

# Legal Protection for Marriages of Traditional Beliefs Adherents in Indonesia

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## Abstract

Sunda Wiwitan is one of the largest traditional religious belief systems in Indonesia, though it is not recognized by the state. Consequently, the State does not recognize marriages of Sunda Wiwitan adherents as legal and valid. The Authors will examine the legal protection given to marriages of Sunda Wiwitan adherents. This study uses a juridical-sociology approach method, which examines facts directly in the field and incorporate findings into legal research. Further amendment to Article 2 paragraph (1) of the Marriage Law is required to ensure legal protection for marriages carried out by adherents of traditional beliefs, including Sunda Wiwitan adherents, by adding acknowledgment of and recognition to marriages carried out according to the law of these traditional beliefs. Meanwhile, children from marriages of Sunda Wiwitan adherents receive the legal status of 'children out of wedlock', due to non-recognition of the religious belief and the marriages carried out under it, thus the Decision of the Constitutional Court of the Republic of Indonesia No. 46/PUU-VIII/2010 applies, which states that a child born out of wedlock enjoys a civil relationship with its mother and its mother's family as well as with its biological father and its father's family, which blood relations can be proven using science and technology and/or other evidence according to the law.

Keywords: Traditional beliefs adherents, Marriage, Sunda Wiwitan.

## A. Introduction

Marriages in Indonesia are regulated by Law No. 16 of 2019 Concerning Amendment to Law No. 1 of 1974 Concerning Marriage (hereinafter referred to as the Marriage Law). The Marriage Law contains provisions that accommodate the principles that have been used as a guide for the Indonesian people. Marriage is a physical and spiritual bond between a man and a woman as husband and wife to establish a happy and everlasting family founded on belief in God Almighty (Subekti, 1995). According to this definition, a marriage is expected to refer to the first principle of Pancasila, Indonesia's state ideology, which is the belief in the one God Almighty. This implies that marriage is inseparable from religious beliefs or spirituality, meaning marriage does not only have an outer (physical) element but also an inner (spiritual) element (Santoso, 2016).

Satjipto Rahardjo stated that: "in maintaining, protecting, and improving family welfare and happiness, the government has implemented laws governing marriage and family, namely Law No. 16 of 2019 Concerning the Amendment to Law Number 1 of 1974 Concerning Marriage (Zahid, 2019). The Marriage Law is a step towards the era of unification of marriage laws in the country, so that whoever the person is as long as they bear the attributes as an Indonesian citizen, for marriage matters, are subject to the same legal rules, which is the Marriage Law (Isnaeni, 2016). This law, aside from being national in nature, is also non-discriminatory because it applies to all Indonesian citizens, regardless of backgrounds and origins, race, ethnicity, religion, culture, etc. The only difference is at the level of implementation,

given the variety of religions with their own religious laws that are embraced by the Indonesian people (Hazairin, 2008).

Indonesia is a unitary state in the form of a republic, known officially as the Unitary State of the Republic of Indonesia which was built on the foundation of the unity of the Indonesian people. To strengthen the continuity of the Unitary State of the Republic of Indonesia, the Indonesian people have the same national view, namely '*Wawasan Nusantara*' (literally, Archipelago Insight/Concept) with the principle of '*Bhinneka Tunggal Ika*' (literally, 'many but one') (Handyaningrat, 2012). Through *Wawasan Nusantara*, the Indonesian nation views Indonesia with its vast territory and the diversity of people living in it, as essentially one unit, namely: one territorial unit, one national unity, one political, economic, cultural, national security and legal entity. The Indonesian nation is a pluralistic nation consisting of various ethnic groups, languages, religions, and diverse customs (Arizona, Azis, & Pradana, 2019), which is a great blessing for the Indonesian state, and it is able to 'maintain' this blessing with the help of the principle of *Bhinneka Tunggal Ika*. This principle is also embodied in the Marriage Law. Indeed, the formation of this marriage law was carried out through a long process, due to the tug-of-war of various aspirations of groups, religions, or national interests. Moreover, marriage is a very sensitive part of the law due to its sacred nature, as well as the fact that it involves so many religions, thus triggering many obstacles and hindrances (Isnaeni, 2016).

The Indonesian government only recognizes 6 (six) religions, namely, Islam, Catholicism, Protestant Christianity, Buddhism, Hinduism, and Confucianism. In addition to the six religions, all forms of belief in society are referred to as 'adherents of beliefs'. The arrival of religious beliefs to Indonesia has created a mix of beliefs called syncretism. This is because the arrival of all these religious beliefs to Indonesia does not completely eliminate and replace existing beliefs that have long been held and adhered to by the Indonesian people (Maran, 2019). Animism and dynamism which have been the people's beliefs from generation to generation are still being developed by certain communities until today. The syncretism of belief which is the result of the syncretism of various religious teachings can be seen clearly in certain communities (Ekadjati & et.al., 1979). For example, the traditional beliefs of Sunda Wiwitan (West Java), Islam Kejawen (Central Java and East Java), Parmalim (West Sumatra / Batakese North Sumatra), and Buhun (West Java). Adherents of the traditional beliefs in Indonesia are a group of people who are currently still discriminated against due the fact that their faith has not been recognized by the government. Because in reality, the regulations that have been enacted have not been able to accommodate all the complexities that exist in the community, making it difficult for law enforcement officers to find solutions to these complex problems, in this case the legal protection of marriages of adherents of traditional beliefs (Afriansyah, Fatoni, & Kania, 2021). Sunda Wiwitan is a religion with a distinct characteristic of primordial monotheism (Fauzan, 2011), which is the worship of the One God Almighty or 'God Supreme' that is formless, and is called "*Sang Hyang Kersa*", who is comparable to God Almighty in other monotheistic religions (Indrawardana, 2014).

Based on this background, the Author is interested in examining the extent to which the national marriage law system regulates the customary marriages of the Indonesian people in relation to the traditional belief system of Sunda Wiwitan which the indigenous people adhere to.

## **B. Research Methods**

This study uses a juridical-sociology approach method, which examines facts directly in the field and incorporate findings into legal research (Soemitro, 1980). The specifications of the research used are

descriptive analytical, by providing data or a description as accurately as possible regarding the object of the problem, which is traditional marriages in Indonesia. Data collection is carried out by conducting interviews with indigenous community leaders, as well as reviewing primary legal materials and other laws and regulations related to customary marriages as the object of the problem.

### **C. Theoretical Review**

#### **1. Concept of Marriage Based on State Law**

Marriage is defined as a contract between a man and a woman as husband and wife (Poerwadarminta, 1994). Marriage is a crucial legal event in a human's life, thus, there is a law that regulates the legal relationship between a man and a woman who has met the requirements of marriage, for as long as possible (Kartasapoetra, 1988). Marriage in Indonesia is regulated in Article 1 of the Marriage Law which states that (Hadikusumo, 2007):

“Marriage is a relationship of body and soul between a man and a woman as husband and wife with the purpose of establishing a happy and lasting family (household) founded on belief in God Almighty.”

According to the Marriage Law, marriage is not only a civil bond but also a religious bond. This can be seen from the formulation of the article which states that marriage aims at forming a happy and lasting family or household founded on belief in God Almighty, so here it can be concluded that all marriages in Indonesia is based on the first principle of Pancasila where there is a strong and very close relationship to religion, meaning marriage does not only have a physical element, but also a spiritual-religious element that plays an important role as well (Sudarsono, 2005).

There are several elements of marriage mentioned in Article 1 of the Marriage Law, including (Mahdi & Subekti, 2005):

- a. “Outer-inner bond...”
- b. “...between a man and a woman...”
- c. “...as husband and wife...”
- d. “...founded on belief in God Almighty.”
- e. which is belief in One God Almighty.

#### **2. Requirements and Purpose of Marriage**

A marriage is considered valid if it fulfills the conditions specified in the Marriage Law. These conditions or requirements are categorized into material requirements and formal requirements (Darmabrata & Syarif, 2005, pp. 21 - 22). Material requirements are conditions related to a person's self that must be fulfilled in order to be able to carry out a marriage validly, while formal requirements are conditions related to the procedure for the marriage to take place, both conditions that precede or accompany the process (Darmabrata & Syarif, 2005, p. 22). Material requirements for marriage is regulated in Articles 6 to 12 of the Marriage Law. The formal requirements for marriage are contained in Article 2 paragraph (1) of the Marriage Law which states:

“A marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned.”

Registration of marriage is further regulated by Law No. 24 of 2013 Concerning Amendment to Law No. 23 of 2006 Concerning Population Administration.

The formulation of Article 1 of the Marriage Law contains the purpose of marriage, which is to form a happy and lasting family or household based on belief in God Almighty, meaning that marriage is carried out for life (Saleh, 1990). The inner and outer bond is meant that the husband-and-wife relationship is not merely an outward bond in the sense of an ordinary physical bond, but both of them must have an inner spiritual bond in order to strengthen the foundation in building a happy and lasting household (Daud, 2008).

A marriage must be established based on belief in the One God Almighty, where a happy and lasting family is inseparable from religious teaching, be it any one of the six recognized religions in Indonesia, namely Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. The norms in religious law must animate marriage and family establishment, and it can only be achieved in there is balance and equal footing between the husband and the wife. Article 1 of the Marriage Law also shows the existence of the very close relationship between marriage and religion or spirituality, and it draws the main purpose of marriage which is to establish happiness between the husband and wife, and also to produce offspring between them, as well as to uphold religious values in their parental family unit (Hadikusumo, 2007, p. 21).

### **Concept of Marriage Based on Customary Law**

#### **1. Definition of Marriage**

Ter Haar argues that marriage is a matter of kinship, a family matter, a community matter, a matter of dignity and a private matter (Haar, 1991, p. 167). In Indonesia, where marriage includes a civil engagement which is also a customary engagement and is an engagement of kinship and neighborhood. The establishment of a marriage bond does not only lead to civil relations, where for example it involves the rights and obligations of husband and wife, joint property, children's position, rights, and obligations of parents, but also regarding the existence of a relationship of customs, inheritance, kinship, and neighborhood, as well as regarding traditional and religious ceremonies.

Customary law defines marriage as an event that is considered very important in its entirety to get an attention which is closely followed by the elderlies of both parties of the bride and groom. Customary law sees marriage as something that brings a wider relationship between one community and another, rather than viewing it as mere existence of a sexual relationship between a man and a woman. The resulting relationship is determined and controlled by the system of norms prevailing in that society (Purwadi, 2005). A Van Gennep gives a term for marriage ceremonies as '*rites de passage*' (transitional ceremonies). These transitional ceremonies consist of three stages: *rites de separation*, which is a farewell ceremony from the original status, *rites de marga*, which is the ceremony of going to a new status, and *rites de agregation*, which is the acceptance ceremony in a new status.

These transition ceremonies symbolize the transition of the status of each of the bride and groom who had lived alone after going through the required ceremony to live together as husband and wife, who were originally members of their respective parents' families, and after marriage they both became their own family, a new family that they build themselves (Wignjodipoero, 1994).

#### **b. Purpose of Marriage**

The main purpose of marriage in an indigenous community is kinship in which is necessary to maintain and raise offspring according to the maternal or paternal line, for the happiness of the family and its relatives, to maintain cultural and traditional values, peace, and inheritance (Hadikusumo, 2007, p. 23). In addition, the goal is to create a safe, peaceful, and prosperous society through various

rituals and offerings that complement the ceremony that will support the smooth process of the ceremony both short and long term which ultimately is to pursue a happy and prosperous life in the future for the whole family as a unit.

c. Marriage Requirements

The conditions for the validity of marriages according to customary law in society in general depend on the religion of the indigenous peoples concerned, meaning, if a marriage has been carried out in accordance with the laws of their religion, then the marriage is legally valid by custom. In short, according to customary law, marriage is legal and valid if it is carried out according to the religion and belief of the indigenous peoples concerned (Hadikusumo, 2007, p. 19).

**D. Analysis**

Legal development is directed towards a unified legal system for all people of Indonesia, and it is carried out by considering the legal awareness of the community. The principle of *Bhinneka Tunggal Ika* of course has consequences on the legal system in Indonesia. Indonesia adopts a legal system that is a mixture of the European legal system, religious law, and customary law. Most of the legal systems adopted, both civil and criminal, are based on continental European law system, especially from the Netherlands because of Indonesia's colonial history as the Dutch East Indies. In this case, the law related to family law that is applicable is not only the rules listed in laws and regulations but also all related elements (Judiasih, Nugroho, & et.al., Marital Agreement in the Era of Industrial Revolution 4.0). One of the related elements is customary law, because legislation and jurisprudence in Indonesia there also absorbs customary law system, which is a continuation of local traditional rules of the people and cultures found within the territory of Indonesia. Customary law that exists in an area is a guideline for how indigenous peoples behave and becomes a guide for the creation of peace between them (Maimela & Maunatlala, 2020).

Generally, according to customary law in Indonesia, marriage does not only mean a civil relationship, but is also a customary engagement and is at the same time an engagement of kinship and neighborhood, so the occurrence of a marriage bond does not only have consequences for civil relations such as the rights and obligations of husband and wife, property, wealth, joint property, children custody, rights and obligations of parents, but also regarding customary relations such as inheritance, kinship, and neighborhood as well as concerning traditional and religious ceremonies, both in human relations between humans and their God (as in worship) and human relations between humans in the association of life in order to be safe in this present world and the hereafter (Hadikusumo, 2007, p. 10). Basically, marriage is considered a sacred thing because the rules in marriage are often associated and have close relationships with every religion (Judiasih, Sudini, & et.al., 2019). Therefore, Ter Haar argues that marriage is not only a matter of relatives, family affairs, community affairs, personal affairs, but it also involves religious matters (Haar, 1991, p. 158). As Van Vollenhoven puts forward that in customary law there are many legal institutions and legal rules related to the world order outside and above human capabilities (*hoogere wereldore*) (Hadikusuma, 1977).

Indonesia is a country that upholds the values of its national philosophy or *groundslag*, which is the Pancasila, in the life of the nation and state. It is the embodiment of the nation's collective consciousness that requires state order as a reflection of a sense of togetherness, which can be seen in the first principle of the Pancasila, the basis of the Indonesian state, which affirms belief in the One God Almighty as a universal conception that accommodates all religious teachings and beliefs adhered to by

the people of Indonesia (Lindsey & Pausacker, 2016). The guarantee of religious freedom is enshrined in Article 29 of the 1945 Constitution of the Republic of Indonesia. However, the state has contradicted the mandate of the constitution and denied right to religious freedom by enacting Law No. 1 of 1965 Concerning the Prevention of the Abuse and Blasphemy of Religion which states that there are only six religions officially recognized by the state, namely Islam, Christianity, Catholicism, Hinduism, Buddhism and Confucianism (An-Na'im, 2007). Then came the Instruction of the Minister of Religious Affairs No. 4 of 1978 Concerning Policies Regarding Religious Beliefs which caused traditional beliefs to be no longer the business of the Department of Religious Affairs of the Republic of Indonesia, because they were not considered as religions. Following that, the Attorney General's Office issued Decree No. 004/JA/011984 established the Coordinating Board for Supervision of Public Trust (Sidik, 2019). Those regulations have further reaffirmed the government's position on only recognizing six religions in Indonesia, while denying the existence of the many indigenous religions and traditional beliefs that can be found all over the archipelago such Kejawen (traditional belief of the Javanese people), Sunda Wiwitan (traditional belief of the Sundanese people), Kaharingan (traditional belief of the Dayak people), Parmalim (Traditional belief of the people of North Sumatra) and so on. The state has not officially recognized any of them through a statutory regulation.

In customary law, marriage is not only an important event for those who are still alive, but it is also an event that is very meaningful and is followed by the spirits of the ancestors of both parties. Thus, marriage according to customary law is a sexual relationship between a man and a woman, which brings a wider relationship, namely between the relatives of the husband and the relatives of the wife, and even between one community and another. This relationship is determined and supervised by the system of norms prevailing in the society. An ideal marriage is one that strictly follows all the norms in that society, a marriage that occurs based on certain considerations, does not deviate from the provisions of the rules or norms that apply in the local community. A Van Gennep (in St. Laksanto Utomo), a French sociologist, called all marriage ceremonies as '*rite de passage*' (transitional ceremonies) which symbolize the transition or change in status of the bride and groom who originally lived separately, but after carrying out the marriage ceremony, they live together, becoming husband and wife. At first, they were members of their respective parents' families, but after their marriage they both became their own family, a new family that is independent and led by themselves.

The author takes the example of the marriage system in the family and kinship that adheres to the local traditional beliefs of the archipelago, namely marriage in the Baduy indigenous community. Traditional marriage in the Baduy community is a universal thing, however, the nature of these institutions is very different from one society to another. Even though Law No. 1 of 1974 Concerning Marriage has been enacted, Baduy people in general still use marriage methods according to their own customary law based on the teachings of Sunda Wiwitan.

The customary marriage system of the Baduy community is not influenced by the social status, both the Inner Baduy community (*urang tangtu*), the Outer Baduy community (*urang panampung*) and the *Dangka* community who have blood relations remain relatives. For example, a grandson of a *puun* who lives in Outer Baduy or *Dangka* is still recognized as a grandson. Even though their status has changed, their kinship is still well maintained, such as by visiting each other. Not all Baduy people who live in Outer Baduy are *ditamping* (expelled/exiled/excommunicated) for committing customary violations, but some are moving out to Outer Baduy based on their own wishes. The customary marriage system of the Inner

Baduy people (*urang tangtu*) is endogamy, where marriage can only be carried out between two Inner Baduy people (*urang tangtu*), and parents reserve the right to decide and choose a husband or a wife candidate for their child. If the parents of both parties agree, then the marriage can be carried out. Marriages are usually carried out in a customary manner in front of the leader of the indigenous community (*puun*).

The second example is the Cigugur indigenous community who reside in Kuningan Regency, where there is a difference between the Sundanese people in general and people who adhere to Sunda Wiwitan, starting from the pre-wedding procession where there are several stages that are carried out only by the Sunda Wiwitan adherents which are quite lengthy, until the wedding procession with a general Sundanese custom that is guided by elders who advise the bride and groom and provide direction related to their obligations according to the customs of Sunda Wiwitan. Several things are emphasized in the customs of Sunda Wiwitan, including:

- a. The adherents of Sunda Wiwitan believe that their belief has existed since ancient times which focuses on the concept of 'the Indonesian nation which is rich in cultural wisdom'.
- b. The adherents of Sunda Wiwitan believe that is their belief is not a sect, because they believe that a sect (in Bahasa Indonesia, '*aliran*') 'flows' (in Bahasa Indonesia, '*mengalir*') which holds a different essence, where it will have different meanings once it has flowed downstream, so they consider this Sunda Wiwitan belief is not merely a sect but a complete belief system that they believe comes from its own 'source'.
- c. The adherents of Sunda Wiwitan do not have gospel mission, or spreading the teachings of their belief, because they believe that a belief in Sunda Wiwitan and its traditions and teachings must come from within.
- d. If in a traditional marriage procession there are two differing customs, such as Sunda Wiwitan and one other, then Sunda Wiwitan adherents do not force their customs upon others, because later there will be separate discussions between the two families before the marriage.
- e. Sunda Wiwitan strictly prohibits its adherents from marrying foreigners, as it will result in blood-mixing which can disturb the lineage of their descendants.

To this day, the sources from Sunda Wiwitan indigenous communities still are not willing to categorize their teachings as a 'sect' because of the negative stigma that applies in society that associates 'sect' with 'deviant sect' or 'cult' so that they have welcomed us to define their teachings as a religion or a belief. Sunda Wiwitan as a religion had existed prior to the other, more well-known religions in Indonesia, but is currently not recognized as an official religion by Law No. 1 of 1965 or more commonly known as Act No.1/PNPS/1965 (Kania, Kusmayanti, & Mulyanto, 2019). Religious freedom is one of the basic rights that the State must protect at all costs. Many human rights legal instruments, whether domestic or international, have laid out and regulated religious freedom. Manfred Nowak elaborates religious freedom as absolute, or a right that cannot be limited or derogated (non-derogable right) (Nowak, 2000). In fact, the religious freedom has sometimes been said as the founding idea of human rights protection, which first stemmed from the protection of religious minorities (Scheinin, 1999).

An obstacle is usually faced when recording marriage registration from people who adhere to the Sunda Wiwitan belief, as the Population and Civil Registry Service itself underestimates and does not consider Sunda Wiwitan as a religion, causing registration of marriages of Sunda Wiwitan adherents to be

an extremely difficult task to complete. Adherents of Sunda Wiwitan themselves do not force other people/customs to follow their customs and beliefs after marriage, which raises a very high possibility of interfaith marriages among Sunda Wiwitan adherents considering their lack of vision and mission to spread their beliefs to others. Adherents are also unable to register their marriages because their belief is not recognized by the state. Moreover, the Marriage Law has also laid out conditions for validity of a marriage, as stated in Article 2 paragraph (1): "A marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned". Thus, a legal and valid marriage, according to the Marriage Law, is a marriage that is carried out according to the religious laws of one of the six religions that are recognized by the state. The phrase "...performed according to the laws of the respective religions and beliefs of the parties concerned." Refer to the laws of the religion adhered to by both the bride and the groom as well as their respective families. So according to the article above, a marriage of adherents of Sunda Wiwitan is not viewed as one that is carried out in accordance with the Marriage Law, thus is considered invalid.

Sunda Wiwitan adherents have been trying to figure out a way to convince the State to recognize their marriages, such as by adding witnesses to their marriages, but still, when they registered with the civil registry, they were still denied their rights on the grounds of filing under customary marriages. In fact, marriages of Sunda Wiwitan adherents have to go through an extensive traditional procession, and even inviting various interfaith leaders. Many adherents are also forced to convert to one of the six state-recognized religions, just to get their marriage legally recognized and validated by the State. The non-recognition of marriages of Sunda Wiwitan adherents are negatively impacting their children. In this case the Author recommends that the Marriage Law must be amended, specifically Article 2 paragraph (1) which determines "a marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned". Textually, this paragraph only legalizes the marriage of citizens who adhere to one of the six 'official' religions. The paragraph above also does not provide legal space and protection for citizens who do not affiliate to any religion (Ceprudin, 2016), as well as those who do not adhere to one of the six state-sanctioned religions such as the adherents of Sunda Wiwitan. It is recommended to add a clause that mentions 'traditional belief' in Article 2. Usually, adherents of Sunda Wiwitan carry out their traditional marriage customs at a church, but without leaving their belief. Even to this day, adherents of Sunda Wiwitan are still being denied their basic rights by the State. Pangeran Djatikusuma, an indigenous leader of a Sunda Wiwitan community commented "the State must protect all citizens without discrimination, but with discriminatory regulations, they do not respect the culture of their own people, for who knows how long." Amendment to Article 2 is the only way the government can fulfill the mandate given by the constitution, specifically Article 18 B paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Another problem is that only the mother's name can be included as the parent on the birth certificates of the children of Sunda Wiwitan, because the state considers these children to be born 'out of wedlock'. Such discrimination is not exactly news for Sunda Wiwitan adherents, as they have been discriminated against since the Dutch colonial period. This condition did not improve even after independence, where adherents of traditional beliefs were criminalized during Sukarno's administration. Sunda Wiwitan adherents continued to endure discrimination in the society. To avoid further harm, the leaders of the Sunda Wiwitan belief then decided to dissolve the Javanese Sundanese Religion



Organization (*Organisasi Agama Djawa Sunda*, or ADS) which included Sunda Wiwitan, and its adherents converted to Catholicism or Christianity.

Not having a valid, state-issued marriage certificate has also broadly impacted the lives of Sunda Wiwitan adherents. They are not entitled to various benefits, such as health benefits from their husband's office because despite the fact that they are married, but they cannot prove it with a valid certificate, thus, the husband is still considered a bachelor, causing the spouse to be not entitled to benefits. The same story goes for the children of Sunda Wiwitan adherents. When they are born, they will not be entitled to a valid, state-issued birth certificate. This will of course negatively impact the children's future, where they will face discrimination in civil administration, such as when applying for identity card. The discrimination is deeply rooted and systematic. When one's religion is not included in their ID card (for not being adherent to one of the six state-approved religions), they will face difficulties in facing administrative matters, whether at school, banking, or in marriage. Those who cave into the pressure are usually coerced into converting into one of the six religions. For example, when they are about to get married, some Sunda Wiwitan adherents lie by registering as adherents of a recognized religion in order to get a marriage certificate. However, for those who persist and stay true to their own faith, a marriage certificate is just wishful thinking.

Existing laws and regulations have been historically proven to be discriminatory against Sunda Wiwitan adherents. Various attempts have been undertaken by Sunda Wiwitan adherents to gain recognition and have their rights fulfilled, such as by registering their indigenous community to the Ministry of Education and Culture. However, this did little to overcome the difficulties of civil administration among other things for Sunda Wiwitan adherents. The Constitutional Court of the Republic of Indonesia has conducted a judicial review and material examination on Article 61 paragraph (1) and (2) and Article 64 paragraph (1) and (5) of Law No. 23 of 2006 Concerning Population Administration in conjunction with Law No. 24 of 2013 Concerning Amendment to Law No. 23 of 2006 Concerning Population Administration, with Petition Case No. 97/PUU-XIV/2016 regarding the Emptying of the Religion Column on Family Cards and Identity Cards for Traditional Belief Adherents in Relation to the Constitutional Rights of Adherents to Obtain the Basic Rights of Citizens. The reason requested is related to the emptying of the religion column on the electronic Identity Card for adherents resulting in the Petitioners as citizens being unable to access and obtain their basic rights such as the right to education, the right to work, the right to health, the right to social security along with all of its services, thus, it is in clear violation to the basic rights as guaranteed in the constitution (Judiasih, Netty, & Nugroho, 2018).

In the process of requesting an Identity Card, Sunda Wiwitan adherents are considered as non-religious, and the religion column in their ID's is left blank. In addition, only the mother is stated on a Sunda Wiwitan adherent child's birth certificate, while the father is written administratively as the adoptive father. These administrative difficulties have implications for other civil rights, such as education, employment, and politics. Children of Sunda Wiwitan adherents are forced to accept the teachings of other religions, take religious subjects of other religions, and some are forced to take part in other religion's religious activities.

International Human Rights Instrument, namely the Universal Declaration of Human Rights regulates a number of provisions regarding the right to life and children's rights in Article 1 that "All human being is born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". Also, in Article 3: "Everyone has the right to life, liberty

and security of person". Article 25 paragraph (2) also states: "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or wedlock, shall enjoy the same social protection".

The rights of children who are considered to be born out of wedlock under Indonesian law is protected by the enactment of the Decision of the Constitutional Court of the Republic of Indonesia No. 46/PUU-VIII/2010, which states that a child born out of wedlock enjoys a civil relationship with its mother and its mother's family as well as with its biological father and its father's family, which blood relations can be proven using science and technology and/or other evidence according to the law. On the one hand, the Constitutional Court's decision is viewed as a legal milestone, but on the other hand, it is viewed as a form of legalization of adultery, especially by conservative religious leaders who have deemed the court's decision as 'shocking' and 'too progressive'. As for others, the court's decision is a historic one, that carries broad and thorough legal implications on a number of existing 'conventional' laws and regulations, as well as on the conservatives (Konoras, 2013).

#### **E. Conclusion**

Amendment to Article 2 paragraph (1) of the Marriage Law is necessary to give legal protection to marriages of traditional beliefs adherents, such as Sunda Wiwitan, by adding phrases that acknowledge marriages carried out according to traditional beliefs. Whereas the rights of children from marriages of Sunda Wiwitan adherents, as children who are born outside wedlock, are protected by the enactment of the Decision of the Constitutional Court of the Republic of Indonesia No. 46/PUU-VIII/2010, which states that a child born out of wedlock enjoys a civil relationship with its mother and its mother's family as well as with its biological father and its father's family, which blood relations can be proven using science and technology and/or other evidence according to the law.

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