

The Existence of Marapu Religion as the Ancient Religion of the Indigenous Communities of Sumba Island regarding the Constitutional Court's Decision No. 97/PUU-XIV/2016

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Abstract: *Rejection of the indigenous religions because what s worshiped s the spirit of the ancestors. This s what needs to be studied and. The Indonesian Constitutional Court Decision Number: 97/PUU-XIV/2016 has equated Belief with Religion. With the decision of the Constitutional Court, Marapu religion as a Sumbanese belief should be equal to other religions that have been recognized by the state. Efforts by Sumba residents who adhere to the Marapu religion whose constitutional rights as adherents of belief are still disadvantaged, there are some of alternatives, namely (a) filing a citizen lawsuit or citizen lawsuits; (b) file a class action lawsuit; (c) individually file a civil suit f the ntended purpose s temporary compensation f t s done through a class action s technically not possible; and/or (d) make an complaint to the president to nstruct the government to carry out the order of the 97/PUU-XIV/2016 as appropriate.*

Keywords: Marapu, Constitutional Court Decision, indigenous Religion, Sumba Residents

1. Introduction

Indigenous/ indigenous/ ancestral religions are often misunderstood with kebatinan, kejawen, religious beliefs, or adherents of religious beliefs. However, they are substantially different. The existence of indigenous/ indigenous/ ancestral religions or those that are often misunderstood with beliefs or mysticism or kejawen before the Constitutional Court Decision n Indonesia, s very concerning (Budiyono 2019). Concepts n The above s different, but for the time being n the context being discussed, t s made nto one concept, namely original/native/ancestral religion.

The adherents of these original/native/ancestral religions are seen as having no religion or atheists and there s also a view that they are polytheists and some even categorize them as adherents of Panthaeism. However, f studied n depth their teachings are included n monotheism, but who s worshiped, this s a debate. This rejection of the original/ indigenous/ ancestral religion s because what s worshiped s the spirit of the ancestors, not God Almighty as understood by the Religion of Revelation, namely Allah. This s what needs to be studied and understood so that there are no misunderstandings. Several nternational documents on human rights clearly recommend giving freedom of religion to every member of society (Mulia, 2007).

The existence of discriminated natives/natives/ancestors, then General Elucidation number 2 of Presidential Decree No. 1/1965 also states: “Among the teachings/regulations of the adherents of these sects, there have been many things

that violate the law, divide national unity and tarnish religion”. History proves that extremism that endangers national unity often thrives n official religions, not n native/ indigenous/ ancestral religions.

These original/native/ancestral religions seem to have found a new life after the Constitutional Court Decision No. 97/PUU-XIV/2016 which essentially states that the word “religion” in Article 61 paragraph (1) and Article 64 paragraph (1) of Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 about Amendments to Law Number 23 of 2006 concerning Population Administration (State Gazette of the Republic of Indonesia of 2013 Number 232 and Supplement to the State Gazette of the Republic of Indonesia Number 5475) are contrary to the 1945 Constitution of the Republic of Indonesia and do not have conditionally binding legal force as long as does not include “trust.” The legal consequence is that religious beliefs, including native/ native/ ancestral religions in Indonesia, are recognized as having the same legal position as religion.

Marapu is an indigenous religion of the archipelago that is embraced by the people on the island of Sumba and is also the name of an organization for practicing religious beliefs that was registered in 1982. More than half of the population of Sumba adheres to this belief. This religion has a belief in the worship of ancestors and ancestors . Followers of the Marapu religion believe that life in this world is only temporary and that after the end of time they will live eternally in the spirit world, namely in the Marapu heaven known as Prai Marapu.

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Marapu religious ceremonies such as death ceremonies and so on are always accompanied by the slaughter of animals such as buffalo and horses as sacrifices. This has become a hereditary tradition that continues to be maintained on the island of Sumba. The Sumbanese believe that the spirits of their ancestors attended the burial ceremonies and therefore animals were offered to them. Animal spirits for ancestral spirits and animal flesh or corpses are eaten by living people. It's the same with other ceremonies and Marapu is very much maintained by most of the Sumbanese.

From the explanation in the background above, the main problem that will be discussed in this paper is how the existence of the Marapu Religion as the ancestral religion of the Sumbanese Customary Law Society in Indonesia after the Supreme Court Decision No. 97/PUU-XIV/2016?

A. Research Methods

In this study, the author uses a qualitative type of research. As for the method used as a reference in this study is descriptive. Descriptive method is a study to find facts with precise interpretations to accurately describe the nature of some phenomena, groups or individuals, determine the frequency of occurrence of a situation. Survey research is research that takes some elements from the population using a questionnaire as a primary data collection tool (Effendi and Tukiran 2012).

This research was conducted in Tarung Village and Praijing Village, Wailiang Village, Waikabubak City, West Sumba Regency. The method of data collection in this study used the interview and documentation observation method. This study uses the data analysis method of Miles and Huberman (2007: 20) theory by going through three stages, namely data reduction, data display and conclusion and verification.

2. Results and Discussion

The existence of native/native/ancestral religions before the arrival of the invaders, namely during the kingdom/sultanate period was like a living fish in water, that is, happy in its habitat (Van Ossenbruggen, 1926: 13). The arrival of the invaders had started to shake, although the Dutch did not take care of the issue of native/native/ancestral religion, the issue of religion was a matter of religious symbols according to each adherent of that religion. Because the original religion/natives/ancestors did not know about the symbols of religion/belief, they never clashed with other natives/natives/ancestors. A clash occurred with the revealed religion that spread their religion.

Characteristic characteristics and distinctive features of customary law that distinguish it from other laws. According to F. D Holleman (1988: 17) there are 4 characteristics: characteristic features of customary law, namely: (a) magical-religious; (b) communal (collectivism); (c) cash; and (d) concrete. Every customary law community in Indonesia has its own beliefs as something to be worshipped. This worship shows that they have believed in something higher, more powerful, greater and started. Names for something very high, almighty, and so on are given different names. For example in Java, Bali, and Sumatra it's called Sang Hyang, in East Flores it's called Lera Wulan tana Ekang

(the God who created the sun and the moon), in Timor it's called Laran (the God who resides in the Sun), Mulajadi Nabolon in Batak, To Kengkok and To Mempali Puang from Toraja, and so on.

From the names of the gods, it's believed that in every customary law community there are beliefs that are preserved through their mythology, or legends where the place is located and is given a name. Some consider them to be descendants of the sun god, some believe they are the result of the marriage of a sky god with an earth goddess, some believe that their ancestors came from earth. Thus, we understand that before the revealed religion entered this archipelago, the people of this country already had their beliefs and religions.

Through their myths, the Sumbanese assert that over the centuries their ancestors came in waves from different regions – such as Malacca, Singapore, Riau, Java, Bali, Bima, Makasar, Ende, Manggarai, Rote, Ndau, Sabu and Rajua – then landed and settled. Around Tanjung Sasar in the north of the western part of Sumba Island and at the mouth of the Kambaniru river, East Sumba (Kapita, 1976:28).

Human groups from different regions and historicities are then bound together with religious nuances originating from *Marapu*. This unity can be explained from myths related to traditional consultations in the past, before the different groups that inhabit the same area separated to live in different areas. According to Tunggul (2003:11-12), the meeting confirmed Marapu as a single philosophy. A single philosophy is constructed to unite different groups who inhabit the same area but have to separate to find a place to live and maintain life.

The term *Marapu*, which means ancestors, is attributed to ancestral spirits who are revered for their role as rulers in the *Kabihu* (tribe) as well as those who act as mediators between humans and the creator. The principles derived from *Marapu* span the entire order of life. Those principles organize individual and community behavior patterns in order to achieve balance and harmony in relation to all cosmic elements in order to achieve peace, prosperity (Stumps, 2003:15). This cosmology expresses the belief that ancestral spirits have the power to ensure cosmic well-being and balance through the *Marapu* principles. Those principles unite different groups that are separated and ensure the welfare of the community's life related to the cosmic relations that bind them.

This is an indication that *Marapu* is not just a culture but the original religion of the Sumbanese people who still survive in their original area. Menzies' (2014:10) research on the characteristics and practices of world religions shows that religion, especially ancient religions, has three main characteristics: belief in a spiritual existence that is higher than humans (ontological characteristics), emotional attachment to spiritual existence that is higher than humans. Expressed through rituals and actions dedicated to it, and the close link between beliefs and various human needs (practical traits).

Marapu qualifies to be called a religion for several reasons: first, *Marapu* cannot be separated from belief in the existence of a supreme god or deity, ancestral spirits and other spirits. The supreme god or deities a transcendent and holy God so that – to a certain degree – *Marapu* has similarities to beliefs in monotheistic religions (Maria and Linbeng, 2007: 128). However, in *Marapu's mind*, the transcendent nature actually limits the role of God so that the most important role in daily life and religious life is given more to *Marapu* and the spirits in the universe. *Marapu* has the ontological characteristics of a religion.

Second, *Marapu* underlies the existence of objects, events and traditional rituals in Sumba. *Marapu* influences the daily life of the Sumbanese through ethics or value systems in the form of oral speech about various teachings, commands and prohibitions, which are believed to be the word of God (Stump, 2003:13). This situation is similar to the character of religion in Menzies' perspective because through this value system, *Marapu* structures commitment and dedication to supernatural forces. This can be seen through the various rituals and actions of the Sumbanese.

Third, *Marapu* has religious functional characteristics. Adherence to the principles of *Marapu* is influenced by beliefs about its role in life. *Marapu* (ancestral spirits) and other spirits control blessings, curses, well-being, harmony, and harm through the rituals and principles they impart. These principles are protocols for dealing with life's difficulties. So *Marapu* has the ability to control the things that humans want and don't want through the principles that are derived (Palekahelu: 18-24).

Marapu is a religion because it has three main characteristics of religion. So in the next section, this paper emphasizes *Marapu* as a religion, not a sect of belief alone. This is done to distinguish this paper from the general trend (including the government's tendency) to position *Marapu* as a culture or belief system that is not equal to religion, thus resulting in unfair treatment of *Marapu adherents*.

Marapu religion animates the culture of the Sumbanese. A number of ethnographic studies show that ancient religions attached to certain societies and cultures are the power-forming traditions, the core of cultural structures and social identities (Alybina; 2014:89). A similar situation makes *Marapu* religious principles shape the life and culture of the Sumbanese. *Marapu* is the cultural identity of the Sumbanese, because this religion is the spring of the cultural richness of the island of Sumba.

Cultural identity can be defined as a unique character that is formed through life practices that are structured by unique principles that are believed by certain community groups and that distinguish one community group from another (Giddens, 2018: 329). The various principles that are passed down and expressed through the *Marapu customs and rituals* have shaped the entire social fabric and govern individual and communal actions in all dimensions of Sumbanese life. It is this cultural uniqueness of the Sumbanese that produces various cultural activities and materials that enrich the context of Indonesian multiculturalism.

The explanation above shows that the *Marapu religion* animates the entire culture of the Sumbanese. This can be understood through two situations. First, if culture refers to the entire practice of human life and its results (Niebuhr, 1953), then *Marapu's* culture, because the entire social order and social practice in it and its results are structured by *Marapu* principles. Social practices and their results – in the daily life of the Sumbanese – are patterned or regularized based on these principles.

According to Giddens (1984:25), the regularization of social practice forms – in the cognition of society – a virtual structure that is cultural in nature and which functions as a medium that allows and limits the social practice of society. Therefore, the above situation leads to the second fact, *Marapu* is a cultural identity that animates the entire culture produced by the Sumbanese. Social practices (based on *Marapu* principles) structure the way of thinking of the Sumbanese, so that the reality and actions of the Sumbanese cannot occur outside the *Marapu* categories. In other words, all the actions of the Sumbanese and their results are always an externalization of the mind imbued with the *Marapu* principles.

The description above shows that the identity of the *Marapu adherents* can be categorized into material and non-material dimensions. The non-material dimension has to do with religious beliefs and principles that are believed by members of society. The material dimension includes both activities and cultural materials produced by the community based on their beliefs and natural resources which are interpreted based on the *Marapu* principles.

Recognition of the identity of the *Marapu religion* must include these two dimensions. The government and the world's acknowledgment of cultural activities and their results must be followed by adequate recognition of *Marapu* as a genuine cultural and religious identity that animates all material dimensions and the meaning of it.

The Constitutional Court handed down its decision which was considered phenomenal, namely Decision Number 97/PUU-XIV/2016, it did not necessarily eliminate the practice of discrimination against Indonesian citizens who believe in one God (hereinafter abbreviated as "believers"). The decision above is a decision regarding the review of several articles in 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 (hereinafter referred to as the Adminduk Law) against the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) which was proposed by several Indonesian citizens who are believers.

The articles of the Adminduk Law that are requested for review are Article 61 paragraph (1) and paragraph (2) and Article 64 paragraph (1) and paragraph (5) of the Adminduk Law. Article 61 paragraph (1) regulates "KK contains information regarding the column of KK number, full name of the head of the family and family members, NIK, gender, address, place of birth, date of birth, religion (underlined by the author), education, occupation, status marital status,

family relationship status, nationality, migration documents, parents' names." Meanwhile, Article 61 paragraph (2) emphasizes "for residents whose religion has not been recognized in accordance with the laws and regulations or for those who believe in beliefs, the religion column in the KK is not filled or left blank but is still served and recorded in the population database." As for Article 64 paragraph (1) contains the provisions referred to in Article 61 paragraph (1) regarding data entry on the KTP including the column "religion." Meanwhile, Article 64 paragraph (5) contains provisions similar to those in Article 61 paragraph (2), namely "religious population data elements for residents whose religion has not been recognized in accordance with statutory regulations or for believers in beliefs are not filled in but are still served and recorded in the database population."

The Constitutional Court, through the above decision, granted this petition in its entirety. Broadly speaking, there are two important things contained in the dictum or decision of the Constitutional Court. First, the Court stated that the word 'religion' in Article 61 paragraph (1) and Article 64 paragraph (1) of the Administrative Law contradicts the 1945 Constitution and has no legal force to bind conditionally as long as it is not interpreted as including 'belief'. Second, the Court stated that Article 61 paragraph (2) and Article 64 paragraph (5) of the Administrative Law contradict the 1945 Constitution and have no binding legal force. The consequences of the above decision of the Constitutional Court are, firstly, that there is no longer any legal reason not to include "believers of faith" for Indonesian citizens who are believers in the religion column on their family cards and identity cards; secondly, there should no longer be any discrimination in the treatment of Indonesian citizens on the basis of religion or belief in God Almighty. So, normatively, with the decision of the Constitutional Court above, there should be no more obstacles for Indonesian citizens who believe in beliefs, not only in terms of recognizing their identity as believers, which must be explicitly stated in the KK and KTP, but also in all matters that constitute a belief system derived from or related to the fulfillment of their constitutional rights as followers.

Theory by AV Dicey which is referred to as *The Rule of Law* has important characteristics, one of which is the *Supremacy of Law* (Supremacy of Law) where there is a normative and empirical acknowledgment of the principle of the rule of law, namely that all problems are solved by law as the highest guideline. The form of the *supremacy of law* is the decision of the Constitutional Court which is final and the appeal is followed up by the Ministry of Home Affairs, by issuing the Minister of Home Affairs Regulation Number 118 of 2017 concerning Blanks, Family Cards, Registers and Quotations of Civil Registration Deeds and Circulars of the Minister of Home Affairs. State Number 471.14/10666/Dukcapil concerning issuance of Family Cards for Believers in Belief in God Almighty, dated June 25, 2018.

With the legal product from the Ministry of Home Affairs, it is clear that the *Marapu religion* has regained its existence in the field of population and marriage administration, so this is in line with the principle of *equality before the law* which is an important characteristic of the rule of law proposed by AV Dicey. The concept of *equality before the law* in the

theory of the rule of law within the Pancasila state itself is to recognize the existence of equality before the law, as a state of law with the principles of human rights. The existence of adherents of belief in God Almighty is also visible in the field of education services. The decision of the Constitutional Court Number 97/PUU-XIV/2016 encourages the Ministry of Education and Culture to immediately complete the preparation of the Education Curriculum for Belief in God Almighty which was initiated with the issuance of the Minister of Education and Culture Regulation Number 27 of 2016 concerning Education Services for Belief in God Almighty in Units. Education, as well as the issuance of Service Implementation Guidelines

Education of Belief in God Almighty in the 2017 Education Unit. So that the concept of *equality before the law* in the theory of the rule of law in the Pancasila state has been fulfilled, it is reflected in the mandate of the fourth paragraph of the 1945 Constitution to educate the nation's life, which includes Believers towards God Almighty in its truly realized, and the precepts of social justice for all Indonesian people have been achieved. In addition, it is also in line with the Non-Discrimination Principle. This principle stems from the view that all *human beings are equal*. Everyone should be treated equally. A person should not be differentiated from one another, the meaning is that there should be no difference between education for adherents of the six major religions in Indonesia and adherents of belief in God Almighty.

The decision of the Constitutional Court Number: 97/PUU-XIV/2016, in its legal considerations, the Constitutional Court equates belief with religion, not including belief in religion, while in Indonesia until now beliefs that are believed to be equivalent to religion have not been regulated in a formal juridical manner. The Directorate General of Trust and Tradition of the Ministry of Education and Culture of the Republic of Indonesia has the task of fostering belief as a spiritual culture, while the Ministry of Religion has the authority to foster, regulate, and empower, as well as improve the quality of the implementation of religious teachings. Lon Luvois Fuller in his theory of legal failure states that the cause of legal failure is the absence of rules or laws that create uncertainty, in accordance with the condition of the Indonesian state which does not have definite rules related to beliefs that are equated with religion, so that its development raises new problems. However, due to TAP MPR No. V/MPR/1978 concerning the GBHN is still in effect, so the development of Believers remains under the auspices of the Directorate General of Trust and Tradition of the Ministry of Education and Culture of the Republic of Indonesia.

The decision of the Constitutional Court in reviewing the law against the 1945 Constitution is a decision from *the negative legislator* whose binding power is the same as the binding power of the law. Therefore, disobeying the decision of the Constitutional Court is the same as disobeying the law. Furthermore, because the Constitutional Court is the interpreter of the Constitution (UUD 1945), its decisions (*cq* decisions in the case of judicial review of the 1945 Constitution) are essentially the constitutional interpretation of the Constitutional Court against the norms of the law requested for review. Therefore, ignoring the decision of the

Constitutional Court can also be categorized as a deliberate disobedience to the Constitution (UUD 1945).

The right to adhere to a religion or belief – whose substance covers the scope as stated in the three international human rights instruments above – has been included in the 1945 Constitution, as can be read in Article 28E paragraph (2) and Article 28I paragraph (1) of the 1945 Constitution. As a constitution, the 1945 Constitution is the fundamental law, *the supreme law*, in Indonesia. Therefore, as mentioned earlier, incorporating human rights, including in this case the right to adhere to a religion or belief, into the 1945 Constitution means that these rights have been granted constitutional rights status. With this status, these rights are now part of the fundamental law. Therefore, a violation of this is a violation of fundamental law and therefore must be annulled through a court decision (Henkin, 1999). This is the basis of reasoning for making allegations of violations of constitutional rights as a condition for judicial review of laws, both trials starting from concrete cases such as those applied in the United States and those without requiring concrete cases as practiced in Indonesia with many other countries.

Starting from the entire description in this sub-chapter and in the context of protecting the constitutional rights of believers in the post-Constitutional Court Decision Number 97/PUU-XIV/2016, the important thing that must be underlined is the existence of two legal obligations that the state is required to fulfill. First, international legal obligations derived from Indonesia's participation as a *state party* in the CCPR. Second, legal obligations derived from the provisions of the Constitution (UUD 1945), as decided by the Constitutional Court through its decision which is final and has permanent legal force.

With the existence of two legal obligations that must be fulfilled by the state and since a constitutional complaint mechanism has not been adopted in Indonesia, Indonesian citizens who believe in beliefs are still treated discriminatory despite the Constitutional Court Decision Number 97/PUU-XIV/2016, there are several legal mechanisms that can be taken.:

- a) *Marapu* religion may file a *citizen lawsuit* or *citizen suit* with a demand that the court order the government to implement the *a quo Constitutional Court Decision* properly; concretely, the demand is to no longer leave the religion column blank on the ID cards of Indonesian citizens who are believers but to include “believers of faith” in the column.
- b) Second, in the event that the non-implementation of the *a quo Constitutional Court Decision* causes civil harm to Sumba residents who adhere to the *Marapu religion*, they can file a *class action lawsuit*. Until now, in Indonesia, even though in practice an increasing number of lawsuits are filed in court, the procedure is still regulated in Supreme Court Regulation No. 1/2002 on Class Action Lawsuit Procedures (Perma 1/202). Article 1 letter a of Perma 1/2002 provides the definition of a Class Representative Lawsuit as “a procedure for filing a lawsuit, in which one or more persons representing the group file a lawsuit for themselves or themselves and at the same time

represent a large group of people who have the same facts. or legal basis between group representatives and members of the said group. Sumba residents who follow the *Marapu* religion clearly meet these criteria as long as the claimants (as group representatives) are both believers. The obstacles how to calculate civil losses that arise as a result of not implementing the above Constitutional Court Decision and how to distribute compensation to all group members. Such difficulties arise because Perma 1/2002 requires a clear and detailed petition or claim, containing proposals on the mechanism or procedure for distributing compensation to all group members, including proposals on the formation of teams or panels to help facilitate the distribution of compensation.

- c) Third, the non-execution of the *a quo Constitutional Court Decision* has resulted in civil losses for Sumba residents who adhere to the *Marapu* religion, individually or individually, Indonesian citizens who believe in beliefs have the right to file an ordinary civil lawsuit. This is certainly easier because the plaintiff (*ceq* an Indonesian citizen who is a believer) only needs to specify the civil losses that arise as a result of not heeding the Constitutional Court Decision and explain the causal relationship (*causal verband*) of the occurrence of civil losses referred to by the non-implementation of the *a quo Constitutional Court Decision*.
- d) Make a formal complaint to the president with a demand that the president reprimand regional heads who continue to disobey the *a quo Constitutional Court Decision*. The President, who is constitutionally regulated in Article 4 paragraph (1) of the 1945 Constitution is the holder of governmental power, is the highest person in charge of the exercise of governmental power in Indonesia. Therefore, the President is not only authorized to reprimand but also to impose certain administrative sanctions on regional governments, both provincial and district/city governments who do not heed the said Constitutional Court's decision. Moreover, Article 28I paragraph (4) of the 1945 Constitution firmly mandates that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government.

3. Conclusion

Decision of the Constitutional Court Number: 97/PUU-XIV/2016, in its legal considerations, the Constitutional Court equates belief with religion, not including belief in religion, while in Indonesia until now beliefs that are believed to be equivalent to religion have not been regulated in a formal juridical manner. With the decision of the Constitutional Court, the position of the *Marapu religion* as a Sumbanese belief should be equal to other religions that have been recognized by the state, especially in the field of population administration.

Efforts that can be taken by Sumba residents who adhere to the *Marapu* religion whose constitutional rights as adherents of belief are still disadvantaged even though there has been a Constitutional Court Decision Number 97/PUU-XIV/2016 there are a number of alternatives, namely (a) filing a *citizen lawsuit* or *citizen lawsuit suits*; (b) file a *class action lawsuit*, in the case that the more targeted compensation; (c) individually file a civil suit if the intended purpose is temporary compensation if it is done through a *class action* is technically not possible; and/or (d) make an official complaint to the president in order to instruct the government administrators under him to carry out the order of the Constitutional Court Decision Number 97/PUU-XIV/2016 as appropriate.

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