



# Implementation of the Constitutional Court Decision Regarding Amendments to Law No. 23 of 2006 Concerning Population Administration (Study on the Fulfillment of the Rights of the Tengger Beliefs)

Sita Agustina, and I. Ketut Wisnu

University of Merdeka Malang, Faculty of Law, Indonesia

## ABSTRACT

*The Constitutional Court with its Decision No.97/PUU-XIV/2016 stated the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of Law No. 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2014 concerning Amendments to Law Number 23 of 2006 concerning Population Administration is Contrary to the 1945 Constitution of the Republic of Indonesia and does not have legally binding force as long as it does not include "trust". Knowing and analyzing the Constitutional Court's decision at the Ministry of Home Affairs, the Population and Civil Registry Office of Passuruan District, and the Ngadiwono Village Head. This research was conducted using a sociological juridical approach by collecting primary and secondary data, and analyzed descriptively and qualitatively with a focus on the problem of how to implement the decision of the constitutional court no. 97 PUU-XIV/2016? and what are the inhibiting factors in implementing the rights of adherents of the Tengger tribal belief? From the research results, it is known that formally the Ministry of Home Affairs and Dukcapil have implemented the Constitutional Court's decision, but substantially have not implemented the Constitutional Court's decision. The inhibiting factor of the Constitutional Court is theoretically influenced by the paradigm of world religion. The Constitutional Court's decision must be implemented by all government agencies to respect, fulfill and protect trusts. 97 PUU-XIV/2016? and what are the inhibiting factors in implementing the rights of adherents of the Tengger tribal belief? From the research results, it is known that formally the Ministry of Home Affairs and Dukcapil have implemented the Constitutional Court's decision, but substantially have not implemented the Constitutional Court's decision.*

**Keywords:** Amendments, Belief, Constitutional Court Decision, Tengger Tribe.

## 1. INTRODUCTION

Article 28E paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia concerning freedom of religion and belief. The right to freedom of religion and belief is written in Article 29 paragraph (1) and paragraph (2) of the 1945 Constitution which states that "The state is based on divinity". Paragraph (2) states that "The state guarantees the independence of every citizen to embrace their respective religion and to worship according to their religion and belief." As a result, the state must be responsible for protecting and maintaining every element that constitutes pluralism, including freedom of worship, religion and belief. as the forerunner of human rights, hereinafter referred to as human rights which are basic human rights (Wahyuddi, 2018). the government and society believe that there are only 6 (6) religions which include Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. But in reality, there are many sects of sectarian beliefs at the grassroots level, such as Kejawen Jawa, Sundani in Bandung, Keharingan Kalimantan, Marapu Sumba, Paramalim North Sumatra, Aluk Dolo South Sulawesi, Buhun Barat Java and so on. In judgment, non-religious beliefs are called the flow of God Almighty or the belief system. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020). Hinduism, Buddhism and Confucianism. But in reality, there are many sects of sectarian beliefs at the grassroots level, such as Kejawen Jawa, Sundani in Bandung, Keharingan Kalimantan, Marapu Sumba, Paramalim North Sumatra, Aluk Dolo South Sulawesi, Buhun Barat Java and so on. In judgment, non-religious beliefs are called the flow of God Almighty or the belief system. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020). Hinduism, Buddhism and Confucianism. But in reality, there are many sects of sectarian beliefs at the grassroots level, such as Kejawen Jawa, Sundani in Bandung, Keharingan Kalimantan, Marapu Sumba, Paramalim North Sumatra, Aluk Dolo South Sulawesi, Buhun Barat Java and so on. In judgment, non-religious beliefs are called the flow of God Almighty or the belief system. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread

throughout the world (Sukirno, 2020). such as Kejawen Java, Sundani in Bandung, Keharingan Kalimantan, Marapu Sumba, Paramalim North Sumatra, Aluk Dolo South Sulawesi, Buhun Barat Java and so on. In judgment, non-religious beliefs are called the flow of God Almighty or the belief system. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020). such as Kejawen Java, Sundani in Bandung, Keharingan Kalimantan, Marapu Sumba, Paramalim North Sumatra, Aluk Dolo South Sulawesi, Buhun Barat Java and so on. In the assessment, non-religious beliefs are called the flow of God Almighty or the belief system. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020). non-religious beliefs are called the flow of God Almighty or the school of belief. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020). non-religious beliefs are called the flow of God Almighty or the school of belief. Belief in different doctrines according to traditional beliefs, local religions, ancestral religions, and ancient religions. The author uses the term local religion in this study. Local religions have spread locally to distinguish themselves from world religions which are widespread throughout the world (Sukirno, 2020).

Quantitatively, there is no reliable information about the number of believers. According to the 2010 census (SP2010), there are 299,617 adherents of indigenous religions in Indonesia. According to the Directorate of Divinity and Customs, the Ministry of Education and Culture (Kemdikbud) states that there are 187 local religious organizations in Indonesia. This figure means that at least 12 million people in Indonesia are embracing the faith (Saut, 2021). Recognition of belief in Article 29 (2) of the Constitution of the Republic of Indonesia is regulated by the Decree of the Minister of Education and Culture Number 77 of 2013 concerning the Establishment of One Godhead. and Indigenous Community Organizations, and most recently Permendikbud No. 27 of 2016 concerning education services for belief in God Almighty in the education element. However, there are still rights of adherents of a belief that are not fulfilled by laws and regulations such as the religion column in the ID card and family card that is empty, such as the provisions of Law no. 23 of 2006 which has been amended by Law no. 24 of 2013 concerning Population Administration, then there are parties who sued the Constitutional Court to fulfill the rights of beliefs in Indonesia by including the belief in the Religion column in the Family Card and Identity Card. The request was granted by the Constitutional Court with Decision No.97/PUU-XIV/2016 stating that the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of Law No. 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2014 concerning Amendments to Law Number 23 of 2006 concerning Population Administration is contrary to the 1945 Constitution of the Republic of Indonesia and does not have legally binding conditionality as long as it does not include "trust". The decision of the Constitutional Court will become constitutional if the conditions set by the Constitutional Court, Constitutional Court Decision No.97 PUU-XIV/2016 are still decided legally. *conditionally unconstitutional* which means that the article submitted by the applicant is still *unconstitutional*. Article 61 paragraph (1) "*KK contains information regarding the KK number column, full name of the head of the family and family members, NIK, gender, address, place of birth, date of birth, religion, education, occupation, marital status, relationship status in the family, citizenship, immigration documents, name of person old.*" and Article 64 paragraph (1) "*Information on religion as referred to in paragraph (1) for Residents whose religion has not been recognized as a religion based on the provisions of the Legislation or for adherents of beliefs is not filled in, but is still served and recorded in the population database.*" The Law on Population Administration, judges of the Constitutional Court decided that the word "religion" in filling out the religion column in the KK and electronic ID cards must be interpreted as including "belief" (Hairi, 2017).

The decision of the Constitutional Court has drawn a lot of controversy. Those who agree with the Constitutional Court's decision argue that every belief has the right to have the right to carry out its flow. The chairman of the Central Board of the Nahdlatul Ulama Human Resources Research and Development Institute (PP Lakpesdam NU), Dr. Rumadi Ahmad also voiced that the Court's decision This constitution guarantees the constitutional rights of existing beliefs, because they are also Indonesian citizens. Support was also conveyed by Samsul Mararif, a lecturer in Cross-Cultural Studies (CRCS) UGM that the Constitutional Court's decision was a condition for followers of the belief system to get their rights in the realm of administration. Yunahar Ilyas Head of Tarjih, Tajid, and Tabligh PP Muhammadiyah) argue that the reason for the constitutional court granting the petitioner's claim symbolizes that the Court adheres to a liberal understanding of human rights. Then surely all sects, ideologies, and understandings will demand the same rights as the sects of belief. According to him, the Constitutional Court's decision still has problems in terms of regulation and implementation. The accusations and suspicions were directed at the Constitutional Court, because they were carried out secretly without involving the MUI or Islamic organizations, especially those related to the Chair of the MUI Law and Legislation Commission, said Prof. Syaiful Bakhir (chair of the PP Muhammadiyah Law and Human Rights Council). Baharun also believes that the decision of the Constitutional Court is very silent, there must be a certain purpose in the decision because MUI is not involved in the trial (Harsyahwardhana, 2020). Then surely all sects, ideologies, and understandings will demand the same rights as the sects of belief. According to him, the Constitutional Court's decision still has problems in terms

of regulation and implementation. The accusations and suspicions were directed at the Constitutional Court, because they were carried out secretly without involving the MUI or Islamic organizations, especially those related to the Chair of the MUI Law and Legislation Commission, said Prof. Syaiful Bakhr (chair of the PP Muhammadiyah Law and Human Rights Council). Baharun also believes that the decision of the Constitutional Court is very silent, there must be a certain purpose in the decision because MUI is not involved in the trial (Harsyahwardhana, 2020). Then surely all sects, ideologies, and understandings will demand the same rights as the sects of belief. According to him, the Constitutional Court's decision still has problems in terms of regulation and implementation. The accusations and suspicions were directed at the Constitutional Court, because they were carried out secretly without involving the MUI or Islamic organizations, especially those related to the Chair of the MUI Law and Legislation Commission, said Prof. Syaiful Bakhr (chair of the PP Muhammadiyah Law and Human Rights Council). Baharun also believes that the decision of the Constitutional Court is very silent, there must be a certain purpose in the decision because MUI is not involved in the trial (Harsyahwardhana, 2020). According to him, the Constitutional Court's decision still has problems in terms of regulation and implementation. The accusations and suspicions were directed at the Constitutional Court, because they were carried out secretly without involving the MUI or Islamic organizations, especially those related to the Chair of the MUI Law and Legislation Commission, said Prof. Syaiful Bakhr (chair of the PP Muhammadiyah Law and Human Rights Council). Baharun also believes that the decision of the Constitutional Court is very silent, there must be a certain purpose in the decision because MUI is not involved in the trial (Harsyahwardhana, 2020). especially those related to the Chairman of the MUI Law and Legislation Commission, said Prof. Syaiful Bakhr (chair of the PP Muhammadiyah Law and Human Rights Council). Baharun also believes that the decision of the Constitutional Court is very silent, there must be a certain purpose in the decision because MUI is not involved in the trial (Harsyahwardhana, 2020).

Furthermore, the Tengger people have a long history of historiography. Tengger has firmness in maintaining values, traditions and culture, even in the midst of changing times. Hefner, (in Maksum, 2015), the struggle of the Tengger people with their traditions and culture is threatened by the domination of Islamic forces, both Demak, Mataram and the dynamics of Islam in the modern era. Furthermore, the series of European colonial powers, especially the Netherlands, were also important in changing the traditions and culture of the Tengger people. In the era of classical Islamic rule, Demak's expansion into the Pasuruan region continued until it reached the last Hindu kingdom, namely Blambangan, Banyuwangi. According to Hefner (in Maksum, 2015), the Tengger area is the last stronghold for Hindus who must be saved, apart from the Bali area. Hefner's opinion is corroborated by Pigeaud (in Maksum, 2015), in order to maintain tradition and culture, the Tengger people face many obstacles from the Islamic government. Meanwhile, the Netherlands made policies in the agricultural sector which also helped shape people's lifestyles, especially in the economic field.

In the modern era of Indonesia, the New Order government with its authoritarian leadership forced the Tengger to adhere to one of the five official religions recognized by the government. To represent the identity of Tengger traditions and culture, Tengger are forced to follow Hinduism as a religion. The debate about whether the Tengger are actually Hindus or the local religion, namely the religion of the Tengger themselves, is still a long debate. In addition, the invasion of Islam has penetrated the Tengger people, especially those living in the central plains and lowlands of the Bromo Mountains. The Dutch policy of employing adult Muslims and Javanese Muslims who were Muslim gradually affected some of the Tengger people who lived in the middle and lower regions. Looking at this example, explained that adherents of beliefs and religions have the same position based on the Constitutional Court Decision No. 97 PUU-XIV/2016, but in reality there are still some areas whose rights have not been fulfilled, such as the Tengger tribe.

Based on the problems described above, the objectives of this study include: to find out and analyze the fulfillment of the rights of the Tengger belief based on the Constitutional Court Decision No. 97 PUU-XIV/2016 as well as knowing and analyzing whether there are inhibiting factors in the fulfillment of the rights of the belief in the Tengger tribe, based on the decision of the Constitutional Court No. 97 of PUU-XIV/2016. 97 PUU XIV/2016.

## 2. RESEARCH METHODS

### 2.1 Types of Legal Research

The research conducted is empirical research. Empirical legal research or in other terms is sociological legal research or also called field research. This sociological/empirical legal research is based on primary/basic data, namely data obtained directly from the community as the first source through field research, which is carried out either through observation (observation), interviews, or distributing questionnaires (Efendi and Ibrahim, 2016).

### 2.2 Problem Approach Method

The problem approach used in this research is a sociological juridical approach. The sociological juridical approach emphasizes research that aims to obtain legal knowledge empirically by going directly to the object under study regarding the application of the Constitutional Court Decision. No. 97 PUU-XIV/2016 (Soekanto, 2005).

### 2.3 Data Analysis Method

Data analysis is the process of grouping and sorting data into patterns, categories and basic units of description so that themes can be found and working hypotheses can be formulated. After the field data was collected, the researcher used descriptive and qualitative analysis. Qualitative data analysis is an effort made by working with data, classifying and sorting into manageable units. Meanwhile, qualitative analysis is a technique that describes the views of the collected data, so that a general picture of the actual reality is obtained.

## 3. DISCUSSION

### 3.1. Implementation of the Constitutional Court Decision No. 97 PUU-XIV/2016

#### 3.1.1. Implementation of Constitutional Court Decisions by the Ministry of Home Affairs

After the belief system can be included in the KTP and KK based on the Constitutional Court Decision No. 97/PUUXIV/2016 dated 18 October 2017, the Ministry of Home Affairs through the Directorate General of Population and Civil Registration followed up in stages. The first stage is the issuance of a Family Card (KK) based on the Regulation of the Minister of Home Affairs Number 118 of 2017 which was stipulated on December 5, 2017 and promulgated on December 11, 2017 (Pemdagri Number 118/2017).

After the issuance of Minister of Home Affairs Regulation Number 118 of 2017 the Directorate General of Population and Civil Registration issued SE (circular letter) Number: 471.14/10666/DUKCAPIL dated June 25 2018, regarding the Issuance of Family Cards (KK) for Believers in God Almighty.

The SE Drijendukcapil contains four things, namely:

- a. that step must be done by Dukcapil city/district;
- b. how to issue KK for adherents of the belief in the one and only God;
- c. Example of writing religion and belief in the SIAK application version 7.0;
- d. Supervision of the implementation of KK issuance services for believers carried out by the Department of Population and Civil Registration.

In the SE, the Director General of Civil Registration instructs the District/City Population and Civil Registration Office to immediately issue a KK with the following steps:

- a. Disseminate policies regarding the Constitutional Court Decision;
- b. Collecting data on believers in beliefs in their respective work areas;
- c. Issuing KK for believers using the SIAK application Version 7.0 which can be downloaded via ftp://192.168.105.45 with operational instructions.

To issue a KK for Believers in God Almighty, it is carried out with the following steps:

- a. For adherents of belief in God Almighty whose data already exists in the population database, the dukcapil officer prints out the KK based on the existing data after the resident fills out form F-1.68, namely the Letter of Application for Printing of KK and e-KTP as contained in Appendix 1;
- b. In the event that the resident will change the data from religion to belief in God Almighty, the resident must first fill out form F-1.69, namely the Statement of Change of Religion to Belief in the One and Only God as stated in Appendix 2 and attach

form F-1.71, namely the Statement Letter Absolute Responsibility as a Believer in the One and Only God as stated in Appendix 4;

- c. In the event that the resident will change the data from Belief in One God to a religion, the resident must first fill out form F-1.70, namely the Statement of Changes in Belief in God Almighty to Religion as stated in Appendix 3 and attach *photocopy* copy of a certificate from religion and show a copy of a certificate from a religious leader as a requirement for changing elements of religious data as stated in Article Permendagri Number 74 of 2015.

In SE Dirjekdukcapil also provides examples of writing religion and belief in the SIAK Version 7.0 application as follows:

- a. For writing religion, the religion column in the KK will be filled in according to the name of the resident's religion as the example of Blank KK is contained in Appendix 5. As for writing beliefs, the belief column in the KK will be filled with belief in God Almighty;
- b. If in one family adheres to religion and belief, the pouring in the KK is the same as the blank KK as stated in appendix 7.

The follow-up to the Constitutional Court Decision Number 97/PUUXIV/2016 which accommodates the One Godhead in the CoW has been carried out by the Ministry of Home Affairs with the issuance of SIAK Version 7.0. However, the follow-up to the Constitutional Court's decision related to KTP requires more personnel from the Ministry of Home Affairs so that its implementation is somewhat retarded. Until this report was made, said the Secretary General of the Supreme Council for the One Supreme Godhead (MLKI), Retno Lastani, already had an ID card that embodied the One Godhead from the Malang City Population and Civil Registry Office (Sukirno, 2020).

In the KTP of believers in God Almighty which was issued by the Disdukcapil of Malang City on October 8, 2018 in the belief column (not in the religion column) it was written Belief in God Almighty. The former Minister of Home Affairs, Tjahjo Kumolo, on April 4 2018, said that the government had decided to separate religion and belief in electronic ID cards. Furthermore, the Minister of Home Affairs said that previously there was a proposal to write about believers in the same column as religion, but representatives of the six religions rejected the proposal, because the belief system is different from religion. Minister of Home Affairs Tjahjo Kumolo said that according to statistical data records from the Indonesian population of 231,142,385 people, there were 138,791 people who embraced the faith, which were gathered in 187 organizations located in 13 provinces.

Regarding the follow-up action taken by the Ministry of Home Affairs, Retno Lastani, Secretary General of the MLKI said that the steps taken by the Ministry of Home Affairs were not in line with the expectations of the MLKI, because it deviated from the Constitutional Court's decision that religion must be interpreted including belief in God Almighty. Furthermore, Retno Lastani stated that the Ministry of Home Affairs should have complied with the Constitutional Court's decision, so that in the KK and e-KTP, the column remains religion and then it is filled with belief in God Almighty. Regarding the steps taken by the Ministry of Home Affairs, MLKI still accepts it, the important thing is that the existence of belief in God Almighty has been recognized by the government. But he reminded the need to follow to eliminate discrimination in other fields,

### **3.1.2. Implementation of the Constitutional Court Decision by Disdukcapil Pasuruan District**

The Pasuruan District Government through the Disdukcapil, when the author conducted this research on January 24, 2022, had already implemented the Minister of Home Affairs Regulation No. 118 of 2017 and the Director General of Population and Civil Registration Decree No. 471.14/10666. But for KTP there is no technical guideline from the Director General of Disdukcapil. In relation to the Siak Version 7.0 application which accommodates followers of the belief in God Almighty in the family card, the Head of Population Services Division of the Pasuruan District Disdukcapil said that there has been no socialization of the Minister of Home Affairs Regulation Number 118 of 2017 and the Circular Letter of the Director General of Dukcapil Number 471.141/1066/DUKCAPIL to the village Ngadiwono. This has resulted in no one applying for a change in the KK and KTP of the belief in God Almighty, especially the Tengger Community of Ngadiwono Village. The contents of the SIAK Version 7.0 system have 17 columns in the KK, namely: full name, NIK, gender, place of birth, date of birth, religion/belief/religion or belief, education, type of work, blood type, marital status, date of marriage, relationship status in the family, nationality, immigration documents (Passport Number, and KITAP Number), names of parents (father and mother).

Although there has been no socialization of the regulations and circulars, the Pasuruan District Disdukcapil still serves applicants to change religion into a belief system in the KK as long as the organizational requirements are clear. Because there are two steps ordered by the Director General of Disdukcapil, so until this research was carried out there had not been any believers in Belief in God Almighty who submitted a request for a KK maker. While the service for ID cards for believers in God Almighty, especially the Tengger Tribe Community in Ngadiwono Village, because there are no regulations and technical instructions from the Ministry of Home Affairs (interview with Handayani, Head of Public Service Division of Population and Civil Registration Office of Pasuruan District, 24 January 2020).

This shows that Disdukcapil District in following up Permendagri Number 118 of 2017 concerning Blank Cards, Registers and citations of Civil Registration Deeds and Circulars of the Director General of Population and Civil Registry Number

471.14/10666/DUKCAPIL regarding the issuance of Family Cards for Believers in God Almighty is still not proactive in socializing it.

### **3.1.3. Implementation of the Constitutional Court Decision by the Village Head Ngadiwono**

The village head of Ngadiwono did not receive any information from the Disdukcapil regarding the belief in the one and only God that was allowed to be included in the KK and KTP columns. However, the Village Head had heard about the Constitutional Court Decision No. 97 PUU-XIV/2016, related to the absence of further information, the village head had not carried out socialization to the Ngadiwono villagers. If a resident of Ngadiwono Village submits a request to change the Religion column to Belief in God Almighty, then they must carry out procedures according to technical instructions from the village (Interview with Atim Ngadiwono Village Head, January 25, 2022).

## **3.2. Fulfillment of the Rights of Adherents of the Tengger Tribe in the Field of Population Administration**

Talking about the fulfillment of the rights of adherents of the Tengger sect of belief, especially in Ngadiwono Village, it should be noted that the Tengger tribe in Ngadiwono Village adheres to a belief called Budo. In 1969, the district of Probolinggo was led by a regent from among the santri (Nahdlatul Ulama). Because the central government requires a policy of religious formalization, the Regent Ishak conducted a review of the beliefs of the Tengger. The regent also visited Tengger villages in the Probolinggo area, such as Sapikerep, Ngadas, Jetak, to Ngadisari. Each village head and village leader was asked one by one. They were asked whether the religion or beliefs of the Tengger. "We were asked by the Regent Ishak whether the religion or beliefs of the Tengger were. He stated that the religion of the Tengger is Budo. Then we replied that the Budo religion had existed since our ancestors existed. Hearing our answers, it seems that Regent Isaac understands our belief. The Ministry of Religion through the Director General of Hindu-Buddhist Community Guidance conducted research on the beliefs of the Tengger. In 1971 the director general of the Hindu-Buddhist Community Guidance decided that the Tengger belief was Mahayana Buddhism. However, the decision was not final, after 2 years later in 1973 the director general of Hindu-Buddhist Guidance again conducted inspections back to Tengger villages. From the results of the inspection, the Ministry of Religion instructed the Parisade Hindu Dharma Indonesia (PHDI) East Java to include Mahayana Buddhism in the membership of the PHDI. Based on Decree No.00/PHBJatim/kep/II/73 dated March 6, 1973, Mahayana Buddhism in Tengger became a member of the East Java PHDI (Maksum, 2015).

Decree No.00/PHB-Jatim/kep/II/73 made the Tengger hold deliberation to determine the religion adhered to by the Tengger. The meeting was attended by Tengger tribal leaders and regional village heads gathered in Ngadisari Village. There was a long debate between the participants, most of the participants that the Tengger belonged to the Hindu category, while others still refused, who refused, wanting the Tengger to continue to embrace Budo, not Mahayana Buddhism. In the end, the religion embraced by the Tengger is Hinduism, because it has similarities with the teachings of the Tengger (Interview with Father Puja, Tengger Tribe Leader, January 25, 2022). In the end the Ministry of Religion decided that Mahayana Buddhism, which was embraced by the Tengger Tribe,

With the permissibility of embracing beliefs based on the Constitutional Court Decision No. 97 PUU-XIV/2016 Tengger people who still want to return to Budo teachings, are given the freedom to choose to re-embrace Budo teachings or continue to embrace Hinduism. If the Tengger want to return to Budo's teachings to submit an Application for a Replacement of KK and KTP to the Ngadiwono Village Head, then the Ngadiwono village head will assist in the manufacturing process (Interview with Father Puja, Tengger Tribe Leader, January 25, 2022).

I am a resident of Ngadiwono Village. I don't know that beliefs related to sects can be included in the Religion column, I have been taught Budo teachings from a young age. However, because in Ngadiwono Village, where the Tengger are predominantly Hindu, our family also follows the same thing. So, with this new regulation, our family and I submitted a request to change our KK and KTP in the religion column from Hinduism to Belief in God Almighty (Interview with Barep Adi, Ngadiwono Village resident, January 25, 2022).

## **3.3. Inhibiting Factors in Implementing the Fulfillment of the Rights of the Tengger Beliefs**

### **3.3.1. Inhibiting Factors in Implementing the Fulfillment of Tengger Tribe Beliefs' Rights, Population and Civil Registry Service**

The Factors that hindered the iiDinasii of the Civil Registry of Pasuruan District in Implementing the Regulation of the Minister of Home Affairs Number 118 Tahun,2017iiiDirectoratiiJenderaliiKepenianii,Registrationiiicivil, issued a SE (circular) Number:i471.14/10666/DUKCAPIL datedMaii25iiJuniiii2018, iiKeluarga of the Fischer(Publisher) There are beliefs that are recognized by the government and not even the State of Indonesia is required to have a non-atheistic religion based on the precepts of 1 belief, not even in the department of religion but in the department of education, the issue of belief enters one's

personal sphere. and related to marriage registration is difficult because there is no religious belief institution in the Tengger Tribe (Interview with Handayani,

The Department of Population and Civil Registration has reasons why it does not carry out ii, Circular III Number: 471.14/10666/DUKCAPIL dated June 25 2018, regarding the Issuance of Family Cards (KK) for Believers in God Almighty. Disdukcapil considers that conducting socialization and collecting data on beliefs using the SIAK Version 7 application will not have an impact on the community. The Pasuruan District Disdukcapil will continue to serve adherents of the belief system if the public finds out about the Constitutional Court's decision. Unfortunately, there are still many people who embrace the belief system who do not know, especially in Ngadiwono Village, the Tengger tribe

### **3.3.2. Inhibiting Factors in Implementing the Fulfillment of Tengger Beliefs' Rights**

The inhibiting factor in Ngadiwono Village is the absence of outreach to the Tengger Tribe residents, because the residents are based on the character of the Tengger themselves, who uphold tolerance, interreligious people, I, and are accustomed to embracing Hinduism. It is also reinforced by the opinion of Father Puja as the leader of the Tengger Tribe in Ngadiwono Village, who said that for 49 years the Tengger had carried out worship based on the Hindu Nusantara religion. So the Tengger people will not return to embracing the belief, because with the Hindu Nusantara religion, we can still carry out ceremonies that have been passed down from generation to generation from our ancestors. So according to the Ngadiwono Village Head, it is very unlikely that the Tengger will return to embrace the Budo Faith. although there are those who want to return to embrace the Budo sect, the village head of Ngadiwono will assist with the procedure for applying for a change in KK and KTP. With the views expressed by the two sources, this makes the Tengger people, especially Ngadiwono Village, not aware that sects of belief are allowed to be included in the Religion Column in the Family Card and Identity Card.

## **4. CONCLUSIONS AND SUGGESTIONS**

### **4.1. Conclusion**

The government through the Ministry of Home Affairs and the Pasuruan District Government through the Department of Population and Civil Registry have formally implemented the Constitutional Court Decision Number 97/PUU-XIV/2016 by issuing KK and KTP el with the religion column format changed to the belief column. The government's implementation in implementing the Constitutional Court Decision Number 97/PUU-XIV/2016 has not been in accordance with the real intent of the decision, which substantially interprets beliefs including religion. The inhibiting factor in the implementation of the Constitutional Court Decision Number 97/PUU-XIV/2016 is because it does not have an impact on the community, especially the Tengger Tribe in Ngadiwono village. This government action is theoretically influenced by the world's religious paradigm.

### **4.2. Suggestion**

From the conclusions above, the suggestions that the author can convey are: it is better if this Constitutional Court Decision is carried out by all government agencies to respect, fulfill, and protect adherents of the belief system, including providing opportunities to participate in CPNS, TNI and POLRI.

- 1) For the Population and Civil Registration Office of Pasuruan District
  - a. As an agency under the Minister of Home Affairs of the Republic of Indonesia which has a scope of responsibility for Pasuruan District, which has the task of providing public services in the field of administration, it should implement the Decision of the Constitutional Court Number 97 PUU-XIV Year 2016 which is followed up by the Director General of the Population and Civil Registration Service with Circular Letter Number: 471.14/10666/DUKCAPIL dated June 25 2018, regarding the Issuance of Family Cards (KK) for Believers in God Almighty. So that the Tengger people know that the belief system can be included in the KK and KTP.
  - b. The service for adherents of a belief should not be discriminated against and the Population and Registration Service of Sipi to disseminate information to the Ngadiwono Village Head.
- 2) For the Ngadiwono Village Head as the Government who runs the affairs in Ngadiwono Village, it is advisable to conduct socialization to Ngadiwono Village residents regarding the belief that it is allowed to be included in the religion column in the family card and ID card. So that the Tengger people, especially in Ngadiwono, know about MK Decree No. 97 PUU-XIV/2016 and the Village Head should conduct a survey or distribute questionnaires to Village residents.

## **REFERENCES**

- Efendi, Jonaedi, Johnny Ibrahim, Normative and Empirical Legal Research Methods, Depok, 2016 Prenadamedia Group.
- Hairi, Jaya Prianter, "Following Up on the Constitutional Court's Decision Regarding Adherents of Belief," Brief Information Magazine IX No.23 2017:3

- Harsyahwardhana, S. S. "As a result of the Constitutional Court's Decision No. 97/Puu-Xiv/2016 concerning Judicial Review of the Law on Population Administration Against Believers". Legal Arena, 369387.2020.
- Maksum, A. 2015. Identity Politics of the Tengger Society in Maintaining the Cultural System of Islamic Hegemony and Power. ACCREDITED EL-HARAKAH, 17(1), 18-35.
- Decision of the Constitutional Court Number 97 PUU-XIV of 2016 concerning the Review of Law No. 23 of 2006 concerning Population Administration as Amended by Law No. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration.
- Saut, David Prins "there are 187 organizations and 12 million believers in Indonesia" <https://news.detik.com/berita/d-3720357/ada-187organization-dan-12-juta-penghayat-kebelian-di-indonesia> accessed on September 20, 2021 at 13:20.
- Soekanto, Soerjono, Introduction to Legal Research, Jakarta: University of Indonesia Press, 2005.
- Sukirno, S., & Adhim, N. "Implementation of Constitutional Court Decision No. 97/PUU-XIV/2016 on the Karuhun Urang Indigenous Community in Cigugur". De Jure Journal of Legal Research, 11-24. 2020
- Law Number 24 of 2013 concerning Population Administration.
- 1945 Constitution of the Republic of Indonesia.
- Law Number 25 of 2009 concerning Public Services.
- Wahyudi, Moh. 2018. Analysis of the Entry of Beliefs in the Religion Column in Family Cards and Identity Cards. Thesis. Yogyakarta: Indonesian Islamic University.