

Conference Paper

Local Beliefs Systems Rights Recognition By the Indonesian Government and Its Implications

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Abstract

Minority religions are a fact of life in Indonesia. The state is supposed to secure their legal rights and obligations, just as they would for any other religious group, including through the recognition of local beliefs on state-issued ID cards. On 24 February 2019, six individuals in Bandung identified as societies in local belief systems, received ID cards from the West Java government. These cards included the usual comment that all citizens were deemed to accept belief in 'the one and only God'. This sparked opposition from the Indonesia Ulema Council. In addition to expressing criticism of the slow implementation and complex process for obtaining the ID cards, the body criticized the Indonesia Constitutional Court for recognizing local belief systems in this manner. Arguments for and against the issue of local belief recognition are ongoing. Nevertheless, it is imperative for the government, both at the national and local levels, to remain steadfast in its attempt to recognize local belief systems while more intense socialization attempts are enacted.

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1. Introduction

Renowned as a diverse country, Indonesia covers the population with various ethnicity and religions, including local belief systems which have originated since the period of what were called modern religions. One of the achievements related to this matter is that the state's success to manage the complexity of living with the population in terms of multicultural and religion as well as local belief system even creates peace and conducive situation, and it makes Indonesia a role model for the life of tolerance and pluralism.

Particularly for local belief systems which are merely recognized due to their cultural life and values, the journey about them returns back the time when historically the past government issued the Presidential Enactment no 1/1965 about Prevention against Religion Misuse and/or Blasphemy (PNPS Issue 1/1965), specifically underlining the

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elaboration of the Enactment in part 1 addressing the State's recognition for the ascertainment of the unity of State and nation building attempts based on religion principles. It showed a profound difference between religions and local beliefs which even were imposed in part 2 about the emerging beliefs in spirituality with the tendency of deviating yet unfavorable with the principle of existing religions in Indonesia. The ambiguity emerged since the government never distinctively mentioned what type of beliefs was considered disregarding the position of legally recognized religions; however, it became the principal for separating the position of religion and local beliefs. Since then, local beliefs societies seem to be disregarded by the context of state recognition to be the same as existing religions. One of the disregarded rights is the access of civil rights concerning their religion identity in the column of ID and Family Registration Cards, and it results two options for the societies, the selection of existing religions or the leaving blank in their religion identity in their legal documents. This condition is emphasized more in the Law Issue 23/2006 about Civil Registration and Administration, and it is said to perform new discriminating ways, specifically for local belief societies.

It seems propitious that the current State's government selects the wise way for betterment of local beliefs. The Indonesia Constitutional Court, through the decree no 97/PUU-XIV/2016, eventually confirmed that the State must secure every local belief right regarding their religion identity in their ID and Family Registration cards. The decree acts as a response towards the material test of Act 61 verses 1 and 2 and Act 64 verses 1 and 5 Law no 24/2006. It has a clear implication that all of them are allowed to register their religion identity as what they are conducting legally. This way takes huge attention from public in Indonesia, indicating the respect for human rights by the State towards local belief societies.

In contrast, the local belief recognition by the State might face serious challenge, particularly the one from an official religious institution with a significant role for the living of religion building in Indonesia, The Indonesia Ulema Council (MUI, Majelis Ulama Indonesia). Represented by their chairman, Mar'uf Amin, the Council mentioned an objection against the Court's final decision to recognize the local beliefs' rights confirming their religion identity in the legal civil registration documents. It was mentioned that the religion identity recording in the religion column was a political consensus regulated in the Law of 23/2006 as well as the position of local belief under the supervision of Ministry of Education and Cultural Affairs, not Ministry of Religion Affairs, therefore, the State's recognition of local belief rights for recording their religion identity legally might cause another new confusion in this country.

Taken as an ease in this political year which comes up with various information about religions and the keen separation of majority-minority religions in Indonesia, the final decision for recognizing the local beliefs' rights has been considered a respectful, yet brave way to regard them legally eliminating the discrimination potentials for any civilian in this country despite some emerging objections. It is a favorable confirmation for securing the civil rights of Indonesian without any exception with the principle of same position in front of law and constitution.

2. Research Methods

To introduce a discourse applied with knowledge and to be presented in the comprehensive elaborating writing require relevant research methods, hence the writing can be accessible, readable, and easily understood for the content. The presentation of the writing could lead to a number of different perspectives depending on what sides the audiences are willing to see. Despite the above matters, the reliable and objective presentation in the writing is the point of the composition.

The paper applies descriptive research relying on some surveys and fact finding for relevant information with qualitative approach to assess opinions and behavior. It responses questions of who, what, when, where, and how associated with the research. The methods used for this paper are based on literature study to figure out existing information about the issue and field research through comprehensive documents study, including examining books and journals. Media study becomes one of relevant tools to be applied since the information from media is important for supporting the paper for gathering a lot of relevant insights. Field research involves deep interview with relevant key source persons due to their personal experience in terms of administering their religion identity and the story before and after the State's legalization for their right in their civil administration documents.

While processing all information, the author adds some of his perspective as a peace and diversity activist since he has been networking with the relevant circle matching the issue elaborated in this paper. It is expected that all could be processed objectively; therefore it could lead to the main purpose of the paper composition and the accomplishment to spread the voice of unvoiced for anyone who has keen interest in the issue of local beliefs societies' rights.

This paper is a journey where it returns to the history of discrimination practices experienced by local beliefs societies. Their uncertainty in running their life without the State's legal recognition for their rights has certainly led to new problems. The

political situation created at that time through the government acts about their official position did not give them any options for their religion identity, but selecting either one of the legally existing religions or leaving their religion identity blank in their ID and Family Registration cards. The future impacts after this could be disturbing, such as some trouble to access other public rights in health, education services provided by the government in their own regions. Therefore, it is eventually becoming essential to promote the issue of local belief societies, making it as a part of comparison from the past with the current one they have been facing.

3. Theoretical Framework

In the case of the State's process for recognizing local belief societies' rights corresponding the administration of their religion identity in their legal civilians documents, human rights principles confirm the importance as the basis for justifying their rights to be defended. At the first stage of this, the Constitution of 1945 relies the basis of human rights, particularly on Act 1 mentioning that the State is based on the principle of the one and only God, and Act 2 about the State's duty to secure Indonesians' rights for their own religions and beliefs and for conducting their prayers and worshipping activities according to their religions and beliefs. Supported with the State's constitution, local belief societies are supposed to be secured for their civil rights, comprising the rights for accessing public facilities and education as well as confirming their religion identity legally on the administration process based on their beliefs since they were born. The constitution becomes a profound milestone in terms of the State's respect towards them as humans and Indonesian citizens in general.

Examining the international covenant which is ratified through some of official laws, one of which is ICCPR or International Covenant on Civil and Political Rights (ICCPR) through Law Issue 12/2005 [1] about *Legalization of International Covenant on Civil and Political Rights (ICCPR)*, it is figured out that the State secures human rights as the basic rights which adhere on humans themselves with principles of universality and sustainability, therefore those rights are supposed to be protected, respected, neither neglected nor reduced by anyone in accordance with the principle of Universal Declaration of Human Rights as well as underlining Indonesia as a part of international nations. It becomes a confirming basis for a comprehension towards minorities' rights, one of which relies on the importance of local belief societies, particularly promoting their right of religion identity administration for their legal civilian documents. Act 27 [2] of this law refers to the condition that any state which comprises minorities groups

according to ethnics, religions, languages, or people who are a part of those mentioned is supposed to respect their rights not to neglect them, and they are allowed by their state officially to conduct their life based on their culture, while implementing their own religion or belief teachings or applying their own language in their daily.

According to public policy sense, the rights of local belief societies are about into the dimension of equality in proportional ways. Holding on John Rawl's approach [3] from *A Theory of Justice*, quoted from Deborah A. Stone's Policy Paradox, one of approaches to defining recipients from a public policy is to seek some universal standards, independent from the norms of particular societies. It confirms that public policy must be able to comprise any interest of public or societies based on their human rights, innate sense of justice without a bias in the current situation faced by all of people. With this matter, it is obviously asserted that the rights of local belief societies, particularly the one correlating with their religion identity administration, should be legally secured by the State through the relevant public policy. Furthermore, Rawl imposed justice [4] as an attribute of the rules and institutions that govern societies, which is called justice as fairness for them overall.

In a broader sense of human right principles regarding to religion and beliefs issues, David Miller [5], on his book *National Responsibility and Global Justice*, mentions that human rights require a justification that is non sectarian that it does not rely on reasons that people from non liberal societies should find objectionable given their divergent values. In addition to support the basic idea of human rights, he states that human rights are not justified on the basis of actual political agreements or in reference to a supposed overlapping consensus amongst various ethical traditions, but instead on the idea of basic human needs. According to his statement, they are valid across the different religious, moral and political cultures that are found in the contemporary world. Therefore, it can perform the capability of overcoming the sectarianism problem. It has already been recognized that the hardship of local belief identity administration legally lays on the sectarian issue which promotes the principal of religion as a background to distinguish the local belief system from religion to be merely a cultural matter. When sectarian principles are applied through the conduct of law and other regulations, sometimes they evidently restrict other different religious people's rights which are supposed to be granted by the State as a whole with no exception. It occurs to local belief societies in Indonesia, who have gained improper experience to struggle for their life and civil rights due to the past time government political system added with legalization of some law for managing their position with no respect for human rights.

The tendency of the system caused a commotion and confusion for most local belief societies, therefore they faced dilemmatic options in correspond to their religion identity.

The matter of local belief religion identity administration which should be recognized legally by the State is attached to the system of the State implementation in running their governance for the interest of civilians. The expert of system theorist, Niklas Luhmann [6] implies that the core concepts of fundamental rights law, such as liberty, property, freedom of speech and expression, equality, and the corresponding articles symbolize institutionalized expectations and mediate in their implementation in concrete situations. It leads to the inclusion of fundamental rights in the constitutions with no exception while noticing the principle of human right respect.

It is mentioned as well according to the abovementioned that constitutional and human rights are not a creation of the law, but are pre-legal as a social institution, as a self-protecting device of society [7]. Therefore, the State has an absolute governmental function for society protections, one of which lays on their rights and it covers local belief societies who remain their struggle for being secured in their life and civil rights.

For the importance of human rights in a state, Amartya Sen [8] in his publication, Elements of a Theory of Human Rights, emphasizes its reliance on the recognition of freedoms of human beings incorporated in the formulation of human rights. At the same time, a pronouncement of human rights includes an assertion of the importance of the corresponding freedoms, identified and privileged in the formulation of the rights. This reflects how the State must perform their capability of securing as well as protecting their civilians' rights for all with no discrimination and difference one to the others. Local belief societies are a part of Indonesian civilians whose rights in attaining public facility access should be on the State's attention as same as the other religious society. The human right principles should not be neglected in the administration of their religion identity and it is the sign of the human rights pronouncement for their life.

4. Discussion

4.1. Back to History, The State Regulations Leading to The Segregation Between Religions and Local Beliefs

The release of the Presidential Enactment no 1/1965 about Prevention against Religion Misuse and/or Blasphemy (PNPS Issue 1/1965) [9] is the important milestone of the segregation between the terms of religions and other spiritual beliefs, and it is supported by the statement of Minister of Religion Affairs in 1962. Further impacts of the release

in general would affect the existence of religions whose major followers are likely to conduct some persecution action against any teaching or belief considered a deviance from the existing religion teachings. Others could be the action of discriminating them out of their legal and civil rights, and it is an unfortunate circumstance when viewing this on behalf of defending the principle of religions and in accordance with the existing government regulation.

Act 1 of the Enactment underlines the public restriction of any existing religion teaching interpretation or conducting the religious rites whose interpretations are considered deviance against the original teaching. Act 2 verse 1 mentions that if proven to be conducted by an organization or specific spiritual belief, the organization or the belief movement could be disbanded by the President after comprehensive consideration provided by Minister of Religion Affairs, Attorney General, or Minister of Home Affairs. The regulation provides legal sanction for the organization or belief members based on criminal law as mentioned in Act 3 imposed with 5-year imprisonment. It is in line with Act 4 explaining the addition of Criminal Law with another new act, that is Act 156a which relies on the sanction impose with 5-year imprisonment for those conducting misuse or blasphemy against the existing religions in Indonesia as well as having an intention to make civilians not to follow any religion with no principle of the one and only God.

In the explanation of the Enactment, point 1 mentions that the principle of the one and only God not only lays the moral basic for the implementation of the State and Government, but also ascertains the unity of nation based on the principle of religiosity. It is an absolute principle applied in any effort of nation-building. Furthermore, in point 2 underline about some threats regarding the existence of legalized religions in Indonesia have performed their visible attempts to stand out. The threats mentioned above connect to the presence of spirituality teachings with the suspected tendency to violate law and regulations, to dismiss the nation unity, and to deviate against the existing religion teaching. As the consequence of the potential harm which is likely to threaten the religion position, the Enactment stands as a part of prevention attempts in order to avoid violations and deviance against the religion teachings based on the principle of the one and only God as explained in point 4.

The background information why the Presidential Enactment Issue 1/1965 was issued is due to the escalating number of local belief societies around 350 groups [10] after the first general election in 1955. Referring to the Act 29 verse 2 of the Constitution of 1945 mentioning that the State secures the independence of every civilian to have their own religions and to pray according to their religions and beliefs, the ex vice of

Prime Minister, KRT Wongsonegoro [11] interpreted the Act for the meaning of “belief” as “spiritual teaching” referring to local belief. However, the interpretation soon gained an opposition from those who reinterpreted the meaning of “belief” as other sects in Islam, such as Sunni and Shia. This condition was gaining more momentum when eventually the Ministry of Religion Affairs in 1962 defined religions by the statement of the Minister, Mukti Ali. He said that religions must own God, must be dogmatic, and must be escorted by a prophet as well as accompanied with a holy book. The statement certainly segregated religions and other spiritual beliefs, including local beliefs, and in the end it was legalized by the issuance of the Presidential Enactment Issue 1/1965 (PNPS No.1/1965). At the same time in 1965 when the political condition worsened due to the event of 30 September 1965 riot, it threatened the position of local belief societies and the Enactment became the regulation basis to make them select their religion identity based on the legalized religions or, even worse, accused of being a part of communists due to being irreligious. It was because local beliefs were not categorized in the definition of religions as mentioned in the Enactment.

4.2. Opinion of The Local Belief's Society for Their Right's Recognition by the Government

The decision of the Government through the decree of the Indonesian Constitutional Court no 97/PUU-XIV/2016 to recognize the right of local belief society related to the documentation of their religion identity on their ID and Family Registration cards is welcomed openly, particularly by most of local belief society in Indonesia. In 2017, the community of Marapu in Province of Sumba, Parmalim in Province of North Sumatera, and Sapto Darmo in Province of Central Java are legalized to record their religion/belief identities on their ID and Family Registration Cards [12]. The Chief of Indonesian Constitutional Court, Arief Hidayat, states that the state secures the request of the local belief society to have their religion/belief identities recognized generally. The decree mentions that the word ‘religion’ in Acts 61 verse 1 and 64 verse 1 Law no 23/2006 about Civil Registration and Administration is contradict against The 1945 Constitution and does not have binding legal power as long as it does not cover ‘local belief’. Furthermore, he states that the sentence in Act 61 verse 2 Law of Civil Registration and Administration ‘the society whose beliefs are not acknowledged as religions’ restricts their right or their independence towards the acknowledged religions by the Law. As a consequence, the state’s responsibility or the constitutional obligation to secure the society’s rights for their religions and beliefs is restricted only for those whose religions

are legally recognized by the regulation of the Law. It is obvious that the situation is not in line with the spirit of the 1945 Constitution which confirms the right of any society for their religion and belief rights according to their own religion and belief options independently.

Below are some opinions from the local belief societies in West Java correlated with the decision of the Indonesian Constitutional Court about the recognition of the local belief religion identity. It is an implication after the city municipality of Bandung releases 6 ID cards which contain the column of belief, not religion by the news on Tempo.co.id on February 21, 2019. For example, Sekartaji [13] revealed that before the decision, she had to experience the blank in the religion column of the ID card. She says that it creates exclusivity and segregation among Indonesian citizens. However, she expresses her gratefulness that the government eventually releases the decision to secure their right in the ID card column by mentioning 'the belief of the only one God' although for now on she says that it is still not necessary to record each name of the belief from their organizations.

Kang Bonie [14] adds that the previous constrains due to the issue of segregating religions and local belief address the problem of documenting the marriage legally on the office of civil registration and administration, students at schools unable to access the lessons of religions they have. In addition, he says the stigma as atheist and communist. He suggests the government to introduce local belief as a lesson to public, the local and central government, NGOs, and legislatives. At this time, he does not show objections when the Government classifies the local belief societies as the belief of the only one God despite the ideal condition to document their real local belief identity in the future. He expects that all local belief societies are treated as justly as the other religion ones without seeing the number of both as indicator.

Meanwhile, Reli Susanti [15] says that in the previous time she was required to select the acknowledged religion with the following risk of registering her marriage and taking her children religion lesson based on what she selected. By recording the mark '-' in the religion column of her ID card, it brings some consequences of being considered irreligious, atheist, communist, and other negative stigmas among other communities. Internally, in her community, she requests the other local belief societies to conduct the movement for their civil rights for raising an awareness of anti discrimination laws and externally she attempts to conduct various audience meetings with policy makers addressing the issue of discriminating laws against local belief societies, and with other supporters, such as activists, NGOs, and other networks. She adds that some progress about accomplishing the rights of local belief societies has come to the reality about

equality despite the general understanding that the beliefs are not the same as religions. Nevertheless, the recent condition which allows the societies to record 'the belief on the only one God' on ID card does not gain any objections due to representing all the local belief identities in Indonesia. Further expectation is underlining the non discriminating actions from both government apparatus and citizens due to the equal status of all as the Indonesian citizens under the applicable law

4.3. Objection against the Decision of the Indonesian Constitutional Court Addressing the Recognition towards the Local Belief Societies' Rights

The decision of the Indonesian Constitutional Court confirming the right of the local belief societies to record their religion identity on their ID cards immediately raises some criticisms, particularly from the Indonesian Council of Ulema (MUI). The chief, Mar'uf Amin states that religion column is a part of any citizen's identity as well as a basis of the coordination of local belief societies under the Ministry of Education and Culture, not the Ministry of Religion Affairs [16]. Therefore, he confirmed that religion column on ID card only states the religions acknowledged officially by the Government. This occurs as a result of political decision by various parts in the Government regulated in Act 64 verse 1 and 2 Law no 23/2006 about Civil Registration and Administration.

Meanwhile, the General Secretary of MUI underlines that religion and belief are different issues. It is insensible if both of them are mentioned in one column on ID cards based on the decision of the Indonesian Constitutional Court [17]. Due to that, MUI regrets the decision of the court no 97/PPU-XIV/2016 addressing this issue. In the different occasion, the Chief of Law and Constitution of MUI, Basri Bermenda explains that religions must have holy books, prophets, and system of teaching [18]. He shows the objection against the decision which positions religions the same as local beliefs as a part of the indigenous system of Indonesian religions.

In addition, he claims that the Court should consider their decision on the society's sensitivity in order to create more objective and aspiring decision despite their respect towards the Court's final decision.

It is interesting to view the situation more when the Chief of People's Consultative Assembly (MPR), Zulkifli Hasan, is concerned about the declining number of Moslems in Indonesia as a consequence of the government's recognition towards the local belief societies' identity on civil registration and administration [19]. He adds as well that the encouragement of recognition derives from liberal and secular groups in Indonesia, in

which he notices they originate from overseas and constantly conduct confrontation with existing religions in Indonesia.

5. Conclusion

The decree of Indonesian Constitutional Court no 97/PUU-XIV/2016 is obviously considered to perform significant implications, not only for local belief societies, but also the system of religion administration as a whole in this country in terms of securing their right, particularly to secure the local belief societies' in processing legal administrative documents for their legal requirements in the future. However, some constraints remain visible, they lie on the local civil registration and administration officials who have not acknowledged the regulation of ID card release for local belief societies based on the decree. Socialization process becomes very critical since it is known from the above mentioned information that most of the local officials are not well informed about the existence of local belief societies and their need of maintaining their religion identity in their life and other documentation process. This becomes a social movement for the societies to confirm their religion identity without feeling concerned about any form of discriminations. Furthermore, this decree brings a positive consequence towards the citizens' constitutional right to conduct their beliefs and a legal acknowledgement for them as well. The right of conducting any religion is a natural right which attaches on any human being with no exception under any circumstance and it is certain that it is not a state given.

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