# Recognizing the Rights of Unrecognized "Faith Groups" through National Identity Card Policy in Semarang, Indonesia

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## Abstract

This article discusses how the government recognizes and includes unrecognized faith groups on the making of national identity card. This article is based on an empirical research done in the Population and Civil Registry Office of Semarang City, Indonesia. The city holds a reputation as an inclusive and multicultural city which is interesting to see whether there is a contrast in terms of tolerance towards unrecognized faith groups. The research founds that while the court decision is recognized by the government, the lack of mandatory coordination and technical instructions from the central government left the Semarang Civil Registry Office inadequately reformed for adjusting their Civil Registrying procedures and the making of KTP. This issue substantially slowed the services, if not stopped altogether, towards indigenous religious minority groups. However, being as a reputable tolerant city with syncretic culture, Semarang has much less institutional animosity towards unrecognized faith groups groups than other regions.

Keywords: Unrecognized Faith Groups, National Identity Card (KTP), Religious Tolerance, Civil Registry Administration, Semarang, & Bureaucratic Reform

## Introduction

Indonesia is the largest archipelago country in the world, located in Southeast Asia. As one of the characteristics of Indonesia as a nation-state is its greatness, breadth and diversity. One more thing that makes Indonesia so rich in diversity is the existence of religions that are recognized by more than one

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religion. The criteria for religion still follow the government standard of the six major religions in Indonesia (Soekarba, 2018).

The people of Indonesia adhere to a variety of religions, namely Islam, Protestant Christianity, Catholicism, Buddhism, Confuscianism and Hinduism. There are also other faiths derived from many sources, i.e. ethnic faiths, New Age faiths based on Oneness of God, etc. These religions and faiths included in the population data are managed by the Population and Civil Registry Service. Religious columns are contained in two important population documents, namely the Electronic Identity Card (KTP-el) and the Family Card (KK) (McDaniel, 2014).

In the Constitutional Court Decision Number 97/PUU-XIV/2016, the petitioners gave their powers to several lawyers based on a Special Power of Attorney dated September 1, 2016. The lawyers and lawyers who were given the power of attorney are members of the Citizenship Defender Team. The judges' considerations in the Constitutional Court Decision Number 97/PUU-XIV/2016 resulted in receiving a judicial review of Article 61 paragraph (1) and (2) of the Population Administration Act as amended by Article 64 paragraph (1) and (5) of the Amendment Law. Changes to Adminduk. So since 7 November 2017 this decision is final and pronounced in the Plenary Session of the Constitutional Court and is open in public (Muchimah & Ulum, 2020).

The Constitutional Court issued Decision Number 97/PUU-XIV / 2016 and stated that it had accepted the petition of the petitioners in its entirety. The Constitutional Court's decision was accepted by the nine judges who handled this petition. And it should be noted that no judge submitted a dissenting opinion in this decision. After the decision of the Constitutional Court Number 97/PUU-XIV/2016 came out, Constitutional Justice Saldi Isra stated that so far, religious adherents and religious minority groups have been treated differently. "The regulation has treated differently on the same thing, namely, for citizens of Faiths and citizens of religions who are recognized according to laws and regulations in accessing public services. The foregoing is an ideal situation that should have existed when the Constitutional Court Decision Number 97/PUU-XIV/2016 stated that it received a request for a judicial review of the Population Administration Act as amended by the Amendment Law on the Population Administration Act (Aplrilio, 2018).

The City of Semarang is the capital city of Central Java province of Indonesia. It is known for its diverse populations in terms of race, ethnicity and religion. The people of Semarang is also known for its steadfast stance on tolerance (Gandi & Kusumaningrum, 2020). There are more than 50 faith groups other than the 6 state-recognized religions (Islam, Protestant, Catholicism, Hinduism, Buddhism and Confuscianism) active in Semarang. As the Constitutional Court decision is lauded, these faith groups now have access to a proper citizenship and administration services through their inclusion in the ID card.

This article will discuss how the inclusion of religious minority groups in ID card is implemented in Semarang following the Constitutional Court Decision Number 97/PUU-XIV/2016. It is based on a research conducted at Semarang's Population and Civil Registry Office (*Dinas Kependudukan dan Catatan Sipil/Dispendukcapil*).

## **Research Methods**

This research can be categorized as empirical legal research which means that the a legal phenomenon is approached and analyzed through its empirical impact on society. Law is seen not only as a norm but also how it is implemented in society (Boom et al., 2018). The data collected in this study are primary data and secondary data. Primary data is data obtained directly from informants, both from government officials, religion organizations and community leaders. Informants from the government include officials at the Semarang City Population and Civil Registry Office and administrators of faith groups in Semarang City such as Sapta Dharma. Meanwhile, secondary data were obtained from legal materials, both primary and secondary legal materials related to the focus of this research. Data collection techniques for primary data from government and organizations are conducted by directive interviews and in-depth interviews for religious minority groups. Other data sources are mainly in the form of quantitative data and literature sources both legal and related literature. Data analysis used in this research is descriptive-analytical prescriptive, namely data analysis which is not only presenting and analyzing research results but also prescriptions or evaluations of true or the law's wrong with the facts in society.

## **Results and Discussion**

# The Implementation of Indonesian Constitutional Court Decision on the Recognition of Unrecognized faith groups in National Identity Card

In connection with the religion column on the KTP, it also mentions religion. Religion itself is essentially a discussion about religious interpretation, and in fact there is no single interpretation in any religion or faith. In fact, every adherent of any religion and any faith must say that the religion he believes is the truth, and does reasoning and explanations and also argues to expose existing evidence and phenomena to prove his interpretation. So when that happens, the diversity of religions and faiths is a thing and is a certainty. The problem is that when the state

forces the interpretation of religion to change religion to only 6 religions, the state has undermined the rights of the people, especially the adherents of these minor religions. Although it is clear that there must be pluralism in the affairs of the religious column in population administration, governance rarely involves organizational weak interests. In fact, the organizational structure of the faith group is weak. Of the 187 organizations of faith in Indonesia registered at the Ministry of Education and Culture, 27 are inactive (Ropi, 2008).

Article 28 D paragraph 1 of the 1945 Constitution affirms the guarantee of legal certainty and equal treatment before the law for every citizen in the space of the rule of law. In the ID card, there is a column for believers in belief or belief in God Almighty, because believers in belief are interpreted as the perpetrators, not the beliefs they hold. The civil rights of believers, namely the right to social security, difficulties in accessing population documents such as electronic ID cards, family cards, marriage certificates and birth certificates. Overview of the provisions of Article 61 paragraph (1) and paragraph (2) in conjunction with Article 64 paragraph (1) and paragraph (5) of the Population Administration Law. Article 64 paragraph (1) and paragraph (5) of the Population Administration Law states that information about religion in Electronic Identity Cards (KTP) for residents whose religion has not been recognized as religion based on the provisions of laws and regulations or for believers in beliefs is not filled in, but still served and recorded in the population database (Ayub et al., 2023).

These two articles eliminate the right of citizens to obtain a Family Card (KK) and an electronic Identity Card (KTP) even though in the a quo law article it is stated that they will still be served and recorded in the population database. The phrases that are still served and recorded in the population database are basically unconstitutional because the articles of the a quo law result in several things, namely: believers and applicants find it difficult to obtain KK and Electronic ID cards; even though government officials serve by providing KK and KTP with a blank religion column or in strips for believers and cause problems because they are not accepted at the workplace because the religion column is empty or a dash/and other problems. Have access to work, can access rights to social security, can access population documents such as electronic ID cards, family cards, marriage certificates and birth certificates. Likewise, the applicant's child may apply for a job even though the religion column on the electronic ID card is marked with a dash (Samhudi, 2022).

The human rights of believers and applicants as citizens should be protected, respected and fulfilled by the State. Even though the existence of the a quo law article has the potential to eliminate and deny the Human Rights of Believers and Petitioners. The community of believers in faith is to obtain the residence

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documents as referred to in Article 2 letter a The Population Administration Law which states that every resident has the right to obtain a Resident Document. Article 61 and Article 64 which are under the Population Document sub-chapter where the population document is a document that has legal force as authentic evidence which includes the regulation of a number of rights to freedom of religion and belief (Pertiwi, 2021). For the orderly population administration, it is absolutely not allowed to reduce the rights of the citizens in question, including the rights to freedom of religion and belief. Because there are no citizens who are recorded in the population database whose population data elements are not filled in and are not in accordance with their religion and beliefs. Religion in Article 61 paragraph 1 will only be found if the context of paragraph 2 must be understood. There are three principles in contextual interpretation, namely: first, the principle of noscitur a sociis, which implies that a word or term must be associated with its sequence; second, the principle of ejusdem generis, which implies that the meaning of a word or term is specifically restricted within its group; and third, the principle of expressio unius exclusio alterius which implies that if a concept is used for one thing, it does not apply to another (Korenica, 2020).

The meaning of the Noscitur a sociis principle, the word religion in Article 61 paragraph 1 and Article 64 paragraph 5 is intended as a religion in the sense that it is recognized as a religion in accordance with the provisions of the Legislation which means that it does not include belief in God Almighty. In accordance with the principle of ejusdem generis, it has also been found that the word or term "religion" in Article 61 paragraph (1) and in Article 64 paragraph (1) as well as the term "religion" in Article 61 paragraph (2) and in Article 64 paragraph (5) The Population Administration Law by legislators is indeed used solely for the meaning of religion "which is recognized as a religion in accordance with the provisions of the Legislation", so it cannot be used as an understanding that includes belief in God Almighty. In accordance with the principle of expressio unius exclusio alterius, it has also been shown that the legislators meant the concept of "religion" in Article 61 paragraph (1) and paragraph (2) and in Article 64 paragraph (1) and paragraph (5) of the Population Administration Law only intended to be used for one thing, namely in this case religion "which is recognized as a religion in accordance with the provisions of the legislation", so that again in this case it does not include the notion of belief in God Almighty. Population, in casu Article 61 paragraph (1) and paragraph (2) as well as Article 64 paragraph (1) and paragraph (5), adheres to or adheres to the stance that "religion" is a religion that is recognized in accordance with statutory regulations. In other words, the right or freedom of citizens to adhere to a religion is limited to a religion that is recognized in accordance with statutory regulations.

Consequently, a contrario, the responsibility or constitutional obligation of the state to guarantee and protect the rights or freedom of citizens to adhere to religion, which actually also includes belief in God Almighty, is also limited to citizens who adhere to a recognized religion in accordance with the provisions of the regulations.

After the religion can be included in the KTP and KK according to the Constitutional Court Decision No. 97/PUU-XIV/2016 dated 18 October 2017, it is slowly being followed up by the Ministry of Home Affairs, particularly the Directorate General of Population and Civil Registration. The first follow-up is the issuance of a Family Card (KK) based on the Minister of Home Affairs Regulation No.118 of 2017 which was stipulated on 5 December 2017 and promulgated on 11 December 2017.

Regarding the issuance of Permendagri No.118 / 2017, a Circular of the Director General of Population and Civil Registration, Prof. Dr. Zudan Arif Fakrulloh, SH, MH Number: 471.14/10666/DUKCAPIL (SE Dirjendukcapil) dated June 25, 2018, regarding the Issuance of Family Cards (KK) for Religious minority groups of Faith in God Almighty. The Circular of the Dirjendukcapil contains four things, namely: steps that must be taken by the Department of Population and Civil Registration, (how to issue a KK for Faith in Almighty God, examples of writing religion and faith in the SIAK version application 7.0, supervision of the implementation of KK issuing services for religious minority groups.

In the Circular Letter of the General Director of Population and Civil Registry Office, it is instructed to the Regency/City Population and Civil Registration Service to immediately issue a KK with the following steps: socializing policies regarding the Constitutional Court Decisions; collect data on religious minority groups in their respective work areas; dan issuing KK for religious minority groups using an online application called SIAK 7.0 version (Sabar et al., 2021).

To issue a COW for Faith in God Almighty, SE Dirjendukcapil provides instructions for the following steps: for Faith in God Almighty whose data is already in the population database, Dukcapil officers will print the KK based on the existing data after the residents have filled out form F-1.68, namely Application Letter for Printing of KK and KTP-e as contained in attachment 1; in the event that the population will change the data from religion to faith in God Almighty, the residents must first fill out form F-169, namely the Statement of Changing Religion into Faith in Almighty God as stated in Attachment 2 and attaching form F-1.71, namely the Statement Letter Absolute Responsibility as a Believer in the One and Only God as stated in attachment 4; in the event that the

population will change the data from Faith in God Almighty to religion, the population must first fill in form F-1.70, namely a Statement of Changing Faith in God Almighty to Become Religion as stated in attachment 3 and attach a photocopy of a certificate from religious leaders as well as showing a copy of a certificate from religious leaders as a requirement for changing religious data elements as stated in Article 8 Permendagri Number 74 of 2015. The follow-up to the Constitutional Court Decision No. 97/PUU-XIV/2016 which accommodated Faith in God Almighty in KK has been carried out by the Ministry of Home Affairs with the issuance of SIAK Version 7.0. so the implementation is somewhat backward.

Articles 61 and 64 state that the data elements for religious minority groups in the religious column of e-KTP or KK are not included. However, the Constitutional Court annulled the contents of the two articles through Decision Number 97/PUU-XIV/2016 dated 18 October 2017. Following up on the final and binding MK decision, the Ministry of Home Affairs issued Permendagri Number 118 of 2017 concerning Blank KK, Register and Quote of Civil Registration Deed. How to take care of the resident's ID card First, you must have a certificate/recommendation from a religioned group. Manage changes to the data on the Family Card by visiting the local RT/RW After getting a change in the Family Card, fill in the Form to change the "Religion" column on the KTP Submit a new KTP application file or change of KTP to sub-district or Department of Population and Civil Registry Next, the process of making an eKTP is as usual, namely: Photocopy of required documents After obtaining all the required documents, you must duplicate them. The kelurahan only needs one copy of each document, but it is recommended that you have two or three copies for each document. Coming to the Kelurahan. Come alone to the Kelurahan office, cannot be represented. Here, you will take a queue number to wait to be served. Usually, the Kelurahan opens its services from 08:00 to 15:00. Submission of documents After your turn arrives, you will submit a copy of the document to the Kelurahan officer. We recommend that you also bring the original document. The clerk only asked to be shown, but they would take a copy. Photos and fingerprints After submitting the documents, you will be called upon for a photo passport and fingerprinting. If all processes have been completed, you will be given a cover letter to show when taking your e-KTP later. This letter can also be used as a substitute for a temporary identity card while waiting for e-KTP collection.

Thus it can be said that Law No. 23 of 2006 as amended by Law No. 24/2014 has not shown an affirmative policy towards indigenous peoples who still adhere to faiths, but instead discriminate against religious minority groups. But when starting from this discriminatory provision, four religious minority groups, namely

Nggay Mehang Tana (Marapu's faith in Sumba), Pagar Demanra Sirait (Parmalim's faith), Arnol Purba (Ugamo Nation's Batak faith), Carlim (Sapto Darmo's faith in Brebes) apply for a judicial review of Article 61 paragraph (1) and paragraph (2) as well as Article 64 paragraph (1) and paragraph (5) of the Population Administration Law to the Constitutional Court (MK). Upon this request the Constitutional Court issued Decision No. 97/PUU-XIV/2016 dated 7 November 2017 which decides: (1) to grant the applicant's petition completely; (2) states the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Population Administration (State Gazette of the Republic of Indonesia of 2013 Number 232 and Supplement to the State Gazette of the Republic of Indonesia Number 5475) contradicts the 1945 Constitution of the Republic of Indonesia and does not have legal force that is conditionally binding as long as it does not include "religion"; (3) states Article 61 paragraph (2) and Article 64 paragraph (5) of Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Population Administration (State Gazette of the Republic of Indonesia of 2013 Number 232 and Supplement The State Gazette of the Republic of Indonesia Number 5475) contradicts the 1945 Constitution of the Republic of Indonesia and does not have binding legal force.

The Constitutional Court decision was then followed up by the Ministry of Home Affairs with the issuance of the Minister of Home Affairs Regulation No. 118 of 2017 (Permendagri No.118/2017). Then Minister of Home Affairs Regulation No. 118/2017 was followed up by Circular of the Director General of Population and Civil Registration Number: 471.14/10666/DUKCAPIL dated June 25, 2018, regarding the Issuance of Family Cards (KK) for Religious minority groups of Faith in One Almighty God. In addition, the KTP column for religious minority groups has also been changed so that the Religion column appears followed by a colon and written in Faith in God Almighty (Mu'ti & Burhani, 2019). If you follow the original intent of the Constitutional Court decision, the column should not be faith but religion. The Ministry of Home Affairs had to do this because of pressure from the Indonesian Ulema Council.

Regarding the follow-up from the Ministry of Home Affairs, it can be argued that the government's actions are influenced by the paradigm of world religions, in which the majority religion has power and influence for government policy intervention. According to Maarif, religion is conceptualized and adapted to the characters and criteria that exist in "world religion". Initially, the concept of world religion referred to a dominant religion and was made into a prototype. Bell, as quoted by Maarif, asserts that in the West, Christianity is a prototype for other religions, Christianity is considered to cover all the criteria used to discuss various religions, including those whose history and origins differ from Christianity. By referring to the religious paradigm world, it is understandable if the Ministry of Home Affairs adopts a policy that the religion column is replaced by the religion column in KK and ID cards for religious minority groups.

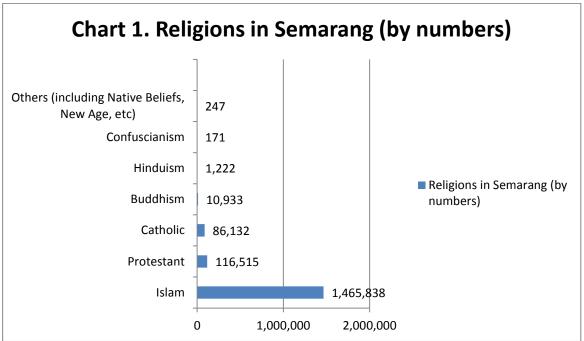
Apart from the lack of civil rights services for religious minority groups of indigenous peoples' faiths, the Ministry of Home Affairs provides convenience in making birth certificates with the Minister of Home Affairs Regulation No. 9 of 2016 concerning the Acceleration of Increasing the Coverage of Birth Certificate Ownership (Permendagri No. 9/2016). Permendagri No. 9/2016 stipulates that in the event that a birth certificate from a doctor/midwife/birth assistant is not fulfilled, it can be replaced by attaching a Statement of Absolute Responsibility (SPJM) for the correctness of birth data made by the biological parents/guardians/applicants. with known 2 witnesses. Likewise, if the marriage certificate/excerpt from the marriage certificate is not fulfilled, the applicant attaches a Statement of Absolute Responsibility (SPJM) for the truth as a married couple. By fulfilling the SPJM of truth as a married couple, in the birth certificate quotation the names of the father and mother of the child appear, but in the last line the phrase "whose marriage has not been recorded in accordance with statutory regulations" is added. But if the KK does not show the marriage relationship as husband and wife and there is no truth SPJM as a husband and wife partner, then in the birth certificate quote only the name of the mother is listed.

## Identity Card Procedures for Unrecognized faith groups Groups and Other Unrecognized Faith groups in Semarang Post Constitutional Court Decision

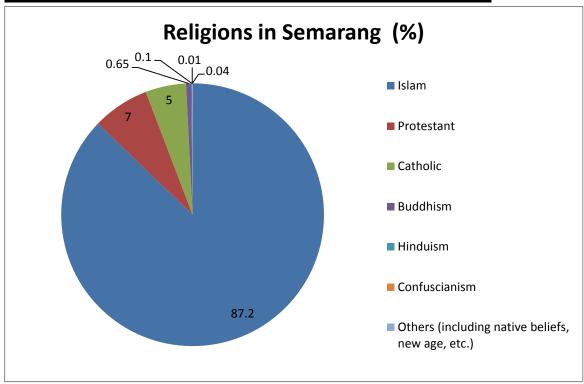
The city of Semarang has a very heterogeneous population consisting of a mixture of several ethnicities, Javanese, Chinese, Arabic and other ethnics. There are also other ethnic groups from various regions in Indonesia who come to Semarang to do business, study or stay forever in Semarang. The majority of the population in Semarang embraces Islam. But adherents to other religions such as Christianity, Catholicism, Hinduism and Buddhism are also quite numerous. Semarang has its own uniqueness due to its diversity of religions and followers of faith in God Almighty (Pramudibyanto, 2023).

In Semarang, the followers of religions are not only Islam, Christian, Catholic, Hindu, Buddhist, and Confucian, but there are also other religions outside the six, namely the Bahai religion and the Adam religion (Sedulur Sikep). Meanwhile, some Pati people follow the various Believers. The groups of faiths can be classified into two types, namely "pure" faiths that originate from local wisdom of Nusantara culture, such as "Sapta Darma", and Believers who are

religious because they still recognize and practice their religious teachings, such as Paguyuban Ngesti Tunggal (Pangestu) and Kapribaden. The demographic is shown in chart 1 and chart 2 below.



Source: Population and Civil Registry Office of Semarang, 2019



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## Source: Population and Civil Registry Office of Semarang, 2019

Although the residents of Semarang City are very heterogeneous, the social life of the people of Semarang City is very peaceful. The tolerance of religious life feels very high. These are the factors that greatly support the security conditions so that Semarang becomes an excellent Indonesian city for investment and business development. The ethnic diversity in the city of Semarang is also the background for the tagline in Semarang City Branding, namely "Variety of Culture". "Variety of Culture" means that the city of Semarang beautifies and develops while maintaining its heterogeneous culture. The message conveyed that the touch of harmonization of various Javanese cultures with Chinese, Arabic and Dutch cultures must be felt in the city of Semarang. Semarang City has Cultural Diversity which is a major asset that must be highlighted, because from a tourist point of view it is an attraction for tourists to be interested in visiting Kota 60 Semarang. The impact of this cultural diversity gives rise to many kinds of variations in many ways. For example, seen from the point of view of arts, building/architectural heritage, religion, culinary and other events. From the variety of variations that are felt in the city of Semarang, it can be seen that the culture in the city of Semarang includes Javanese, Arabic and Chinese cultures.

We have researched on the implementation of Constitutional Court Decision No. 97/PUU-XIV/2016 in the Population and Civil Registry Office (PCRO) of Semarang. We figured that after the issuance of the Constitutional Court Decision No. 97/PUU-XIV/2016, the PCRO started changing their procedures in order to accommodate religious minority groups. Apparently, Semarang people lauded the Decision very positively and this led to a major wave of applications from members of religious minority groups to change the religion status in their ID. These applicants were mainly from Sapta Darma, Pangestu and Kapribaden. It is recorded that 57 members of Sapta Darma and 17 members of Kapribaden have successfully changed their religion status on their ID cards. The PCRO of Semarang expected that at least 75% of the recorded population of religious minority groups would apply for religion status change. This rapid change soon followed suit in neighboring regencies, i.e. Semarang Regency where more than 450 members of Sapta Darma had changed their religion status on their ID cards.

These numbers show that the Constitutional Court Decision No. 97/PUU-XIV/2016 is a very progressive moment in Indonesia's history in terms of expanding religious freedom which once was very severely oppressed and discriminative. However, do the numbers indicate an improvement on public services of Civil Registry? There is a problem in that. Indonesia's bureaucracy is notoriously complicated and slow. This causes a delay on the application process which does not only happen to members of religious minority groups but to people in general. Moreover, there is a lack of communication and commitment from the upper authority level which can delay the implementation of the Constitutional Court Decision No. 97/PUU-XIV/2016.

## Conclusion

The fulfillment of civil rights for adherents of pure local religions or faiths has formally begun to show results after the Constitutional Court Decision No. 97/PUU-XIV/2016. The Constitutional Court decision has been followed up by the Ministry of Home Affairs by issuing Kaluarga Cards and Identity Cards that accommodate faith in God Almighty. However, substantially this has not satisfied adherents of local religions, especially not accommodating the religion column on their KTPs. In addition, the issue related to marriage certificates for adherents of local religions who come from indigenous communities has not yet been resolved. However, the civil rights of adherents of local religions and other minority religions have not been fully recognized and protected by the state, both from discrimination in public services such as making ID cards and discrimination from intolerant local communities. This shows that the state has neglected the right to freedom of religion and faith as guaranteed in Article 29 paragraph (2) of the

Constitution of the Republic of Indonesia. Discrimination against adherents of local religions, especially those who still adhere to their pure faiths, shows the hegemony of the majority religion against minorities through the legality of government policies. This hegemony is influenced by the paradigm of world religion which refers to the dominant religion that is used as a prototype.

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