


The Politics of Recognition, Society, and Law: The Role of Muslim Society and the Kubu Raya Local Government in the Struggle of the Baha'is

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Article History:

Received: May 31, 2022

Revised: August 26, 2022

Accepted: November 26, 2022

Published: November 30, 2022

Abstract

This study discusses the politics of recognition of Baha'i adherents in Indonesia, who face obstacles in society. Apart from rejection in society, there are restrictions on their civil rights. This research was conducted in a regional locus in Kubu Raya, West Kalimantan. In addition to discussing Baha'i adherents, who are not widely known by the public, especially in Kubu Raya, the study aims to provide important information regarding the relationship between the Baha'is and the majority Muslim community and the government of Kubu Raya. The research was conducted with a socio-legal approach, directly taking to the field by conducting interviews data analysis through stages; data condensation, data exposure, conclusion, and verification. The research findings explain that Baha'i adherents have not been fully recognized by society and the law in Indonesia, but amid the Muslim majority community in Kubu Raya, they have never experienced rejection; in fact, their existence is very well received by the people of Kubu Raya who are known to be diverse and accept differences. Baha'i adherents are known to be very kind, friendly, and open by the people of Kubu Raya. On the other hand, the Baha'i adherents are not fully recognized by the Kubu Raya Local Government, so civil rights that should be fully guaranteed, assisted, and protected by the constitution, are still hampered because the existing system in government administration does not provide a Baha'i religion column.

Keywords: Baha'i Religion; Kubu Raya Local Government; Law; Politics of Recognition; Society

INTRODUCTION

The politics of recognition cannot be separated from the issue of certain groups that are considered minorities or subaltern,¹ whether it is related to culture, gender, race, indigenous peoples (Taylor, 1994), and the constitution (Bagir & Dwipayana, 2011). Religious issues are also in the spotlight; for example, in Indonesia, the "agama leluhur" (ancestral religion/belief) community is getting "half-hearted" recognition, both from society and the state (Maarif, 2018). Likewise, religions considered "foreign" in Indonesia, such as the Baha'i religion, which does not receive state recognition of its civil rights, are therefore considered an ambiguity in terms of religious freedom in Indonesia (Marshall, 2018). In this context, the researchers discuss the politics of recognition of Baha'i adherents in Indonesia, who are still discriminated against by society through negative stereotypes, and by the state, inasmuch as their civil rights are still not fully recognized.

Research on the Baha'i religion in Indonesia has been carried out in many different regional contexts. Several studies have shown that Baha'i adherents in society are always well-behaved, respectful, and open, even though they are not considered as an "official" religion. That is due to the weak protection of local governments (Kustini & Arif, 2014; Panjaitan, 2018; Purba et al., 2018; Rojiati, 2019). The weakness in some areas is that the civil rights of Baha'i adherents are not served, such as the issuance of marriage certificates, the religion column on their Identity Card (KTP) is filled with the sign (-), even the funeral is in exile. However, Baha'is continue to struggle

¹ The term "subaltern" by Antonio Gramsci is understood as a group that is excluded in the order of society and the state (Gramsci, 1971, pp. 52-55). The term "subaltern" is also understood as people whose rights and access are limited and distinguished from other groups (Kock, 1992).

for recognition by distributing books about the Baha'i religion to the public, conducting education at the Ruhi Institute as a non-formal institution, and inviting neighbours to religious celebrations. The community received their efforts well, especially the local Nahdlatul Ulama (NU) Muslims, then they established good interactions and cooperation. Baha'i adherents are known, and their existence is recognized so that from this struggle, Baha'i funerals get recognition. The Baha'i religion is considered "unofficial" in Indonesia, but its existence is guaranteed juridically and sociologically; the teachings of the Baha'i religion are underdeveloped (Nuh, 2015; Rosyid, 2016, 2018, 2020) because it is not a *dakwa* or missionary teaching.

In addition, the strategy of the Baha'is is to maintain the existence of the teachings of the Baha'i religion by adapting and mingling and being open to all people (Rizaldy & Suyanto, 2020), thus forming a harmonious society (Mufiani, 2016). On the other hand, the Baha'i religion still faces negative stereotypes, as indicated by research on IAIN Pontianak students, who consider the Baha'i religion as a "deviant" teaching which has departed from Islam, or a form of "plagiarism", "imitation", a "religion that makes no sense", a "religion of the modus", and hence, it is belittled (Hidayat, 2017).

The explanation above illustrates that the Baha'i adherents in Indonesia are still not entirely accepted by society and the law, thus requiring a struggle for recognition, both sociologically and juridically. For this reason, the politics of equal recognition of the same values from different cultures (religions) needs to be reintroduced (Taylor, 1994). To obtain recognition, it is not enough to only need awareness of intersubjective recognition, but a dynamic reciprocal relationship is needed, or what is called reciprocal recognition (Honneth, 2001).

The research on the politics of recognition of Baha'i adherents in this study was conducted at the region's locus in Kubu Raya, West

Kalimantan. That is because the existence of the Baha'i religion in West Kalimantan is still not widely known by the public, especially in the Kubu Raya Regency, hence, this research can add important information about its existence. Baha'i adherents in the Kubu Raya Regency have the most number of adherents compared with other West Kalimantan regions, approximately 5 Family Cards.² The Baha'i religion is still considered a "non-legal" religion (Mutiarra, 2016), and therefore the presence of Baha'i adherents in Indonesia has received various responses from various groups. The Baha'is in Kubu Raya have an interesting expression: "*perjuangan pasti, tapi kita juga tidak diperbolehkan untuk memaksakan sesuatu hal yang memang belum diperbolehkan*",³ ("the struggle is certain, but we are also not allowed to force something that is not allowed"). That is what underlies this research to see the reciprocal recognition between the Muslim community and the Kubu Raya Local Government.

The politics of recognition has a schema structured into affective, cognitive, and rational relationships. That is what Honneth (1996) means as a system of ethical life, known as the three forms of recognition (Honneth, 2001), and can be illustrated in Figure 1. The way this form of recognition works involves several modes: First, affective recognition, namely the stage of love that is intimate like the relationship between parents and children, husband and wife, and others, such as the internal community itself. Second, cognitive recognition, namely the stage of having a moral society by looking at compliance with universality, namely the recognition of the pattern of cultural values that apply in society. Third, rational recognition, namely the stage of solidarity with solid intersubjectivity, such as the

² Interview with Hanggari Sandy, Ruhi Institute tutor, Kubu Raya, 20 December 2020.

³ Interview with Sutikno, a tutor of the Ruhi Baha'i Institute Kubu Raya, January 2, 2021.

constitution's recognition. When all stages are passed, it is called reciprocal recognition.

Figure 1
Three forms of recognition as a system of ethical life

	<i>Object of recognition</i>		
	Individual (concrete needs)	Person (formal autonomy)	Subject (individual particularity)
<i>Mode of recognition</i> Intuition (affective)	Family (love)		
Concept (cognitive)		Civil society (law)	
Intellectual intuition (affect that has become rational)			State (solidarity)

Source: [Honneth \(1996, p. 25\)](#)

METHOD

The research was belongs to a qualitative research cluster with a socio-legal approach that looks more at the workings of law in society ([Irianto, 2012](#)). The research location was in Kubu Raya, West Kalimantan. The authors studied the relationship of Baha'i adherents and the community and the application of the law by the local government ([Bedner, 2021](#)), collected data from documents in the Population and Civil Registration Office of Kubu Raya Regency, examined materials in regulations, books, and journals related to the topic under discussion, carried out direct observations in the field, and conducted separate interviews with three Baha'i 'tutors' (and a religious leader) and two representatives from the Muslim population (the leaders of Nahdlatul Ulama and Muhammadiyah) in

Kubu Raya. It should be noted that two of the informants that one of the researchers interviewed were the children and grandchildren of the first Baha'i adherents in West Kalimantan. Interviews were conducted on seven separate occasions through recording devices, *WhatsApp*, and notes (July 2 and December 20, 2020, January 2, 2021, March 1, 8 and 11, 2022, and August 8, 2022). The data analysis was carried out through several stages, including data condensation, data display, and conclusions/verification: (a) selecting data according to the focus to be transformed into this research; (b) the data or information was brought together and analyzed; (c) conclusions and verification of all data were included in the discussion; in this last stage, the verification method was to send a written draft to the informant for review and correction ([Miles et al., 2018](#)).

RESULTS AND DISCUSSION

An overview of the Baha'i faith

The Baha'i religion was founded in 1863 by Mirza Husain 'Ali Nuri or Baha'u'llah (1817-1892), who claimed to be a prophet or manifestation of God ([Smith & Momen, 1989](#)). It was preceded by the Babi movement, which was founded by Sayyid 'Ali Muhammad ([Smith & Momen, 1989](#)) or the Bab (1819-1850) in 1844 in Iran ([Momen, 2007](#)). The Baha'i religion is a monotheistic religion born in the mid-19th century in Iran ([Hampson, 1980](#); [Talebi & Desjardins, 2012](#)). The Bab was born into a Muslim Shia family ([Smith & Momen, 1989](#)), but later established his own independent religion ([Warburg, 1999](#)). The Baha'i religious center was in Palestine (today it is part of Israel).⁴

⁴ Interview, Sutikno, January 2, 2021.

The Baha'i religion is known as a global movement and has spread to various countries worldwide by promoting the principle of the oneness of humankind and the importance of world unity (Hampson, 1980). The Baha'i religion accepts differences but also promotes cooperation. The principles of the Faith include universal education, equality between men and women, and harmony between science and religion. In their research, Smith & Momen (1989) have included the Baha'i Faith among world religions. Fazel's (1994) research confirms that the Baha'i religion has met the criteria as a world religion, representing wide geographical distribution and socio-cultural backgrounds. Palmer & Tavangar (2021) note that the core teachings of the Baha'i religion are the Oneness of God, the Oneness of Religion, and the Oneness of mankind. Baha'i teachings in their social engagement show more pluralism. Adhitama's (2020) research on the Baha'i religion in the Indonesian context shows that there are many similarities with Pancasila, so it does not conflict with Pancasila. However, the Baha'i religion has been seen as a dangerous heresy by Shi'i Muslims and some others (Cole, 1998, 2002). Its followers, especially in Iran, the birthplace of the religion, have faced discrimination, leading to migrating to various regions and making various adjustments in practicing their faith, to keep their safety (Fazel, 1994; Lee, 2011; Possamai & Possamai-Inesedy, 2007; Smith & Momen, 1989; Talebi & Desjardins, 2012).

According to Michael Karlberg, the emergence of integrative and efficient global communication and transportation technologies, and global discourses on peace, social justice, and human rights can create opportunities and potential for Baha'is in operationalizing the principle of unity. Furthermore, Karlberg (2010) asserts *"The Baha'i community is thus pioneering a radical new model of social change – entirely non-adversarial in nature – that appears initially to be viable even in the face of violent oppression"*.

The Baha'i Faith in Indonesia

The spread of the Baha'i religion also reached Indonesia. The establishment of the Baha'i religion in South and Southeast Asia has been attempted since the time of the Baha'ullah. The two main actors, Jamal Effendi and Sayyid Mustafa Rumi, traveled to several areas, including in Indonesia, namely the islands of Java, Bali, Lombok, and Sulawesi. The Baha'i religious movement in South Asia began in India, Burma, Java, Siam and the Malay Peninsula; more accurate to just say India and Burma. Jamal Effendi and Sayyid Mustafa Rumi's journey in the Sulawesi region, included Makassar, Pare-Pare, Sengkang, and Bone. One of the important successes of the journey was the religious conversion of the King and Queen of Bone ([de Vries, 2007](#)).

The Baha'i religion in Indonesia then spread to various regions.⁵ As [Nurish \(2012\)](#) has explained, the Baha'i religion began to enter Indonesia in the 1920s starting from Mentawai (Sumatra) and several other areas, such as Borneo, Java, and Bali. The Baha'i movement has gone through several phases from the colonial period, the Old Order, the New Order, and the Reformation. Nurish's findings confirm that the Baha'i religion in Indonesia, which has developed rapidly since the 1970s, experienced social and political discrimination. Since the adherents of Baha'i did not profess one of the six official religions, they were not allowed to have an ID card and faced other discrimination in terms of citizens' rights of access to education, health, and politics. During the time of President Abdurrahman Wahid (Gusdur), Baha'i adherents began to gain recognition. He

⁵ There are around three thousand Baha'i adherents in Indonesia, with this number being uncertain because the religion column in the ID card is written in strips, and not all self-declarations are Baha'i adherents. Baha'i adherents in Indonesia are spread across 28 provinces except Bengkulu, Southeast Sulawesi, North Maluku and North Kalimantan ([Rosyid & Kushidayati, 2021](#)).

advocated tolerance and religious pluralism and allowed the Baha'i religion to continue to exist as a religious movement in Indonesia. Furthermore, the Baha'i Religion has received recognition because it has been protected by Articles 28E and 29, of the 1945 Constitution (Nurish, 2012).

Sugiarto's (2010) research on the existence, development, and adherents of the Baha'i religion in Ripinpitu Village, Tulungagung Regency, East Java recorded several areas in which people have embraced the Baha'i religion such as in Klaten, Bojonegoro, Ponorogo, South Sulawesi, Tulungagung, Rembang, Sigli, Meulaboh, Jakarta, Banyuwangi, Madiun, Bali, and West Sumatra. From his research, several points can be concluded, including: 1) The Baha'i religion entered Tulungagung Regency in 1975 and developed in Rintinpitu Village in 1988. 2) Its development began with the study of interpretation by KH. Joseph. 3) The Baha'i religion in Tulungagung has links with the International Baha'i network based in Haifa, Palestine. 4) The Office of the Ministry of Religion (Depag) of Tulungagung Regency has carried out strict coordination in carrying out supervision with members from the Police, Attorney General's Office, Ministry of Religion, Kesbangpol, and the local MUI. 5) The Baha'i religion is spread in various regions of the world. It has its prophet, holy book and worship system (Sugiyarto, 2010).

The explanation above provides general clarity that the Baha'i religion is still experiencing rejection, although several countries welcome its existence. That means that efforts are still needed to obtain reciprocal recognition, especially in Indonesia, where most of the population is Muslim. The Baha'i religion has spread to various regions in Indonesia; this research focuses on the politics of recognition of Baha'i adherents in Kubu Raya.

The Baha'is in Kubu Raya

Kubu Raya has an area of 6985.24 km². It is divided into nine sub-districts, 123 villages, and five preparatory villages (BPS Kabupaten Kubu Raya, 2021). The Baha'i community in Kubu Raya, West Kalimantan, is a unique phenomenon that has not been explored previously. According to the Population and Civil Registration Office (hereinafter referred to as Dukcapil) of Kubu Raya Regency, the population (based on data reporting) is 610,103, and de facto (release of the 2020 Population Census Results) is 609,392 (Dinas Dukcapil Kab. Kubu Raya, 2021), including 504,791 Muslims, 23,779 Protestant Christians, 34,493 Catholic Christians, 586 Hindus, 44,913 Buddhists, 822 followers of Kong Hu Chu, for a total of 609,383 people.⁶ As explained by Hanggari Sandy, one of the Baha'is interviewed for this research, there are 23 recorded Baha'i followers in Kubu Raya.

According to an informant, Sandy, the presence of the followers of the Baha'i religion reached West Kalimantan, Sintang Regency, in 1958. Bintardi, a *tutor*⁷ of the Baha'i Religion, confirmed that the teachings were brought directly by adherents from Iran, who was a doctor. According to Sandy, it started with Boesro.⁸ He was a Muslim and the son of Kiayi Haji Abdullah Salihin from Yogya; at that time, he was a soldier assigned to Sintang. Boesro's interest started from questioning the doctor's religion because he thought he was Muslim, but he turned out to be Baha'i. They met when Boesro took his wife to give birth in one of the birthing places or hospitals in

⁶ The data has been processed by researchers and taken from the documentation at the Kubu Raya Regency Population and Civil Registration Office. See also [Pengadilan Agama Sungai Raya \(2020\)](#).

⁷ The term "tutor" in the Baha'i Kubu Raya tradition is equated as a spiritual guide.

⁸ Boesro, who was born in 1916, is the father of the informant Bintardi and the grandfather of the informant Hanggari Sandy.

Sintang by paying attention to the doctor's words, behaviour, and very Islamic attitude, which made Boesro interested in learning about the Baha'i teachings. After that, Boesro converted from Islam to Baha'i, but his wife remained Muslim. According to Bintardi, Boesro moved to Pontianak City in 1965 with his wife and children, and stayed in Hidayat Dormitory, Jalan Prison, for about two years. After that, he moved to Kampung Melayu in 1967, stayed for five years, then moved to Tanjung Pura and settled in Sungai Raya Dalam, Kubu Raya. Boesro's children and grandchildren have embraced the Baha'i religion; with the number of Baha'i adherents in Kubu Raya is recorded as five family cards (*Kartu Keluarga*). As Sandy explained, the distribution of Baha'i members in Kubu Raya in Sungai Raya Dalam, Kota Baru Ujung, and Kakap District, is organizationally under the *Balai Keadilan Setempat* (Local Justice Center) in Kubu Raya, which is chaired by Sutikno.

As Sandy explained, the Baha'i Kubu Raya adherents in their families and internal communities adhere to the basic principle of unity, namely God Almighty, religious unity, and the unity of humankind. The vision of the Baha'i adherents is unity, so that in everyday life, for example, in the family, they prioritize Baha'i teachings in the form of moral teachings such as friendliness and courtesy. According to Sutikno, the Baha'i adherents practice monogamous marriage; polygamy is prohibited in the Baha'i religion. In addition, the Baha'is are very open and mingle with the Muslim members of the community.

According to Marcos Alan S. V. Ferreira and Michael Karlberg, the Baha'i teachings, in addition to discussing the Unity of God and the Unity of religion, also emphasize the laying of the foundation for universal peace by Baha'is in their collective life. Religious violence and conflict are seen as deviations from true religion; they originate from a materialistic conception of human nature based on selfish and

competitive instincts. For this reason, it is necessary to have human nature with dual capacities (egoism and altruism) as part of the educational function, cultural environment, and individual desires. Furthermore, Baha'is focus more on a unifying approach with constructive community-building processes, non-hostile social action, and participation. Baha'i teachings also discuss collective security, so the Baha'is are the first non-governmental community to be recognized and work in the UN system with consultative status, where their substantial contribution is widely recognized. In the context of peace and collective security, the Baha'is believe in the highest capacities of mankind relate to its essential unity (Ferreira & Karlberg, 2017).

According to Sandy, the explanation above is a set of principles that Baha'is must implement because it contains an understanding of human morality. The Baha'i teachings became the capital of Baha'i adherents to socialize in society. This intimate relationship dramatically affects the entire family and community members by carrying out daily life, even in the community, such as holding children's groups (children's classes) for the community where there are learning materials for children. The children's groups organized by the Kubu Raya Baha'i adherents are not confined to Baha'is but are also open to those from outside the community. The children's classes are attended by up to twenty children, who follow the learning curriculum. The learning process comprises stories and songs that contain moral messages, including the need for friendliness, and courtesy. Moreover, according to Sandy, the Baha'i adherents in Kubu Raya also hold joint prayer activities by inviting followers of other religions.

The struggle of the Baha'i adherents to be recognized in the Muslim community of Kubu Raya is carried out effectively, that is, prioritizing love between human beings. Cognitive involvement in

the community is carried out by being actively involved in participating, such as opening non-formal education classes for children, praying together across faiths, and being part of the village government in Kubu Raya; for example, Sutikno serves as Treasurer at the Rukun Tetangga in Desa Pal Sembilan. According to Hamidi, Head of Muhammadiyah of Kubu Raya Regency: "...there is no problem whatever the Baha'is do in Kubu Raya regarding their teachings as long as they are not part of a splinter of Islamic teachings and do not link the Baha'i faith and Islam."

Baha'i adherents who live in Kubu Raya do not experience discrimination and rejection by the community; there is even an acknowledgement that the people of Kubu Raya are very open to differences. As stated by Abdussalam, Chairman of NU of Kubu Raya Regency:

"...This Baha'i believer, as long as he doesn't associate with Islam, it doesn't matter, he's independent. That is, if it has nothing to do with Islam, then it is up to him. The relationship between Islam and Baha'is and other non-Muslims in Kubu Raya, so far, I think it is very harmonious because there have been no conflicts or clashes between religious groups. That is, the relationship between Islam and others is very good".

According to Hamidi, this is also the case, because relations with other non-Muslims are conducive and tolerance is going well, so the relationship between Muslims and non-Muslim communities in Kubu Raya is not problematic. In addition, the people of Kubu Raya have never committed acts of violence against Baha'i adherents; it is just that there are questions from some people about Baha'i teachings, but they do not lead to dispute and rejection. In contrast, according to Sandy, Baha'is are tolerated by the local community and are invited to formal activities, such as *gotong-royong* (mutual cooperation) activities in villages where Baha'is live, seminars and public lectures, such as the Community of Journalists for

Diversity/*Serikat Jurnalis untuk Keberagaman* (Sajuk) and the Community of One in Diversity/*Komunitas Satu Dalam Perbedaan* (Sadap) in Kubu Raya, who visit the Baha'i community. In order to promote understanding of Baha'i teachings, Sandy was invited to be a speaker at the public lecture at IAIN Pontianak to introduce Baha'i to students.

The explanation above shows that in the context of spreading the faith, people become Baha'is adherents by following a program by Baha'i teachings, not by being preached, but by setting an example. Educating is spiritual by caring for others, treating others with respect, showing justice, equality, and sensitivity to other religions. The learning program for followers of the Baha'i religion is straightforward and down-to-earth, so most children can accept learning that generally teaches fundamental values and attitudes of mind by showing the values of justice, moderation, honesty, respect, compassion, and others (Hartz, 2009). Baha'is have their reference book, the rule of faith and practice of daily life; this book is known as "*Kitab al-Aqdas*" (the Holy Book), which contains the Baha'i laws. It can be understood that Baha'i adherents in Kubu Raya amid the Muslim community of Kubu Raya have never experienced rejection; they are very well received because Kubu Raya community is diverse in the nature. Likewise, Baha'is are well known and very open to differences.⁹

Baha'i Adherents and the Kubu Raya Regional Government

Data on religious adherents in Kubu Raya were provided in the previous section. For example, according to data obtained from the Dukcapil in Kubu Raya Regency in 2021, the total number of Muslim

⁹ Taylor (1994) explained that misrecognition or non-recognition can cause harm in the form of bullying, imprisoning people in the wrong, distorted, and reduced way.

places of worship reached 452, consisting of mosques and *mushalla*, Protestant Christians had 97 churches, Catholic had 113 Churches, Hindus had 5 temples, Buddhists had 28 temples, and Kong Hu Chu had 21 temples. In addition, according to the Head of the General Dukcapil Section in Kubu Raya, there are as many as 41 religious sects, one of which is Baha'i. It is not very clear why the Baha'is are considered a religious sect, but the explanation of the Baha'is has been emphasized earlier. Furthermore, according to Abdussalam, the state has regulated and guaranteed religion by identifying their beliefs according to their respective religious beliefs, so that, as long as Baha'i adherents do not act in the name of Islam, they are accepted. Furthermore, as long as Baha'is can appreciate tolerance, peace, and harmony in Kubu Raya, they will be considered part of the society.

From the standpoint of the government, according to Sandy, the existence of the Baha'i religion in several regions in Indonesia poses various challenges regarding civil administration. That is because it started from Soekarno's leadership with the Presidential Decree (Keppres) No. 264 of 1962 concerning the Prohibition of the Organization of the "Democratic League", "Rotary Club", "Divine Life Society", "Vrijmet-Selaren-Loge (Loge Agung Indonesia)", "Moral Rearmament Movement", "Ancient Mystical Organization of Rosi Crucians (AMORC), and Baha'i organizations. Considerations from Presidential Decree No. 264 of 1962 stated that the principles and objectives of the organization were *"tidak sesuai dengan kepribadian Indonesia, menghambat revolusi dan bertentangan dengan sosialisme Indonesia sebagaimana yang dimaksud oleh Penetapan Presiden Republik Indonesia No. 2 Tahun 1962"* (not part of the Indonesian personality, hindering the revolution, and contradicting Indonesian socialism as

referred to in Presidential Decree (Keppres) No. 264 of the Republic of Indonesia. 2 of 1962.¹⁰

The above is emphasized because it is based on Presidential Decree (Penpres) No. 2/1962 on the prohibition of the existence of organizations that are not compatible with the Indonesian personality, hinder the completion of the revolution, or are contrary to the ideals of Indonesian socialism. The general explanation of Presidential Decree (Penpres) Number 2 of 1962 is as follows:

“The personality of the Indonesian nation, which is now resurgent and is sacrificing the revolution, cannot allow the existence of organizations that are not per the Indonesian personality, hinder the completion of the revolution or contradict the ideals of Indonesian Socialism. The prohibition against these organizations is directly related to the revolution itself, so the President of the Republic of Indonesia, as the Great Leader of the Revolution by Presidential Decree, needs to carry out the regulation. The threat of punishment in article 169 of the Criminal Code applies to organizations prohibited by this stipulation.”¹¹

Other regulations during the time of President Soekarno or the end of the Old Order, also included Presidential Decree (Penpres) No. 2 of 1965, with the following statement: *"That is the context of safeguarding the State and Society, the ideals of the National Revolution and the development of the Universal National towards a just and prosperous society; it is necessary to enact regulations to prevent the misuse of blasphemy of religion."*

¹⁰ Presidential Decree (Keppres) No. 264 of 1962 concerning the Prohibition of the Organization of the “Democratic League”, “Rotary Club”, “Divine Life Society”, “Vrijmet-Selaren-Loge (Loge Agung Indonesia)”, “Moral Reareament Movement”, “Ancient Mystical Organization of Rosi Crucians (AMORC), and the Baha'i Organization”.

¹¹ Presidential Decree (Penpres) No. 2/1962 on the prohibition of the existence of organizations that are not appropriate to the Indonesian personality, hinder the completion of the revolution, or are contrary to the ideals of Indonesian socialism.

In the Presidential Decree (Penpres) No. 2/1965, the basis for these considerations includes a prohibition on deliberately publicly telling, advocating or seeking public support to interpret a religion adhered to in Indonesia and religious practices that resemble religious activities adopted in Indonesia.¹² As a strong warning to stop such actions, if a sect violates this provision, the President will dissolve the Organization and declares it a forbidden organization or sect. Furthermore, if the adherents violate this stern warning, the adherents will be sentenced to imprisonment. The crime is explained in Article 4, which states, "In the Criminal Code, a new article is issued which reads as follows: "which is emphasized by Article 156a, Presidential Decree (Penpres) No. 2 of 1965, the sentence is imprisonment for a maximum of five years... if he intentionally expresses his feelings in public or commits an act:

- a. which is essentially hostile, abusive or defamatory towards a religion professed in Indonesia;
- b. with the intention that people do not adhere to any religion, which is based on the belief in the One and only God

The explanation in Article 1, Presidential Decree (Penpres) No. 2/1965, confirms that the religions embraced by the population in Indonesia are Islam, Christianity, Hinduism, Buddhism and Confucianism, as well as the [indigenous] belief systems that exist in Indonesia, which are guaranteed by Article 29 paragraph 2 of the 1945 Constitution. In the following explanation, it is noted that

"This does not mean that other religions, for example, Judaism, Zoroastrian [Zoroastrianism], Shinto, Taoism, are prohibited in Indonesia. They get full guarantees as provided for in article 29

¹² Presidential Decree (Penpres) Number 1/PNPS/1965 concerning Prevention of the Abuse and/or Blasphemy of Religion, Article 1.

paragraph 2, and they are allowed to exist, as long as they do not violate the provisions contained in this regulation or other legislation."¹³

It can be understood that Soekarno's policy through legislation was born in the Guided Democracy period.¹⁴ The legal policy has a background based on socio-legal and ideological-political considerations on safeguarding the state and the national revolution and safeguarding public peace (Christianto, 2013). On the other hand, the existence of Guided Democracy was opposed by Muhammad Hatta, the first vice president of Indonesia, by labelling it was rooted in the government's actions contrary to the Constitution. Hatta more specifically wrote: "*With it, he took a responsible action without assuming any responsibility.*" (Hatta, 1960, p. 2). Furthermore, the Guided Democracy period entered a phase of democratic crisis because Soekarno's actions had deviated far from the basics of the Constitution; even a dictatorial system in the name of Guided Democracy could lead to things that were contrary to what was aspired to (democracy) (Hatta, 1960). This period (i.e. 1960 to 1965) also saw the arrest and imprisonment of many Muslim figures.¹⁵ The impact of legal policies and state treatment was no exception to the Baha's, one of which was regarding the prohibited organizations in Indonesia. As a result, the Baha'i organization could

¹³ Presidential Decree (Penpres) Number 1/PNPS/1965 concerning Prevention of the Abuse and/or Blasphemy of Religion, Article 1.

¹⁴ The term "Guided Democracy" was born from Soekarno's speech on independence day August 17, 1959, which was given the name "Political Manifesto" (Manipol) and in early 1960, the idea was born as USDEK (the 1945 Constitution, Indonesian Socialism, Guided Democracy, Guided Economy, and Indonesian Identity) (Boland, 1971, pp. 101-102). This period (1959-1966) was known as despotic democracy (Lubis, 2020).

¹⁵ These Muslim leaders such as Muhammad Natsir, Sjafruddin Prawiranegara, Burhanuddin Harap, Asaat, Prawoto Mangkusasmito, Mohamad Roem, Isa Anshary, E.Z. Muttaqien, Junan Nasution, Kasman, HAMKA, and others, who are critical of Soekarno (Boland, 1971).

not develop rapidly. As explained by Sandy, after the issuance of Presidential Decree (Keppres) No. 264 of 1962, the number of Baha'i adherents decreased, with some even re-embracing Islam.

During the time of President Abdurrahman Wahid (Gusdur), Presidential Decree (Keppres) No. 264 of 1962 was revoked by Presidential Decree (Keppres) No. 69 of 2000 concerning the Revocation of Presidential Decree (Keppres) Number 264 of 1962 concerning the Prohibition of the Organization of the Democratic League, Rotary Club, Divine Life Society, Vrijmetselaren-Loge (Indonesian Foreign Loge), Moral Rearmament Movement, Ancient Mystical Organization of Rosicrucians (AMORC), and the Baha'i organization. Some of the reasons given for the revocation were:

- a. that the formation of social and religious organizations is essentially a human right of every Indonesian citizen.
- b. that the prohibition against organizations as referred to in Presidential Decree No. 264/1962 is deemed no longer compatible with democratic principles.
- c. that although Presidential Decree No. 264/1962 is no longer effective, to provide more legal certainty, it is necessary to revoke the Presidential Decree expressly.¹⁶

From the explanation above can be understood that Baha'i adherents have the right to form organizations, since, as previously explained, one of the principles established according to the Baha'i teachings is the acknowledgement of the Oneness of God. Baha'is adhere to the principle of the One and Only God; the values of humanity and civility, peace, justice, and equality are also central principles of their teachings. This is fully within the spirit of the

¹⁶ Keputusan Presiden Nomor 69 Tahun 2000 tentang Pecabutan Keputusan Presiden Nomor 264 Tahun 1962 Tentang Larangan Adanya Organisasi Liga Demokrasi, Rotary Club, Divine Life Society, Vrijmetselaren-Loge (Loge Asing Indonesia), Moral Rearmament Movement, Ancient Mystical Organization of Rosi Curcians (AMORC), dan Organisasi Baha'i, Bagian Menimbang.

constitution in Indonesia, namely Pancasila, as emphasized in Article 28E in the right to freedom of religion and worship according to one's religion, and the right to freely believe in its beliefs.¹⁷ Article 29 paragraph (1) of the 1945 Constitution, also states that: "*The State is based on the One and Only God*". Furthermore, in paragraph (2), it continues that "*The State guarantees the independence of each resident to embrace their respective religion and to worship according to their religion and beliefs*". That means that the existence of the Baha'i religion in Indonesia does not conflict with Pancasila and the 1945 Constitution. Therefore, the Baha'i religion is entitled to full guarantees, assistance, and protection.¹⁸

In the context of statutory norms, [Kelsen's \(2005\)](#) explanation is relevant:

"The relation between the norm regulating the creation of another norm and this other norm may be presented as a relationship of super- and sub-ordination, which is a spatial figure of speech. The norm determining the creation of another norm is the superior, the norm created according to this regulation, the inferior norm."

[Ashhiddiqie & Safa'at \(2006\)](#) reinforce the explanation above that the norms governing the formation of other norms are Pancasila and the 1945 Constitution; they are the superior norms that can be used as standards for evaluating the constitutionality of lower legal norms. The Baha'i teachings and the norms in Pancasila and the 1945 Constitution do not conflict with each other in principle; rather, they are in accord with each other. Therefore, the Baha'is' rights should be guaranteed, assisted, and fully protected. Furthermore, the existence of Baha'i adherents is also recognized by the Indonesian Ministry of Religion. Sutikno explains:

¹⁷ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28E Article (1) and (2).

¹⁸ Penetapan Presiden Nomor 1/PNPS Tahun 1965, Penjelasan Pasal 1.

"What we know, yesterday the Minister of Religion of the Republic of Indonesia, Yaqut Kholil Qoumas said happy Naw-Ruz holiday and that has also become a controversy in the community... it is not impossible for the Minister of Religion to suddenly wish you a happy Naw-Ruz day. The Minister would be criticized for not knowing the history, and the numbers of Baha'is in Indonesia."

Even though Pancasila and the 1945 Constitution implicitly recognize the validity of the Baha'i teachings – and the Baha'is should thus be entitled to full guarantees, assistance, and protection of citizenship rights, there are still problems in the Indonesian constitutional system that need to be overcome for the Baha'is to be fully recognized. In this case, the lower norm, namely the Law, should align with the higher norm. Law Number 23 of 2006 concerning Population Administration provides an example of civil rights that have not been recognized for Baha'is. It states the following regarding the religion column on the Family Card (KK): *"For residents whose religion has not been recognized as a religion following the provisions of the Legislation or for adherents of beliefs, it is not filled in, but is still served and recorded in the Population database"*.¹⁹ Likewise, with regard to the religion column on the National Identity Card (KTP), it is explained that *"[f]or residents whose religion has not been recognized as a religion following the provisions of the Legislation or for adherents of beliefs, it is not filled in, but is still served and recorded in the population database"*.²⁰ The issue of the religion column on ID cards is repeated in Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. Article 64, paragraph (5), states:

¹⁹ The Law Number 23 of 2006 concerning Population Administration, Article 61 paragraph (2).

²⁰ The Law Number 23 of 2006 concerning Population Administration, Article 64 paragraph (2).

"The population data element regarding religion as referred to in paragraph (1) for residents whose religion has not been recognized as a religion based on the provisions of laws and regulations or for believers in beliefs is not filled in but is still served and recorded in the population database."

The explanation above becomes the basis for the religion column on the KTP to be left blank or completed with a dash. The affirmation of the sentence in the regulation regarding "People whose religion has not been recognized" is used as a basis for not guaranteeing, assisting, and protecting the civil rights²¹ of Baha'i adherents in full. As explained above, there is not a single provision in the Indonesian legislation that mentions the Baha'i religion as a religion based on the One Godhead, but although not recognized by the state, it is entitled to be fully recognized by the constitution, as long as it does not violate the provisions of Indonesian law. In practice, the Government considers it an "unofficial" religion. It is only allowed to exist because it does not violate and interfere with Indonesian legal provisions.²² In other words, its existence is recognized, but the civil rights of its followers are not fully recognized. Although the guarantees, assistance, and protection of Baha'i adherents have not been fully recognized by the Government, in Kubu Raya, for example, they still struggle to get recognition in a positive manner, without attempting to force it. Sutikno states:

"Now, because the Government is still emptying it, later the ID card will be blank, maybe the database is written Baha'i at the Center, this is now in the process of taking care of it. The struggle for the religion column to be written on the ID card is certain, but we are also not

²¹ The Constitutional Court Decision Number 97/PUU-XIV/2016, 57th Petition Reasons.

²² The government considers that the six "official" religions in Indonesia are Islam, Catholic Christianity, Protestant Christianity, Hinduism, Buddhism, and Confucianism. See "Government's explanation of the requested material", Constitutional Court Decision Number 97/PUU-XIV/2016, sections 1 and 5.

asked to do so. Allow them to impose something that is not yet allowed. However, most importantly, the Government guarantees that every citizen is free to follow a religion; the most important thing is that."

Matters related to misrecognition or non-recognition from the government have a targeted impact on other aspects of civil administration, such as Baha'i marriages that require a Marriage Certificate but are hindered in carrying out administrative obligations, such as Sandy's experience, who has had a marriage in Kubu Raya, but then had to struggle for their civil rights, as follows:

"Yes, actually regarding civil administration for Baha'i friends nationally, we face different challenges in each region. For example, in Kubu Raya, my wife and I happened to be taking care of the marriage certificate, my sister and her husband also took care of it. That is through the district court. So, actually, in the beginning, when we took care of the civil registration at the Dukcapil Kubu Raya, they gave a particular letter, yes, not from them, but Surabaya or the Ministry of Home Affairs, if I am not mistaken. If they cannot make a Civil Marriage Certificate for the Baha'i Religion, they suggested that we go to the Mempawah State Court because there is not one here yet, so we went to Mempawah. Finally, after a long struggle and several sessions, the letter appeared accepting our Baha'i Marriage Certificate. So, it's automatic for religion, we'll strip it, yes, it's left blank. But it seems that now I hear the information, it can't be left blank anymore, so there must be, at least a faith, that's the difference. When I took care of it around 2017."

Moreover, according to Sandy, although Baha'is manage to obtain marriage certificates, the certificates do not fully reflect their views and wishes. The local government in Kubu Raya, through the Department of Population and Civil Registration (Dukcapil), is "*manipulative*" against the Baha'i religion, based on the Mempawah District Court's decision, by converting it to a belief. Baha'i adherents still have not fully received guarantees, assistance, and protection from the government regarding the civil rights that have been

mentioned. Sandy stated: "*We Baha'is always write or say that we are Baha'i, but what they write is against our will.*" That is because the state restricts access through its government system, as explained by Sandy:

"Actually when we started the civil administration process at the Dukcapil Kubu Raya, the staff wanted to help us complete the religion column on the ID card, but because the system was not set up to allow for the Baha'i Religion to be entered in the religion column, they couldn't. So, they wanted to help, but the central system did not make it possible".

The explanation above shows that the Baha'i adherents seek to be officially recognized, but, in attempting to obtain civil rights, they prioritize behaviour that is in accordance with the humanitarian principles contained in the Baha'i teachings. Baha'i adherents carry out their obligations as citizens, following all necessary procedures to obtain their civil rights, even though the state does not fully guarantee, assist, and protect those rights. The rejection is based on Law Number 23 of 2006 concerning Population Administration and is reflected in the government's treatment of Baha'i adherents when they seek their civil rights as a distinct religious group.

CONCLUSION

As an independent religion, the Baha'i religion has spread to most countries around the world, including Indonesia. Denial of the existence of the Baha'i religion still occurs in some countries, although some countries welcome it. Sociologically, Baha'i adherents in Indonesia are still not fully recognized in some areas, even though their rights should be fully guaranteed in accordance with Pancasila and the 1945 Constitution. In practice, the Baha'i adherents in the Muslim community of Kubu Raya do not experience discrimination, such as rejection of religion and criticism. There is also a reciprocal recognition between the Baha'i adherents and the local community.

At the same time, however, the Baha'is still face obstacles in the legal struggle for their civil rights.

The Baha'is in Indonesia are still not fully recognized as regards the application of the law, with their civil rights being inhibited to some degree. Thus, there is no reciprocal recognition in this regard. That implies that the state still does not recognize the Baha'i religion as a recognized religion in Indonesia; rather, it only acknowledges its existence without guaranteeing, assisting, and protecting the civil rights of its adherents in full. For this reason, it is necessary to revise Law Number 23 of 2006 concerning Population Administration by removing such statements as "for residents whose religion has not been recognized as religion". The revision is needed so that the realization of religious freedom in Indonesia can be fully guaranteed, assisted, and protected in accordance with the constitution.

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