

Legal Review of Marriages based on Religious Beliefs Not Recognized by The State in Indonesia

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Abstract. This study examines the implementation of marriage recognition for followers of indigenous religions, including those formally recognised by the State and those not recognised, and the legal consequences in certain situations. In Indonesia, interfaith marriages are often considered valid under their respective traditions and beliefs. Still, they are not officially recognised by the State, as Marriage Law Number 1 of 1974 recognised only six religions. This difference has led to various legal issues, including uncertainty about the couple's marital status and their children, loss of inheritance rights, and obstacles to using public facilities and administrative processes. This study employs a normative legal approach, with a specific focus on the Constitutional Court's decisions. The results of marriages show that legal recognition of marriages between members of indigenous religions remains limited and does not guarantee legal equality. According to the analysis, amending the Marriage Law and Population Administration Law to promote greater inclusivity regarding customary belief systems is a viable solution. The novelty of this research lies in the conflict between Article 2 paragraph (1) of the Marriage Law and Constitutional Court Decision Number: 146/PUU-XXII/2024, which states that believers are entitled to administrative recognition if their teachings and worship practices are deemed similar or closest to one of the religions recognised by the State. Thus, legal equality cannot be achieved through court decisions in a civil law system.

Keywords: Implications; Marriage; Recognition; State.

1. Introduction

The Sanskrit word "Kaluwarga", meaning "a person or group of relatives", is the origin of the word "Keluarga". It is helpful to think of family as a group of people related by blood and forming a social community through relationships, responsibilities, and shared commitments. Thus, the family is considered the basic social unit, consisting of the head of the household and several individuals living together in the same dwelling and interdependent (Ramadhani, 2025). Marriage is an expression of a constitutional right that must be respected and protected by all

members of society and the social, national, and political levels (Muis, 2018). According to Article 2 Paragraph (1) of the Marriage Law, which states: "Marriage is valid if it is performed according to the laws of each religion and belief", marriage in Indonesian is considered legally valid if it carried out in accordance with the regulations of religious law recognized by the state (Law Number 1 of 1974 on Marriage, 1974). However, this clause imposes limitations on religious adherents who are not included among the six officially recognized religions in Indonesia, including Sunda Wiwitan and similar communities.

The Republic of Indonesia officially recognized six religions according to Law Number 1 of 1965 concerning the Prevention of Abuse and/or Blasphemy of Religion; Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism (Presidential Regulation of the Republic of Indonesia Number 1/PNPS Year 1965, 1965). However, cannot deny that some social groups, such as followers of indigenous beliefs, have beliefs that go beyond these six religions. Articles 28E and 29 of the 1945 Constitution, which emphasize the right of every person to practice their own religion and beliefs, provide the foundation for Indonesia's recognition of these belief systems. However, in practice, members of the local belief system usually face biased treatment in administrative processes, primarily when registering their belief identity in official civil documents. Nevertheless, the government must recognize and treat members of indigenous faiths fairly in accordance with Constitutional court Decision Number 97/PUUXIV/2016, including granting them the right to display their beliefs on Family Cards and electronic Identity Cards (Viri & Febrinay, 2020). The principles of the Constitution regarding legal equality and human rights are violated when officially recognized religions and beliefs systems are treated differently, as this court decision affirms.

In addition, the state has the responsibility to provide legal protection for followers of indigenous beliefs as part of the implementation of Pancasila values and the respect for the nation's cultural diversity (Bernadete, 2018). Therefore, the legal foundation for the recognition of followers of indigenous beliefs in Indonesia is derived not only from the Constitution but is also reinforced by court decisions that affirm their civil and administrative rights as being equal to those of adherents of officially recognized religions (Viri & Febrinay, 2020).

The existence of indigenous beliefs arises from the diversity of belief systems that have developed within communities and have been passed down through generations, inherited and preserved by their descendants. Thus, even though Indonesia currently recognizes only six religions as legally valid, followers of indigenous beliefs continue to exist and maintain their traditions (Chandra, 2025). In practice, however, followers of such belief systems often face various challenges when registering their marriages. Although Constitutional Court Decision Number 97/PUU-XIV/2016 has recognized the administrative rights of indigenous belief adherents, including the inclusion of their belief in Identity Cards and Family Cards (Decision Number 97/PUUXIV/2016, 2016), its implementation at the regional level still faces obstacles.

In addition, Constitutional Court Decision Number 146/PUU-XXII/2024, which reviewed Article 2 Paragraph (1) of the Marriage Law, has not fully resolved the issue of discrimination in marriage registration. In the Marapu belief system in Sumba, marriages conducted according to local traditions are not officially recognized by the government. As a result, couples who perform customary marriages do not receive marriage certificates, and their children face difficulties in obtaining birth certificates (Viri & Febriany, 2020). A similar situation occurs among followers of the Sunda Wiwitan belief in Kuningan, where marriages between individuals are not conducted through official religious institutions and therefore cannot be registered at the Civil Registry Office (Hikam, 2022). Consequently, many followers of indigenous beliefs are forced to change or add an official religion to their documents in order for their marriages to be legally recognized (Decision Number 146/PUU-XXII/2024, 2024).

Most followers of indigenous belief systems in Indonesia experience discriminatory treatment in civil registration matters, including marriage. They often encounter legal issues such as not receiving marriage certificates, which in turn affect inheritance rights and other civil rights (Saputra et al., 2022). Unregistered marriages result in legal uncertainty regarding access to civil rights, ultimately leading to social and administrative discrimination such as difficulties in obtaining birth certificates for their children (Gede Pupung Januartika et al., 2022). The task of marriage registration officers is purely administrative, serving as official proof that a marriage has indeed taken place, and not as a determinant of the validity or invalidity of a marriage (Syahuri, 2013).

Although the Constitutional Court has established protections for followers of indigenous beliefs through Decision Number 97/PUU-XIV/2016 and Decision Number 146/PUU-XXII/2024, the reality in practice still shows the existence of administrative discrimination. This contradicts the principle of non-discrimination guaranteed by Article 28I Paragraph (2) of the 1945 Constitution, leading to legal uncertainty. Therefore, this study is crucial to analyze the legal issues faced by followers of indigenous belief systems.

2. Research Methods

This study adopts a normative juridical approach, a legal research method that emphasizes the study of existing legal norms, doctrines, and related principles. This approach is applied by analyzing library sources or secondary data as the basis of analysis (Soekanto & Mamudji, 2021), such as Law Number 1 of 1974 on Marriage and Law Number 1 of 1965 on the Prevention of Religious Abuse and/or Blasphemy. Meanwhile, a case approach is used to assess Constitutional Court Decisions Number 97/PUU-XIV/2016 and Number 146/PUU-XXII/2024. The study employs a descriptive-qualitative data analysis technique that systematically and logically interprets legal norms based on the collected legal materials (Marzuki, 2017). The analysis is carried out by explaining the applicable legal rules, such as Article 2 Paragraph (1) of the Marriage Law, which provides an interpretation of the social conditions faced by adherents of religions not included among the six officially recognized faiths.

3. Results and Discussion

3.1. Implementation of Marriage Recognition for Followers of Beliefs Recognized and Unrecognized by the State

One of the most important stages in a person's life is marriage. Therefore, all marriages must be registered to provide legal protection and verification for all citizens. The 1945 Constitution marked a turning point in human history by mandating that every marriage be recorded as a sign of recognition and legal guarantee for every citizen. Every important life event that occurs to Indonesian citizens, whether taking place within or outside the borders of the Republic of Indonesia, is protected and recognized by the 1945 Constitution in terms of personal and legal status (M.Zamroni, 2018). Under Indonesian marriage law, the term recognition refers to the official government act of approving a marriage, with legal implications for the parties involved. Such recognition confers legal legitimacy, defining the couple's legal position and transcending mere administrative process. As stated in Article 2 Paragraph (1) and (2) of the Marriage Law, a marriage can be considered legally valid if two primary conditions are met according to religious or belief systems and registration by the competent authority. Legal certainty is demonstrated by marriage registration, which also provides a basis for the state to protect civil rights arising from marriage, such as inheritance rights, children's rights, and legal status within the family (Subekti, 2010). By ensuring the application of legal standards are preventing conflicts between positive law and religious jurisprudence, state recognition of marriage serves as a modality of public legal legitimacy (Rohman, 2020).

From a normative perspective, marriage is valid if it is performed in accordance with the religious law or beliefs of each party, particularly in accordance with Article 2, Paragraph (1), of Law Number 1 of 1974, as amended by Law Number 16 of 2019. On the other hand, to harmonize national law and avoid legal pluralism in marriage law, paragraph (2) of the same article requires all marriages to be registered in accordance with current regulations and provisions (Subekti, 2010). However, in reality, the implementation of this clause has not fully achieved the desired results. Although this indirectly allows them to register their marriages, Constitutional Court Decision Number 97/PUU-XIV/2016 affirms the right of adherents of belief systems to include their beliefs on official identity documents (Aulia et al., 2022).

The Indonesian Constitution guarantees freedom of religion and belief. Article 28E Paragraph (1) of the 1945 Constitution states, "Every person shall be free to embrace a religion and to worship according to their religion, to choose education and teaching, to choose employment, citizenship, place of residence within the country and to leave it, as well as to have the right to return." Meanwhile, Article 29 Paragraph (2) declares, "The State guarantees the freedom of every citizen to embrace their respective religion and to worship according to that religion and belief." This principle is reinforced by Law Number 39 of 1999 on Human Rights, particularly

Article 22, which guarantees freedom of religion and belief. However, there is an inconsistency between the guarantee of human rights and state administrative practices, as the rights of followers of indigenous beliefs to register their marriages are often neglected by civil registry offices (Nurcholish, 2014). Even though their religious identity is listed on their identity cards or family cards, their constitutional rights related to marriage remain hindered if civil registry officers refuse to record their marriages (Abdullah, 2022). The limitation of recognition is legally grounded in Law Number 1 of 1965 on the Prevention of Religious Abuse and/or Blasphemy, which indirectly restricts recognition to the six official religions in Indonesia. This provision has led the state to seemingly overlook the diversity of belief systems within society, even though Pancasila and the Constitution guarantee the protection of pluralism in belief (Wijayanto, 2023). Constitutional Court decisions are binding, but within Indonesia's civil law system, such rulings are often considered applicable only to specific cases and do not automatically modify existing legal norms (Palguna, 2021).

The Constitutional Court, through Decision Number 97/PUU-XIV/2016, established administrative recognition for followers of belief systems to state their faith on official identity documents such as identity cards and family cards. However, this recognition does not automatically guarantee their ability to register marriages with state institutions. Constitutional Court Decision Number 146/PUUXXII/2024 revisited the provisions of Article 2 Paragraph (1) of Law Number 1 of 1974 on Marriage, but not all aspects of the ruling are relevant to the issue of marriage for followers of belief systems. Several petitions in that case were related to individuals identifying as non-religious (atheists), meaning that the decision and its ratio decidendi (legal reasoning) cannot be fully applied to the context of this study. In this research, only the section concerning the Constitutional Court's reasoning that followers of belief systems are entitled to administrative recognition if their doctrines and religious practices are considered similar or closely aligned with one of the state-recognized religions is relevant. This indicates that legal recognition for followers of belief systems remains limited and conditional rather than universal. Under these circumstances, it can be identified that although the Constitutional Court has provided an opportunity for recognition through its legal reasoning, practical implementation in society continues to face interpretative challenges. Therefore, Constitutional Court Decision Number 146/PUU-XXII/2024 primarily serves to reinforce the principles of administrative recognition and equality before the law, without addressing issues of atheism or non-religious views, which are unrelated to this matter.

The challenge of marriage recognition for followers of belief systems in Indonesia is clearly illustrated by the case of Sunda Wiwitan in Kuningan, West Java. Couples practicing Sunda Wiwitan face difficulties in officially registering their marriages at the civil registry office, resulting in their marital status being considered legally invalid. This situation demonstrates discrimination in access to administrative services such as obtaining birth certificates for their children and obstructs the protection of inheritance rights (Drajat, 2024). A similar case was also experienced by the Adat Karuhun Urang (AKUR) Sunda Wiwitan community in Cigugur (N. A. Sukirno, 2018). Within the Sunda Wiwitan belief system, particularly in the AKUR community,

there are administrative regulations related to the legality of marriage. The signature of the Pupuhu (traditional leader) of AKUR is not recognized by law as a valid basis for marriage under existing legislation. Consequently, if members of AKUR wish to marry according to their traditional beliefs, they are administratively required to use the signature of another officially registered belief organization under the Ministry of Education and Culture, acting as a representative of belief in the Almighty God (Drajat, 2024).

People who follow belief systems rooted in local traditions, such as Parmalim, Sapto Darmo, and similar faiths, have been classified by the Constitutional Court as entities that are not religions but are considered equivalent to them. Therefore, from a legal perspective, these followers are categorized as non-religious. Followers of Baha'i in Indonesia, Scientology, and other belief systems outside the six official religions can also be seen, legally or semi-legally, as non-religious. Anyone who fills in the religion column on their identification card without actually adhering to one of the recognized religions is considered to be falsifying information and taking advantage of the listed religion for personal benefit. The term "semi-legal" means that the religion is legally acknowledged, but in practice, it is not available as an option in the national identity card or family card, even though it is still considered valid from a legal standpoint (Decision Number 146/PUU-XXII/2024, 2024). Although the Constitutional Court, through Decision No. 97/PUU-XIV/2016, allowed citizens to include their belief identity in civil documents, this was further reinforced by Supreme Court Decision No. 1400 K/Pdt/1986. In that ruling, the Supreme Court sought to address legal shortcomings related to marriage. Therefore, the Supreme Court's decision, which has binding legal authority, serves as a legal basis for subsequent court rulings (Saputra, M. A. S., & Jamilah, 2022). However, its implementation across regions still faces obstacles, as unregistered marriages are considered invalid by the state and do not receive legal protection (Siregar, 2015).

3.2. The Legal Consequences of Marriages Conducted by Belief Systems Not Recognized by the State

According to the Kamus Besar Bahasa Indonesia (KBBI), the term *akibat* (consequence) is defined as something that constitutes the result or outcome of an event, action, or decision, along with the conditions that precede it. Meanwhile, *hukum* (law) is defined as customary rules officially recognized as binding and affirmed by authorities or the government; statutes, regulations, and other legal provisions established to govern social interactions within a community; standards (principles, provisions) concerning specific events (natural or otherwise); or judgments (decisions determined by a judge in court) (Language Development and Fostering Agency (Language Center), 2025).

Marriage has legal implications for couples, including the legal relationship between the partners, the creation of joint property, the legal status and legitimacy of children, and inheritances issues. Unavoidable legal complications arise when a specific religious or belief community is not registered as a recognized entity under the Directorate of Belief in the one

God and Traditions of the Ministry of Education and Culture. According to Article 2, paragraphs (1) and (2) of the Marriage Law, adherents of that belief system are prohibited from registering their marriages with the Religious Affairs Office, which result in a series of legal dilemmas, including the legal status and rights of their children. Therefore, children born out of wedlock are considered equal to children born from unregistered marriages. The child's birth certificate, which only lists the mother's name, is affected by this situation. "A child born out of wedlock only has a civil relationship with their mother and the mother's family", according to Article 43 paragraph (1) of the Marriage Law. As a result, these children have no legal connection to their father's family and no inheritance rights from their father. In the education system, these children often face requirements to adhere to religious beliefs that may differ from their family's beliefs and encounter administrative obstacles when enrolling in school due to incomplete birth certificates. Despite the principle of equal rights from all, they often face financial challenges in obtaining bank loans because they lack valid marriage documents, leading to unfair administrative treatment in Indonesian society (Basuki Prasetyo, 2020).

Marriage certificates and records are not the sole indicators of a marriage's validity or existence, as they are merely evidentiary documents without legal force. A crucial factor in determining whether a marriage is valid is whether it was performed in accordance with each partner's religious beliefs. If a couple is required to undergo a second wedding ceremony, this would violate Article 2, paragraph (1), and invalidate any subsequent marriage. Unregistered marriages must be recorded at the appropriate marriage registration office, such as the Religious Affairs Office or the Civil Registry Office, according to the couple's place of residence. However, the registration process is not considered a legal event, but rather an important moment similar to birth, death, and other significant citizenship events (Umanahu, 2022).

A marriage may be considered invalid under the law, even if it has been conducted in accordance with religious norms and customs, if it is not registered at the Office of Religious Affairs. A marriage that is not registered by the state, often referred to as an unregistered marriage, is a marriage that fulfills all the necessary religious and customary requirements but has not been officially recorded. This is unfortunate, as the absence of official registration prevents various legal issues related to marriage from being resolved through legal channels. Furthermore, unregistered marriages are often viewed negatively by society and are sometimes regarded as relationships without a legal basis. It can be said that the existence of unregistered marriages may create negative implications and contradict the intended purpose of forming a lawful and harmonious family (Aziz & Islamy, 2022).

The impact of the lack of state recognition of marriages based on belief systems is experienced not only by individuals but also by the state itself. From an individual perspective, the loss of administrative rights such as marriage certificates, inheritance rights, and social status directly affects the welfare of a family. On the other hand, at the state level, the absence of marriage registration creates more complex social problems, such as wives not being legally recognized and children born from such marriages lacking clear legal status. State recognition of various

forms of legitimate marriages according to religion and belief is an essential step toward achieving good governance and inclusivity in the legal system (Munsyifah, 2024).

Legal reform in the field of marriage needs to be directed toward a new approach that respects various belief systems, including customary practices, in order to uphold the principle of non-discrimination as stated in the 1945 Constitution. Regulatory changes related to marriage registration within customary communities should include the formulation of affirmative action norms, namely the recognition of customary laws that govern the organizational structure of traditional societies, so that they are no longer forced to form modern organizations merely to obtain marriage certificates (S. Sukirno, 2019).

As long as the belief or religion practiced by citizens does not contradict the first principle of Pancasila, namely Belief in One Supreme God, the state has an obligation to recognize that belief, as stipulated in Articles 28E and 29 of the 1945 Constitution of the Republic of Indonesia. The recognition of religion or belief aims to include such information in citizens' identity documents and relates to laws connected with religion or belief, such as marriage. There is a lack of alignment between constitutional guarantees and the implementation of religious freedom in Indonesia, particularly for adherents of belief systems. The state must design inclusive policies grounded in human rights and the values of Pancasila. Legal reform should focus on ensuring equal recognition for every form of belief held by Indonesian citizens. This can be achieved by revising the Population Administration Law as part of efforts to protect constitutional rights in accordance with Articles 28E and 29 of the 1945 Constitution of the Republic of Indonesia (Bimasakti, 2025).

4. Conclusion

Marriages conducted by followers of indigenous beliefs in Indonesia remain limited and inconsistent, resulting in legal uncertainty and violations of constitutional rights to equality before the law. Although such marriages are considered valid according to customary law, the absence of state recognition leads to the loss of legal status for couples and their children, as well as hindering access to civil rights and public services. The novelty of this research lies in its assertion that equality in marriage law cannot be achieved solely through judicial rulings but requires reforms to the Marriage Law and the Population Administration Law to ensure that legal recognition is inclusive of all belief systems within the Indonesian legal framework.

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