

## **The Analysis of Decision of The Constitutional Court Number 97/Puu-Xiv/2016 Concerning Population Administration on The Rights and Position of Believers**

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### **Abstract**

*The research is to take a closer and explicit look at the position of believers in the Constitutional Court's decision through synchronizing the existence or existence of believers in Yogyakarta. In order to ensure whether or not these concerns are true, and to what extent are the rights and positions guaranteed in the decision of the Constitutional Court, and what is the position of believers in the Constitutional Court Decision Number 97/PUUXIV/2016 concerning Population administration in terms of perspective (Maqāṣid ash-Syari'ah). The type of legal research used in the preparation of this research is field research, which is conducting direct observations with in-depth interviews with sources that have been determined based on the researcher's knowledge using the purposive sampling method. The approach used in this research is normative juridical (Statute Approach) and empirical or sociological juridical. The normative juridical approach is carried out by referring to the legal norms contained in the legislation, decisions and legal norms that exist in society. The results of the research show that the considerations of the judges of the Constitutional Court related to the Philosophical, Textual, and Sociological Legal Interpreters in deciding the case Number 97/PUU-XIV/2016 concerning the review of the Population Administration Law, have fulfilled the basic rights of believers and provide justice to adherents of the sect. trust, then when viewed with the study of Human Rights the Constitutional Court's*

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*decision has covered the rights of believers in line with the principles of non-discrimination, equality (egalitarian) and universal. Meanwhile, when reviewed with Maqāṣid ash-Syarī'ah, the Constitutional Court's decision is considered to have been in accordance with the objectives of the Shari'a (Maqāṣid ash-Syarī'ah) in the form of safeguarding religion at the level of necessity.*

## **I. Introduction**

The decision of the Constitutional Court Number 97/PUU-XIV/2016 dated November 7, 2017 concerning Population Administration is one form of government embodiment in terms of maintaining and protecting diversity (Nasihin & Puteri Anggita Dewi, 2019). The decision stated that it was related to changing the religion column on the Family Card (Indonesian: KK) and Identity Card (Indonesian: KTP) to include his beliefs in the religion column (Moh. Wahyu, 2018). Inclusion of “Penghayat” on Family Card and Electronic ID card. This brings fresh air to the believers in Indonesia because with this decision the guarantee of legal protection for them is getting stronger. Where it was originally known that the Believers often receive discrimination in public services in terms of bureaucracy, education, job vacancy and several other things because the religion column on the ID card is filled with a flat line (strip).

However, this decision raises many pros and cons (Muwaffiq Jufri, 2020). In this case, the decision of the Constitutional Court can lead to a new polemic on the dynamics of the integrity and harmony of religious communities in Indonesia. As for groups that have a contradictory attitude (Oki Wahyu Budijanto, n.d.) to the decision of the Constitutional Court, they assume that first, the Constitutional Court in the trial process does not involve the Indonesian Ulema Council (Indonesian: MUI) as an agency competent in matters of religion and belief (Oki Wahyu Budijanto, n.d.). Second, the Constitutional Court is considered not careful in reviewing religion and beliefs (Jufri, 2020), Third, that the Constitutional Court's decision has the potential to be misused and exploited (Budijanto, 2016). These reasons are stated because the meaning of religion and belief cannot be equated. So that the writing of belief in the religion column contained in the Family Card and Electronic Identity Card is not appropriate.

In the understanding of the group that agrees with the decision of the Constitutional Court, they believe that all legal considerations by the judges of the Constitutional Court are to equalize the rights and positions of believers (Moh. Wahyu, 2018) before the constitution and the Republic of Indonesia. So the writing of trust in the Family card and Identity card columns is something that should have been done a long time ago.

Based on the response to the decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration Constitutional Court Decision Number 97/PUU-XIV/2016 concerning the Submission of Law Number 23 of 2006, n.d.), it is necessary to take continuous steps by the government to form/issue policies in terms of regulations that include the limit variable "Believers" without having to discriminate against one party, religious group or belief group.

The definition of adherents of a belief can be categorized as a society that still cultivates, traditions, inherited from their ancestors (HM Rasidi, 1997) in Indonesia who believe in God Almighty, as known as animism and dynamism (Jasser Auda, 2007). The existence of adherents of belief in Indonesia (local religions) still exists and is growing rapidly, especially after the 2016 Constitutional Court ruling was presented.

The Special Region of Yogyakarta is one area that is rich with the uniqueness of local culture (Majelis Luhur Belief in God Almighty, Indonesia, Yogyakarta Special Region, 2017). Such as the preservation of ancestral local religions (Jasser Auda, 2015). The belief in God Almighty in Yogyakarta is recorded in the institutional archives of the Yogyakarta Special Regional Trustees Council called MLKI DIY as many as 37 types of associations/faith associations (believers) (Syafi'ie, 2012). The types of belief in God consist of: Persada, Sumarah, Sumarah Purbo, Angsti Sampurnaning Kautamen, Sukoreno, Hangudi Bawanatata Lahir Batin, Mardi Santosaning Budi, Tri Soka, Persatuan Eklasing Budi Murko, Pekri Bondan Kejawan, Sastra Jendra, Hardo Pusoro, Palang Putih Nusantara, SBP 45, Ngesti roso, Minggu Kliwon, DAS, Anggayuh Panglereming Napsu, Hak Sejati, Anurogo Sri Sadono, Tulis Tanpo Papan, Kasampurnaan Jati, Hidup Betul, Imbal Wacono, Ngudi Utomo, Trajumas, Jati Luhur, Guru Sejati, Tri Jaya, Budoyo Suksmo, Umat Pransuh, Subud, Tri Tunggal Bayu, Aliran Kebatinan Perjalanan, Kapribadhen, Ngesti Kasampurnan. This is the percentage of the Hermitage for Believers in the Special Region of Yogyakarta, which is in third place (Muhammad Firdaus, 2007) as the highest city of adherents of a belief in Indonesia.

Drawing a common thread on the initial hypothesis regarding sustainable steps that must be taken by the government to protect the unity

and integrity of the Indonesian state, the authors are interested in explicitly examining the position of believers in belief in the Constitutional Court Decision Number 97/PUU-XIV/2016 with synchronization of the existence of believers in belief (Amir Mu'alim dan YUSDANI, 1999), by choosing Yogyakarta as the research location. In this case, the Yogyakarta city ranks third as the city with the largest number of believers, consisting of 14 (fourteen) Hermitage of believers.

This article focuses on the level of study after the Constitutional Court Decision Number 97/PUU-XIV/2016, related to how the position of believers in the Constitutional Court Decision Number 97/PUU-XIV/2016 concerning Population Administration is viewed from the perspective of Maqāsid asy-Syari'ah (Jasser Auda, 2008). In analyzing the problems above, the author will use the theoretical framework of Jaser Auda regarding Maqasid Syari'ah to see the protection of religious rights in the decision (Jasser Auda, 2007). The protection of the right to religion is the basis for protecting the objectives of other Shari'a because if adherents of a certain religion (according to the provisions of the law) are not properly protected, there will be a potential for clashes between religious communities. This also results in the threat of life, intellect, lineage, and property of adherents of certain religions (Jasser Auda, 2015). So that the protection of religion becomes the basis for protecting the rights of protecting the soul (ḥifẓ an-nafs), guarding reason (ḥifẓ al-'aql), protecting offspring (ḥifẓ an-nasl), and protecting property (ḥifẓ al-māl).

Regarding the study of the Constitutional Court Decision Number 97/PUU-XIV/2016, there have been several researches and studies including, written by Moh. Wahyu in his thesis study is more normative juridical or known as the type of research literature study related to "Analysis of the Entry of Beliefs in the Religion Column in Family Cards and Identity Cards (Study of Constitutional Court Decision Number 97/PUU-XIV/2016 concerning Judicial Review of Laws) Population Administration Law)" the discussion is more about the interpretation of the Constitutional Court which equates religion and belief (Hertato Basuki, 2015).

In addition, in another article, a paper in the form of a journal with the title "Respect for Human Rights for Believers in the Bandung City " by Oki Wahyu Budijanto (Oki Wahyu Budijanto, n.d.). This paper raises a major theme regarding the Implementation of Respect for Human Rights (Human Rights) in Indonesia. More specifically, equal distribution of civil rights for Indonesian citizens, especially for Believers, who still often receive discrimination in the fulfillment of their civil rights, due to the different meanings of "Religion and Belief". The writing study is based on the problems that occurred in the city of

Bandung regarding the general public's (non-Believers) rejection of funerals for Believers of the cemetery, which means that the refusal is contrary to Article 8 paragraph (2) of the Joint Regulation of the Minister of Home Affairs and the Minister of Culture and Tourism Number 43 of 2009 and Number 41 of 2009 concerning Service Guidelines for Believers in God Almighty.

This journal/article was created and published before the DECISION OF THE CONSTITUTIONAL COURT NUMBER 97/PUU-XIV/2016 CONCERNING POPULATION ADMINISTRATION, so that the findings in the paper have not been integrated with the values stipulated in this Decision. This article is a reference for thinking in the conception of implementing regulations regarding tolerance for religious beliefs, so it is necessary for the author to use it as a reference / review of the literature to be used as a source of ideas in the preparation of the author's dissertation.

Furthermore, Muwaffiq Jufri's journal paper entitled "Potential Equality of Religion with Beliefs in Indonesia Study of Constitutional Court Decision Number 97/PUU-XIV/2016" (Muwaffiq Jufri, 2020). This paper raises a major theme regarding the Equality of Religion and Belief in Indonesia, This article tries to explain the existence of the Constitutional Court Decision Number 97/PUU-XIV/2016 is a progressive step in an effort to stop all discriminatory policies of the state against the legal status of religious beliefs, which are considered as products culture outside the state's official religious qualifications. The written study is based on the Judge's Considerations and Arguments in Decision Number 97/PUU-XIV/2016 regarding the distinction between religion and Belief in the provisions of Article 28E paragraph (1) and Article 28E paragraph (2) of the 1945 Constitution of the Republic of Indonesia which provide legal implications that put religion and belief in different conceptions, and this distinction also places beliefs that are not part of the conception of religion.

The approach method used in writing this article is a sociological juridical approach. The juridical approach is to identify and conceptualize law as a real and functional social institution in a real-life system. The sociological juridical approach emphasizes research that aims to obtain legal knowledge in principle by going directly to the object.

This article begins with a discussion of the contents of the Constitutional Court's decision Number 97/PUU-XIV/2016, followed by a review of the legal interpretation of the judges of the Constitutional Court regarding the decision of the Constitutional Court Number 97/PUU-XIV/2016, analyzing the position of Believers in the Constitutional Court's decision. on Population Administration in the review of Maqāṣid asy-Syarī'ah.

The Position of Believers in the Decision of the Constitutional Court Number 97/Puu-Xiv/2016 concerning Population Administration.

## II. Research Method

This research method is sourced from field research (field research) and library research (library research) with qualitative methods (Qamar et al., 2017). This research uses Gracia's interpretation theory approach (Diantha, 2016). Gracia's approach to interpretation theory is used to assess what the understanding of cases in the field looks like. The source of this research data consists of primary data and secondary data (Dr. Jonaedi Efendi & Prof. Dr. Johnny Ibrahim, 2018), primary data in the Constitutional Court Number 97/PUU-XIV/2016 dated November 7, 2017 concerning Population Administration, books, dissertations, theses, journals, regional regulations on miras, and other scientific works.

## III. Results and Discussion

### 1. Legal Interpretation of the Constitutional Court

The decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration is one of the decisions that has received much attention, where this decision examines Law Number 24 of 2013 against Amendments to Law 23 of 2006 concerning the Law on Population Administration. This decision stems from the injustice felt by Believers in obtaining their rights as citizens Constitutional Court Decision Number 97/PUU-XIV/2016, 2016), which is related to the emptying of the religious column on family cards and identity cards because the beliefs they hold are not 6 (six) religions recognized by the state. On the basis of the principle of equality of citizens, the judges of the Constitutional Court granted the request for Believers to write down their beliefs in the religious column of the Family Card and Identity Card.

Based on the results of the Constitutional Court's decision, there was a negative response related to the Legal Interpretation of the Constitutional Court which equated religion and beliefs. In terms of disagreement with the decision, the Secretary of the DIY Indonesian Ulema Council explained that, *basically, believers and religion cannot be equated because to be equated and can be called religion there are several criteria that must be met, namely there is belief in one God, there are prophets, scriptures, and a system for its adherents. These criteria do not exist in the Believers, especially they do not have prophets and scriptures. So they cannot be equated*

*as religion and cannot be included in the religion column found on the Family card and Identity card.*

Legal considerations by the judges of the Constitutional Court in case Number 97/PUU-XIV/2016 concerning Population Administration cannot be blamed because basically in its legal considerations the Constitutional Court issues a decision that always refers to aspects of legal interpretation, both philosophical, textual (juridical), and sociological (Albert H Y Chen, 2000) and uphold the rights of equality and non-discrimination (Amad Imam Mawardi, 2012) to the position of citizens who in this context are believers.

The consideration of the judges of the Constitutional Court placed that the right to Believers in is a constitutional right of citizens, not a gift from the state, in which case the Constitutional Court is guided by the idea of a democratic state based on law or a democratic legal state, in accordance with the 1945 Constitution of the Republic of Indonesia. In his explanation, the state exists or was formed precisely to protect the entire Indonesian nation and the entire homeland of Indonesia, so the independence of the Indonesian nationality was formulated in an Indonesian Constitution".

Furthermore, the preamble to the Constitution of the Republic of Indonesia contained in the fourth paragraph also not only provides a mandate to protect body and soul as Indonesian citizens but also must provide a guarantee in the fulfillment of the rights of its citizens. The granting of the right to guarantees for citizens in the fourth paragraph of the Constitution of the Republic of Indonesia is re-explained and emphasized in Article 28 I paragraph (4) of the 1945 Constitution which explains, "The protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government." . The entire elaboration of the meaning contained in the fourth paragraph of the opening of the Constitution of the Republic of Indonesia and Article 28 I paragraph (4) of the 1945 Constitution is a reference for the interpretation of philosophical law by the Constitutional Court on the position of Believers which is a basic right of a citizen that needs to be guaranteed and protected by the state.

The principle of a democratic rule of law also explains that the role of the State is obliged to protect which also means respecting and guaranteeing the fulfillment of rights as well as guaranteeing the right of Believers to adhere to a religion/belief in accordance with their beliefs. The right to embrace religion is part of human rights in the civil and political rights group where this human right is derived from the conception of natural rights (Muhammad Firdaus, 2007). In the sense that natural rights are rights that are inherent in every person because of their nature as human beings.

Constitutionally, freedom of religion or belief has also been guaranteed in Article 28E paragraphs (1) and (2), and Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The provisions in these articles guarantee freedom to every citizen to embrace religion and worship according to their respective beliefs, accompanied by the state's obligation to protect every citizen.

Juridically the judge's considerations regarding the position of Believers are guided by Article 51 paragraph (1) of the Constitutional Court Law which emphasizes the elements of the constitutional rights and/or authorities of the applicant granted by the 1945 Constitution of the Republic of Indonesia, The constitutional rights and/or authorities of the applicant are harmed by the enactment of the law for which judicial review is requested, the constitutional loss must be specific and actual, at least potentially, which according to reasonable reasoning can be ascertained to occur, there is a causal relationship (causal verband ) between the loss in question and the enactment of the law requested for review; the granting of the petition has the effect that the constitutional loss as argued will not occur again.

Based on the juridical elements described previously, the losses suffered by believers are the result of the presence of Article 61 paragraph (1) and paragraph (2) juncto, and Article 64 paragraph (1) and paragraph (5) 64 paragraph (1) juncto paragraph (5 ) The Population Administration Law which orders adherents of a belief or adherents of a religion that has not been recognized to leave the religion column on the Family card and electronic ID cards has harmed Petitioner II and followers of the Parmalim faith. Because by not filling in the belief in the religion column, Electronic Identity Card. Judges of the Constitutional Court place the causal clause in the law as the sociological basis for their legal considerations.

The implication of the contents of several articles of the Population Administration Law which regulates the vacancy of the religious column for believers in the ID card is a violation of the fulfillment of population rights that should be enjoyed by Believers. Even with the absence of religious beliefs in the electronic ID card of Petitioner II, there has been discrimination experienced by the applicant in various forms, such as: difficulty in accessing work, unable to access the right to social security, difficulty in accessing residence documents such as electronic ID card, Family Card, Marriage certificates, and birth certificates and also received a misguided stigma from the general public.

Furthermore, the article of the a quo law has also violated legal certainty, this is because in the article of the a quo law it is stated that the Family card contains elements of religious information in it, as well as the electronic ID card

which contains elements of population data, including the religion of the electronic ID card holder. Meanwhile, specifically for adherents of belief/believers or for adherents of a religion that has not been recognized as a religion based on the provisions of the legislation, the religion column is left blank (Muwaffiq Jufri, 2020). So that the Articles of the a quo law create conflict with each other. This shows ambiguity and violates the basic rights of citizens in general. As a whole, it can be concluded that the Articles of the law a quo contradict the legal principle of equal treatment before the law. This is because the articles of the a quo law show that there is no equality/equality in law for every citizen and show different treatment between citizens, namely distinguishing between Family card and electronic ID cards between Believers and citizens in general by leaving blanks at religion column for believers.

Whereas Article 58 paragraph (2) letter h of the Population Administration Law has stated that "religion/belief" is part of individual data that must be recorded in the population database. However, the data is only stored in the individual data system qualitatively and quantitatively in the population aggregated data, but is not explicitly included in the data elements in the physical Family card document and electronic ID card, so that the existence of the a quo Articles that order the vassal of believers of belief are inconsistent and in accordance with Article 58 paragraph (2) letter f of the Population Administration Law and ultimately creates legal uncertainty and inconsistency in the arrangements for filling in the religion/belief column.

### **Human Rights in Decisions**

The concept of human rights in the decision number 97/PUU-XIV/2016 can be seen from the rights granted by the judges of the Constitutional Court in their legal considerations, namely constitutional rights which are basic rights for the position of Believers in the sense that Believers are Indonesian citizens who have the authority fully protected by the state as stated in the fourth paragraph of the Law on the Unitary State of the Republic of Indonesia.

Equalization of Believers in God Almighty with other religious beliefs is the act of judges who uphold the principles of equality and non-discrimination, and uphold the principles of tolerance in society and religion. This is in line with the response of Buya Syafi'i who said that "*as an adult Muslim, I understand very well that his teachings emphasize the value of equality and tolerance for others*".

The overall review of judges and the concept of human rights in the decision of the Constitutional Court number 97/PUU-XIV/2016 concerning Population Administration has covered the rights and position of Believers in the public view, especially civil rights to get equal treatment in the administrative and bureaucratic fields. The impact of the presence of this

decision has been seen by the existence of several policies by the government such as circulars issued by the Department of Population and Civil Registration in terms of writing Believers of belief on Family Cards.

The second policy is the printing of ID cards which has started to be carried out on the week of August 12 2018. Then the existence of Believers has also begun to be seen with the many studies, workshops of public institutions in reviewing and knowing "Believers". Kuswijoyo explained, "After the decision of the Constitutional Court, our existence and position in the eyes of the public has been accepted, especially in administrative matters, besides that, several institutions have come asking to be seminar speakers, and individuals or who have come to research. .

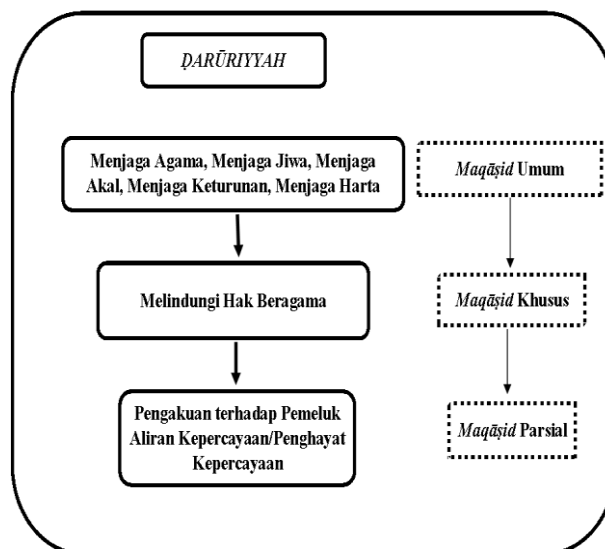
As far as the data and research that the authors get, there is no negative trend from the position of Believers in Yogyakarta. Because for Believers, their beliefs are individual self-actualization of servants to their God to get peace of mind and body, so whether they are recognized or not by their country, they still uphold their beliefs.

Responding to the absence of a tendency to destroy and demands by Believers to be equalized with the other six religions is a justification for legal considerations by the judges of the Constitutional Court, which actually accepts the Constitutional Court is to emphasize that Believers are the same as adherents of other religions and have the right to be protected, recognized and made equal in all aspects of bureaucratic and administrative affairs.

#### ***Maqāṣid asy-Syari'ah* on the position of Believers in the Constitutional Court's decision on Population Administration.**

Using the theory of *Maqāṣid asy-Syari'ah* in the analysis of decisions (Majda el-Muhtaj, 2009) The Constitutional Court Number. 97/PUU-XIV/2016 concerning Population Administration, it is necessary to first understand the application of *Maqāṣid asy-Syari'ah* theory in the context of protecting religious rights. Because the protection of religious rights is the core of the discussion in the decision of the Constitutional Court. As stated in Article 29 paragraph (2) of the 1945 Constitution, that "the State guarantees the independence of each resident to embrace their own religion and to worship according to their religion and belief". Mapping the protection of religious rights in the theory of *Maqāṣid asy-Syari'ah* is needed to be able to map the decision of the Constitutional Court so that it can be assessed using the variables that appear in the theory of *Maqāṣid asy-Syari'ah*.

The following is a chart of the application of the *Maqāṣid asy-Syari'ah* theory in the context of the protection of religious rights.



The chart above shows the application of the *Maqāṣid asy-Syarī'ah* theory in the context of the protection of religious rights in Indonesia. At the level of necessity (*ḍarūriyyah*), are goals whose existence is a necessity, their absence can damage the benefit of mankind in general (in the expression of the definition according to *Asy-Syāṭibī*) (asy-Syatibi, 2004). The expansion of the reach of *maqāṣid* proposed by activists of contemporary *Maqāṣid asy-Syarī'ah* studies (Asy-Syāṭibī, 2004), has broadened the reach of *maqāṣid* not only on the philosophical and general side (General *Maqāṣid*), but also the reach of *Maqāṣid asy-Syarī' ah* must also reach out to things that are crucial but casuistic (A Djazuli, 2003) which are still in the framework of realizing the General *Maqāṣid*. These specific, crucial, and casuistic matters are included in the Special *Maqāṣid*, and Partial *Maqāṣid* which are more applicable and casuistic.

*Maqāṣid asy-Syarī'ah* in the context of the protection of religious rights, places the five inevitabilities of human needs (*ḍarūriyyah al-khamsah*) in the *ḍarūriyyah* position simultaneously, in relation to this discussion, the first priority is protecting religion. 'Why is protecting religion the first priority in this context?' This is because according to the expansion of the scope of the contemporary *Maqāṣid asy-Syarī'ah*, it prioritizes one of the *ḍarūriyyah al-khamsah* (protecting religion, protecting souls, safeguarding reason, protecting offspring, safeguarding property), does not mean to exclude other terms of care.

The protection of the right to embrace religion (right to religion) in Indonesia is included in the human rights protected by the 1945 Constitution Article 28E paragraph (1) states, "Everyone is free to embrace religion and worship according to his religion, choose education and teaching, choose work, choose citizenship, choose a place to live in the territory of the country and leave it, and have the right to return". Because it starts with the protection of human rights in religion, it will affect the ability to protect other human rights in the

objectives of the Shari'a (*Maqāṣid asy-Syarī'ah*). The protection of the right to religion is the basis for protecting other Shari'a objectives because if adherents of a certain religion (according to statutory provisions) are not properly protected, there will be a potential for clashes between religious communities. This also results in the threat of life, intellect, lineage, and property of adherents of certain religions (Nashihin et al., 2020). So that the protection of religion becomes the basis for protecting the rights of protecting the soul (*ḥifẓ an-naḥs*), guarding reason (*ḥifẓ al-'aql*), protecting offspring (*ḥifẓ an-nasl*), and protecting property (*ḥifẓ al-māl*).

The discussion of the term maintaining religion in the classical *Maqāṣid asy-Syarī'ah* era, has a focus on studies of Islamic religious rituals, and laws regarding maintaining Islam in a state of war. For example, the implementation of the death penalty against apostates, and calls for war against Christian armies during the Crusades era. However, the laws that were produced through the term preserving religion of the classical *Maqāṣid asy-Syarī'ah* era can no longer be applied in the contemporary era, especially in Indonesia, which is a nation state. So that the application of *Maqāṣid asy-Syarī'ah* needs to be narrowed down to things that are more specific and contextual to the era and environment of the Indonesian state.

At the lower level (which is more specific), there is a Special *Maqāṣid* at the *ḍarūriyyah* level, namely the goal of realizing the protection of religious rights. The special *Maqāṣid* here is still within the scope of *maqāṣid ḍarūriyyah* (necessary goals), but it is more specific in the context of the protection of religious rights. 'Why is the protection of the right to religion a special *Maqāṣid* in this discussion?' This is because, without the protection of the right to religion (any religion), there will be enmity between adherents of one religion and adherents of another religion, and this will create an environment that is not conducive to perform rituals of worship of one religion. This is in accordance with the context of the era and civilization, especially in Indonesia, which consists of various ethnic groups, cultures and religious backgrounds. The word of Allah in the Qur'an states:

لَا إِكْرَاهَ فِي الدِّينِ.

"There is no compulsion to (embrace) religion (Islam)..."

The link between the above verse and the context of the protection of religious rights in the application of the *Maqāṣid asy-Syarī'ah* theory is, the purpose implied in the verse is that there is no compulsion to embrace Islam, even though the truth of Islam is absolute. This shows, in the contemporary era, where there is no longer a dichotomy between an infidel state and an Islamic state. So that what is needed in the present era is not a law that is coercive, but

a law that is more about protecting religion (Jimly Assdhiqqie, 1997) by respecting adherents of other religions in Indonesia.

At this level of the Special *Maqāṣid*, there is the possibility of evolution (gradual change) in terms of goal setting. The changes may occur when one main goal has been achieved, according to the calculations and priorities of the situation.

Expansion of the reach of *Maqāṣid* Jasser Auda also expands the scope of *Maqāṣid* (goals) in the applicable, and specific to the goals (*maqāṣid*) Partial. The Partial *Maqāṣid* in the context of this discussion is an acknowledgment of the religious rights of adherents of a belief system. The acknowledgment of adherents of the belief system here occupies the most specific position of *maqāṣid* in the realization of the protection of religious rights that are adapted to the context of religion in Indonesia. Because it is stated in article 29 paragraph (2) of the 1945 Constitution. In other words, the embodiment of the protection of religious rights in Indonesia (Jimly Assdhiqqie, 2011) must also recognize the diversity of adherents of belief, as well as other religions that are administratively recognized in Indonesia.

The relationship between the three *maqāṣids* above is a deductive relationship from the most general and philosophical level (general *maqāṣid*), to the applicable partial *maqāṣid* level (Mukti Fajar ND and Yulianto Achmad, 2010). The consequence is that the *maqāṣid* at the level below it must not violate the boundaries of the *maqāṣid* at the level above it.

*Maqāṣid asy-Syari'ah* theory mapping in the protection of religious rights (Asafri Jaya Bakri, 1996) in Indonesia found the variable that every religion in accordance with the 1945 Constitution, including sects of belief, also has the right to be recognized administratively. The decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration positioned as a means to achieve these goals. And at this point, the decision of the Constitutional Court has given justice to adherents of the belief and is considered to be in accordance with the objectives of the Shari'a (*Maqāṣid asy-Syari'ah*) in the form of safeguarding religion.

This has also resulted in the protection of religion being the basis for the protection of the rights to protect the soul (*ḥifẓ an-nafs*) which was previously (Antonio Casssesse, n.d.) considered a heretical teaching and has been stigmatized as infidel from society (Asplund, 2008) and citizens of Believers feel that their lives are threatened, after the issuance of the Constitutional Court's decision, it gives fresh air to Believers in carrying out their activities such as worshiping and providing protection status in the form of inclusion of belief in the religious column in the Family Card and Identity Card.

Keeping the mind (*ḥifẓ al-'aql*) and keeping the offspring (*ḥifẓ an-nasl*), from the implications of the Constitutional Court's decision, one of which has an impact on Believers in terms of education, namely the issuance of a regulation from the Minister of Education and Culture regarding education services Belief in God Almighty Number 27 of 2016, and the last one is protecting property (*ḥifẓ al-māl*) or granting rights to get a job, in this case according to Mr. M. Hardjo Soedarjono that, "Even though at this time the government has not carried out the mandate ordered by the Constitutional Court's decision, namely the right to get a job (to become a Civil Servant), but with this decision, at least it gives hope that in the future it will provide equal opportunities in providing equal employment with 6 (six) adherents of recognized religions".

#### IV. Conclusion

The decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration issued on 7 November 2017 has given position and justice to adherents of a belief. Thus, in the study of Human Rights, the decision of the Constitutional Court has covered the right of Believers in obtaining recognition from the state in the form of including Belief in the religion column on the Identity card and Family card in line with the principle of non-discrimination, equality (egalitarian) and universal. The implications of the decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration on the position of Believers are marked by government policies, one of which is the issuance of circulars related to changes in the religious column on Family Cards and Identity Cards.

Based on the review of Maqāṣid asy-Syarī'ah, the position of Believers in the decision of the Constitutional Court Number 97/PUU-XIV/2016 concerning Population Administration, the decision is considered to be in accordance with the objectives of Shari'a (Maqāṣid asy-Syarī'ah) in the form of safeguarding religion, so that religious protection becomes basic protection of the rights to guard the soul (*ḥifẓ an-nafs*), guard the mind (*ḥifẓ al-'aql*), protect the offspring (*ḥifẓ an-nasl*), and guard property (*ḥifẓ al-māl*) at the level of necessity (*darūriyyah*) at the level of general maqāṣid which is philosophical.

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