion and belief for every citizen. Currently, there are 6 (six) religions recognized by the state, while there are hundreds of faiths/beliefs embraced by the people who also want to get formal recognition. This paper aims to identify laws and regulations and government policies in recognizing the rights of faith-believing citizens, the development of their implementation as well as the constraints faced by citizens who embrace beliefs in exercising their rights. The applied research method is normative legal research using primary and secondary legal materials. The results show that there are several discriminatory laws and ministerial decrees, such as religion information in the Identity Card which must state as following a certain religion, the right to receive religious education, the right to interfaith marriage, and negative stigma from the community. After the Constitutional Court Decree Number 97 of 2016 and Government Regulation Number 40 of 2019, this recognition was formally granted. However discrimination on interfaith marriage had yet been recognize by marriage law and people's perceptions of the group of followers still considered them to have deviated because they did not choose and embrace one religion.

Keywords: Human Rights Protection, Beliefs Embracer, and the Principle of Recognition and Discrimination.

INTRODUCTION

Indonesian nation is known as a pluralistic society where the kinds of diversity is varied, starting from religion, tradition, language, customs, beliefs and ethnicity. This diversity is spread throughout the territory of Indonesia which consists of thousands of islands. The religious recognition held by Indonesian citizens is regulated through Presidential Instruction No. 14 of 1967. In Indonesia, there are six (6) religions that have got recognition from the government, namely: Islam, Hinduism, Christianity, Catholics, Buddhism, and Confucianism.¹ The plurality possessed by the

Indonesian nation is not only a gift from the Creator on the way, it turns out that it has undergone various changes to cause a problem in society that requires efforts to solve the problem.²

Besides that, there are some people who have beliefs other than these religions. They are referred to as citizens of the group of believers. The presence of members of the faith group is a historical fact. They have existed throughout Indonesian history, but they are recognized as second-class citizens because their beliefs are not the same as those recognized by the

¹ Sudarto, *Seri Laporan kebebasan Beragama/Berkeyakinan : Kondisi Pemenuhan Hak Konstitusional Penghayat Kepercayaan terhadap*

Tuhan Yang Maha Esa. Jakarta: Pustaka Masyarakat Setara, 2017.

² *Ibid.*

government because their beliefs are not the same as religions.

Until today, there have been 187 groups of religious belief groups registered by the government in 13 provinces in Indonesia. Their distribution is as many as 12 groups in North Sumatra, 1 group in Riau, 5 groups in Lampung, 1 group in Banten, 14 groups in DKI Jakarta, 7 groups in West Java, 53 groups in Central Java, 25 groups in Jogjakarta, 50 groups in East Java, 8 groups in Bali, 2 groups in West Nusa Tenggara, 5 groups in East Nusa Tenggara, and 4 groups in North Sulawesi.³ Before the issuance of Constitutional Court's decision, the State's treatment over the Believers groups was very discriminatory, where the state had not given juridical recognition hence a lot of basic needs in their live can't be fulfilled. Believers groups must choose one of the religions recognized by the state and must include it in their Identity Card (IC) so that they can live their lives like other citizens in the country, such as in registering for marriage certificate, birth certificate, right to get a job, right to get education, etc. Likewise, there is a perception and stigma from some religious communities that they are considered to be an unenlightened society, so they need to get guidance in order to embrace one of the recognized religions. The state itself is still ambivalent in translating the provisions contained in the Constitution and several laws and regulations related to the word "religion and belief".

One of the problems in the field of diversity is the number of discrimination cases relating to religion and belief. Various forms of violence occur when it comes to matters of religion and belief. Moreover, issues related to religion in society can be used as a tool to achieve certain goals. The impact of violence on religion and belief ultimately results in a violation to the rights to religion and belief. One example is in the case of interfaith marriages that have not been fully recognized and the procedure to legalize their marriages is still exhaustive, such as having to register and conduct the marriages overseas, one of the partner must convert to the religion of the other's, and through judicial

decision to legalize the marriage by law, though judges rarely give approval.⁴ Not to mention in the case of blasphemy where the verdict does not reflect a sense of justice for the perpetrator, one of which is due to the unclear regulation.

Moreover, discriminative treatments against religious groups and believers are still happening since the independence of this country until year 2016 formally. Prior to this recognition, some people saw them as a group that did not have a religion same as atheists or animists, and the discrimination they experience in legalizing and registering marriages between groups of Believers that would not be granted unless they submit themselves to one of the religions recognized by the government according to the Law No. 1/PNPS/1965 concerning the Prevention of Abuse and/or Blasphemy of Religion (Law on Blasphemy). Problem arises when the recognition of religion and/or belief is limited by the issuance of Law Number 1 of 1965 concerning the Prevention of Abuse and/or Blasphemy of Religion (Law No.1 of 1965/Law on Blasphemy). In the Elucidation to Article 1, it is stated that the religions embraced by Indonesian population are Islam, Christianity, Catholics, Hinduism, Buddhism, and Confucianism (Confucius). In fact, many local beliefs still exist in all regimes of Indonesia. Discrimination against Believers is originated from restrictions in the Law No. 1 of 1965 on Blasphemy.

The enactment of this law causes people who adhere to faiths outside the official religions to experience discrimination against their rights as citizens, for instance the right to include the information of their faith in the Identity Card (IC). In certain cases, the absence of information about religion in the IC has created several discriminatory treatment against Believers, such as accusations of being infidels, communists, and so on. So far, many forms of discrimination have been experienced by believers due to inconsistency of legal protection. For example is the difficulty in registering citizenship certificate or certain documents for their children because their marriage uses traditional beliefs, which are not recognized by the

³Kompas.com, Ada 187 Kelompok Penghayat Kepercayaan Terdaftar di Pemerintah. 2017. <https://nasional.kompas.com/read/2017/11/09/12190141/ada-187-kelompok-penghayat-kepercayaan-yang-terdaftar-di-pemerintah?page=all>. Accessed on February 25, 2021 at 06.28 PM.

⁴ Indrayanti, Kadek Wiwik et al, The State Role through Court Warrant in Protection of Interfaith Marriage in Indonesia. *Journal of Law, Policy and Globalization* Vol.61, 2017.page 111.

Government (Vide to Constitutional Decision Number 97/PUU-XIV/2016, page 5-7). In addition, there are also various problems and exclusivity from the aspect of basic rights fulfillment and public policies, namely the discrepancies between the data of religious identity written in the Family Card (FC) and the Electronic IC. In terms of work, in some cases, Believers are not allowed to take a leave of a day-off during the holy days of their beliefs (Vide Constitutional Decision Number 97/PUU-XIV/2016, p. 7). Access to exercise basic rights for groups of believers is subject to discrimination. One of them is the right in the field of education to receive teaching about their beliefs, as stated in Article 31 of the 1945 Indonesian Constitution, that the state guarantees the right to education for every citizen.

With a relentless struggle, finally the existence of belief groups towards their rights obtaining recognition from the government to be legally equal to the six recognized religions through the Constitutional Court Decision No. 97/PUU-XIV/2016 and Government Regulation No. 40 of 2019 on the Implementation of Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. On the basis of the above description, this paper discusses several things, namely identify and analyze the regulation of freedom of religion and belief in Indonesia, identify the basis of regulations that provide protection and which apply discriminatory to the rights of members of the belief group, and the implementation of these regulations after the Constitutional Court decision No.97 of 2016 and Government Regulation Number 40 of 2019.

RESEARCH METHOD

To answer the legal issues, this paper employed legal research method because it review and analyze the regulations governing the rights of groups of believers, the basis for judges' considerations in the Constitutional Court Decree No. 97 of 2016 and Government

Regulation No. 40 of 2019, and regulations governing freedom of religion and belief in Indonesia.

THEORETICAL STUDY

The theories used to analyze legal recognition related to the right to exercise belief for every citizen of belief are the theory of human rights, theory of legal protection, and theory of legal certainty and objectives.

Human rights theory is used because in principle human rights are rights that every human being has. That right is inherent in him because of his dignity as a human being.⁵ This right is universal, in the sense that it does not differentiate between its owner based on ethnicity, religion and belief, or gender. One of the human rights is the right to freedom of religion and belief which is regulated in international law. According to Philipus Hadjon, legal protection according to the meaning of the English literature is "legal protection of individual in relation to act of administrative authorities".⁶ This theory originates from the thought of legal positivists in the world of law who tend to see law only in its form as statutory certainty, and view law as something autonomous.⁷ Prof. Satjipto Rahardjo said that the icon for modern law is legal certainty. Modern society requires legal certainty in various interactions. Legal certainty has become a kind of ideology in legal life.⁸ With the existence of legal certainty, citizens of the believer group in Indonesia will receive protection. Meanwhile, the theory of legal objectives quoted from Gustav RudBruch states that Law has legal ideals (*idea de recht*), namely benefit, certainty and justice.

RESULT AND DISCUSSION

Freedom of religion and belief is part of human rights in international law. In Indonesia, it is regulated in the 1945 Constitution of the

⁵ Miriam Budiardjo, *Menggapai Kedaulatan Untuk Rakyat*, (bandung: Mizan Pustaka, 1998), page .

⁶ Philipus Hajon, *Perlindungan Hukum Bagi Rakyat di Indonesia*, (surabaya: PT Bian Ilmu, 1987), hlm. 1.

⁷ Achmad Ali, *Menguak Terai Hukum (Legal Theory) dan Teori Peradilan (Judicial prudence) Termasuk Interpretasi Undnag-Undang (Legis*

prudence), (Jakarta : Kencana Prenadamedia group, 2009), page 184-185.

⁸ Satjipto Rahardjo, *Legal Certainty* in Compilation of Writings as Lecture Materials for Doctorate program Students in UNDIP, (semarang : Universitas Diponegor, 2009), page 1.

Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 12 of 2005 concerning International Covenant on Civil and Political Rights, and the General Commentary of the UN Human Rights Council No.22 (1993) on Article 18 in the ICCPR.

According to General Commentary No. 22 and ICCPR on the freedom of religion and belief, it can be described as follows: 1. Freedom to embrace or adhere to a religion or belief of one's choice, including converting religions or changing religions or beliefs (*forum internum*), 2 Freedom to manifest their religion or belief (*forum externum*), which in the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion and Belief (1981), it includes: a) practice his religion and belief in worship activities; b) possess a place of worship; c) wear religious symbols; d) commemorate religious days; e) appoint and elect religious leaders; f) teach and distribute religious materials (including religious broadcasts); g) parents' rights to ensure religious and moral education for their children; h) communicate with individuals and community regarding religious affairs at the national and international levels; i) establish and run institutions for humanitarian activity and receive donation; j) raise an objection based on conscience (conscientious objection).⁹

In Indonesia there are several sources of law that impose restrictions on Freedom of Religion and Belief, which are not all consistent, for instance as in:

1. The provisions of the 1945 Constitution of the Republic of Indonesia Article 28J with the objectives: to guarantee recognition and respect for the rights of freedom of the people and to fulfill fair demands in accordance with moral considerations, religious values, security and public order.

2. The International Covenant on Civil and Political Rights must be based on law and to the extent necessary to protect: public safety, public order, public health, public morals, and fundamental rights and freedoms of others.

The development of protection given by the State specifically for respect and protection of freedom of religion and belief for citizens is getting better. Until now, there have been six (6) religions that have received recognition, while for citizens of beliefs, formal recognition has been granted with the Constitutional Court Decision No. 19/2016 and Government Regulation No. 40 of year 2019, that protect the rights of citizens to embrace religion and belief.¹⁰

In the context of the problems and constraints faced by members of the belief group prior to the Constitutional Court decision, if it is viewed from human rights, that the right to embrace religion and belief is one of the human rights whose character is universal not because these rights are given by the state or society but because it goes with the dignity of a human being and that right is inherent wherever the person present. The goal is that humans can develop their dreams and express themselves in their lives. In order for citizens in a society to have and feel their rights, the role of the state is needed in the form of state protection for its citizens. The provisions in Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that the state has an obligation to guarantee the freedom of every citizen to embrace a religion and worship according to his or her respective religion and belief. Thus the legal protection that needed in relation to groups of believers in Indonesia is legal protection with a preventive characteristics. According to Satjipto Rahardjo, legal protection provides protection for human rights that have been harmed and the goal is that people can enjoy their rights provided by law.¹¹ The understanding of legal protection is defined as the state's obligation to serve and protect the rights of every citizen and the nature of the protection is preventive. The manifestation of the protection is by setting it into a statutory regulation in order to create legal certainty and the goal of achieving justice. The need for recognition for the protection to the rights of religion and belief is given to groups of believers not only because it is a fundamental human right

⁹Bagir, Zainal Abidin dkk, *Membatasi Tanpa Melanggar hak kebebasan beragama atau berkeyakinan*. Page 5-6.

¹⁰Pransefi, Megamendung Danang, *Perlindungan Aliran Kepercayaan Dalam Administrasi*

Kependudukan (Analisis Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016), Surabaya : Universitas Airlangga, 2019.

¹¹ Satjipto Rahardjo, *Ilmu Hukum*, Bandung : Pt Citra Aditya Bakti, 2000), page 53.

but also to provide protection which needs to be a manifestation of legal certainty. Here is the state's obligation to provide. Actually this opinion was taken from Gustav Radbruch who taught the existence of three basic ideas of law (*Idee des Rechts*), where these ideas of law is the one that will guide humans in their legal lives. These three ideas of law are supported by the presence of three basic values which some experts identify as the three objectives of law, namely justice, benefit and legal certainty.¹²

For this discussion, how the State, in this case the Indonesian government, provides guarantees in the form of recognition and protection for citizens who embrace beliefs can be described below. Whereas the recognition and guarantee of the right to freedom of religion and belief provided by the state through the mandate of the 1945 Constitution (UUDNRI 1945) is stated in article 28E paragraph (1) that "everyone is free to embrace a religion and worship according to their religion ..." and in their belief is regulated in the provisions of Article 28E paragraph (2) which says that "everyone has the rights to freedom of belief, to express thoughts and attitudes, in accordance with their conscience". From the formulation of the two articles, it can be concluded that formally the state guarantees the rights of groups of Believers.

However, prior to the Constitutional Court decision since the Indonesia became an independent state in 1945, there was no legal recognition and protection for citizens of Believers in Indonesia. Furthermore, the principles stated in the Constitution are translated into statutory regulations but still discriminative. Some of the laws and regulations below that discriminate against members of the group of believers are:

1. Law No. 1 of 1965 concerning the Prevention of Abuse and / or Defamation of Religion (UUPNPS), which provides a legal basis for differentiating between "official religion" and "unofficial religion." In the

¹² Achmad Ali, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial prudence) Termasuk Interpretasi Undang-Undang (Legis prudence)*, (Jakarta : Kencana Prenadamedia group, 2009), page 288.

¹³ Kristina Viri. *Menelusuri Diskriminasi terhadap Pemeluk Kepercayaan Kawruh Naluri di Gombang-Kebumen, dan Desa Banjarpanepen-Banyumas.*

elucidation section, this Law clearly states that the statement discriminates against believers. This law is used to ensnare perpetrators deemed blasphemous, and in 2007 it was used to vigorously commemorate and disband one of the Dayak Losarang communities.¹³

2. Joint Regulation of the Minister of Religion and the Minister of Internal Affairs Number 1 of 1979 concerning Procedures for Religious Broadcasting and Foreign Assistance to Religious Institutions in Indonesia. Article 4 states that Religion broadcasting is prohibited against people or groups who have embraced religion. Thus citizens who adhere to beliefs are allowed to become targets of religious dissemination because in the provisions of Article 4 it is stipulated for followers of religion, not for believers.

3. Law Number 1 of 1974 concerning Marriage and the Circular of the Minister of Religion No. B.VI/1121S/78.

4. Law Number 39 of 1999 concerning Human Rights has not provided protection for the right to adhere to belief

5. Law Number 20 of 2003 concerning Education. It is related to the implementation of religious education. In its implementation, this Law excludes believers, but has been cancelled since 2016 by the enactment of the Decree of the Minister of Education and Culture No. 27 of 2016 concerning the provision of educational services to faith groups.

Then, the beginning of the change was when in 2016 there were four believers, they are Nggay Mehang Tana, Pagar Damanra Sirait, Arnol Purba, and Carlim, applied for a judicial review on Article 61 Paragraph (1) & (2), and Article 64 Paragraph (1) & (5) of Law Number 23 of 2006 in conjunction with Law Number 24 of 2013 concerning Amendments to the Population Administration Law (Population Administration Law) to the Constitutional Court.¹⁴ The reasons given by the petitioners stated that the main point of the petition for judicial review to Population Administration Law was because the

Proceedings of The first International Conference on Indigeneous Religions. 2019. page 128-129.

¹⁴Kompas.com. Putusan MK (Mahkamah Konstitusi) membuat eksistensi penghayat kepercayaan diakui negara.

<https://nasional.kompas.com/read/2017/11/7/18573861/putusan-mk-membuat-eksistensi-penghayat-kepercayaan-diakui-negara?page=all>. 2017. accessed on July 23, 2019 at 08:31 PM.

regulation for emptying the column of information on religion in the Family Card (FC) and electronic ID card as regulated in the Law was detrimental to the constitutional rights of Believers and was considered as discriminative. The regulation to empty the religion information column in ID card resulted in difficulties for them in accessing administrative documents, such as marriage and birth certificates, as well as in finding work. In a broader context, emptying the religion information column in the FC and electronic ID card is related to the fundamental issue of the legal status of Believers in the framework of citizenship.

The Constitutional Court Decision 97/2016 puts three fundamental principles to the manifestation of constitutional guarantees for Believers. First, the Constitutional Court decision 97/2016 states that the word "religion" in Article 61 paragraph (1) & (2) and Article 64 paragraph (1) & (5) of the Population Administration Law is contrary to the constitution and declared to have no legal binding force as long as it does not include "beliefs". The Constitutional Court uses the original intent interpretation from the formulation of Article 29 of the 1945 Constitution to reinforce the original idea of the term "belief" as an inseparable part to the term "religion" in our constitution. Second, the Constitutional Court Decision 97/2016 affirms that the right to religion, including belief, is the constitutional rights of citizens and is part of human rights. These rights are natural rights, means that it is possessed by every human being and cannot be reduced under any circumstances. In this context, the Constitutional Court emphasized the position of the state as the bearer of the responsibility to fulfill, protect, and respect every individual believer of faith as rights holders. Third, the Constitutional Court Decision 97/2016 puts the principle of legal certainty and equality before the law as a basis for examining the constitutionality of the Population Administration Law. The Constitutional Court substantively tested the implementation of these principles, namely that emptying the column of religion information in the FC and electronic ID card for Believers resulted into legal uncertainty, violations of

human rights, and the absence of protection (discrimination) to the legal status in population administration. With the implementation of this Constitutional Court decision, the position and status of Believers citizens is equivalent to those embrace the recognized religion. In other words, the basis for legal considerations from the Constitutional Court Decision No. 97/2019 is the rejection to all types of discrimination.

The decision of the Constitutional Court 97/2016 as a negative legislator is final and binding. As a legal decision that does not adjudicate legal issues in real form (*in concreto*), but adjudicates the legal norms, it must be accompanied by implementation by the government. As the recipient of the mandate to implement the Decisions, the government must provide adequate technical rules and instruments so that the Constitutional Court Decision 97/2016 can be implemented in concrete manners. The Ministry of Internal Affairs is the ministry authorized to implement Constitutional Court Decision 97/2016 based on its authority and field of works. In this context, it would be sufficient for the Ministry of Internal Affairs to issue regulations at the Ministerial Regulation level to ensure the technical and budgetary instrument for the implementation of Constitutional Court Decision 97/2016.¹⁵

Thus, the Constitutional Court Decision 97/2016 is a constitutional recognition to Believers and a momentum of change to restore the non-discriminatory constitutional rights for the citizens. Obviously, these changes will be meaningful if the implementation of the Constitutional Court Decision 97/2016 is carried out consistently and concretely by the government as the recipient of the constitutional mandate.

This is one proof that the Constitutional Court decision has been implemented by the government, wherein the column of religion information for Believers is no longer empty, but can be filled with the information stating "Belief in God Almighty". However, the rights of citizens who have belief in God Almighty, when they want to marry a citizen who is adherents of the religions recognized by the State, are still unable to legalize their marriage.

¹⁵ Mukhlishin, Muhammad 'Afif. Akibat Hukum Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016 Terhadap Perkawinan Penghayat

Kepercayaan. <http://etheses.uin-malang.ac.id/16808/1/14210052.pdf>. 2020. accessed on March 19, 2021 at 10:31 PM.

This is also experienced by Indonesian citizens who wish to have interfaith marriages. Until now, Law number 1 of 1974 concerning Marriage has not regulated marriage between different religion adherents and between Believer groups with citizen from one of the recognized religion. As known the fact that Indonesia has a diversity of religions and beliefs, it is very necessary in the future to make changes to Law Number 1 of 1974 concerning Marriage. There are several principles in the formation of legislation used as a consideration in drafting the concept of protection for inter-religion marriages, namely: a) Principle of a Clear Purpose, which means that every legislation must function to provide protection in order to create peace of society, b) The principle of humanity, which means that every material of the legislation should reflect the protection and assurance of human rights and the dignity of every citizen and people of Indonesia, and c) The Principle of Justice, which means that every component of the content of legislation should reflect proportional justice for every citizen without exception. In the case of the protection for inter-religion marriages, the state should pay attention to the right to raise family and to freedom of religion. Therefore, the material content of norms of inter-religion marriages should provide the same benefits to prospective couple of inter-religion marriages. Whereas the content of statutory regulations shall not contain any distinction based on the background, including religion, ethnicity, race, class, gender, or social status.¹⁶ Therefore, the State, through the Administration and Population Service, is obliged to register marriages of citizens of different religions after being granted juridical decision from the judge.¹⁷ However, to obtain legal status for marriage or legal certainty for citizens of Believers groups who wish to marry one of the members of the recognized religion, where each of them wants to remain in their religion and belief, is there possible way out? As having done by citizens who succeed in conducting interfaith marriage, there is a way.

¹⁶Indrayanti, Kadek Wiwik, Legal Norm Protection for Inter-Faith Marriage of In Indonesia In The Framework of Legal Pluralism, <http://www.ijsrp.org/research-journal-1018.php> (DOI: 10.29322/IJSRP.8.10.2018.p8210 <http://dx.doi.org/10.29322/IJSRP.8.10.2018.p82210>).

The citizen can submit an application to the court. Meanwhile, at the level of the law, it has not been regulated. The court should provide a decision and the Population Administration Service is obliged to register the marriage in accordance with the mandate of Article 35 of Law No. 24/2013. This means that it is the duty of Civil Registry to register marriages validated by the court, i.e. interfaith marriages.¹⁸ In line with this, the judge should give decision when a believer of a faith proposes to marry a member of a religion, the same to the request for determination from a citizen filing a marriage stipulation. Judges have to think progressively by considering the aspects of legal certainty, benefits and sense of justice, that the right to have a family is human rights for every citizen. This can be done if the judge uses an extensive interpretation to the application for a marriage stipulation which originally was intended for citizens who propose to get a grant for interfaith marriage, and is also applied to citizens of Believers group.

Furthermore, in reality, social discrimination is still being felt by members of the religious group by the majority of adherents of other religions. The initial study was conducted among university students, where the results showed that 70 percent of people's perceptions of the group of followers still considered them to have deviated because they did not choose and embrace one religion. The majority of this opinion comes from the Muslim community. Just mention X, who said the following: "Why don't they embrace a religion that truly worships Allah directly? Poor them, they went the wrong way. Looks like they are misguided, right, belief is not from God..."¹⁹

CONCLUSION AND SUGGESTION

With Constitutional Court Decision No. 19 of 2016 and Government Regulation No. 40 of 2019, the State has given recognition to the groups of Believers. The status of Believers

¹⁸Indrayanti, Kadek Wiwik et al., "Juridical Implications of the Legal Norm Void of Interfaith Marriages in Indonesia", *Brawijaya Law Journal*, Vol. 4, No. 1, 2017, page 129-143 [<http://dx.doi.org/10.21776/ub.blj.2017.004.01.07>].

¹⁹ Initial study on the perception of citizen towards believers of faith/beliefs in Indonesia, 2019.

citizen is the same as that of citizens of a religion. In addition, the provisions for recognition of Believers groups are also regulated in the 1945 Constitution of the Republic of Indonesia. The fact that prior the Constitutional Court Decision, their presence did not receive legal protection such as recognition given to citizens of other religions and this can be seen on the citizen ID Card. In the column of religion information, they are required to claim as member of one recognized religions instead of writing "Believers". Discrimination still experienced when Believers propose to marry someone who is member of one of the religions recognized by the state, in term of the procedures for legalizing their marriage. It should be understood that the right to form a family is an essential right for every human being, including Indonesian citizens. The state should exist to provide protection in the social sphere (public sphere) when there is a vacuum of law. When it comes to one's beliefs and religion, it is a personal responsibility (private sphere). Furthermore 70 percent of people's perceptions of the group of followers still considered them to have deviated because they did not choose and embrace one religion.

The recommendation that can be given here is that the government through the Population and Civil Registration Services should provide socialization to human resources within the government in order to understand the provisions of the articles in the Population Administration Law. For judges, if there is a request for a marriage to be decided by the court from Believers and a member of one of the religions (interfaith marriage), an extensive interpretation should be used. So that discriminative treatment against members of Believers can be reduced. Given the right to form a family is an essential human right.

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