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Socio-Legal Study of Pemena Recognition and Civil Rights

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Abstract: This study examines the recognition of the local Pemena religion and the fulfilment of the civil rights of its adherents following Constitutional Court Decision No. 97/PUU-XIV/2016. Normatively, this decision marks a significant shift in Indonesian legal policy by recognising adherents of local beliefs as equal legal subjects within the civil registry system; empirically, however, implementation continues to face considerable obstacles. This study aims to analyse the form of recognition granted to Pemena and to identify the factors causing the sub-optimal fulfilment of the civil rights of its adherents in Karo Regency, North Sumatra. The research employs a socio-legal approach, combining normative legal analysis with empirical data obtained through in-depth interviews with Pemena adherents and relevant civil registration officials. The findings indicate that recognition of Pemena remains largely formal and has not yet been fully realised in practice: Pemena adherents continue to face discrimination, both in the form of social stigma and administrative barriers to obtaining civil registration documents. The gap between legal norms and implementation, administrative requirements that are not contextually appropriate, and a lack of understanding among officials are the main factors hindering the effectiveness of this recognition. The study concludes that although the Constitutional Court's ruling has opened the door to more inclusive recognition, recognition of the local Pemena faith has not yet reached a substantive stage; comprehensive efforts are required through administrative policy reform, capacity building for officials, and the strengthening of social awareness to realise fair and non-discriminatory protection of civil rights for adherents of the faith.

1. Introduction

Article 28E paragraphs (1) and (2) and Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia guarantee every individual the freedom to profess a religion and worship according to that religion, as well as to hold beliefs in accordance with conscience. Read together with the Preamble of the Constitution, these provisions establish a clear *das Sollen*—a normative ideal—under which the state bears a duty not merely to tolerate but actively to recognise and protect the diversity of beliefs existing within society. This constitutional mandate is reinforced internationally: freedom of religion and belief forms part of the non-derogable rights protected under

Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Indonesia ratified through Law No. 12 of 2005, binding the state both constitutionally and internationally to ensure this protection.[1]

The *das Sein*—the empirical reality—has long diverged sharply from this ideal. State policy has tended to adopt an exclusive administrative approach in determining which categories of religion are formally recognised, producing a persistent dichotomy between "recognised religions" and "unrecognised beliefs" that has functioned as a structural source of discrimination against minority groups, particularly adherents of local religions.[2] This divergence is not a peripheral administrative inconvenience; it strikes at the heart of citizens' lived experience of constitutional protection, since the religion column on identity documents has historically functioned as a gateway to marriage registration, birth certification, education, and employment.

Local religions in Indonesia cannot be understood merely as theological curiosities; sociologically and historically, they are inseparable from the long history of indigenous communities that predate the modern state, functioning as an integral part of cultural systems, collective identity, and the social mechanisms that govern community life. From a socio-legal perspective, local religions may be understood as a form of "living law" possessing strong social legitimacy within their communities, even where they receive no formal recognition from the state.[3] Pemena, practised by the Karo people of North Sumatra, exemplifies this pattern: a traditional belief system with roots that predate the arrival of Islam, Christianity, and Hinduism in the region, governing not only spiritual life but also the values, social norms, and ritual practices that bind the Karo community together. Yet Pemena has faced significant marginalisation in Indonesia's legal and political development—manifested both as social stigma, in which adherents are frequently labelled followers of heretical or illegitimate teachings, and as administrative exclusion, since Law No. 23 of 2006 on Population Administration, as amended by Law No. 24 of 2013, historically left the religion column blank for adherents of local beliefs even while recording them in the population database.[4] This administrative omission was never merely symbolic; it produced tangible difficulties in registering marriages, issuing birth certificates, and accessing education and employment.[5]

In response, adherents of local beliefs mobilised through judicial review, leading to Constitutional Court Decision No. 97/PUU-XIV/2016, in which the Court held that the term "religion" in the contested provisions of the Population Administration Law was unconstitutional insofar as it excluded adherents of local beliefs, thereby affirming that such adherents possess a legal standing

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1 See further Karunia Haganta and Firas Arrasy, "Religion, Modernism, and Governance: Local Religions Post-1965," Panangkaran: Journal of Religious and Social Research 5, no. 1 (June 2021): 29–47, https://doi.org/10.14421/panangkaran.2021.0501-02.

2 See further Muhammad Dahlan and Airin Liemanto, "Legal Protection of the Constitutional Rights of Followers of Local Religions in Indonesia," Arena Hukum 10, no. 1 (April 2017): 20–39, https://doi.org/10.21776/ub.arenahukum.2017.01001.2.

3 See further Herlambang P. Wiratraman, "The Challenges of Teaching Comparative Law and Socio-Legal Studies at Indonesian Law Schools," Asian Journal of Comparative Law 14, no. S1 (October 2019): S229–44, https://doi.org/10.1017/asjcl.2019.15.

4 See further Muchimah Muchimah and Muh. Bachrul Ulum, "Implementation of the Constitutional Court's Ruling on Constitutional Rights for Believers in the One Supreme God," Volksgeist: Journal of Law and Constitutional Studies 3, no. 1 (June 2020): 53–67, https://doi.org/10.24090/volksgeist.v3i1.3723.

5 See further Mila Karmila and Marjana Fahri, "Legal Analysis of the Fulfilment of Civil Rights of Believers in Local Beliefs Following the Issuance of Constitutional Court Decision No. 97/Puu-Xiv/2016," Datuk Sulaiman Law Review (DaLRev) 4, no. 1 (March 2023): 39–49, https://doi.org/10.24256/dalrev.v4i1.4314.

equivalent to followers of state-recognised religions in matters of population administration.[6] The ruling has rightly been read as a progressive step that strengthens the principles of equality before the law and non-discrimination, marking a shift in the state's paradigm from exclusivity toward inclusivity in addressing religious diversity.[7] Yet, as this study will show, normative success of this kind is not self-executing.

A growing body of recent scholarship confirms that the gap between this constitutional ruling and its practical implementation is neither isolated to Karo Regency nor incidental. In a six-community study of Sunda Wiwitan and Adam adherents in West Java and Central Java, Sukirno and colleagues find that majority-bias legal politics embedded in subordinate legislation continues to generate discrimination against local believers seeking citizenship documents, even after the Constitutional Court's ruling.[8] Wahyudi and colleagues, tracing the broader legal journey of indigenous belief systems in Indonesia, similarly conclude that a significant implementation gap persists nationwide because of regulatory ambiguity and entrenched socio-cultural stigma, notwithstanding the Court's clear constitutional mandate.[9] Comparable findings emerge from studies of other indigenous communities: among the Anak Rawa community in Siak Regency, Riau, adherents of customary marriage practices report being compelled to convert to state-recognised religions merely to secure marriage certificates and birth registration for their children, despite the existence of formal legal recognition.[10] Among Sapta Darma adherents in Kediri, by contrast, local governance innovation—specifically, a regional regulation operationalising the Constitutional Court's ruling through concrete technical guidelines—succeeded in transforming the right to identity recognition from a paper guarantee into lived administrative practice, suggesting that the implementation gap, while real, is not inevitable.[11] Nationally, Nurwansyah and colleagues estimate that approximately twelve million adherents of indigenous beliefs remain spread across twenty-seven provinces, a population whose continued struggle for equal recognition on identity documents reflects, in their Gramscian analysis, a long history of state-sponsored ideological hegemony that the Constitutional Court's ruling has only begun to unsettle.[12]

These studies converge on a consistent diagnosis: legal recognition at the constitutional level does not automatically translate into substantive recognition at the level of lived experience, and the size of this gap varies significantly by region, by community, and by the administrative capacity and political will of local government. What remains underexplored, however, is a community-specific account of *why* this gap persists and *how* it should be theorised—not merely as a problem

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6 See further Choirul Anam and Karyoto Ahmad, "Legal Certainty and Constitutional Rights: The Impact of the Decision of the Constitutional Court of the Republic of Indonesia No. 97/Puu-Xiv/2016 on the Protection of Believers of Local Faiths," Jurnal Aktual Justice 9, no. 1 (July 2024): 15–27, https://doi.org/10.70358/aktualjustice.v9i1.1224.

7 See further Umar Haris Sanjaya, Agus Yudha Hernoko, and Prawitra Thalib, "The Principle of Maslahah in Constitutional Court Rulings on Marriage for Religious Communities and Believers," Jurnal Hukum Ius Quia Iustum 28, no. 2 (May 2021), https://doi.org/10.20885/iustum.vol28.iss2.art2.

8 See further Sukirno et al., "Majority Bias in Legal Politics," Sortuz: Oñati Journal of Emergent Socio-Legal Studies (2025).

9 See further Wahyudi et al., "The Legal Journey of Indigenous Belief Systems in Indonesia," Sortuz: Oñati Journal of Emergent Socio-Legal Studies (2026).

10 See further Mohd. Habibi et al., "Dari Regulasi Nasional ke Realitas Sosial: Pergulatan Rekognisi Pernikahan Adat Suku Asli Anak Rawa," Al-Adabiya: Jurnal Kebudayaan dan Keagamaan (2025).

11 See further Nunuk Hidayati et al., "Beyond Religious Bureaucracy: Sapta Darma's Marriage Registration Struggle in Post-Constitutional Reform Indonesia," Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan (2025).

12 See further Agus Nurwansyah et al., "Why Does Discrimination Against Indigenous Beliefs Persist in Indonesia?," Contemporary Society and Politics Journal (2024).

of bureaucratic delay, but as a problem of recognition in the deeper philosophical sense developed by Axel Honneth, who distinguishes legal recognition from social recognition grounded in solidarity and esteem, and of symbolic domination in the sense developed by Pierre Bourdieu, whose account of how majority cultural capital defines the boundaries of social legitimacy.[13] Existing studies of Pemena and comparable communities tend to document the implementation gap empirically without systematically connecting it to this dual theoretical architecture, leaving the deeper mechanism of *why* formal recognition fails to produce social acceptance under-theorised.

This is the research gap the present study addresses. Unlike previous studies, which have tended to focus on the normative aspects of the Constitutional Court's ruling or to document implementation gaps in other indigenous communities, this study specifically examines the local Pemena religion in Karo Regency through the combined lens of Honneth's recognition theory and Bourdieu's theory of symbolic violence, in order to explain not only that recognition remains incomplete but why it remains structurally and culturally incomplete. The novelty of this study lies in this dual-theoretical framing, applied to a community whose belief system—organised around ancestral guardian spirits and oral ritual tradition rather than scripture or formal institutional structure—poses a particularly acute test of the state's capacity to accommodate religious forms that do not conform to the administrative template of "world religion."

Based on this background, the research questions addressed in this study are: first, what form does the recognition of the local Pemena religion take following Constitutional Court Decision No. 97/PUU-XIV/2016 in Karo Regency, North Sumatra; and second, why has this recognition not been effective in ensuring the fulfilment of the civil rights of adherents of the local Pemena religion in Karo Regency, North Sumatra? Correspondingly, this study aims, first, to analyse and categorise the form of recognition granted to Pemena adherents following the Constitutional Court's ruling, and second, to identify and explain the structural, cultural, and institutional factors that have caused the sub-optimal fulfilment of Pemena adherents' civil rights in practice.

The urgency of this research lies in the fact that, without a clear understanding of the mechanisms producing this implementation gap, policy interventions risk addressing only its symptoms—through, for instance, generic public-awareness campaigns—while leaving its structural causes, including bureaucratic standardisation around the "world religion" template and the symbolic domination exercised by majority religious culture, fully intact. By offering a community-specific, theoretically grounded account of how and why recognition remains symbolic rather than substantive, this study aims to contribute both to the academic development of socio-legal studies on minority religious protection and to the formulation of more precisely targeted policy recommendations for safeguarding the constitutional rights of adherents of local beliefs throughout Indonesia.

2. Method

This study employs a socio-legal approach as its primary analytical framework, chosen because the issues under examination relate not only to normative legal aspects but also to the social,

[13] See further Axel Honneth, The Struggle for Recognition: The Moral Grammar of Social Conflicts (Cambridge: Polity Press, 1995); Pierre Bourdieu, "The Forms of Capital," in Handbook of Theory and Research for the Sociology of Education, ed. John G. Richardson (New York: Greenwood, 1986), https://doi.org/10.1007/978-0-387-36996-2_13.

cultural, and administrative practices that have developed within the Karo community. Law, in this framework, is positioned not merely as a normative text (law in the books) but also as a social practice (law in action) shaped by a range of non-legal factors.[1]t Methodologically, the study integrates a normative legal approach with an empirical approach. The normative approach analyses the legal framework governing freedom of religion and population administration, including the 1945 Constitution, Law No. 23 of 2006 as amended by Law No. 24 of 2013 on Population Administration, and Constitutional Court Decision No. 97/PUU-XIV/2016, examined through primary, secondary, and tertiary legal materials.[1]u The empirical approach was used to identify the gap between legal norms and their implementation on the ground, particularly regarding the fulfilment of the civil rights of Pemena adherents in Karo Regency.

Empirical data were obtained through in-depth, semi-structured interviews with Pemena adherents and relevant civil registration officials, a technique chosen to surface the subjective experiences and obstacles informants face in accessing administrative rights.[1]v The informants comprised three individuals, including Pemena adherents from diverse backgrounds and civil registration officials, selected through purposive sampling on the basis of their direct involvement with the recognition process, so as to obtain a balanced perspective between the believer and bureaucratic sides of implementation. Data validity was ensured through source triangulation and interactive analysis. The research design is descriptive-analytical: it systematically describes the legal and social facts observed while critically analysing them to identify the relationship between legal variables and empirical reality, enabling the study not only to present existing conditions but also to examine in depth the factors causing the sub-optimal implementation of the Constitutional Court's ruling.

Data were analysed qualitatively using an interpretative method. Collected data were classified, systematised, and analysed against a theoretical framework combining law and human rights doctrine with Honneth's theory of recognition and Bourdieu's theory of symbolic violence, with the analysis focused on identifying the gap between norms and practice and evaluating the effectiveness of existing policy in ensuring the fulfilment of the civil rights of adherents of local beliefs. This approach is intended to produce findings that are not merely descriptive but also argumentative and solution-oriented, supporting the formulation of more inclusive policy recommendations.

3. Result

3.1 The Local Religion of Pemena

The local religion of Pemena is a traditional belief system practised within the Karo community of North Sumatra, with historical roots predating the arrival of Islam, Christianity, and Hinduism. From a legal-anthropological perspective, Pemena cannot be understood merely as a spiritual practice; it is part of a system of values and social structures governing human relations with nature, ancestors, and transcendent entities, and therefore reflects a form of living law that holds social legitimacy within its community even where it is not fully recognised within the state's formal legal system.

Etymologically, the term "Pemena" derives from the Karo language, meaning "the first" or "the original," denoting the indigenous beliefs of the Karo people prior to the penetration of major religions. The historical shift in terminology from "Perbegu" to "Pemena" cannot be separated from the dynamics of colonial history, during which local belief practices were frequently dele-

gitimised through the stigma of being labelled spirit worship or deviant practice; this change in nomenclature accordingly constitutes both a form of cultural resistance and an effort at identity reconstruction aimed at securing broader social legitimacy. In practice, the Pemena belief system rests on a cosmology positioning humans within a balance between the physical and spiritual worlds. Adherents believe in ancestral spirits that maintain the harmony of life both within the household and the wider social environment; concepts such as *Nini Jabu* (the guardian spirit of the home), *Nini Juma* (the guardian spirit of the fields), and *Nini Lau* (the guardian spirit of the river) reflect a strong ecological relationship between humans and nature that underlies Karo ritual practice and social norms.[14]

Unlike formal religions organised around sacred texts and structured doctrine, Pemena has developed through oral tradition passed down across generations; its rituals are contextual rather than dogmatic, rooted in the social needs and life cycles of the community. The *Sipaha Lima* ceremony, an expression of gratitude to a transcendent entity for the continuity of life and the harvest, illustrates this pattern: beyond its spiritual dimension, it functions as a mechanism of social cohesion that strengthens communal solidarity.[15]

Within the framework of national legal policy, however, Pemena's existence faces serious challenges to recognition and protection. The state's administrative legal constructs tend to adopt a narrow definition of religion oriented toward the parameters of world religions—the existence of a holy scripture, a prophet, and international recognition—criteria that local religions such as Pemena frequently fail to satisfy, placing them in the subordinate administrative category of "belief" rather than "religion."[16] This reflects a tension between statutory law and law as practised within society: from a socio-legal perspective, formal law is not always capable of representing the diversity of existing social practice, and in many cases functions instead as an instrument that reproduces inequality toward minority groups. For Pemena, this marginalisation manifests both as administrative neglect and as continuously reproduced social stigma in everyday life,[17] with direct consequences for adherents' access to public services such as marriage registration, identity documentation, education, and employment.[18] Pemena should therefore be understood not merely as a subject of anthropological inquiry but as a legal entity possessing constitutional rights that the state is obliged to protect; recognition of Pemena is properly understood as part of a broader agenda to strengthen the protection of diversity and minority rights in Indonesia.

3.2 Constitutional Court Decision No. 97/PUU-XIV/2016

In Decision No. 97/PUU-XIV/2016, the Constitutional Court granted the petitioners' request in full, declaring the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of

[14] See further Lisbhet Same Lady Br Tarigan and Puspitawati Puspitawati, "The Practice of Pemena among the Karo Ethnic Group Examined through Pierre Bourdieu's Analysis in Kidupen Village, Karo Regency," MESIR: Journal of Management Education, Social Sciences, Information and Religion 1, no. 2 (August 2024): 185–93, https://doi.org/10.57235/mesir.v1i2.2906.

[15] See further Alan Sigit Fibrianto, "The Spiritual Culture of the Kejawen Tradition 'Prasetyo Manunggal Karso' as an Expression of Religious Pluralism in Boyolali," Penamas 32, no. 1 (June 2019): 555–72, https://doi.org/10.31330/penamas.v32i1.308.

[16] See further Muhammad Adiguna Bimasakti, "The Legal Framework for the Recognition of Religion and Belief within the Framework of Freedom of Religion in Indonesia," Pancasila: Jurnal Keindonesiaan 5, no. 1 (April 2025): 113–24, https://doi.org/10.52738/pjk.v5i1.669.

[17] See further Efrat and Newman, "Defending Core Values."

[18] See further Karmila and Fahri, "Legal Analysis of the Fulfilment of Civil Rights."

Law No. 23 of 2006 on Population Administration, as amended by Law No. 24 of 2013, unconstitutional and without binding legal force insofar as it did not include "belief," and declaring Article 61 paragraph (2) and Article 64 paragraph (5) of the same Law likewise inconsistent with the 1945 Constitution. The Court ordered that belief systems be included and recorded in the religion column on the National Identity Card (KTP) under the designation "believers of indigenous beliefs," on the same footing as recognised religions.[19]

The decision marks a significant paradigm shift in Indonesian constitutional law concerning the recognition of adherents of local beliefs, reaching beyond the administrative mechanics of population recording to the core constitutional protection of freedom of religion and belief. Prior to the ruling, the population-administration framework placed adherents of local beliefs in a structurally unequal position by denying them any means of recording their religious identity in official documents—an exclusive, homogenising approach that disregarded the empirical pluralism of Indonesian society.[20] In its reasoning, the Court adopted a more inclusive constitutional interpretation, holding that the term "religion" cannot be confined to religions administratively recognised by the state, and that freedom of religion and belief necessarily encompasses the right to adhere to a belief system possessing equal constitutional standing; leaving the religion column blank for believers was accordingly held to violate the constitutional principles of equality and non-discrimination.[21]

This ruling may be understood as a manifestation of the Constitutional Court's evolving function—not merely as guardian of the constitution but as protector of minority rights, actively correcting structural inequalities produced by earlier regulation, in a manner consistent with the broader concept of transformative constitutionalism.[22] From an international-law perspective, the Court's approach aligns with the principle, embedded across multiple human-rights instruments, that the state must not discriminate against individuals or groups on the basis of religion or belief, and indeed bears a positive obligation to ensure the recognition and protection of such identities in public life.[23]

Implementation of the ruling, however, reveals a significant gap between legal norm and social reality. Although Pemena has been recognised in principle, its adherents continue to face substantial obstacles in obtaining administrative rights—indicating that legal recognition has not yet been accompanied by corresponding change in bureaucratic structure or societal paradigm.[24] One particularly consequential implementation issue is the persistence of additional administrative requirements mandating that a belief system possess a registered religious organisation; for local religions such as Pemena, which has developed culturally without a formal organisational structure, this requirement constitutes a new and substantial barrier to accessing civil rights, indicating that

[19] Constitutional Court Decision No. 97/PUU-XIV/2016.

[20] See further Riska Dwi Aulia, Yunanto Yunanto, and Aminah Aminah, "Legal Consequences of Constitutional Court Decision No. 97/Puu-Xiv/2016 on the Legality of Marriage for Believers in Local Beliefs (A Study in the Jurisdiction of the Population and Civil Registration Office of Semarang City)," Diponegoro Law Journal 11, no. 4 (October 2022), https://doi.org/10.14710/dlj.2022.35974.

[21] See further Fatimah Azzahra, Naela Rosita, and Amiratunil Khaira, "Judicial Review of the Constitutional Court's Ruling on the Blasphemy Law," Unnamed Journal 2, no. 5 (2025).

[22] See further Karl E. Klare, "Legal Culture and Transformative Constitutionalism," South African Journal on Human Rights 14, no. 1 (January 1998): 146–88, https://doi.org/10.1080/02587203.1998.11834974.

[23] See further Christian Immanuel Situmorang, Rafli Akmal Athallah, Frans Samuel Junero Butar Butar, and Irwan Triadi, "The Importance of Strict Law in Defending Human Rights: A Constitutional Perspective," Journal of Customary Law 1, no. 2 (May 2024): 13, https://doi.org/10.47134/jcl.v1i2.2427.

[24] See further Karmila and Fahri, "Legal Analysis of the Fulfilment of Civil Rights."

the state's administrative logic remains insufficiently inclusive.[25] This is compounded by limited awareness and understanding among state officials regarding the substance of the ruling, such that discriminatory practice persists at the local level notwithstanding the change in formal legal norms—an implementation gap of the kind frequently observed where progressive legal norms are not effectively internalised within administrative practice.[26] Constitutional Court Decision No. 97/PUU-XIV/2016 must therefore be understood as an initial step in a longer process toward the substantive recognition of local religions, including Pemena, rather than as its terminus.[27]

4. Discussion

4.1 Forms of Recognition of the Pemena Local Religion Following Constitutional Court Decision No. 97/PUU-XIV/2016

Recognition of the local Pemena religion following Constitutional Court Decision No. 97/PUU-XIV/2016 cannot be narrowly understood as mere administrative acknowledgement; it must instead be analysed as a process transforming the relationship between the state and minority groups within the framework of constitutional law, taking into account its normative, structural, and social dimensions simultaneously.

Normatively, the Constitutional Court's ruling marks a fundamental shift in the legal policy of religious recognition in Indonesia, progressively interpreting the term "religion" in the Population Administration Law to encompass belief, such that adherents of belief systems stand on an equal footing with followers of recognised religions in matters of population administration—a shift, in short, from a paradigm of exclusivism toward inclusivism. From the perspective of transformative constitutionalism, the ruling reflects the Court's effort to render the constitution an instrument of social change capable of correcting structural injustice against minority groups, acting not only as guardian of the constitution but as an active agent expanding the scope of freedom of religion and belief; recognition of Pemena forms part of this broader constitutional agenda to realise equality and non-discrimination.[28]

A more critical assessment of this form of recognition, however, requires recourse to recognition theory. Axel Honneth argues that recognition does not stop at the legal dimension but must also encompass social recognition grounded in solidarity and esteem: legal recognition confers formal legitimacy, but social recognition determines whether an individual or group is genuinely accepted within society.[29] Piroddi's recent synthesis of Honneth's account of institutionalised recognition with Bourdieu's concept of the social field is instructive here: legal recognition operates as entry into an institutionalised sphere of rights, but whether that entry translates into genuine

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[25] See further Anom Penatas, Supriyadi Supriyadi, Husein Muslimin, and Ferry Anggriawan, "The Legal Status of Population Documents for Belief Sects Following Constitutional Court Decision No. 97/PUU-XIV/2016," Bhirawa Law Journal 1, no. 1 (May 2020): 30–36, https://doi.org/10.26905/blj.v1i1.5280.

[26] See further Moh Zaenal Abidin Eko Putro and Kustini Kosasih, "Disparities Between the Fulfilment of Civil and Other Rights Among Sunda Wiwitan Children, Cireundeu, Cimahi," Jurnal HAM 12, no. 3 (December 2021): 485–502, https://doi.org/10.30641/ham.2021.12.485-502.

[27] See further Nur Wakhidah, Ahmad Subakir, Rasyid Rizani, and Muhammad Yusman, "The Urgency of Human Rights-Based Local Religious Regulations: An Ethnographic Study of Religious Practices among the Samin Community in Central Java," Interdisciplinary Explorations in Research Journal 2, no. 1 (March 2024): 418–36, https://doi.org/10.62976/ierj.v2i1.449.

[28] See further Klare, "Legal Culture and Transformative Constitutionalism."

[29] See further Honneth, The Struggle for Recognition.

social standing depends on the distribution of cultural and symbolic capital within the broader social field in which the recognised group must function.[30] Applied to Pemena, the Constitutional Court's ruling has produced only legal recognition at the normative level: the state has formally acknowledged adherents of local beliefs as legitimate legal subjects, but this recognition has not yet achieved social recognition, since Pemena adherents continue to face stigma, discrimination, and social exclusion. The recognition that has occurred is, in this precise sense, partial and incomplete.

Recognition of Pemena must equally be analysed within the framework of legal pluralism, which understands law not as a singular phenomenon but as comprising multiple coexisting systems.[31] Within Karo society, Pemena constitutes a form of "living law" possessing strong social legitimacy that predates the modern state; yet the state's formal law continues to apply a narrow definition of religion oriented toward the world-religions paradigm. Consequently, although the state formally recognises belief systems, its recognition mechanisms remain anchored in formal-religion standards—the existence of an organisation and institutional structure—evident in the administrative requirement that adherents of local beliefs possess a registered organisation in order to access civil registration services. For a culturally rather than formally organised tradition such as Pemena, this requirement becomes a new barrier rather than a pathway to recognition. The recognition granted by the state may accordingly be categorised as "recognition with conditionality": the state acknowledges Pemena's existence, but only within limits defined by its own administrative logic, thereby retaining epistemological dominance over what counts as a "legitimate religion." From a socio-legal perspective, this phenomenon reflects the classic gap between *law in the books* and *law in action*.[32]

This pattern is far from unique to Karo Regency. Sukirno and colleagues' six-community study of Sunda Wiwitan and Adam adherents demonstrates that majority-bias legal politics embedded in subordinate legislation continues to discriminate against local believers seeking citizenship documents across West Java and Central Java, indicating that conditional recognition of this kind is a structural feature of Indonesia's population-administration regime rather than an isolated local failing.[33] Wahyudi and colleagues reach a parallel conclusion at the national level, attributing the persistence of the implementation gap to regulatory ambiguity and entrenched socio-cultural stigma that survive notwithstanding the Constitutional Court's clear mandate.[34] The empirical findings of this study—that Pemena adherents in Karo Regency continue to encounter difficulty recording their religious affiliation on civil registration documents, not infrequently choosing to list another religion to facilitate access to public services—are thus best read not as an anomaly specific to Karo, but as a local instance of a well-documented national pattern. Comparable behaviour has been independently documented among the Anak Rawa community of Siak Regency, where adherents report being compelled to convert to state-recognised religions to secure marriage certificates and birth registration despite the existence of formal legal recognition,[35] confirming that

[30] See further C. Piroddi, "Fields of Recognition: A Dialogue Between Pierre Bourdieu and Axel Honneth," Human Studies (2022).
[31] See further John Griffiths, "What Is Legal Pluralism?," The Journal of Legal Pluralism and Unofficial Law 18, no. 24 (January 1986): 1–55, https://doi.org/10.1080/07329113.1986.10756387.
[32] See further Wiratraman, "The Challenges of Teaching Comparative Law and Socio-Legal Studies."
[33] See further Sukirno et al., "Majority Bias in Legal Politics."
[34] See further Wahyudi et al., "The Legal Journey of Indigenous Belief Systems in Indonesia."
[35] See further Mohd. Habibi et al., "Dari Regulasi Nasional ke Realitas Sosial."

the practice of strategic religious self-misrepresentation functions as a survival strategy common to indigenous belief communities navigating an administrative system still structurally biased toward majority religious categories.

This situation indicates that legal recognition alone has not been able to alter administrative practice at the local level. From a socio-legal perspective, this underscores that law does not operate automatically but depends heavily on the bureaucratic structures and legal culture surrounding it; the implementation failure observed here is accordingly not merely a regulatory problem but an institutional failure in translating norm into practice, as bureaucratic officials continue to apply an outdated distinction between religion and belief that renders implementation of the Constitutional Court's ruling sub-optimal. The recognition granted remains, in this sense, formalistic rather than substantive.

Social factors compound this structural barrier, and are usefully explained through Pierre Bourdieu's theory of symbolic violence.[36] Majority religions hold symbolic dominance within society, enabling them to define social norms and set the standards of religious legitimacy; local religions such as Pemena, which do not meet these standards, are consequently positioned as inferior or even deviant. This dominance operates not through repression but through the subtle internalisation of social norms treated as natural and self-evident, such that Pemena adherents face not only external discrimination but internalised pressure to conform to majority standards. Nurwansyah and colleagues' Gramscian analysis of indigenous-belief discrimination nationally reaches a structurally similar conclusion through a different theoretical vocabulary, tracing the same pattern of ideological dominance—beginning with the 1961 administrative consensus labelling indigenous beliefs as mere "faith streams"—through decades of discriminatory regulation that the Constitutional Court's ruling represents only a partial, intellectual-resistance response to.[37] Read together, the Bourdieusian and Gramscian accounts reinforce one another: whether framed as symbolic violence or ideological hegemony, the persistence of majority-defined standards of religious legitimacy operates as the deeper structural cause beneath the more visible administrative obstacles documented in this and comparable studies. In this context, the practice of "religious assimilation" undertaken by Pemena adherents reflects not merely an administrative coping strategy but a manifestation of this symbolic power imbalance. This finding aligns with Sally Engle Merry's broader observation that legal recognition of minority groups is frequently symbolic and does not automatically produce change in social practice: formal recognition without structural transformation yields only "symbolic recognition"—recognition without tangible impact on the lives of the recognised group.[38]

It is important to note that the implementation gap documented here is not inevitable. Nunuk Hidayati and colleagues' study of Sapta Darma adherents in Kediri shows that, where local government translates the Constitutional Court's ruling into concrete technical guidelines—in that case, through a regional regulation operationalising identity-card recognition, marriage registration, and birth-certificate access—the shift from "forced religious impersonation" to "constitution-

[36] See further Bourdieu, "The Forms of Capital."
[37] See further Nurwansyah et al., "Why Does Discrimination Against Indigenous Beliefs Persist in Indonesia?"
[38] See further Sally Engle Merry, Human Rights and Gender Violence: Translating International Law into Local Justice (Chicago: University of Chicago Press, 2005), https://doi.org/10.7208/chicago/9780226520759.001.0001.

ally empowered legal agency" can be substantially realised.[39] This comparison sharpens the diagnosis offered here: the gap between formal and substantive recognition in Karo Regency is not an unavoidable consequence of Constitutional Court Decision No. 97/PUU-XIV/2016 itself, but a function of the absence, thus far, of comparable local policy entrepreneurship translating that ruling into Karo Regency's specific administrative practice.

Based on this analysis, the form of recognition of the local Pemena religion following Constitutional Court Decision No. 97/PUU-XIV/2016 in Karo Regency may be characterised along five dimensions: normative-constitutional recognition, granted through the judicial review mechanism as a form of constitutional-rights protection; partial recognition, covering only the legal dimension without being accompanied by adequate social recognition; conditional recognition, constrained by administrative requirements misaligned with the nature of a culturally organised local religion; symbolic recognition, which has not yet eliminated discrimination and obstacles in practice; and transitional recognition, indicating a paradigm shift that has not yet reached the stage of substantive recognition. Recognition of Pemena therefore remains in a transitional phase toward a more inclusive legal system; achieving substantive recognition will require not only continued legal-normative development but also bureaucratic reform, capacity building for public officials, and transformation of the community's legal culture, absent which state recognition risks remaining merely symbolic and ineffective in guaranteeing the constitutional rights of Pemena adherents.

4.2. The Ineffectiveness of Recognition in Guaranteeing the Fulfilment of Civil Rights for Pemena Adherents in Karo Regency

The diversity of indigenous communities possessing customary law as part of Indonesia's national legal system forms a crucial foundation for ensuring the protection of human rights.[40] Every Indonesian citizen automatically possesses fundamental rights grounded in the state constitution, consistent with Article 1 paragraph (1) of Law No. 39 of 1999 on Human Rights, which affirms that human rights are not granted by law or society but derive from human dignity itself, and must accordingly be respected and safeguarded regardless of differences in race, ethnicity, gender, language, culture, religion, or nationality.[41] Although Constitutional Court Decision No. 97/PUU-XIV/2016 has provided normative recognition for adherents of local beliefs, including Pemena, empirical reality shows that this recognition has not been effective in guaranteeing the fulfilment of adherents' civil rights. This ineffectiveness cannot be reduced to a simple failure of administrative implementation; it results from the complex interaction of structural, cultural, and institutional factors within the Indonesian legal system, since the effectiveness of law is determined not only by the existence of norms but by their capacity to be internalised within social practice.[42]

[39] See further Nunuk Hidayati et al., "Beyond Religious Bureaucracy."

[40] See further Muhammad Jailani, Dewi Sartika Mualipah, and Muhammad Zainuddin, "An Analysis of the State's Responsibility in Guaranteeing the Protection of Civil and Political Rights in Indonesia," Jurnal Risalah Kenotariatan 2, no. 2 (December 2021), https://doi.org/10.29303/risalahkenotariatan.v2i2.45.

[41] See further Indah Dwi Utari, Toto Kushartono, and Aliesa Amanita, "Legal Analysis of Constitutional Court Decision No. 97/Ppu-Xiv/2016 Regarding the Leaving of the Religion Column Blank on Family Cards and Identity Cards for Believers in Relation to the Constitutional Right of Believers to Obtain Fundamental Rights of Citizens," Jurnal Dialektika Hukum 1, no. 1 (June 2019): 48–77, https://doi.org/10.36859/jdh.v1i1.491.

[42] See further Wiratraman, "The Challenges of Teaching Comparative Law and Socio-Legal Studies."

Five interlocking factors explain this ineffectiveness. **First**, an implementation gap persists between law on the books and law in practice. Although the Constitutional Court's ruling provides a strong legal basis for recognising adherents of indigenous belief, local-level implementation continues to encounter obstacles: empirical findings in this study show that Pemena adherents still face difficulty obtaining civil registration documents such as identity cards, family cards, and birth certificates, suggesting that local bureaucratic officials have not fully internalised the substance of the ruling. This pattern is corroborated at a broader scale by Ningsih and colleagues' recent assessment of legal protection for indigenous-belief adherents, which finds that, notwithstanding constitutional guarantees, implementation continues to face regional-level resistance and that stronger oversight mechanisms are required to ensure fair and equal fulfilment of constitutional rights.[43]

Second, structural barriers persist within the administrative bureaucracy itself, foremost among them the requirement that a belief system possess a registered religious organisation—a requirement that poses a serious obstacle for culturally organised traditions such as Pemena, which lack formal institutional structure. From the perspective of James C. Scott's account of "high modernism," this reflects the state's tendency to simplify complex social realities into uniform administrative categories, failing to accommodate the fluid, uninstitutionalised character of local religion and thereby producing policy that is, in practice, exclusionary.[44]

Third, the formal-religion paradigm continues to dominate state policy: although belief systems are now legally recognised, the standards still applied in practice—scripture, organisational structure, standardised doctrine—reflect the formal-religion model, placing local religions such as Pemena in a subordinate position when measured against criteria they were never designed to satisfy. This reflects an epistemological bias within the legal system, whereby the state implicitly retains authority to define what counts as a "legitimate religion," and, from the perspective of legal pluralism, reflects a continuing failure to accommodate the diversity of living legal systems coexisting within Indonesian society.

Fourth, social stigma and discrimination compound these structural barriers. Pemena adherents continue to be regarded, in some quarters, as followers of a heretical sect or as deviating from majority norms; under Bourdieu's theory of symbolic violence, this reflects the cultural dominance of majority religious groups, who possess greater symbolic capital and are accordingly positioned to define social legitimacy and marginalise local religions. Consequently, despite legal recognition, many Pemena adherents continue to list another religion on their identity documents in order to avoid discrimination in daily life.

Fifth, limited public awareness and limited capacity among state officials regarding the substance of the Constitutional Court's ruling compounds the preceding four factors: many local officials do not yet understand the ruling's substance and accordingly continue discriminatory administrative practice, reflecting, in public-policy terms, a failure at the stages of policy dissemination and implementation. Without adequate awareness on the part of both officials and the public, legal norms cannot be effectively internalised in practice.

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[43] See further Sindi Marita Ningsih et al., "Perlindungan Hukum bagi Penghayat Kepercayaan untuk Mengatasi Diskriminasi dan Marginalisasi," JATISWARA (2026).

[44] See further James C. Scott, Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed (New Haven: Yale University Press, 2017), https://doi.org/10.12987/9780300128789.

Taken together, these five factors indicate that the recognition granted to Pemena adherents remains predominantly symbolic rather than substantive. The state has extended formal recognition without yet achieving substantive change in the lived experience of its adherents—a pattern consistent with Sally Engle Merry's broader observation that the translation of legal norms frequently undergoes distortion when implemented in local context, such that progressive law at the national level does not automatically produce change at the local level, since implementation remains contingent on cultural factors, power structures, and entrenched social practice.[45] The comparative experience of Sapta Darma adherents in Kediri demonstrates, however, that this distortion is not an inevitable feature of constitutional recognition as such, but a function of whether local government translates national legal change into concrete, contextually appropriate administrative practice.[46] This comparison underscores that the path from symbolic to substantive recognition for Pemena adherents in Karo Regency runs not through further constitutional litigation, but through deliberate local policy reform of precisely the kind this study's recommendations seek to articulate.

5. Conclusion

Constitutional Court Decision No. 97/PUU-XIV/2016 has, in normative terms, granted constitutional recognition to adherents of local beliefs, including the Pemena religion, as part of the constitutional guarantee of freedom of religion and belief. This study finds, however, that such recognition remains formal and normative in character and has not yet been fully and effectively implemented in practice: Pemena adherents continue to face social discrimination and negative stigma, and have not yet achieved equal social acceptance. Analysed through Honneth's distinction between legal and social recognition and Bourdieu's account of symbolic violence, this outcome is best understood not as a transitional delay that time alone will resolve, but as the predictable consequence of legal recognition proceeding without parallel transformation in bureaucratic structure and majority-defined standards of religious legitimacy.

The fulfilment of Pemena adherents' civil rights—particularly in civil registration, including identity cards, family cards, and birth certificates—continues to face substantial structural and administrative obstacles. Requirements such as the necessity of a registered religious organisation, limited understanding among officials, and weak policy implementation together constitute a persistent gap between law in the books and law in action. This study identifies five interlocking causes of this gap: the implementation gap between norm and practice; structural barriers embedded in administrative bureaucracy, including the organisational-registration requirement; the continuing dominance of the formal-religion paradigm in state policy; social stigma and discrimination rooted in symbolic violence; and limited public and official awareness of the Constitutional Court's ruling. Consequently, the recognition extended by the state has not yet reached a substantive stage, remaining instead at a largely symbolic level—a finding consistent with comparable studies of other indigenous-belief communities across Indonesia, and one that confirms legal recognition without structural and social transformation tends to produce symbolic rather than substantive protection.

[45] See further Merry, Human Rights and Gender Violence.
[46] See further Nunuk Hidayati et al., "Beyond Religious Bureaucracy."

At the same time, this study's comparison with Sapta Darma adherents in Kediri Regency demonstrates that this outcome is not inevitable: where local government translates the Constitutional Court's mandate into concrete technical guidelines, the gap between formal and substantive recognition can be meaningfully narrowed. On this basis, this study offers three recommendations. First, the central and regional governments should conduct systematic, sustained public-aware-ness campaigns regarding Constitutional Court Decision No. 97/PUU-XIV/2016, directed not only at the general public but specifically at civil servants within the civil registration administration, in order to establish a common understanding and reduce discriminatory practice at the imple-mentation level; in parallel, the administrative requirement that belief systems possess a formally registered organisation should be simplified or reformulated to accommodate culturally rather than institutionally organised traditions such as Pemena, following the model demonstrated in Kediri Regency's regional regulation operationalising the Constitutional Court's ruling. Second, the government should strengthen the capacity and sensitivity of civil registration officials through training grounded in human-rights principles and legal pluralism, equipping them to apply policy fairly and without discrimination. Third, recognition efforts must extend beyond legal and admin-istrative channels into the social sphere, through public education and the promotion of tolerance aimed at dismantling the stigma attached to local religions, so that recognition is accompanied by genuine social acceptance rather than legal acknowledgement alone. Taken together, these mea-sures would help transform the recognition of Pemena—and of Indonesia's broader community of indigenous-belief adherents—from a symbolic constitutional gesture into a substantively realised guarantee of civil rights.

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