

Juridical Review of Government Regulation 40 of 2019 Regarding the Marriage of Believers in Indonesia

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Abstract

Marriage registration for religious beliefs in Indonesia has been recognized by the state, whereas previously there was no recognition from the state and there was no legal certainty for adherents of this religious belief. The recognition of the religious beliefs that exist in Indonesia as beliefs and religions is good news for all believers in Indonesia, where the condition is that adherents of these beliefs have registered with the Ministry of Education, Culture, Research and Technology. This is as regulated in PP Number 40 of 2019 concerning Population Administration, where this regulation regulates all forms of administration and procedures for registering marriages for believers. This research uses a normative legal approach method. In this research, library data collection techniques (library research). The results of research on the Juridical Review of PP 40 of 2019 on the Marriages of Believers in Indonesia show that the registration of marriages for adherents of this religion is contained in Government Regulation Number 40 of 2019 concerning population administration, in this Government Regulation regulates marriage procedures for adherents of the faith who wish to those carrying out a marriage can register their marriage at the government's public service agency, namely at the Population and Civil Registration Service of the Regency/City where the prospective couple is domiciled. The legal obstacles that arise in registering marriages of believers in Indonesia make the implementation of PP Number 40 of 2019 still ineffective due to the lack of religious leaders who have a decree to marry prospective couples who want to get married, so difficulties will arise in the process of registering marriages at the Population Service Office. and Civil Registration if it is slow or impossible to issue a Blessing Letter for a Faithful Couple who has entered into a Marriage.

Keywords: Marriage Registration, Population Administration, Believers



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INTRODUCTION

Marriage is a very important thing in human life, because marriage is not only aimed at establishing family ties but also to fulfill physical and spiritual needs. Marriage registration is a social, legal and religious necessity. The aim is to guarantee the validity of marriage and protect the rights of all family members, including husband, wife and children. According to Wasman & Wadah Nuromiyah (2011) stated that marriage is an essential problem in human life, because marriage is not only limited to a bond to form a family but also to fulfill physical and mental needs. However, religiously, marriage as a form of worship which is a very strong bond with both fellow humans and God Almighty aims to obtain offspring in order to maintain generations. Based on Article 1 of Law of the Republic of Indonesia Number 1 of 1974 concerning marriage, marriage can be defined as a spiritual and physical bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the belief in the Almighty God. Based on the provisions of Article 1 of Law Number 1 of 1974 above, it can be concluded that the aim and purpose of marriage according to marriage law is the physical and spiritual union of a man and a woman as husband and wife, while the purpose of marriage itself is to make people happy. . connection. and eternal family (families) based on faith in the Almighty God. Because Indonesia is a country based on the belief

in the Almighty God, in this case marriage and religion are very closely related because they are not only physical but also spiritual or religion also plays an important role in marriage.

In Indonesia, the laws and regulations governing marriage are contained in Law Number 32 of 1954 concerning Registration of Marriages, Divorce and Reconciliation, Law No. 1 of 1974 concerning Marriage and the Compilation of Islamic Law which is the material law in the Religious Courts. As well as Government Regulation no. 40 of 2019 concerning Amendments to Law no. 32 of 2006 concerning Population Administration. Marriage itself is a very important legal event in human life which has various legal consequences, so the law clearly regulates this marriage issue. A marriage can be said to be valid if it meets the provisions in Article 2 of Law Number 1 of 1974 concerning Marriage, which confirms that: Marriage is valid if it is carried out according to the laws of each respective religion and belief. Every marriage is recorded according to applicable laws and regulations. This can be explained in article 2 of Law Number 1 of 1974 that marriage and religion have a close relationship and cannot be separated, therefore all religions or beliefs regulate marriage matters, every major religion requires marriage between a man and a woman. one religion. Indonesia itself is a country that gives its people freedom to choose and embrace a religion or even a belief that they believe in without any coercion from any party. In order for a marriage to be recognized by the state, it must be carried out according to each respective religion and belief. These two conditions are cumulative so both must be met for a marriage to be said to be valid according to Indonesian law.

Marriage registration has a very important role in a marriage, marriage registration is a condition for whether or not a marriage is recognized by the state. If a marriage is not registered, the marriage is not recognized by the state, as are the legal consequences that arise in an official letter and are contained in a special list that has been provided. Marriage registration aims to make the marriage event clearer, both for the person concerned and for other people and society, and can be proven in an official letter so that it can be used at any time anywhere, especially as authentic written evidence in the presence of a letter. This proof means the marriage must be registered. Marriage registration for Muslim couples can be carried out by marriage registration officers at the Ministry of Religion in accordance with the provisions of Law Number 32 of 1954 concerning marriage registration, divorce and reconciliation. However, for those who marry according to religion and other non-Islamic beliefs, especially Christians, Hindus, Buddhists, Catholics and Confucians and all religious beliefs (believers) are recognized by the government as contained in Government Regulation (PP) Number 40 of 2019 2019 concerning Implementation of Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, carried out by Marriage Registrar Employees at the Civil Registry Office. The purpose of the Law is to ensure that the implementation of the Legal Function itself runs effectively in order to regulate or shape the order of life in society by looking at what is permitted and not permitted in the law by using Institutional Establishment and the role of the Law.

The process and procedures for registering marriages for Indonesian citizens of religions other than Islam are contained in PP No. 40 of 2019 concerning Population Administration, in this case the author focuses more on registration of marriages for the religious beliefs in Temanggung. This regulation is contained in CHAPTER VI Article 39 to Article 40, Article 39 paragraph (1) to paragraph (4) explains that marriages for adherents of the faith are carried out in the presence of religious leaders, and religious leaders who are assigned to carry out the marriage at the believer's organization. are those who have been appointed and have an official decree from the Ministry of Education and Culture. Religious leaders who adhere to this belief have registered and signed the existing letter. Article 40 Paragraphs 1 and 2 explain the

procedures for registering marriages of adherents of a faith through the District or City Population and Civil Registry Service, whereupon the registration officer provides a form to be filled out by husband and wife. The requirements for marriage are the same as for other religions, only for adherents. This belief is recorded through the Population and Civil Registry Service, the same as other religions other than Islam.

When the government recognizes adherents of this belief, the existence of adherents of this religious group is recognized by law in Indonesia. If the adherents of this belief are admitted, the status of Religion on the KTP is no longer empty. It is acknowledged that this sect of believers is in accordance with the 1945 Constitution. This has been explained regarding the right to freedom of religion and belief, contained in Article 29 Paragraph 2 which explains that the state guarantees the freedom of each resident to embrace their own religion and worship according to their religion and beliefs. That. Recognition of a religious sect as an official religion in Indonesia also greatly benefits adherents of the belief, including education rights, employment rights, health rights and other social security. Among the approximately 187 religious sects registered with the ministry, one of them is the Sapta Dharma sect and there are many other sects. However, many religious organizations are not registered with the relevant ministries, so civil registration officers can only register groups that are approved by the government and have laws. The problem is, there are still many religious organizations that have not been registered, so civil registries cannot function properly. The lack of information transparency means that some religious groups are still reluctant to register their organizations in the information. Many adherents of this belief still cannot accept the rules contained in it, thus forcing adherents of this belief to marry only secretly or according to their customs without first being introduced to the leaders of this belief so that many registration procedures are hampered due to lack of information, they They also have their own traditions regarding the marriage system they believe in.

Problems arise when adherents of this sect argue that religious leaders of the same religion cannot marry couples according to custom. The reason religious figures cannot provide blessing letters is because the couple is only married in an unregistered marriage. There are many reasons why couples don't come out. Apart from the problem of not having a blessing letter, the public is increasingly less aware of the legal consequences that arise for survival if a marriage is not registered at the civil registry office. Realizing that this belief system can open the consciousness of its supporters so that it can be protected legally, but in reality it still works well. Lack of knowledge of the law means that people are not aware of population control issues such as marriage registration which must be registered after marriage. In PP No. 40 of 2019, it is also explained that the maximum registration is 60 days after the marriage, however there are still many who have not registered their marriage. The civil registration service provides leeway for married couples to register their marriage even though the marriage is 1-5 years old, as long as they still keep the blessing letter given by the religious leader when they married. There are many impacts that arise if a marriage is not registered with the relevant department, including affecting the child's birth certificate, the birth certificate of a child whose parents' marriage has not been registered or legally valid in the state, then there is a sign written on the back of the certificate "The marriage has not been registered according to the applicable laws."

From the explanation given above, it is necessary to carry out more in-depth research regarding "Judicial review of Government Regulation 40 of 2019, regarding the marriage of believers in Indonesia and its impact on believers who do not have an organization". The aim of this study is: To find out the perspective of PP number 40 of 2019 on the marriage of believers in Indonesia and to find out the impact on believers in Indonesia who do not have an organization.

RESEARCH METHODS

The use of methods in scientific writing is very important because it can create conditions that support research as well as appropriate and reasonable methods to achieve maximum research results. Research is an effort to analyze and carry out construction methodically, systematically and coherently. Research is a means used to consolidate, promote and develop knowledge. Legal research is a scientific activity based on certain methods, systems and reflections which aims to study one or several particular legal phenomena by analyzing them. Apart from that, a thorough review of the legal facts is also carried out to further try to find solutions to problems arising from the phenomenon in question. This research uses a normative legal approach method. This approach is carried out by examining library materials or secondary data in legal research. Normative legal research is also known as doctrinal legal research. According to Peter Mahmud Marzuki, normative legal research is a process of finding legal regulations, legal principles, or legal doctrines that can provide answers to the legal issues faced. The type of research used is legal research which uses normative case studies in the form of legal behavioral products. The object of research is law which is conceptualized as norms or rules that apply in society and become a reference for people's behavior. Therefore, normative legal research focuses on active legal inventory, legal principles and doctrine, legal discoveries in certain cases, legal systems, degree of uniformity, legal comparison and legal history.

The type and nature of this research is qualitative research, namely research carried out by researchers by collecting books, journals and things related to the problems and objectives of the research. These books are considered as sources to be processed and analyzed. This type of normative legal research is a process of exploring legal provisions, legal principles and legal doctrines in order to resolve the legal problems faced. Normative legal research uses normative case studies in the form of legal behavioral products, such as legal reviews. The object of research is law which is conceptualized as norms or rules that apply in society and become a reference for people's behavior. Therefore, normative legal research focuses on active legal inventory, legal principles and doctrine, legal discoveries in certain cases, legal systems, degree of uniformity, legal comparison and legal history.

The approach used in preparing this research is normative legal research (normative legal research method). The normative legal research method is library-based legal research carried out by examining library documents or secondary data. By using deductive thinking (a way of thinking that involves drawing a conclusion from something general that has been proven to be true and that conclusion refers to something with a certain substance). Thus, the object analyzed using a qualitative approach is a research method that refers to legal norms contained in statutory regulations. Based on the approach method used in this research, namely normative legal research, this research uses references from books, journals, laws and related regulations or rules. Normative legal research methods use legal research approaches, theories and concepts related to the problems studied. Sampling is the process of selecting a portion that represents the entire population. This research does not use samples as research material but instead uses document research as a data source. The use of primary and secondary data as raw data as well as additional expert opinions as complementary data is considered as research results.

In research, a distinction is often made between data obtained directly from the public and data originating from libraries. What is obtained directly from the public is called primary data (or primary data), while what is obtained from library materials is often called secondary data. The data in this article is secondary data, especially library documents which include official documents, library books, statutory regulations, scientific works, articles and documents related to these documents, learning materials. Primary legal documents, namely

all legal documents/devices that are legally binding. Primary legal documents include legal research regulations and secondary legal documents, mainly in the form of documents or documents that connect and explain problems. Primary legal document topics include books and related documents. Secondary legal documents are documents that explain basic legal documents such as legal projects, research results, the work of the legal community, and so on. Normative legal research as mentioned above is an analytical study of research problems using a legal principles approach and referring to legal standards contained in statutory regulations. The regulations that apply in Indonesia and the use of data types from library materials are often called secondary data.

According to Yusuf (2017), several data collection techniques in qualitative research are interviews, observation and documentation. However, in this research there are library data collection techniques (library research). The quality and quantity of library data collection is determined by the amount of secondary data collected and is closely related to the problem material and theory used. The data collection method used in this research is secondary data research or library data, which means that data collection techniques are carried out by collecting data contained in books, documents, notes, reports and legal regulations related to the research topic. The data collection technique in this research is library research. This technique is used to search for and obtain primary or secondary data. The data obtained is then presented in the form of a description that is arranged systematically, logically and rationally. This means that all the data obtained will be connected and adapted to the main problem so that it becomes a unified whole with the main problem being studied. Legal documents are collected through inventory procedures, identification of legal regulations as well as classification and systematization of legal documents based on research problems. Therefore, the data collection technique used in this research is document research. Literary research is carried out by reading, studying, taking notes and providing criticism of library materials that are relevant to the research.

RESEARCH RESULTS AND DISCUSSION AND ANALYSIS

Analysis of the Concept of Marriage According to Law Number 1 of 1974

Indonesian society is a heterogeneous society; The diversity of ethnicities, cultures and religions creates pluralism within it. The existence of these differences actually functions to maintain the basis of individual identity and social integration in society. Social pluralism, both at social, religious and ethnic levels, has existed since the time of our ancestors. Given the pluralism of Indonesian society, it seems that every individual can choose their life partner, regardless of ethnicity or culture, because state law does not prohibit inter-ethnic or cross-cultural marriages. Ideally, marriage takes place without any coercion from both parties and is based on a feeling of love and affection so that the marriage is built on a strong foundation and can give birth to a successful marriage, a happy and prosperous family in the world and in the world. Furthermore, . If there is no feeling of love and affection between both parties, then the marriage will not last long. The issue of marriage is not just the satisfaction of biological needs and human desires, but rather the physical and spiritual relationship between a man and a woman. Marriage is an important thing and is a step forward for every individual. Marriage is an event in a person's life that has a major influence on a person's status and legal status. After marriage, rights and obligations arise between husband and wife. Therefore, there must be rules or regulations governing marriage.

Marriage is a long-term relationship between two people that is recognized as valid by the society concerned based on applicable marriage regulations. Depending on local culture, the form of marriage and its purpose may differ. Based on Article 1 of the Republic of Indonesia

Law Number 1 of 1974 concerning Marriage, it is explained that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family. (household) based on faith in God Almighty. This definition of marriage contains the same elements and objectives as the definition of marriage put forward by experts. After Law Number 1 of the Republic of Indonesia of 1974 concerning Marriage was promulgated, society began to talk about marriages that were not registered according to law or marriages that were not registered with the Ministry of Religion. (KUA). This is illustrated in a marriage between a man and a woman which is only attended by the families of the bride and groom without interference from officials from the Religious Affairs Bureau (KUA), which is not permitted. registered and registered with the Population Service, so that according to the law it can be considered a secret marriage or not registered. This procedure for unregistered marriage is contrary to Law Number 1 of 1974 concerning Marriage.

With the enactment of Law Number 1 of 1974 concerning Marriage, it is hoped that legal unity will be created which is reflected in national law and applies to everyone. Law Number 1 of 1974 must embody the principles of Pancasila and the 1945 Constitution, on the one hand it must also be able to adapt to all the realities of society's life today. Indonesia has a state foundation, namely Pancasila, from which the national law Pancasila in Indonesia was established. The first principle of Pancasila clearly states that the Indonesian state is based on belief in the Almighty God, therefore marriage and religion or spirituality have a very close relationship, because marriage does not only involve material elements. but there are also mental factors, there are also spiritual factors that play an important role. important role. It seems simple, but if done wrong it can be very detrimental. We can trace the history of the formation of our country, especially Pancasila. Why does Pancasila prioritize the first principle, namely Belief in One Almighty God? It seems that the state policy of prioritizing religion is very urgent. Regarding the nature of each precept, it can be said that among the five precepts, the precept of believing in God is the most difficult and complicated. Because until now, these precepts have caused many problems and debates.

Indeed, in this world there are organizations that know God, including God Almighty, and this also happens in Indonesia. Therefore, expressing opinions regarding the meaning of the holy commands of God Almighty is very valuable. In other words, the boundaries of the nature of the Almighty Godhead are broad enough to accommodate all religions and beliefs within it. There are several religions recognized in Indonesia, namely Islam, Christianity, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism. And each religion has its own laws regarding marriage. Marriage Law Number 1 of 1974 is a national marriage law which also refers to religious law as stated in Article 2 paragraph (1) of Law Number 1 of 1974. There are several religions recognized in Indonesia, namely Islam, Christianity, Protestantism, Catholicism, Hinduism. , Buddhism, and Confucianism. And each religion has its own laws regarding marriage. Law Number 1 of 1974 concerning Marriage is a National Marriage Law which also refers to religious law as stated in Article 2 paragraph (1) of Law Number 1 of 1974. In Article 2 paragraph (1) of Republic of Indonesia Law Number 1 of 1974 concerning Marriage explains that "Marriage is valid, if it is carried out according to the laws of each respective religion and belief". Then paragraph (2) explains "Every marriage is recorded according to the applicable laws and regulations". So it is clear that a marriage must be recognized and carried out according to the laws of each religion or belief and recorded in accordance with the provisions of the applicable laws, where the registration is carried out at the Religious Affairs Office (KUA) and the Population and Civil Registration Service as concrete and legally valid evidence. country of the marriage being held

As intended in Article 2 paragraph (1), there may be no marriages outside the laws of each religion or belief, in accordance with the 1945 Constitution. The laws of each religion and belief contain statutory regulations that apply to that religion and belief. groups and their beliefs as long as they do not conflict with this Law or are not otherwise regulated in this Law. In a marriage, of course you must fulfill the requirements stipulated in Republic of Indonesia Law Number 1 of 1974 concerning Marriage. Marriage must be based on the consent of both prospective bride and groom. To enter into a marriage, a person who has not reached the age of 21 (twenty one) years must obtain permission from both parents. In the event that one of the parents has died or is unable to express his will, it is sufficient to obtain permission from the surviving parent or from the parent who is able to express his will. In the event that both parents have died or are unable to express their wishes, permission is obtained from the guardian, caretaker or family member who is related by blood in a straight line of descent as long as they are still alive and in a condition able to express their wishes. In the event that there is a difference of opinion between the person who is about to get married, their parents/guardians, or one or more of them does not express an opinion, then the Court in the jurisdiction where the person who is going to get married lives, at the person's request, can give permission after first hearing the matter. concerned, their parents/guardians. Where these provisions apply as long as the law of each religion and belief of the person concerned does not determine otherwise. In other cases, one of the reasons a marriage is held under the hand or is not legally registered is because a man wants to marry more than once or wants to marry a second time without the permission of his wife and children so that the marriage is not permitted in accordance with what is regulated in the Law. Republic of Indonesia Law Number 1 of 1974 concerning Marriage. Based on Article 3 paragraph (1) of Republic of Indonesia Law Number 1 of 1974 concerning Marriage, it states that "In principle, in a marriage, a man can only have one wife. A woman can only have one husband." Article 6 paragraph (1) of Republic of Indonesia Law Number 1 of 1974 concerning Marriage explains that marriage must be based on the consent of both prospective bride and groom. Because marriage has the intention that husband and wife can form an eternal and happy family, and is also in accordance with human rights, marriage must be approved by both parties entering into the marriage, without any coercion from any party. The provisions in this article do not mean reducing the conditions for marriage according to the provisions of the marriage law currently in force, as long as they do not conflict with the provisions in this Law as intended in Article 2 paragraph (1) of this Law. Marriage has the intention that a husband and wife can form an eternal family, so any action that results in the dissolution of a marriage must be truly considered and thought through carefully. All forms of marriage processes must always be carried out with wisdom and based on the regulations of each religion and not conflict with applicable laws and regulations. For this reason, it is important to register marriages legally so that the form of civil and population administration becomes clear as regulated in Republic of Indonesia Law Number 1 of 1974 concerning Marriage. Marital status that is not recognized by the state will have significant and serious social impacts, especially in the form of cohabitation which according to state law does not legally bind marriage. This also has legal consequences: if a child is born from a marriage that is not registered, then the child will be born outside a valid marriage. This means that the child is illegitimate, that is, he has no legal ties to his father and family. As mentioned above, marriage is an event in a person's life that greatly influences that person's legal position and status, because through marriage the rights and obligations arise between husband and wife. Therefore, if a marriage takes place, this must be proven with valid evidence to clearly establish the legal relationship between the two people celebrating the marriage. This is the importance of marriage registration.

Analysis of the Concept of Marriage for Believers Based on PP Number 40 of 2019

Marriage registration has long been regulated by the state as regulated in Republic of Indonesia Law Number 1 of 1974 concerning Marriage, where marriage registration can be interpreted as a recording process or activity in recording an event by a state institution in the context of creating legal order and population administration. The legal basis for registering marriages is as explained in Article 2 paragraphs 1 - 2 of Republic of Indonesia Law Number 1 of 1974 concerning Marriage which reads: Marriage is valid if it is carried out according to the laws of each religion and belief. Every marriage is recorded according to applicable laws and regulations. Without changing the existing context, marriage registration is interpreted according to the general interpretation that every marriage is intended to record important events in a person's life, such as birth and death, as stated in official documents, especially official laws that are included in the existence register and recognized by States such as deeds and other documents. According to the author, by paying attention to the existing legal content and general explanations, the purpose of marriage registration is to clarify the nature of marriage to each person, to other people, and to society. This has been proven in an official draft issued by the Marriage Registrar so that it can be used at any time, including as legal written evidence, that the marriage is valid according to state law and can be a means of stopping a practice that could give rise to legal consequences.

Proof of the permanent legal validity of this marriage appears in an excerpt from the marriage certificate or record book, therefore the marriage is not registered in the civil registry or Marriage Registration Officer (VAT), or people who marry without proof of registration are considered invalid and the marital status has legal consequences. A person who marries without being registered by a marriage registration agency is not legally valid according to applicable laws and regulations and is administrative in nature. As mentioned above, a person who marries without registering the marriage or without proof, the marriage is void according to applicable state law. This regulation regarding marriage registration has huge legal consequences for society because it will have an impact on ongoing legal activities. Based on the Compilation of Islamic Law, it is explained that marriage law is no longer limited to material law. As Article 5 of the Compilation of Islamic Law states: "To ensure orderly marriages for Islamic society, every marriage must be registered." Thus, according to the Compilation of Islamic Law, marriages that are not registered or held outside the supervision of marriage registration institutions have no legal consequences. Article 5 is reinforced by Article 7 which states that marriage can only be proven by a marriage certificate issued by the civil registry. Therefore, it can be said that marriage registration is an obligation for every Muslim who is getting married. Marriage registration as mentioned in the Compilation of Islamic Law is related to whether the marriage is valid or not, just as marriage registration is related to civil relations. Marriages that are not registered by a marriage registrar will not be valid according to the laws in force in Indonesia.

In the Republic of Indonesia Law Number 23 of 2006 concerning population administration, the third part regulates the obligation to register marriages in the territory of the Unitary State of the Republic of Indonesia. As article 34 paragraph (1) explains, a valid marriage based on the provisions of statutory regulations must be reported by residents to the implementing agency at the place where the marriage occurred no later than 60 (sixty) days from the date of the marriage. In paragraph (2) it is explained that based on the report as intended in paragraph (1), the Civil Registration Officer records the marriage certificate in the register and issues an extract from the marriage certificate. Furthermore, Article 34 paragraph (3) of Republic of Indonesia Law Number 23 of 2006 concerning Population Administration explains that the marriage certificate excerpt as intended in paragraph (2) is given to the

husband and wife respectively. In paragraph (4), the reporting as intended in paragraph (1) is carried out by Muslim residents to the District KUA. Furthermore, in paragraph (5) it is explained that data on the results of recording events as intended in paragraph (4) and in Article 8 paragraph (2) must be submitted by KUAKeC to the Implementing Agency no later than 10 (ten) days after the marriage registration is carried out.

In Law of the Republic of Indonesia Number 23 of 2006 concerning Population Administration, it also specifically explains regarding marriages of adherents of the faith as regulated in article 34 paragraph (1), it is explained that valid marriages based on the provisions of statutory regulations must be reported by residents to the Implementing Agency at the place where it occurs. marriage no later than 60 (sixty) days from the date of marriage. In the chapter on the requirements and procedures for registering marriages for adherents of the faith as in PP Number 37 of 2007 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration, article 81 paragraph (1) explains that marriages of adherents of the Faith are carried out in the presence of Leaders of the Faith. Meanwhile, in PP Number 37 of 2007 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration Article 81 paragraph (2) it is explained that the leaders of the believers as referred to in paragraph (1) are appointed and determined by the organization of believers, to fill out and sign the letter. marriage of believers. Furthermore, in paragraph (3) it is explained that the leaders of the Believers as referred to in paragraph (2) are registered with the ministry whose field of work is technically to foster the organization of Believers of the Faith in God Almighty.

Then in PP Number 37 of 2007 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration article 82 it is explained that marriage incidents as intended in Article 81 paragraph (2) must be reported to the Implementing Agency or UPTD of the Implementing Agency no later than 60 (sixty) day by submitting: the believer's marriage certificate; photocopy of KTP; passport photo of husband and wife; birth certificate; and husband and/or wife passports for foreigners. In this paragraph (2) it is further explained that what is meant by an organization for believers is a forum for believers registered with an agency in the ministry which is in charge of the technical development of belief in God Almighty. Still in PP Number 37 of 2007 concerning Implementation of Law Number 23 of 2006 concerning Population Administration that Article 83 paragraph (1) officials of implementing agencies or UPTD of Implementing Agencies record marriages as intended in Article 82 with the procedure: handing over the marriage registration form to the couple husband and wife; verify and validate the data contained in the marriage registration form; and record the marriage certificate in the register and issue an extract from the Penghayat Belief marriage certificate.

In this way, adherents of religious beliefs have the freedom to enter into and register marriages based on the beliefs they adhere to. As based on Republic of Indonesia Law Number 23 of 2006 concerning Population Administration, Presidential Regulation Number 25 of 2008 concerning Requirements and Procedures for Population Registration and Civil Registration, as well as Government Regulation Number 37 of 2007 concerning Implementation of Law Number 23 of 2006. Share adherents of religious beliefs in Indonesia can register their marriage at the local Regency or City Civil Registry Office where the person concerned is domiciled, in accordance with Republic of Indonesia Law Number 32 of 1954 concerning Marriage, Divorce and Reconciliation which explains that administration in the form of registration can be done at the Office. Religious Affairs for prospective spouses who are Muslim and at the Population and Civil Registration Office for prospective spouses who are non-Muslim, including adherents of existing beliefs in Indonesia, where previously adherents of this belief were hampered and

had not been recognized provided that the sect of believers adhered to or It is believed that it has been registered with the Ministry of Education, Culture, Research and Technology, so that marriage registration for adherents of this belief can be carried out and held at the Population and Civil Registration Office after the decision of the Constitutional Court Number 97/PUU-XIV/2016.

The Constitutional Court granted the petition of the petitioners from various religious sect representatives. The request granted by the Constitutional Court included that religious beliefs are an inseparable part of religion and also a human right, and that leaving out the religion column on the KTP and administrative events for religious beliefs becomes legal certainty for its adherents. Constitutional Court Decision 97/2016 is a breath of fresh air for believers to be able to participate in social and national life and benefit from legal guarantees and citizenship rights. After the Constitutional Court decision 97/2016 and strengthened by the existence of Government Regulation Number 40 of 2019 concerning the implementation of Law Number 23 of 2006 concerning Population Administration, adherents of this religious sect can now register marriages at the Population and Civil Registration Service Office where domicile and carry out existing administrative activities. In this case, those who previously faced legal obstacles or had to adhere to two religions to be able to carry out administrative activities now no longer need to do so in order to be able to register their marriage and enjoy the benefits of government legal guarantees.

Analysis of the Implementation of PP 40 of 2019 regarding Faith-Based Marriages Has Been Effectively Implemented in Indonesia

Culturally, Indonesian society is still imbued with patriarchal customs which assume that men hold power, play a central role, and occupy a higher position than women in all aspects. From a standard legal perspective, women are basically entitled to equality, justice and protection of human rights, both domestically and as a priority issue on the international stage. Indonesia has national marriage law, specifically Law Number 1 of 1974. With the promulgation of the Marriage Law, unity in the field of marriage law was achieved. Marriage Law occupies the highest position in marriage law regulations in Indonesia. This statement is confirmed in Article 2 paragraph (1) of Republic of Indonesia Law Number 1 of 1974 concerning Marriage which reads: "Every marriage is valid, if it is carried out according to the laws of each religion and belief." Meanwhile, Article 2 paragraph (2) reads "Every marriage is recorded in accordance with applicable laws and regulations". However, in reality, not all Indonesian people feel the value of valid marriage according to this article, especially for those who believe in Almighty God. This is due to the many different interpretations of the meaning of the words "religion" and belief as specified in Article 2. Marriages of people who believe in God Almighty can be considered customary marriages and therefore are not included in the marriage procedures according to the provisions of the law concerning marriage. In other words, according to believers, marriage is not a valid marriage according to marriage law.

This will cause problems in registering marriages if someone who adheres to a sect that has an Islamic ID card marries someone who adheres to a sect that has an ID card for someone who believes in God Almighty. There are several cases where residents of Jrahi village adhere to religious beliefs and have Muslim ID cards and marry religious people who have Muslim ID cards. Remember that the residents of Jrahi village follow four religions: Islam, Christianity, Buddhism, and Islam. Practically, if both parties adhere to the religion column of the prospective partner in the religion column of the KTP then Islam is written and the wife in the religion column of the KTP is written Who believes in God. God Almighty or vice versa chooses Islam, then in order to carry out a marriage, adherents of the religion in the KTP religion column

state that religious adherents who believe in God Almighty must convert to Islam first by announcing a report to the Office of Religious Affairs (KUA). The KUA officer will provide a confirmation letter that the person concerned has converted to Islam.

The birth of this Constitutional Court decision stems from the public's concern for adherents of religious beliefs, especially before this Constitutional Court decision, the religion section of the population identity intended for adherents of religious beliefs was still empty. In this case, the basic right to adhere to a religion, including the right to believe in God Almighty, is part of human rights and a set of civil and political rights. As a human right that originates from natural rights, this right is inherent in every person and is not a gift from the state but is a human right of every human being. Leaving the religion column blank in population identity is considered unfair to adherents of religious beliefs because it is discriminatory. Leaving the religion column blank for adherents of these religious beliefs will cause problems such as difficulties for adherents in carrying out daily activities, difficulty finding work, difficulty accessing social security, difficulty accessing population records (KK, E-KTP, etc.).

Based on the above, it can be seen that the Government is ignoring the essence of the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, which has the impact of emptying the religion column in the population identity of believers, resulting in the loss of the right to believe in the beliefs they hold. Based on Article 28 E Paragraphs (1) and (2) and Article 29 Paragraphs (1) and (2), indirectly ignoring the value of the First Principles of Pancasila on the basis that religious beliefs are not included in religion in Indonesia, this results in the rights of citizens not guaranteed and does not receive protection from the government. Adherents of this religious sect also lose their rights as human beings, as explained in Republic of Indonesia Law Number 39 of 1999 concerning Human Rights that the right to religion is one of a person's rights that cannot be influenced by anyone. Marriage registration for followers of this religion is contained in Government Regulation Number 40 of 2019, this government regulation regulates marriage procedures for religious followers who wish to enter into a marriage who can register their marriage at the government civil registration office or the city where they get married. Weddings of believers are celebrated in the presence of religious leaders who have issued marriage certificates and are recognized by the Ministry of Education and Culture. Religions that can register are also those that have been registered with the Ministry of Education and Culture. or in other words, verified data. Then, after the prospective couple has carried out a traditional marriage ceremony led by a religious leader with a marriage certificate, the prospective couple will legally follow their customs or beliefs and receive a letter of blessing. When everything has been completed, the religious leaders will declare to the civil registry office that they have a traditional marriage took place.

For believers, after the ratification of PP Number 40 of 2019 concerning Population Administration, it is explained that registration for believers can already be carried out, by going through several administrative stages carried out at the Regency/City Population and Civil Registration Service Office where the prospective couple will carry out their marriage. Wedding Procession. Based on Article 39 PP Number 40 of 2019 concerning Population Administration, it is explained that the recording process is carried out in the following way:

1. The marriage of adherents of belief in God Almighty is carried out in the presence of leaders of adherents of belief in God Almighty.
2. Leaders of believers in the Almighty God as intended in paragraph (1) are appointed and determined by the organization of believers in the One and Only God.
3. Organizations and leaders of believers in the Almighty God as intended in paragraph (2) are registered with the ministry whose field of duty is technically to foster organizations of believers in the One and Only God.

4. Leaders of believers in the Almighty God as intended in paragraph (1) fill out and sign the marriage certificate of believers in the Almighty God.

In Article 39 PP Number 40 of 2019 above, it is explained that marriages for believers are carried out in the presence of a leader of the believers first, where the wedding procession is carried out in the trust of each believer, led by a leader of the believers who has a decree from the Ministry. who has the authority to marry the two prospective couples, where only those who have a decree can get married so that the head of the faith who does not have a decree can declare that the marriage being carried out is invalid and does not receive a blessing letter. Furthermore, after all procedures carried out according to the beliefs of each believer have been completed and the leaders of the believers have also finished signing the marriage certificate for the adherents of the belief, it is declared that the marriage according to custom or belief has been validly carried out. Then, as regulated in Article 40 paragraph (1) and paragraph (2) PP Number 40 of 2019 concerning Population Administration, it is explained that after carrying out a marriage according to custom or belief, you can register the marriage at the Population and Civil Registration Office with the following conditions:

1. Registration of marriages of believers in God Almighty is carried out at the Regency/City Population and Civil Registration Service or UPT Regency/City Population and Civil Registration Service no later than 60 (sixty) days after the marriage takes place in the presence of leaders of believers in God Almighty One.
2. Registration of marriages of believers in God Almighty as intended in paragraph (1) is carried out with the following provisions:
 - a. Civil Registration Officials at the Regency/City Population and Civil Registration Service or UPT Regency/City Population and Civil Registration Service provide marriage registration forms to married couples;
 - b. The husband and wife fill out the marriage registration form and submit it to the Civil Registration official by showing their e-KTP to be read using an e-KTP reader and attaching the following documents:
 - 1) a marriage certificate for believers in God Almighty, showing the original;
 - 2) photograph of husband and wife;
 - 3) birth certificate; And
 - 4) husband and/or wife's overseas travel documents for foreigners.
 - c. Civil Registration Officials verify and validate the data contained in the marriage registration form and attached documents;
 - d. Based on the completeness and suitability of the verification and validation data as intended in letter c, the Civil Registration official shall record the marriage certificate in the register and issue an extract from the marriage certificate; And
 - e. Excerpts from the marriage certificate as intended in letter d are given to the husband and wife respectively.

In the article above, the Population and Civil Registration Service verifies and validates the data first recorded in the marriage registration certificate and accompanying documents, based on the completeness and completeness of the data. Verification and validation in accordance with the provisions above. The Registrar Official registers the marriage certificate at the Registration Agency and issues a marriage certificate extract if all marriage procedures and mechanisms have been carried out in accordance with the regulations and proof of employment has been provided. Once it is legal and we have a marriage certificate, the rights of husband and wife are fully protected by the State without fear of not being recognized and

complicating the operations of current administrative institutions. Therefore, to comply with Article 2 of the Marriage Law, you must indirectly comply with the standards of the Population Management Law. Based on Constitutional Court Decision Number 97/PUU-XIV/2016, the Government responded to this by issuing revised regulations for marriage registration for believers. In particular, government regulation no. Presidential Decree Number 40 of 2019 regulates the implementation of population management. The contents of this regulation have not undergone significant changes compared to the previous marriage registration mechanism. This regulation stipulates that believers who marry in the presence of a religious leader and are identified by an organization of believers registered with the Ministry can register with the civil registry. Previous problems related to identity on KK and electronic KTP no longer occur because the congregation already has an official identity. Following up on the decision of the Constitutional Court Number 97/PUU-XIV/2016 and changes to the Law on Population Management, believers can now register their marriages at the population and civil registration office of the district/city where they live.

Based on Article 2 paragraph (1) and paragraph (20) which explains that a marriage must be carried out according to the laws of each religion and belief and registered according to the applicable laws and regulations, then this provision is an entity whose validity cannot be chosen. If one of the conditions is met, then the marriage does not fulfill the legal elements specified by law. In other words, the marriage must be celebrated in accordance with the beliefs and rules governing the marriage itself. The Religious Affairs Office (KUA) and for non-Muslim religions and their adherents or adherents of their beliefs also register with the Population and Civil Registration Service. Regulations governing all administration and registration of marriages are regulated in Government Regulation Number 40 of 2019 Implementing Law Number 23 of 2006 concerning Population Administration as Amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. Therefore, in reality, believers are in line with the Marriage Law as a material law that applies to all people in Indonesia without exception.

As for the legal obstacles that arise in registering marriages of believers in Indonesia, including the lack of religious leaders who have a decree to marry prospective couples who want to carry out the marriage, it will be difficult if there is a lack of religious leaders who have a SK. Then, the time limit given, namely the 60 day time limit for registering a marriage, is felt to be less effective because of several obstacles that can arise, including blessing letters that have not yet been completed or issued because there are still not enough religious leaders who have a decree that can issue blessing letters. Apart from that, the problem with the blessing letter is also something that must be corrected because if there is no proof of the blessing letter, then couples who have entered into a marriage according to the customs of the believers will not be able to register their marriage. This couple, who should have had legal protection and all population administration activities, was hampered because their marriage had not been registered.

CONCLUSION

Based on the discussion and analysis that has been put forward regarding Republic of Indonesia Law Number 1 of 1974 concerning Marriage and PP Number 40 of 2019 concerning Population Administration, which in this case examines the Juridical Review of PP 40 of 2019 Regarding the Marriage of Believers in Indonesia which is concluded as follows: All forms of marriage processes should always be carried out wisely and based on the regulations of each religion and not conflict with existing laws and regulations. For this reason, it is important to register marriages legally so that the form of population administration and the law is clear, as

regulated in Republic of Indonesia Law Number 1 of 1974 concerning Marriage. Registration of marriages for adherents of this religion is contained in Government Regulation Number 40 of 2019 concerning population administration. This Government Regulation regulates marriage procedures for believers who wish to enter into a marriage can register their marriage at the government's public service agency, namely at the District Population and Civil Registration Service. /City of domicile of the prospective couple who will get married. The legal obstacles that arise in registering marriages of believers in Indonesia make the implementation of PP Number 40 of 2019 still ineffective due to the lack of religious leaders who have a decree to marry prospective couples who want to get married, so difficulties will arise in the process of registering marriages at the Population Service Office. and Civil Registration if it is slow or impossible to issue a Letter of Blessing for a Faithful Couple who has entered into a Marriage. In addition, there is a time limit for registering marriages, namely 60 days, which can cause difficulties in completing the required documents needed to register at the Regency/City Population and Civil Registration Service that the marriage is taking place.

Based on the conclusions above, the following recommendations can be given: It is necessary to implement additional decrees for religious leaders to be able to marry religious couples so that in each region they can carry out marriages according to their respective beliefs without being hampered by registration at the Population and Civil Registration Office. Local Regency/City. It is necessary to carry out socialization regarding the latest regulations or rules regarding Government Regulation Number 40 of 2019 so that every believer can carry out marriages according to the rules of their respective beliefs and can be registered at the Regency/City Population and Civil Registration Service.

BIBLIOGRAPHY

- Abimanyu, Petir. 2014. *Buku Pintar Aliran Kebatinan*. Yogyakarta: Laksana.
- Cahyani, Tinuk Dwi. 2020. *Hukum Perkawinan*. Malang: UMM Press.
- Mardani. 2017. *Hukum Keluarga Islam Di Indonesia*. Jakarta: Kencana.
- Marzuki, Peter Mahmud. 2010. *Penelitian Hukum*. Jakarta: Kencana Prenada.
- Muchtar, Andhyka, and Adi Sulistiyono. 2021. "Efektivitas Putusan Mahkamah Konstitusi Nomor 7/PUU-XII/2014 Terhadap Pekerja Dengan Perjanjian Kerja Waktu Tertentu." *Masalah-Masalah Hukum* 50(4): 387-97.
- Peraturan Pemerintah No. 40 Tahun 2019 tentang Administrasi Kependudukan.
- Undang-Undang RI Nomor 1 Tahun 1974 Tentang Perkawinan. "No Title."
- Undang-Undang RI Nomor 32 Tahun 1954 Tentang Pencatatan Nikah Talak dan Rujuk.
- Undang-Undang RI Nomor 32 Tahun 2006 tentang Administrasi Kependudukan.
- Wasman, and Wadah Nuromiyah. 2011. *Hukum Perkawinan Islam Di Indonesia: Perbandingan Fiqih Dan Hukum Positif*. Yogyakarta: Teras.
- Yusuf, A. Muri. 2017. *Metode Penelitian Kuantitatif, Kualitatif, & Penelitian Gabungan*. Jakarta: Kencana.
- Zainuddin, and Afwan Zainuddin. 2017. *Kepastian Hukum Perkawinan Siri Dan Permasalahannya Ditinjau Dari Undang-Undang Nomor 1 Tahun 1974*. Yogyakarta: Deepublish.