

The Status of Indigenous Belief Adherents in Civil Registration: A Comparative Study of the Fulfillment of Constitutional Rights in Indonesia and Viet Nam

Daulat Nathanael Banjarnahor, Rengga Kusuma Putra

Universitas HKBP Nommensen Pematangsiantar, Indonesia; Universitas Sains dan Teknologi Indonesia, Indonesia
daulatnb@gmail.com

Article Info

Received: 08-01-2025

Revised: 29-03-2025

Accepted: 30-06-2025

Keywords:

Believers of Faith,
Constitutional Rights,
Population
Administration.

Abstract

Recognition of belief adherents in population administration is an important part of fulfilling constitutional rights to identity, equality, and freedom of religion and belief. This research aims to analyze the legal construction of the status of belief adherents in population administration and compare the fulfillment of their constitutional rights in Indonesia and Vietnam. The research employs a normative legal method with legislative, conceptual, and comparative approaches. The research results show that both Indonesia and Vietnam provide constitutional guarantees for freedom of religion and belief, but they develop different regulatory models. Indonesia is moving toward rights-based recognition through the 1945 Constitution of the Republic of Indonesia and the Constitutional Court Decision Number 97/PUU-XIV/2016, which affirms the equality of belief adherents in population administration. Meanwhile, Vietnam recognizes freedom of belief through the Constitution and the Law on Belief and Religion 2016 with a stronger state regulatory character. The fulfillment of rights in both countries shows a gap between constitutional recognition, legal recognition, administrative recognition, and substantive fulfillment. Indonesia primarily faces challenges in administrative implementation following the Constitutional Court's decision, while Vietnam grapples with the issue of balancing freedom of belief and the state's regulatory function. Therefore, population administration needs to be developed based on the principles of equality, non-discrimination, identity protection, administrative access, and effective remedy.

I. Introduction

The Recognition of freedom of religion and belief constitutes one of the fundamental elements of a democratic rule-of-law state, as it is directly related to respect for human dignity, the freedom to determine one's identity, and the right of every individual to receive equal treatment before the law (Santos & Romanello, 2021). From a human rights perspective, freedom of religion encompasses not only the freedom to adhere to a particular religion, but also the freedom to hold, practice, maintain, or change the beliefs held by an individual in accordance with their conscience.

This issue becomes increasingly complex when freedom of belief intersects with the population administration system, which treats religious or belief identity as part of the state's administrative data. Population administration is essentially not merely an administrative record-keeping mechanism, but also a state instrument for ensuring citizens' access to various legal rights and public services, including education, healthcare, marriage, employment, social security, banking services, elections, and legal protection (Penatas et al., 2020). Therefore, when an individual's religious or belief identity does not receive adequate administrative recognition, the issue no longer concerns merely civil registration, but may develop into a constitutional issue concerning equality, non-discrimination, and the fulfillment of citizens' rights.

In the context of Indonesia, the existence of adherents of indigenous beliefs has deep historical, social, and cultural roots and constitutes part of the diversity of Indonesian society. The 1945 Constitution of the Republic of Indonesia provides a strong normative foundation for freedom of religion and belief through Articles 28E, 28I, and 29, which essentially position the freedom to embrace a religion, hold beliefs, and practice one's beliefs as part of constitutional rights (Erliyani, 2021). Nevertheless, the legal framework and population administration policies in Indonesia have developed to reflect a dynamic relationship between constitutional recognition of adherents of indigenous beliefs and the state's administrative practices. These issues include the inclusion of belief identities in population documents, recognition of marriages of adherents of indigenous beliefs, access to public services, and the potential for differential treatment between citizens who identify themselves as followers of a religion and citizens who adhere to indigenous beliefs (Yuni Juniarti et al., 2022).

A significant development in Indonesia's legal framework occurred through Constitutional Court Decision Number 97/PUU-XIV/2016, which brought about a fundamental change in the status of adherents of indigenous beliefs within the population administration system (Trinugraha et al., 2023). The Constitutional Court held that restricting the ability of adherents of indigenous beliefs to leave the religion column blank in population documents could give rise to discriminatory treatment

and was inconsistent with the principle of equality among citizens. The decision subsequently encouraged a paradigm shift in population administration from an approach that tended to prioritize administrative classification toward an approach more oriented toward recognition of citizens' constitutional identities. Accordingly, adherents of indigenous beliefs should not be placed outside the state administrative system, but rather recognized as legal subjects entitled to equal registration of their identities and to public services based on their status as citizens.

This issue is relevant for comparative examination with Viet Nam. As a country with historical, political, social, and legal characteristics that differ from those of Indonesia, Viet Nam also faces issues concerning the management of religious and belief life within the framework of state administration. The Vietnamese legal system recognizes the right to freedom of religion and belief and has developed a legal framework regulating religious and belief activities within society. The Constitution of the Socialist Republic of Viet Nam recognizes the freedom to have or not have a religion and to practice religion in accordance with the law. These provisions subsequently interact with state policies concerning population administration, personal identity, and the relationship between the state and religious or belief communities. The comparison with Viet Nam is important because it demonstrates how two Southeast Asian countries with different constitutional systems develop legal mechanisms for managing religious and belief pluralism while simultaneously ensuring the administrative status of their citizens.

The comparison between Indonesia and Viet Nam is also interesting because both countries have pluralistic societies and a long history of interaction among religion, belief, culture, and the state. In Indonesia, such pluralism is constitutionally closely related to Pancasila, the principle of the rule of law, and the guarantee of human rights. Meanwhile, Viet Nam has developed a legal approach that places freedom of religion and belief within the framework of a socialist state and a more centralized administrative governance system. These differences in systems enable a comparative study to examine whether differences in institutional design and state administration result in differences in the protection of the rights of adherents of indigenous beliefs. Accordingly, the comparative study is not intended to assert that one system is automatically better than the other, but rather to identify legal constructs, administrative mechanisms, and models of rights protection that may explain the successes and limitations of each country.

From the perspective of state administrative law, population administration should be positioned as a public service instrument oriented toward the fulfillment of citizens' rights, rather than as a mechanism of social classification that may result in administrative exclusion, and should be based on the General Principles of Good Governance (AUPB). Population identity has far-reaching legal consequences because it serves as the basis for the state to provide public services and recognize a person's existence as a legal subject (Ropiah, 2024). When a person is unable to properly state

their belief identity or encounters obstacles in obtaining documents that correspond to their belief identity, there is a possibility of what may be referred to as administrative exclusion, namely a condition in which inaccuracies or inequalities in administrative records have implications for a person's access to other rights. Therefore, the fulfillment of the rights of adherents of indigenous beliefs in population administration must be understood as part of the state's positive obligation to ensure equality and prevent discrimination.

This issue also demonstrates that the right to identity cannot be separated from the right to recognition (right to recognition) (Prasetio, 2024). An individual's identity in state documents is not merely technical data, but has legal and social dimensions because it determines how the state recognizes a person as a citizen. In a pluralistic society, the state is required to establish a population administration system capable of accommodating diverse identities without making such differences a basis for discrimination. This principle is increasingly important for adherents of indigenous beliefs because their existence often occupies a social space distinct from formal religious categories. Therefore, a population administration design that relies solely on majority categories or formal religious categories has the potential to produce structural inequality if it does not provide adequate mechanisms for citizens with belief identities.

Within the framework of constitutional rights, this issue can be analyzed through three main dimensions, namely recognition, protection, and fulfillment (Prasetio et al., 2025). Recognition relates to the willingness of the state to accept adherents of indigenous beliefs (penghayat kepercayaan) as legal subjects possessing a legitimate identity and faith; protection pertains to the state's obligation to prevent discriminatory actions against them; whereas fulfillment concerns concrete state actions in providing civil registration documents, public services, and administrative mechanisms that enable these rights to be exercised effectively. These three dimensions are crucial because formal recognition without protection and fulfillment can produce a constitutional gap—namely, a divergence between rights guaranteed in norms and the actual experience of citizens in obtaining administrative services.

Accordingly, this article focuses on two main issues. First, how is the legal status of adherents of indigenous beliefs constructed within the population administration systems in Indonesia and Viet Nam? Second, how is the fulfillment of the constitutional rights of adherents of indigenous beliefs constructed in both countries, and what is its relevance to the development of an inclusive population administration? Utilizing a comparative legal approach, this study not only compares norms textually, but also analyzes constitutional principles, statutory constructions, and administrative mechanisms that shape the status of adherents of indigenous beliefs. Ultimately, this research aims to formulate an understanding of a model for recognition and population administration capable of bridging the diversity of belief identities with the state's obligation to guarantee equality, legal certainty, protection

from discrimination, and the fulfillment of every citizen's constitutional rights.

II. Research Method

This study is normative legal research (penelitian hukum normatif) aimed at analyzing the legal status of adherents of indigenous beliefs within population administration systems and examining the fulfillment of their constitutional rights in Indonesia and Viet Nam. Normative legal research is employed because the primary object of study consists of legal norms, constitutional principles, statutory regulations, judicial decisions, and legal doctrines governing the relationship between freedom of religion and belief and population administration. The research is directed toward discovering a legal construction that can explain the relationship between guarantees of freedom of religion and belief, the right to identity, the principles of equality and non-discrimination, and the state's obligations in conducting population administration

III. Results and Discussion

. Legal Construction of the Status of Adherents of Indigenous Beliefs in Population Administration in Indonesia and Viet Nam

Adherents of indigenous beliefs (penghayat kepercayaan) are inherently part of the social, cultural, and spiritual diversity that develops within society. (Rahmat et al., 2021). From a legal perspective, the existence of adherents of indigenous beliefs (penghayat kepercayaan) cannot be positioned merely as a cultural phenomenon or local tradition, but must be understood as an integral part of personal identity that bears direct consequences for an individual's status as a legal subject (Prasetio, 2025). The belief held by an individual pertains to the most fundamental dimension of human freedom, namely freedom of thought, conscience, and the freedom to determine one's own belief (Umami & Ghofur, 2022). Therefore, when the state constructs a population administration system, it faces not only the need to record demographic data, but also the obligation to provide legal recognition of citizens' identities. In this context, adherents of indigenous beliefs (penghayat kepercayaan) must be positioned as citizens with equal legal standing to other citizens, rather than as a group whose existence depends on discretionary administrative recognition. Conceptually, religion and belief may indeed possess distinct characteristics in terms of history, organization, doctrine, or social practice, but such differences cannot automatically serve as a basis for differentiating an individual's status as a legal subject (Herdiana & Ekawati, 2024). The distinction between religion and belief must

be situated within the realm of identity and expression of belief, rather than at the level of citizenship status. Consequently, the state may differentiate the administrative character between religion and belief provided that such distinction is necessary for record-keeping purposes and does not lead to discrimination in the fulfillment of rights.

In the Indonesian constitutional perspective, the status of adherents of indigenous beliefs (*penghayat kepercayaan*) derives a solid foundation from the 1945 Constitution of the Republic of Indonesia. Article 28E provides guarantees for the freedom of every person to embrace a religion and to worship according to their religion, as well as to choose education and instruction, employment, citizenship, and residence, and to leave the territory of the state; in the subsequent paragraph, the constitution also guarantees the freedom to hold beliefs, and to express thoughts and attitudes in accordance with one's conscience. These guarantees must be read systematically alongside Article 28I, which positions the right to life, the right not to be tortured, the right to freedom of thought and conscience, and the right to freedom of religion as non-derogable rights under any circumstances (Salemot, 2021). Meanwhile, Article 29 affirms the state's guarantee of the freedom of every resident to embrace their religion and to worship according to their religion and belief (Tajmila et al., 2025). Under such a construction, belief cannot be regarded as a category falling outside constitutional protection, as the freedom to hold a belief constitutes a fundamental freedom intrinsically linked to human dignity and individual autonomy.

These constitutional guarantees must also be read in conjunction with the principle of the rule of law, as affirmed in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, and the principle of equality before the law for all citizens, as reflected in Article 27 Paragraph (1) and Article 28D Paragraph (1). In the context of adherents of indigenous beliefs (*penghayat kepercayaan*), equality before the law does not mean that every citizen must be treated identically under all circumstances, but rather requires the state to accord equal treatment to citizens who are in relevantly similar positions (Kadir et al., 2021). Differences in religious or belief identity must not be used as grounds to diminish an individual's status as a citizen. Therefore, if the state provides civil registration documents for adherents of religion, it must likewise provide an equal mechanism for adherents of indigenous beliefs (*penghayat kepercayaan*) to obtain recognition of their belief identity. The principle of non-discrimination reinforces this argument by requiring the state to ensure that administrative distinctions do not translate into disparities in opportunities to obtain citizenship rights.

This construction is closely linked to Pancasila as the foundation of the state. Pancasila, particularly the principles of Belief in the One and Only God (*Ketuhanan Yang Maha Esa*) and Just and Civilized Humanity (*Kemanusiaan yang Adil dan Beradab*), cannot be understood merely as a basis of legitimacy for the religious life of the majority (Sadyrbek, 2017), but also as an ethical-constitutional foundation for

respecting the diversity of beliefs existing within Indonesian society (Prasetio, 2023). The principle of the Unity of Indonesia (Persatuan Indonesia) is also relevant because unity in a pluralistic society is not constructed through the homogenization of identity, but rather through the recognition of differences within a shared framework of citizenship. Therefore, the recognition of adherents of indigenous beliefs (penghayat kepercayaan) is not contrary to Pancasila, but is rather a consequence of the Pancasila state construction, which positions diversity as a social reality that must be managed through the principles of justice, equality, and respect for human dignity.

Problems arise when these constitutional principles are translated into population administration law. Law Number 23 of 2006 on Population Administration, as amended by Law Number 24 of 2013, initially established an administrative construction that placed “religion” as a data element in demographic records, but did not grant an equal standing to adherents of indigenous beliefs within this registration mechanism. Administratively, this issue appears simple as it relates to data elements on the Family Card (Kartu Keluarga) and Electronic Resident Identity Card (KTP-el), but constitutionally, its consequences are far broader. When belief identity cannot be recorded equally, adherents may experience conditions in which their social and spiritual identities are not fully reflected in state documents. In this context, population administration has the potential to produce administrative exclusion—namely, a condition in which the design or practice of state administration causes a specific group to fail to obtain equal administrative recognition compared to other groups. Population administration must therefore be understood as an instrument of legal recognition (Febrina et al., 2021). Civil registration documents are not merely administrative proof, but serve as a medium connecting an individual with the state. The Electronic Resident Identity Card (KTP-el) and Family Card (KK) enable the state to identify an individual, while simultaneously enabling individuals to prove their legal status across various legal relationships. When certain identity elements cannot be properly registered, this issue can affect an individual’s access to public services and civil rights. Consequently, recording the identity of adherents of indigenous beliefs (penghayat kepercayaan) is not merely a technical matter of how a data entry field is filled, but rather a question of how the state recognizes an individual’s existence as a legal subject possessing a constitutional identity.

A significant turning point in Indonesian legal construction occurred through Constitutional Court Decision Number 97/PUU-XIV/2016. The case directly reviewed the constitutionality of provisions in the Population Administration Law concerning the recording of religion in the Family Card (KK) and KTP-el. The Court subsequently declared that the word “religion” (agama) in Article 61 Paragraph (1) and Article 64 Paragraph (1) of the Population Administration Law was contrary to the 1945 Constitution and conditionally unconstitutional unless construed to include “belief” (kepercayaan); the Court also declared Article 61 Paragraph (2) and Article 64 Paragraph (5) unconstitutional and without binding legal force. This ruling

fundamentally altered the position of adherents of indigenous beliefs in population administration by removing the normative basis for administrative treatment that placed them in a distinct standing from adherents of recognized religions.

The Court's constitutional reasoning in the case demonstrated that the registration of identity for adherents of indigenous beliefs is directly linked to the principle of equality before the law, legal certainty, and the prohibition of discrimination. The Court reasoned that leaving the religion field blank for adherents of indigenous beliefs could result in their failure to obtain guarantees of legal certainty and equality before the law and government enjoyed by other citizens. Consequently, an issue that initially appeared to be a technical administrative matter transformed into a constitutional issue, as administrative registration directly impacts a citizen's ability to access public services. The ruling simultaneously illustrated that constitutional equality must be realized through state administration, rather than merely guaranteed within the text of the constitution. This ruling can be understood as a paradigm shift from administrative classification to constitutional recognition. The former paradigm positions population administration primarily as a tool for classifying residents based on state-defined categories, whereas the latter paradigm positions population administration as a mechanism to recognize citizens' legal identity grounded in their constitutional rights. This shift is crucial because the state can no longer maintain an administrative construction that results in unequal registration for adherents of indigenous beliefs simply on the grounds that religion and belief are distinct categories. Such a distinction may still be maintained conceptually, but it must not create a hierarchy of citizenship status.

Nevertheless, judicial recognition does not automatically resolve all problems. The implementation of the Constitutional Court decision reveals ongoing challenges at the level of technical regulations, administrative software systems, socialization to civil servants, as well as social and cultural factors. This underscores the discrepancy between constitutional recognition and administrative implementation. In other words, normative changes at the constitutional and statutory levels must be accompanied by transformations in bureaucratic infrastructure so that recognized rights can be genuinely enjoyed by adherents of indigenous beliefs (Budiantoro & Yulianis, 2023). In contrast to Indonesia, which has experienced constitutional correction through judicial rulings, Viet Nam constructs its guarantees of freedom of belief through a more structured constitutional and state regulatory framework. Article 24 of the Constitution of the Socialist Republic of Viet Nam grants everyone the right to freedom of belief and religion, to follow or not to follow a religion, and affirms that all religions are equal before the law. The Constitution also emphasizes the state's responsibility to respect and protect freedom of belief and religion, while placing the exercise of such freedom within a legal framework. This construction demonstrates a dual dimension operating concurrently: the recognition of individual freedom and state regulation over religious and belief expressions.

This framework is further elaborated through Law No. 02/2016/QH14 on Belief and Religion. The law explicitly regulates the right to freedom of belief and religion, belief and religious activities, religious organizations, and the rights and obligations of institutions, organizations, and individuals associated with these activities. This law also defines belief as human faith manifested through rituals associated with customs and traditions to fulfill the spiritual needs of individuals and communities. The state is declared to respect and protect the freedom of belief and religion and to guarantee the equality of religions before the law. However, Viet Nam's legal construction demonstrates a character distinct from that of Indonesia. The Law on Belief and Religion does not merely accord individual recognition, but also regulates belief and religious activities through a state administrative framework (Humfress, 2024). This is evident from provisions governing belief activities, religious organizations, places of activity, registration, and state responsibility in the management of religious life. Furthermore, while the law prohibits discrimination and stigma on the basis of belief or religion, it simultaneously establishes limits on belief and religious activities related to security, order, social morality, health, and state interests (Phuong, 2020).

From a comparative perspective, a fundamental similarity exists between Indonesia and Viet Nam: both recognize freedom of belief and reject discrimination against individuals based on religion or belief. The difference lies in how such recognition is operationalized. Indonesia, particularly following Constitutional Court Decision No. 97/PUU-XIV/2016, demonstrates a tendency toward a rights-based recognition model that places the individual's constitutional rights as the foundation for correcting population administration. Viet Nam, conversely, exhibits a more state-regulated model, as the recognition of freedom of belief operates in tandem with state regulatory mechanisms over belief and religious activities. Thus, this comparison does not indicate that one model is inherently superior, but rather reveals two distinct pathways for bridging freedom of belief with the necessities of administrative governance.

The legal construction of the status of adherents of indigenous beliefs in both countries demonstrates that population administration serves as an intersection between individual freedom and state authority. Indonesia has moved more firmly toward identity recognition grounded in constitutional rights following Constitutional Court Decision No. 97/PUU-XIV/2016, whereas Viet Nam has developed the recognition of freedom of belief within a more administrative state regulatory system. These similarities and differences form the basis for evaluating a more substantive issue: whether normative recognition of indigenous belief adherents genuinely leads to equal fulfillment of rights in population administration practices.

Fulfillment of Constitutional Rights of Adherents of Indigenous Beliefs in Population Administration: A Comparison of Indonesia and Viet Nam

The problem of fulfilling the constitutional rights of adherents of indigenous beliefs (penghayat kepercayaan) must begin with the understanding that demographic identity is not merely administrative data, but rather a concrete manifestation of state recognition of an individual's existence as a legal subject. Identity within civil registration documents serves a much broader function than merely indicating a person's name, residence, or personal status, as such documents form the basis for an individual to engage with the state and access various public services. Therefore, when an individual's belief identity does not receive equal recognition within population administration, the issue can escalate into an indirect restriction on other rights. From this perspective, the right to identity can be positioned as an enabling right—a right that enables an individual to effectively access and enjoy other rights.

The relationship between identity and human dignity becomes particularly paramount for adherents of indigenous beliefs (penghayat kepercayaan), as belief constitutes an integral personal dimension inseparable from freedom of conscience (Sales, 2024). A state that recognizes freedom of religion and belief cannot merely guarantee that an individual is theoretically free to choose a belief; it must also establish administrative conditions that enable such a choice to be recognized without discriminatory consequences (Widowati & Vu Le Giang, 2025). In the context of population administration, such recognition is manifested through the state's capacity to legally record the identity of adherents of indigenous beliefs (penghayat kepercayaan) and provide equal services. Consequently, identity recognition constitutes an essential prerequisite for substantive equality.

The principle of equality before the law demands that adherents of indigenous beliefs are not positioned as citizens with an inferior legal status. In this context, equality does not imply eradicating the differences between religion and belief, but rather ensuring that such differences do not serve as a basis for the impairment of rights. The state may maintain a registration system that differentiates the categories of "religion" and "belief," provided that such categorical distinctions pursue a legitimate administrative purpose and do not produce discriminatory outcomes. Thus, the constitutional parameter is not merely whether differential treatment exists, but whether such differentiation has a legal basis, serves a legitimate aim, bears a rational relation to that aim, and does not result in a disproportionate restriction of rights.

In the Indonesian context, Constitutional Court Decision No. 97/PUU-XIV/2016 provides an extraordinarily critical foundation for the fulfillment of this right. The Court not only altered the interpretation of the phrase "religion" (agama) in the Population Administration Law, but also corrected the administrative paradigm that previously relegated adherents of indigenous beliefs to an unequal standing in demographic recording. The decision's ruling explicitly incorporated "belief"

(kepercayaan) into the scope of norms that previously used only the term “religion.” Consequently, the recording of the identity of indigenous belief adherents in civil registration documents must be understood as a right grounded in a constitutional foundation, rather than merely an administrative amenity granted by the government.

The significance of this decision becomes increasingly apparent when linked to derivative rights. Prior to adequate administrative recognition, the identity of indigenous belief adherents gave rise to issues across various spheres of life, including education, employment, marriage, and public services. During the judicial review process of the Population Administration Law, these issues were explicitly linked to broader consequences regarding citizens’ rights. Therefore, the fulfillment of the rights of indigenous belief adherents cannot stop at the question of whether a belief field is available on the KTP-el or KK, but must extend to whether that identity attains equal legal consequences across all state administrative services (Amhlaigh, 2022).

From the perspective of constitutional governance, administrative apparatuses must not be viewed merely as technical executors of statutory regulations. They constitute part of the state mechanism for actualizing constitutional rights (Muh. Ali Masnun, Dicky Eko Prasetyo, Mohd Badrol Awang, 2024). When a constitutional court ruling has accorded recognition to adherents of indigenous beliefs (penghayat kepercayaan), all underlying administrative mechanisms must conform to that ruling. If administrative obstacles arise—such as electronic systems failing to provide suitable categories, officer ignorance, convoluted procedures, or discriminatory practices—the issue is no longer merely a technical bureaucratic problem, but transforms into a matter of fulfilling constitutional rights.

In the context of Viet Nam, the fulfillment of the rights of belief adherents must be read through the relationship between constitutional guarantees and state regulation. Article 24 of the Constitution of Viet Nam guarantees freedom of belief and religion, including the right to follow or not follow a religion, and affirms that all religions are equal before the law. This provision establishes a normative foundation for the principle of non-discrimination, yet the exercise of such freedom is explicitly situated within a legal framework. In other words, the fulfillment of rights in Viet Nam depends not only on individual recognition, but also on how the state regulates the sphere for exercising belief and religion.

The Law on Belief and Religion 2016 reinforces this construction. This statute declares that everyone has the right to freedom of belief and religion, including the right to follow or not follow a religion, express beliefs, and perform rituals and religious activities. At the same time, the state explicitly prohibits discrimination and stigmatization on the basis of belief or religion (Phuong, 2020). From the perspective of rights protection, these provisions indicate that Viet Nam does not position freedom of belief as a domain entirely outside legal protection. On the contrary, this freedom obtains a positive law basis and is situated within the state administrative system (Quisay, 2023).

The comparison of the two countries can be analyzed through three stages: recognition, protection, and fulfillment (Disantara, Fradhana Putra et al., 2024). At the recognition stage, both Indonesia and Viet Nam provide a legal foundation for recognizing the freedom of belief. Indonesia demonstrates a strengthening of recognition through the Constitutional Court ruling that explicitly incorporated “belief” (kepercayaan) into the population administration framework. Viet Nam accords recognition through Article 24 of the Constitution and the Law on Belief and Religion 2016. At the protection stage, both adhere to principles rejecting discrimination based on belief, although their protective mechanisms are shaped by distinct institutional structures. At the fulfillment stage, the issue becomes more complex, as rights must be translated into concrete administrative services (Disantara, 2021).

From this perspective, the concept of a constitutional gap becomes relevant. A constitutional gap occurs when a disparity exists between constitutional recognition, legal recognition, administrative recognition, and substantive fulfillment. An individual may obtain guarantees of freedom of belief within the constitution, followed by recognition in statutory law, yet not necessarily receive fully equal administrative services. In the Indonesian context, Constitutional Court Decision No. 97/PUU-XIV/2016 demonstrates that constitutional recognition and legal recognition have progressed; however, implementation challenges indicate that administrative recognition and substantive fulfillment must continue to be strengthened. Evidence regarding technical and bureaucratic obstacles in implementing the ruling reveals that legal transformation requires broader institutional adjustments.

Meanwhile, the constitutional gap in Viet Nam can be analyzed from a different perspective. The Constitution and the Law on Belief and Religion provide recognition for the freedom of belief and religion, but this recognition operates within a relatively strong state regulatory system. Consequently, the central question is not merely whether the state recognizes freedom, but how to delineate the boundary between rights protection and administrative regulation. In other words, Viet Nam’s primary challenge relates to ensuring that state regulation of belief and religion does not diminish the substance of constitutionally guaranteed freedoms. This comparison offers a vital lesson: a constitutional gap can manifest in distinct forms—in Indonesia, primarily as a gap between legal recognition and administrative implementation, whereas in Viet Nam, it can be analyzed through the relationship between rights recognition and the state’s potent regulatory function.

These differences demonstrate that population administration must be positioned as an integral component of constitutional governance (Prasetio et al., 2021)

. Population administration must not merely pursue data orderliness, but must ensure that the registration system does not result in administrative invisibility for specific groups. Administrative invisibility occurs when a group is socially and constitutionally recognized in its existence, yet fails to obtain adequate representation

within the state administrative system. In the context of adherents of indigenous beliefs, such a condition arises if the state abstractly recognizes freedom of belief but fails to provide administrative procedures that enable that identity to be recorded and utilized effectively across various public services.

An inclusive population administration model needs to be established upon several core principles:

- * Constitutional recognition: The entire administrative system must stem from the recognition that adherents of indigenous beliefs are legal subjects possessing constitutional rights.

- * Equal administrative treatment: Adherents of indigenous beliefs must receive administrative services equal to those of other citizens.

- * Non-discrimination: Distinctions between religion and belief must not serve as grounds for restricting rights.

- * Identity protection: Information concerning belief must be managed with respect for human dignity, privacy, and individual autonomy.

- * Administrative accessibility: Registration procedures must be simple, accessible, and free of additional burdens on belief adherents that are not imposed on other groups.

- * Effective remedy: Objection, complaint, and dispute resolution mechanisms must be available in cases of refusal or discriminatory treatment.

- * Bureaucratic neutrality: State officials must deliver services based on law and citizens' rights, rather than subjective evaluations of an individual's belief.

Comparing Indonesia and Viet Nam reveals that an ideal model cannot rely solely on identity recognition; it must interconnect four layers of protection: constitutional recognition, legal recognition, administrative recognition, and substantive fulfillment. Indonesia has demonstrated significant progress across the first three layers through its constitution, legislation, and Constitutional Court Decision No. 97/PUU-XIV/2016, yet the effectiveness of the fourth layer remains dependent on bureaucratic capacity and implementation consistency. Viet Nam, on the other hand, has established constitutional guarantees and a dedicated legal framework governing belief and religion, but this recognition functions within a state administrative pattern that exercises stronger regulation over the conduct of belief activities.

Ultimately, the legal standing of indigenous belief adherents in population administration must be grounded in a rights-based administration paradigm. This paradigm positions citizens as rights holders and state administration as an instrument to fulfill those rights. Within the Indonesian framework, Constitutional Court Decision No. 97/PUU-XIV/2016 constitutes a crucial foundation for this transformation; however, legal transformation must continue through the harmonization of technical regulations, modernizing digital administrative systems, enhancing official awareness, and instituting effective oversight and complaint mechanisms. Meanwhile, Viet Nam's experience highlights the importance of

maintaining a balance between recognizing freedom of belief and the state's regulatory function to prevent administration from devolving into an instrument of excessive restriction.

IV. Conclusion

The legal construction of the status of indigenous belief adherents in population administration in Indonesia and Viet Nam demonstrates that both nations provide a constitutional foundation for freedom of religion and belief, yet employ distinct regulatory models. Indonesia moves toward a rights-based recognition model through the 1945 Constitution of the Republic of Indonesia and particularly Constitutional Court Decision Number 97/PUU-XIV/2016, which affirms the equal standing of indigenous belief adherents in population administration. In contrast, Viet Nam situates freedom of belief within a stronger state regulatory framework through its Constitution and the Law on Belief and Religion 2016. Consequently, adherents of indigenous beliefs in both countries conceptually hold standing as legal subjects entitled to administrative recognition, despite differences in regulatory mechanisms and character.

The fulfillment of the constitutional rights of indigenous belief adherents indicates that normative recognition is not always synonymous with substantive rights fulfillment. Indonesia faces challenges primarily in administrative implementation following the Constitutional Court decision, whereas Viet Nam encounters difficulties in balancing freedom of belief with a strong state regulatory function. Therefore, the fulfillment of the rights of indigenous belief adherents must be established upon continuity across constitutional recognition, legal recognition, administrative recognition, and substantive fulfillment, governed by principles of equality, non-discrimination, identity protection, administrative accessibility, and effective remedy mechanisms.

References

- Amhlaigh, C. Mac. (2022). Legal Pluralism Explained: History, Theory, Consequences. *Journal of Law and Society*, 49(2), 430–434. <https://doi.org/10.1111/jols.12357>
- Budiantoro, T., & Yulianis, M. S. F. (2023). Sejarah Pengakuan Hak Penghayat Kepercayaan Indonesia. *Madani: Jurnal Ilmiah Multidisiplin*, 1(11), 933–937.
- Disantara, Fradhana Putra, D. E. P., Samuel, B., & Nutakor, M. (2024). The Problematics of the Legal Standing of Deoxyribonucleic Acid (DNA) Test Results Concerning Civil Relationships of Illegitimate Children: A Legal Pluralism Perspective. *Mizani*, 11(02), 435–448.
- Disantara, F. P. (2021). Konsep Pluralisme Hukum Khas Indonesia sebagai Strategi

- Menghadapi Era Modernisasi Hukum. *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 6(1), 1–36. <https://doi.org/10.35673/ajmpi.v6i1.1129>
- Erliyani, R. (2021). Examining Religious and Justice System in Indonesia to Prevent Cyberbullying. *International Journal of Cyber Criminology*, 15(2), 112–123. <https://doi.org/10.5281/zenodo.4766548>
- Febrina, R., Amin, R. M., ' I., & ' I. (2021). Collaborative Governance in Recognizing Customary Law Communities And Customary Communal Land Rights in Kampar Regency. *Journal of Governance and Public Policy*, 8(2), PROOFREAD. <https://doi.org/10.18196/jgpp.v8i2.11104>
- Herdiana, D., & Ekawati, D. (2024). Kepastian Hukum Perkawinan Beda Agama Pasca Terbitnya Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 Dalam Mengadili Perkara Permohonan Pencatatan Perkawinan. *Jurnal Kewarganegaraan*, 8(1), 57–69.
- Humfress, C. (2024). Legal Pluralism's Other: Mythologizing Modern Law. *Law and History Review*, 42(2), 155–168. <https://doi.org/10.1017/S0738248023000172>
- Kadir, Y., Nurmala, L. D., & Ismail, N. (2021). The Relevance of Legal Protection to Human Rights Related to Euthanasia Law in Indonesia. *Jambura Law Review*, 3(2), 319–335. <https://doi.org/10.33756/jlr.v3i2.7111>
- Muh. Ali Masnun, Dicky Eko Prasetyo, Mohd Badrol Awang, E. S. (2024). Reconstructing Indonesia's Trademark Registration System through the Lens of General Principles of Good Governance to Realize Substantive Justice. *Journal of Law and Legal Reform*, 5(3), 891–912.
- Penatas, A., Muslimin, H., & Anggriawan, F. (2020). Status Hukum Dokumen Kependudukan Aliran Kepercayaan Setelah Putusan Mahkamah Konstitusi Nomor 97 / PUU-XIV / 2016. *Bhirawa Law Journal*, 1(1), 38–44.
- Phuong, N. T. (2020). Religion, Law, State, and covid-19 in Vietnam. *Journal of Law, Religion and State*, 8(2–3), 284–297. <https://doi.org/10.1163/22124810-2020010>
- Prasetyo, D. E. (2023). Pancasila sebagai Pengembangan Moral Virtual dalam Perspektif Living Ideology. *Pancasila : Jurnal Keindonesiaan*, 3(2), 127.
- Prasetyo, D. E. (2024). Perlindungan Dan Pengakuan Hak Ulayat Masyarakat Adat Biak Papua. *Realism: Law Review*, 2(1), 54–82.
- Prasetyo, D. E. (2025). Hukum Adat di Indonesia: Perspektif Pluralisme Hukum. In *Refleksi Dinamika Hukum di Indonesia* (pp. 174–180). PT Adikara Cipta Aksa.
- Prasetyo, D. E., Disantara, F. P., Azzahra, N. H., & Perwitasari, D. (2021). The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law. *Rechtsidee*, 8, 1–14. <https://doi.org/10.21070/jihr.2021.8.702>
- Prasetyo, D. E., Masnun, M. A., & Widodo, H. (2025). Affirmative Action for Persons with Disabilities to Ensure the Right to be Elected in General Elections. *Nusantara Science and Technology Proceedings*, 1(1), 205–210. <https://doi.org/10.11594/nstp.2025.4824>
- Quisay, W. (2023). Locating 'Praxis' in Islamic Liberation Theology: God, Scripture,

- and the Problem of Suffering in Egyptian Prisons. *Religions*, 14(9), 1085. <https://doi.org/10.3390/rel14091085>
- Rahmat, S., Amin, R., Riana, R. D., & Sumiyati. (2021). Agama Masyarakat Suku Laut Kampung Panglong Desa Berakit, Kabupaten Bintan (1965-2011). *Jurnal Sejarah Dan Kebudayaan*, 6(Sistem kepercayaan; agama; suku laut.), 85–97.
- Ropiah, S. (2024). Perkawinan Beda Agama Pasca SEMA No.2 Tahun 2023 (Analisa Yuridis Sosiologis Perkawinan Beda Agama di Indonesia). *Al-Ulum Jurnal Pemikiran Dan Penelitian Ke Islaman*, 11(2), 2020–2032. <https://doi.org/10.31102/alulum.11.2.2024.2020-2032>
- Sadyrbek, M. (2017). *Legal Pluralism in Central Asia: Local Jurisdiction and Customary Practices*. Routledge.
- Salemot, M. A. (2021). Non-derogable Rights during State of Emergency: Evaluation of the Ethiopian Legal Framework in Light of International Standards. *Hawassa University Journal of Law*, 5(1), 177.
- Sales, P. (2024). Constitutional Values In The Common Law Of Obligations. *The Cambridge Law Journal*, 83(1), 132–157. <https://doi.org/10.1017/S0008197324000011>
- Santos, M. F. G. dos, & Romanello, M. V. D. (2021). Law, State and Religious Freedom in Brazil: A Historical and Constitutional Analysis of Freedom of Belief and Religion. *Athens Journal of Law*, 7(4), 541–562.
- Tajmila, T., Syahwan, A., Aditya, M. D. S., Rafi, P. A., Rahman, M., & Muzakir, Y. (2025). Peran dan Tanggung Jawab Pemerintah Daerah dalam Perizinan Rumah Ibadah Berdasarkan Hak Konstitusional Kebebasan Beragama. *Wathan: Jurnal Ilmu Sosial Dan Humaniora*, 2(2), 260–279. <https://doi.org/10.71153/wathan.v2i2.263>
- Trinugraha, Y. H., Saputro, R., & Yuhastina, Y. (2023). Proses stigmatisasi pada pengikut penghayat kepercayaan pelajar Kawruh Jiwo di Kota Surakarta: Kajian teori Stigma Erving Goffman. *SOSIOHUMANIORA: Jurnal Ilmiah Ilmu Sosial Dan Humaniora*, 9(1), 93–111. <https://doi.org/10.30738/sosio.v9i1.14172>
- Umami, U., & Ghofur, A. (2022). Human Rights in Maqāṣid al-Sharī'ah al-Āmmah: A Perspective of Ibn 'Āshūr. *Al-Ahkam*, 32(1), 87–108. <https://doi.org/10.21580/ahkam.2022.32.1.9306>
- Widowati, & Vu Le Giang. (2025). Child Punishment Versus the Principle of Non-Discrimination in the Perspective of Human Rights: A Legal Comparison Between Indonesia and Vietnam. *Jurnal Suara Hukum*, 7(1), 245–273. <https://doi.org/10.26740/jsh.v7n1.p245-273>
- Yuni Juniarti, Shindu Irwansyah, & Muhamad Yunus. (2022). Analisis Pencatatan Perkawinan Beda Agama di Indonesia menurut Undang-Undang No. 1 Tahun 1974. *Jurnal Riset Hukum Keluarga Islam*, 2(2), 71–76. <https://doi.org/10.29313/jrhki.vi.1185>