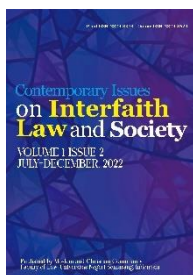


Pros and Cons of Removing the Religion Column in Indonesian Identity Cards (Analysis of the Impact and Regulation on Human Rights)

Bagus Edi Prayogo*

Faculty of Law, Universitas Negeri Semarang, Indonesia



ABSTRACT: The removing of the religious column on the national identity card raised pros and cons. has begun. In one side, there are many beliefs cannot be accommodated by the administration system in religion column, but in the other sides, the provision of the beliefs protection instead if religion is still bias. This study aims to analyze the pros and cons of removing of religion identity at the national identity card. The method used at this study is literature study with some comparative analysis of laws and regulations concerning the freedom of religion and belief both national and international legal system. The study found that initially, the aim of removing the religion column was to accommodate the rights of adherents of beliefs, which began to spread to the idea of eliminating the religion column for all religious communities in Indonesia. This study also found that after the issuance of the Constitutional Court decision No. 97/PUU-XIV/2016, adherents of a belief can list their belief in the column of religion on their identity cards. The decision claimed to recognize and include religious beliefs as a new identity column on the KTP is a significant development of the government's commitment to guaranteeing equal rights for all Indonesian people regardless of diversity of religions and beliefs. Furthermore, guarantees for freedom of religion and belief are strictly

* Corresponding author's email: bagusediprayogo@mail.unnes.ac.id

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regulated in Article 28 E and 29 paragraph (2) of the 1945 Constitution. In addition, these guarantees are also regulated in the Law on Human Rights and the ICCPR.

KEYWORDS: Human Rights, Freedom of Religion and Beliefs, Religious Issues, National Identity Card, Removing Religion Column



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I. INTRODUCTION

Indonesia is a country of law. We hear that word many times, especially for someone who is involved in the world of politics, law, or the field of government. Article 1 paragraph 3 of the 1945 Constitution confirms that Indonesia is a country that prioritizes justice for all Indonesian people because the noble purpose of making a law is for justice. In addition, justice is also clearly stated in the ideology of the Indonesian state, namely the 5th Pancasila precept which reads "Justice for all Indonesian people". This is what underlies that this country has good faith for its citizens by providing opportunities to obtain rights and carry out obligations fairly. The purpose of law is to ensure continuity, balance in relations between members of society,¹ regarding religion, which is a personal matter,

¹ CST Kansil, 1986, *Introduction to Indonesian Law and Legal Studies*, Balai Pustaka, Jakarta, p. 40

the Indonesian state also regulates it. As we all know that the Indonesian state only recognizes six religions that can be embraced by its people. The religions are Islam, Protestant Christianity, Catholic Christianity, Hinduism, Buddhism, and the recently added religion, Confucianism. Then what about adherents of beliefs outside the 6 religions, even though there are so many Indonesian people who have ancestral beliefs, call it the Kejawen belief.²

Article 28E of the 1945 Constitution reads "Everyone has the right to freedom of belief, expressing thoughts and attitudes, according to his conscience". But don't misinterpret it first because it doesn't mean that Indonesia recognizes the belief in the ancestral beliefs of the indigenous people. The problem is that the government forces adherents of existing beliefs to fill in the religion column on their identity card with a choice of only 6 recognized religions. There are

² Kejawen is a way of life adopted in parts of Java by the Javanese. Kejawen is a collection of worldviews and philosophies throughout the civilization of the Javanese which has become a shared collective knowledge, this can be seen from its teachings which are universal and always attached side by side with the religions adhered to in its time. The books and ancient manuscripts of Kejawen do not emphasize their teachings as a religion even though they have practices. Kejawen also cannot be separated from the religion it adheres to because the philosophy of Kejawen is based on religious teachings adhered to by Javanese philosophers. *See also* Wasisto, Muhammad Adiz. "Reflecting on Kejawen: Javanese Esoteric Teachings in Indonesian National Development." *Udayana Journal of Law and Culture* 5, No. 2 (2021); Yogiswari, Krisna Sukma. "Kejawen: Kearifan Yang Adiktif." *Genta Hredaya: Media Informasi Ilmiah Jurusan Brahma Widya STAHN Mpu Kuturan Singaraja* 4, No. 2 (2020): 185-197; Fibrianto, Alan Sigit. "Budaya Spiritual Aliran Kejawen 'Prasetyo Manunggal Karso' sebagai Wujud Pluralisme Kepercayaan Masyarakat di Boyolali." *Penamas: Jurnal Penelitian Agama dan Masyarakat* 32 (2019): 555-572; Kristina, Ayu. "The Position of Kejawen in the Indonesian Constitution." *DINIKA: Academic Journal of Islamic Studies* 6, No. 2 (2021): 291-308.

human rights that are violated by the state here. Although according to Hans Kelsen there is a theory called the theory of state sovereignty. According to this theory law is the will of the state and the state has unlimited power.³In fact, if we look at Pancasila precepts 1 which reads "Belief in the One and Only God" where it is clear that the value of God is upheld by the State of Indonesia, however, there is still the practice of coercion in filling out the identity column for Identity Cards. The value of Belief in the One and Only God gives freedom to adherents of religions according to their beliefs, there is no coercion, and between adherents of religions must respect each other and cooperate.⁴The main problem that I will describe is not about defending adherents of beliefs outside the 6 religions to get recognition, but is justice for the people who adhere to it where in the conditions on the ground they are "forced" to write down 1 out of 6 religions recognized by the Indonesian state government which among the The 6 religions they choose in the KTP religion column are not beliefs that are in their conscience and are just a formality. But this is no longer something that is shocking for those who hear this because it is a common occurrence.

Talking about the KTP itself, the KTP is a sign of one's residence as the identity of an Indonesian citizen who is aged 17 in particular. Currently Indonesia has implemented E-KTP. E-KTP itself has a legal basis contained in Law no. 24 of 2013 concerning amendments to Law no. 23 of 2006 concerning Population Administration. From the contents of the law, Article 58 lists the elements that must be present on the E-KTP, one of which is religion. This is of course normal if you haven't seen a statement from the Ministry of Home Affairs Tjahjo Kumolo at that time with his statement "In the law it is clear that there

³ CST Kansil, p. 62

⁴ Soegito et al, 2016, *Pancasila Education*, UNNES Press, Semarang, p.87

are 6 religions that may be listed on e-KTP or electronic-KTP, so if you want to add them it will take time to change them. But, if they want to leave that column blank, that's fine" (Liputan6.com, 2014). Of course this statement was shocking because in the previous year a law had been issued which was binding on E-KTP where in the KTP column there must be Religion but it was given tolerance for adherents of the faith to leave it blank.

This statement eventually led to polemics among the public. There are pros and cons that envelop the atmosphere of this problem. It is on this basis that this paper is structured to provide a normative juridical analysis, in this case the review is Law no. 24 of 2013 and sociological analysis through exposing the conditions of the people affected by government policies and the cultural conditions of Indonesian society which are pluralistic in the perspective of human rights.

Therefore, this study is intended to analyze three main point, as follows:

1. How is the debate over the elimination of the religion column on KTPs based on the perspective of Law No. 24 of 2013 concerning Population Administration?
2. Why are there pros and cons regarding the statement by the Ministry of Home Affairs Tjahjo Kumolo even though it is clear that Indonesia is a country of laws and regarding KTP itself there is already a law that regulates it?
3. How do the Indonesian people respond to the issue of whether or not the religion column is removed from the KTP and its review of human rights?

II. METHODS

This study used library studies, namely through books, journals, and other documents related to this case. The legal review used is to review the written legal norms contained in the 1945 Constitution, Law No. 24 of 2013 concerning Population Administration. The collection of data via the internet is viewed sociologically, namely observing the conditions of a pluralistic Indonesian social society through population data and the pros and cons that spread in society.

III. THE POLEMIC ON THE ELIMINATION OF THE RELIGION COLUMN ON KTP BASED ON LAW NO. 24 OF 2013 CONCERNING POPULATION ADMINISTRATION

Since 2014, the polemic regarding the pros and cons of removing the religion column on KTPs began. From an expression of a Ministry of Home Affairs, namely Tjahjo Kumolo, who stated that the religion column in the e-KTP may be left blank considering that in Indonesia it is felt that there is still discrimination against beliefs that exist in society. The Ministry of Home Affairs also said that the Government does not want to interfere with Indonesian citizens who adhere to their beliefs if it does not mislead and disturb public order.⁵ Speculations began to emerge, ranging from those who supported it

⁵ Todung Mulya Lubis, "Kolom Agama dalam Perspektif HAM", *Online Article KOMPAS*, November 2017. Retrieved from <https://nasional.kompas.com/read/2014/11/27/14220451/Kolom.Agama.dalam.Perspektif.HAM>; Fabian Januaris Kuwado, "Tjahjo pernah Dicurhati Penganut Kepercayaan yang Ingin Urus Kematian Saja Sulit", *KOMPAS Online*, November 2014, reterived from <https://nasional.kompas.com/read/2014/11/14/20282381/Tjahjo.pernah.Dicurhati.Penganut.Kepercayaan.yang.Ingin.Urus.Kematian.Saja.Sulit>.

to those who firmly opposed the elimination of the religion column in KTPs.

We should realize that we live in a country that has a plural society. Nation Indonesia in the life of its country has a national perspective called the Archipelagic Outlook.⁶The essence of the archipelago insight is a complete and comprehensive perspective within the scope of the archipelago for the sake of Indonesia's national interests.⁷So that with this diversity, we as a nation, who used to fight for independence, of course, must have a sense of kinship with one another in the form of justice, because we are a country of laws, so we must prioritize justice. This is what was mandated by our founding fathers to be together in diversity. So the idea to acknowledge the existence of adherents of a belief emerged to provide the same sense of justice as adherents of religion.

If we look at Law no. 24 of 2013 Article 64 paragraph 5 which reads Elements of population data regarding religion as referred to in paragraph (1) for Residents whose religion has not been recognized as a religion based on the provisions of Laws and Regulations or for adherents of beliefs are not filled in, but are still served and recorded in the population database. pay attention to adherents of faith. As in the 1945 Constitution Article 28E paragraph 2 which also implicitly guarantees the human rights of adherents of that belief.

Talking about believers It is known that the number in Indonesia is 12 million people. This was conveyed by the chairman of the board of the Supreme Council of Belief in God Almighty Indonesia or

⁶ Sunarto et al, 2016, *Citizenship Education in Higher Education*, UNNES Press, Semarang, p. 61

⁷ *Ibid*

abbreviated as MLKI which was conveyed in a session regarding the Review of Law Number 23 of 2006 concerning Population Administration as Amended by Law Number 24 of 2013 concerning Amendments to the Law Law Number 23 of 2006 concerning Population Administration [Article 61 paragraph (1) and paragraph (2) and Article 64 paragraph (1) and paragraph (5)] of the 1945 Constitution of the Republic of Indonesia on 6 December 2016. The status of as applicants at that time were Nggay Meheng Tana, Pagar Demanra Sirait, Arnol Purba, et al. The lawsuit trial was at the request of Nggay Meheng Tana, Pagar Demanra Sirait, Arnol Purba, and Carlim who sued Article 61 Paragraph 1 and Paragraph 2 of the Population Administration Law to the MK. The article reads: Information regarding the religion column as referred to in paragraph (1) for Residents whose religion has not been recognized as a religion in accordance with the provisions of Legislation or for adherents of beliefs is not filled in, but is still served and recorded in the Population database. With the above article, adherents of the belief are not written in the religion column on the KTP so that it impacts discrimination from the state.⁸

⁸ Pransefi, Megamendung Danang. "Aliran Kepercayaan Dalam Administrasi Kependudukan." *Media Iuris* 4, No. 1 (2021); Penatas, Anom, Supriyadi Supriyadi, and Ferry Anggriawan. "Status Hukum Dokumen Kependudukan Aliran Kepercayaan Setelah Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016." *Bhirawa Law Journal* 1, No. 1 (2020): 30-36; Andhika, Moh Bhayu Surya. "Perlindungan Hukum terhadap Hak Konstitusional Warga Negara Penganut Kepercayaan." *Syariati: Jurnal Studi Al-Qur'an dan Hukum* 5, No. 2 (2019): 283-292. See also Syaputra, Muhammad Yusrizal Adi, and Mirza Nasution. "Pemenuhan Hak Konstitusional Masyarakat Penganut Kepercayaan Lokal dalam Pemilihan Umum." *Jurnal Yuridis* 6, No. 1 (2019): 46-66; Jufri, Muwaffiq. "Persoalan Hukum Pengakuan Hak-Hak Penganut Aliran Kepercayaan di Bidang Administrasi Kependudukan." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, No. 3 (2020); Humaidi, M. Wildan. "Politik

In that trial there were explanations from the government against the applicant. Among others are: that Indonesia does not only have diverse ethnic groups, but also has diverse religions and beliefs. Against the six official religions in Indonesia, namely Islam, Christianity, Christian-Catholic, Protestant Catholic, Hindu, Buddhist, and Confucianism, in addition to the official religions in Indonesia, other beliefs, called traditional beliefs, also grow and develop.

Second, with the existence of religious diversity in Indonesia, Indonesian people must respect the differences that exist. This has been regulated in the 1945 Constitution Article 29 paragraph (2) which guarantees that people have freedom of religion. Every individual is free to adhere to the religion of his choice, thus there is no religious discrimination. Each individual must respect and maintain tolerance for each other's beliefs.

Third, belief holds ... belief plays an important role in the life of the Unitary State of the Republic of Indonesia, this is manifested in the first precepts of Pancasila and is contained in the preamble to the constitution of the 1945 Constitution as the main foundation for every human being who lives in it. We need to understand together that the choice of words contained in the Pancasila precepts and the dialectical opening of the constitution is ... is Belief in One Almighty God. This contains a deep philosophical meaning that Indonesia is a country based on God, not religion, so that every belief based on Belief in the One and Only God is recognized by the Government.

Hukum Mahkamah Konstitusi Atas Rekognisi Penghayat Kepercayaan dalam Kontestasi Politik Kewargaan Indonesia." *Al Daulah Jurnal Hukum Pidana dan Ketatan* 9, No. 1 (2020).

Forth, this is based on a civilization that grew and developed long before religions entered the archipelago where some Indonesian or Indonesian people already have a belief in God that has survived to this day and is considered a noble value of life. In almost all parts of Indonesia, there are original religions or beliefs such as Sunda Wiwitan which is embraced by the Sundanese people and in Kanekes, in Lebak Banten, Sunda Wiwitan madrais is also known as the Cigugur religion or/and there are several other names in Cigugur. In Cigugur, Kuningan, West Java, Buhun religion in West Java, Kejawen in Central and East Java, Parmalim religion, Indigenous Batak religion, Kaharingan religion in Kalimantan, Tonaas Walian beliefs in Minahasa, North Sulawesi, Tolotang in South Sulawesi, Wetu Telu in Lombok.

Fifth, that the Indonesian state respects the existence of every belief that accompanies the life of the nation and state as outlined in the foundation of the Indonesian state. This is the background to the birth of the provision regarding emptying the religion column on KTPs in Law Number 23 of 2006 concerning Population Administration. If we trace it to the existence of provisions regarding the recognition of religion in Indonesia, in essence the state recognizes the diversity of the six religions that have existed and been embraced by the people of Indonesia. The six religions are Islam, Catholicism, Protestantism, Hinduism, Buddhism and Confucianism. Apart from the above religions, the state continues to allow its existence on condition that it does not interfere with and violate the provisions in Indonesia.

Sixth, KTP as a resident's identity includes elements that are an inseparable part, including the Garuda Pancasila symbol, state map, and religion, including that. Where only six religions are then listed in the KTP column in Indonesia. So that there are no problems in the

future, provisions are made that regulate religions that are "*not yet recognized*" by the Indonesian state. By leaving the religion column blank on the KTP for religions or beliefs that have not been recognized by the Indonesian state.

Seventh, that the state must have orderly administration, one of which is related to the identity of the population, including the religion of the population. This is important for Indonesia, which adheres to various religions and beliefs, because it will have an important correlation with several administrations in the field such as marriage, inheritance, ownership of property, child adoption issues, and other administrative matters.

The religion a person adheres to will have an important correlation with the legal actions taken, because in Indonesia written law is important in efforts to enforce and ensure legal certainty itself. As in the case of a Muslim marriage, the religious identity of a KTP is still used as authentic evidence to determine the religion one adheres to before marriage. This means that written evidence is important as the legality of a person as a legal subject and object.

The government is of the view that the existence of a religion column is very beneficial for both identity owners and the state in order to provide legal boundaries for every adherent of a belief and religion so that their constitutional rights are guaranteed. Furthermore, it should be noted that until now none of the indigenous religions and beliefs of the archipelago have been recognized as religions with the rights to be listed on KTPs, birth certificates, registration of marriages at the civil registry office, and so on. This has resulted in many adherents of ancestral beliefs or teachings or original religions in Indonesia still being forced to choose a religion or being recognized or not making ID cards at all.

In addition to this, the government needs to convey that in the a quo law there are indeed several norms that have not been included so that a more certain instrument is needed in assessing the religion of belief that can be recorded in the population administration. Taking into account the various dynamics mentioned above, the Government requests the Constitutional Court to be able to provide constitutional considerations for regulations related to the religion column in order to determine a better policy direction for the government as the organizer of the state. That the Government really appreciates the efforts made by the community in participating in providing contributions and thinking participation in building an understanding of state administration. The community's thoughts will become a very valuable reference for the Government in particular and the Indonesian people in general. On the basis of this thought.⁹

From the point of view of the adherents of the faith, they also stated 11 things at the beginning of the trial, including:

1. The problem of discriminatory treatment and suffering experienced by people who believe in God Almighty is a long journey of decades since the colonial era which until now has not been fully liberated where until now people who believe in belief do not really feel the basic rights to be free to embrace, worship, and get recognition , as well as the guarantee of protection for his

⁹ See the minutes of the Constitutional Court hearing regarding the Review of Law Number 23 of 2006 concerning Population Administration as Amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration [Article 61 paragraph (1) and paragraph (2) and Article 64 paragraph (1) and paragraph (5)] of the 1945 Constitution of the Republic of Indonesia No. 97/PUU-XIV/2016, 6 December 2016, p. 4

belief as mandated in the 1945 Constitution Articles 28D, Article 28I, and Article 29.

2. It is ironic in our beloved Republic of Indonesia that only belief systems that come from outside the archipelago are categorized as religions. Meanwhile, belief systems originating from... originating and born from the motherland, are not recognized as religions. In fact, religious phrases such as the phrases trigama, adhigama, parigama, duhagama, gurugama, kertagama, and others are original phrases in the Indonesian language.
3. Religion is thus recognized as a belief system that comes from outside while the local archipelago belief system which is actually the owner, is not allowed to use religious phrases and is changed to kebatinan, or spirituality, or psychology, and what is then called a belief or belief in God Almighty .
4. From the era of the struggle for independence to the early period of the Old Order, people who adhered to beliefs developed well and contributed to the process of struggle and maintaining independence, as well as filling independence. However, when DI/TII developed in the 1950s, many members of the community who adhered to that belief became victims because they were accused of not having a religion or being infidels.
5. Stepping on in the New Order era at first many of the adherents of the community became victims because of the PKI's accusations. Then, starting in 1973, they obtained improved services from the state where the existence of belief in God Almighty was recognized by the state and equated with religion even though it was not recognized as a religion so that it was accommodated in the GBHN and in every law and regulation the belief was always listed behind the phrase religion. At that time, it was permissible to include phrases of belief in the religion column on KTPs and adherents could enter into marriages

without having to go through one of the 5 religions at that time. Can become civil servants and also provide an oath of office for adherents.

6. However, this independence did not last long because starting in 1978, these rights began to be stripped or amputated. Starting from the identity on the KTP, revocation of marital rights according to belief, and so on so that adherents of the belief must include one of the 5 religions they do not believe in if they do not want to be discriminated against or ostracized.
7. In the current reform era, the treatment of discrimination and injustice experienced by adherents of the faith has not undergone significant changes. Even though there have been improvements, there have been a number of setbacks where in the laws and regulations in this reform era there were many articles that removed the phrase of belief behind the religious phrase so that it resulted in the loss of the rights of adherents or the existence of a legal vacuum for adherents as in Law Number 20 of 2003 concerning the National Education System. Then, Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, this is also a lost phrase of trust. Law Number 23 of 2006 concerning Population Administration which was later changed to Law Number 24 of 2014 recognizes the existence of adherents of belief and is allowed to enter into marriages without going through marriage to one of the 6 religions. However, adherents are not allowed to state their beliefs because the identity in the group... is not allowed to include their beliefs because the identity in the column for religion must be left blank which in practice is marked with a small dash.
8. In several regencies/cities, they have made breakthroughs or discretion by including the identity of their beliefs in the column of religion on the KTP, so that the followers are happy. However,

it turned out that it was later revoked again and returned to a blank identity or dash.

9. The inclusion of blank identities or dashes on KTPs raises other problems that are detrimental to adherents of that belief as experienced by the Petitioners in various regions.
10. Negative impacts and loss of constitutional rights experienced by adherents of the faith as experienced by the Petitioners, among others, blanking out or filling in a dash on the religious identity on the KTP creates a stigma for the owner of the said KTP as a person who has no religion or not... or is considered an atheist which can lead to discriminatory treatment and oppression of believers. As we all know, our society in general is very anti or hostile to people who have no religion or are atheists. Leaving blanks or filling in dashes on religious identity on KTPs is often seen as a heretical sect. Then, leaving blanks or filling in dashes in the religion column on KTPs is also often interpreted or suspected by some people as a communist group that endangers the owner of the KTP and this creates historical trauma.¹⁰

The essence of the December 6, 2016 session was to only hear the statements of the President, DPR, and Related Parties [The Supreme Council for Belief in God Almighty (III) but for the DPR it was postponed until 2017. It was conveyed at that time that adherents of the faith felt discrimination against services provided by the government. Public services regulated in Article 4 of Law No. 25 of

¹⁰ See the minutes of the Constitutional Court hearing regarding the Review of Law Number 23 of 2006 concerning Population Administration as Amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration [Article 61 paragraph (1) and paragraph (2) and Article 64 paragraph (1) and paragraph (5)] of the 1945 Constitution of the Republic of Indonesia No. 97/PUU-XIV/2016, 6 December 2016, p. 8

2009 concerning Public Services states that, the implementation of public services is based on:

1. Public interest.
2. Legal certainty.
3. Equal rights.
4. Equality of rights and obligations.
5. Professionalism.
6. participatory.
7. Equal treatment/non-discriminatory.
8. Openness.
9. Accountability.
10. Special facilities and treatment for vulnerable groups.
11. Timeliness, and
12. Speed, convenience, and affordability.

However, discriminatory treatment is instead received by adherents of beliefs who are forced to hide their beliefs behind the 6 recognized religions in Indonesia. The government itself uses the reason for orderly administration where population data as regulated in Law No. 24 of 2013 which reads individual data includes: family card number; NIK; full name; gender; place of birth; date/month/year of birth; blood group; religion/belief; marital status; relationship status in the family; physical and/or mental disabilities; last education; type of work; biological mother's NIK; biological mother's name; father's NIK; p.s. father's name; previous address; current address; ownership of birth certificate/birth certificate; birth certificate number/birth certificate number; ownership of marriage certificate/marriage book; marriage certificate number/marriage book; wedding date; ownership of divorce certificate; number of divorce certificate/certificate of divorce; divorce date; fingerprint; eye iris; signature; and

other data elements that are someone's disgrace. Population Data is used for all purposes of Population Data from the Ministries responsible for domestic government affairs, including for utilization, namely: public service; development planning; budget allocation; democracy development; and law enforcement and crime prevention.

Adherents of legal beliefs already have a strong legal basis for coming to the surface by showing their identity by leaving the column blank for religion on the KTP and it is better not to delete this column because it is for administrative purposes. Indonesia is a country that guarantees justice for its people. People's justice is made in a legal form that binds the legal subject. Every social relationship must not conflict with the provisions of the legal regulations that exist and apply in society.¹¹What is experienced by adherents of true faith is contrary to the 1945 Constitution.

Regarding the abolition of the religion column, of course, it is still unclear because it is still awaiting a decision from the Constitutional Court. The one who can solve this problem is a leader who can provide harmony. Leaders consisting of capable, clean, honest and fair people.¹²

IV. PROS & CONS REGARDING THE STATEMENT OF THE MINISTRY OF HOME AFFAIRS TJAHO KUMOLO

As a country where there are many different kinds of religions embraced by the people of Indonesia, it shows that society is plural.

¹¹ CST Kansil, 1986, *Introduction to Indonesian Law and Legal Studies*, Balai Pustaka, Jakarta, p. 40

¹² Muladi, 2009, *Human Rights: Nature, Concept, and Implications in the Perspective of Law and Society*, Refika Aditama, Bandung, p. 37

Since independence, the Indonesian people have been bound by one commitment, namely a state based on Pancasila and the 1945 Constitution, into the bonds of the Unitary State of the Republic of Indonesia (NKRI) with the spirit of *Bhineka Tunggal Ika* (multiple streams but one goal) in a democratic political system.¹³ However, now various kinds of polemics regarding the abolition of the religious column have emerged, ranging from legal issues to the realm of human rights. There are two camps related to the discourse of removing the religion column on the KTP, both of which support and reject it altogether. The pros and cons argue with each other based on an understanding from a cultural perspective as well as the positive legal norms that apply in Indonesia. The impact is directly felt by adherents of traditional beliefs and laws, who require formal legal recognition as legal residents of Indonesia.¹⁴

The Indonesian Ulema Council (MUI) which strongly opposes the elimination of the religion column on KTPs is wrong if it continues. The MUI considers that the religion column is important for the life of the nation and state and is concerned that if the government continues to abolish the religion column in KTPs, this could result in the emergence of many new religions and beliefs other than those already established by the Indonesian state.

As for other parties who stated that they support the elimination of the inner religion column, Dr. Siti Musdah Mulia, a member of Jokowi's presidential campaign team, Jusuf Kalla, who has the same

¹³ Firdaus Syam, "The Dilemma of Plurality: Obstacles or Strengthening The Democracy of The Indonesian Nation?", *Journal of Legal Studies*, Vol. 14, No. 2, 2011, p. 257

¹⁴ Teguh Tri Wahyudi, "Wedding in The Hardo Pusoro Citizens' Paguyuban: Between Rituals and Constitutions". Accessed from <https://www.researchgate.net/publication/318208499>

idea as Tjahjo Kumolo, that they support eliminating the Religion column in KTPs because so far the religion column in KTPs can discriminate. The same opinion was also expressed by Vice President Jusuf Kalla (JK) with said that, individuals cannot be forced to choose a particular religion because the religion embraced is outside the 6 religions recognized by the government.

Chairman Arief Hidayat's Constitutional Court issued a statement on May 3, 2017 stating that adherents of beliefs must be recognized because they are the original heritage of the ancestors of the indigenous archipelago and there should be no discrimination. Even so, this deletion is still limited to discourse and is under consideration.

V. ATTITUDES OF THE INDONESIAN SOCIETY ON THE PROBLEM OF REMOVING THE RELIGION COLUMN FROM THE KTP & ITS REVIEW ON HUMAN RIGHTS

The issue of SARA (Ethnicity, Religion, Race and Culture) in Indonesian society is a very sentimental issue because this country is branded by its own people as a religious country. The proof is in the 1st precept of Pancasila which reads Belief in the One and Only God. In addition, through the appreciation of Article 29 paragraph 1 of the 1945 Constitution which states that the state is based on Belief in the One and Only God.¹⁵ This means that within the Republic of Indonesia, laws that are contrary to the norms of religious law and the norms of decency of the Indonesian people may not apply or be enforced.¹⁶ Therefore, when there was news about the removal of the religion column, citizens immediately reacted. Religious norms have a greater effect on individuals than norms originating from other

¹⁵ Mohammad Daud Ali, 1990, *Islamic Law*, Raja Grafindo Persada, Jakarta, p. 7

¹⁶ *Ibid.*, p. 8

sources or the original phrase "*religious norms arguably lay greater claim upon individuals than norms emanating from other sources*".¹⁷



Figure 1. Map of the Spread of Religion in Indonesia 2010 BPS population census (source: images.google.com)

¹⁷ Jeffrey R. Seul, "Ours is the Way of God': Religion, Identity, and Intergroup Conflict", *Journal of Peace Research*, Vol. 36, No. 5, 1999, p. 561. See also Bagir, Zainal Abidin, and Renata Arianingtyas. "Limitations to freedom of religion or belief in Indonesia: Norms and Practices." *Religion & Human Rights* 15, No. 1-2 (2020): 39-56; Hasibuan, Hamka Husein. "Moderasi Islam Pencantuman Penghayat Kepercayaan di Kolom KTP/KK dalam Nalar Maqasid." *Aqlam: Journal of Islam and Plurality* 4, No. 2 (2019); Hamudy, Moh Ilham A., and M. Saidi Rifki. "Civil Rights of the Believers of Unofficial Religions (Penghayat Kepercayaan) in Pekalongan District." *Jurnal Antropologi: Isu-Isu Sosial Budaya* 22, No. 1 (2020): 48-59; Palguna, I. Dewa Gede. "Kedudukan Putusan Mahkamah Konstitusi dan Perlindungan Hak Konstitusional Penghayat Kepercayaan." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, No. 3 (2021): 495-516; El Guyanie, Gugun, and Aji Baskoro. "The constitutional rights of indigenous beliefs adherents in minority fiqh perspective." *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 21, No. 2 (2021): 155-176; Widyaningrum, Tuti. "Pengaturan Hak Kebebasan Berkeyakinan Penghayat Kepercayaan Terhadap Tuhan Yang Maha Esa Dalam Perspektif Negara Hukum Demokratis Indonesia." *Jurnal Hukum Staatrechts* 1, No. 1 (2018).

The state guarantees the freedom to embrace religion and belief according to its own way in the 1945 Constitution which is then implemented in Law No. 39 of 1999 concerning Human Rights. Likewise in this matter where adherents of the belief are given space to show their identity through identity cards and confirmation of their existence.

VI. CONCLUSION

This study concluded that regarding the removing of the religious column in the review of constitutional juridical law, namely Law no. 24 of 2013 where adherents of belief may leave the column blank for religion. This is done in order to fulfill the sense of justice for people who have beliefs outside the 6 recognized religions. The Indonesian state is a country that recognizes the existence of divinity in its ideology which shows that the foundation supporting the country's sustainability is belief in God Almighty. However, in the field conditions themselves, discrimination in public services from the government still occurs in practice.

The pros and cons that occur in society come from sentiments originating from the historical and religious side as well as from the administration of government itself which deals with justice. The Pro camp has reasons that justify the removal of the religion column in KTPs, including: *first*, the Religion Column on the KTP is inconsistent with the concept of the Right to Freedom of Religion and Belief in Indonesia, where there are still many beliefs in society that are reluctant to come to the surface for fear of being discriminated against, and *second* the Religion Column on the KTP only applies to religions recognized by the government which causes the rights of adherents of a belief to not be supported.

In the contra, there are also arguments that *first*, the Religion Column is the Embodiment of Indonesia as a God-based country where since the founding of this country the founding fathers have agreed that the country of Indonesia has God. *Second*, the Urgency of Maintaining the Religion Column on the KTP is seen from the aspect of function which is for population data for the purpose of fulfilling rights by the government to its citizens in the form of efficient public services.

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COMPETING INTERESTS

The Authors declared that they have no competing interests.

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Population Administration [Article 61 paragraph (1) and paragraph (2) and Article 64 paragraph (1) and paragraph (5)] of the 1945 Constitution of the Republic of Indonesia No. 97/PUU-XIV/2016, 6 December 2016, p. 8

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Human rights, of course, must include the right to religious freedom, understood as the expression of a dimension that is at once individual and communitarian - a vision that brings out the unity of the person while clearly distinguishing between the dimension of the citizen and that of the believer.

Pope Benedict XVI