

## A State Based on The One Almighty God Following The 1945 Amendment to The Indonesian Constitution

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**ABSTRACT** : Indonesia is a country that believes in the existence of God. This is because this statement is written in the 1945 Constitution. The first principle of the Indonesian state is also stated in the Constitution, namely "Belief in the One and Only God." Therefore, all aspects of life in this country must be based on belief in the One and Only God. This reinforces the Indonesian state's belief that all citizens have the natural freedom to practice their religion according to their respective beliefs. Therefore, belief in the One and Only God is a mandatory requirement for civil servant (PNS) recruitment. This requirement requires that Indonesian citizens be devout to the One and Only God. This is crucial because humans need God to submit and seek His guidance. Furthermore, embracing a religion is a human right for citizens. Religion is also important in social and political life. The purpose of this paper is to discuss the aftermath of Constitutional Court Decision No. 97/PUU-XIV/2016. The method used is qualitative. The results of this discussion reveal the differences between religion and belief. So religion is not the same as belief.

**KEYWORDS:** *God-Believing State; human rights; social and political life; religion; belief.*

### I. INTRODUCTION

Philosophically, the State of Indonesia is a State based on the One Almighty God. This divine basis is the first principle of Pancasila, the formulation of which is stated in the fourth paragraph of the 1945 Constitution of the Republic of Indonesia (UUD 1945), the phrase of which reads as follows: "... then the Independence of the Indonesian Nation is formulated in a Constitution of the State of Indonesia, which is formed in a structure of the State of the Republic of Indonesia with people's sovereignty based on the One Almighty God,...(Nanggala, 2020).

In general, the understood meaning of the phrase "Ketuhanan Yang Maha Esa" (God Almighty) is faith and devotion to God Almighty based on one's respective religion and beliefs. Devotion to God Almighty is so crucial for the Indonesian people that it is a prerequisite for employee recruitment. Citing the kemendagri.go.id website, for example, among the general requirements for the 2023 National Civil Service Candidate (CPNS) recruitment is that Indonesian citizens must be devout to God Almighty.

In the basic norms (articles of the 1945 Constitution), this philosophical basis is further elaborated in Article 29 paragraph (1), which states, "The State is based on Belief in God Almighty." This article is located in Chapter XI, entitled "RELIGION." Chapter XI, "Religion," consists of two paragraphs, of which paragraph (2) reads: "The State guarantees the freedom of every citizen to adhere to their respective religion and to worship according to their religion and beliefs."

According to the Indonesian Constitution, religion (embracing a religion) as an embodiment of belief in God is one of the Human Rights (Nanggala, 2020). Positioning the right to religion as part of this Human Rights is formulated in Chapter XA of Human Rights of the 1945 Constitution (second amendment). Article 28E paragraph (1) formulates: "Everyone has the right to embrace a religion and worship according to their religion, ...". It is also formulated in Article 28I paragraph (1) that "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, ...".

The general view on the formulation of the Constitution is that because the Indonesian state is based on God, its people are naturally religious people (Nanggala, 2020), (Septiani et al., 2025). A religious person is a person of religion. Therefore, believing in God is synonymous with being religious. Therefore, all Indonesians are necessarily religious (religious).

This view is common in Indonesia. The following quote: "The principle of Belief in God is placed as the first principle, indicating the great attention our people place on religious matters. Religion is important in the social, political, and economic life of the Indonesian people; even their way of thinking is always linked to religious matters (Nanggala, 2020). A similar view is evident in the writing of Constitutional Justice Ahmad

Fadlil Sumadi, 2010- 2015: "The Indonesian people, as a religious nation, believe that the Indonesian state was formed by the grace of Allah, the Almighty God (fadhil Allah) and the noble drive to live a free national life (ikhtiyar)."

The legal configuration based on this view ultimately places religion as an obligation (Manurung et al., 2025). This is implied, for example, in Article 9 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, that the executive branch of state leadership must be held by a religious person. "Before assuming office, the President and Vice President shall swear an oath according to their religion,...". The President and Vice President swearing an oath according to their religion indicates that the positions of president and vice president, according to the 1945 Constitution of the Republic of Indonesia, must be held by religious people. Therefore, it is impossible for a non-religious person to become president or vice president of Indonesia. The view that belief in God is the same as being religious certainly contradicts basic human rights norms. In the life of the nation and state, religion is not just a right but is a Human Right (HAM) and not a Human Obligation (vide Article 28E paragraph (1) and Article 28I paragraph (1)). At the Indonesia Lawyer Club (ILC) event, the representative of the Indonesian Ulema Council (MUI) who said that believing in the One Almighty God means that every citizen embraces their own religion, therefore communism is prohibited, was debated by Rocky Gerung by questioning and answering that religion according to the Indonesian Constitution is not an obligation but a right. Is there a formulation in the Indonesian Constitution that religion is an obligation? The representative of the MUI was silent.

Rights and obligations have different consequences (Moendoeng, 2019). If believing in God is interpreted as the same as being religious and is an obligation, then the consequence of being religious is coercion. This is because obligation implies necessity/compulsion. Conversely, if religion is a right, then the right to religion may be exercised or not exercised because rights contain freedom {see Article 29 paragraph (2) in conjunction with Articles 28E paragraph (1) and 28I paragraph (1)}, but it remains within the framework of the One Almighty God.

Although the state is based on the One Almighty God, Indonesia does not adhere to a single religion (it is not a religious state) and is not a secular state (it is not a secular state). One appropriate term for Indonesia, as a state based on Pancasila, is a nation-state based on God (religious nation-state). And a religious nation-state does not necessarily have to be a religious state.

According to the Big Indonesian Dictionary (KBBI), religious means: religious in nature; religious in nature; related to religion. Meanwhile, the meaning of religion, according to KBBI, is not just 1. religion, but also means 2. belief in God; 3. belief in the existence of supernatural powers above humans; 4. belief (animism, dynamism). So, religion can mean religion and can also mean belief in supernatural powers above humans. Based on this meaning of religion, it can be stated that a religious nation is a nation that is religious and also a nation that does not embrace a religion but embraces and has belief in God and supernatural powers (in the sense of not faith that relies on religion).

When the meaning of "religious" is based on the KBBI, then the meaning of a nation with a belief in God as a religious nation is not just a religious nation (following religion) but also a nation that "embraces belief in the existence of supernatural powers above humans". In the Indonesian context, embracing belief in supernatural powers ("right to believe") is usually addressed to the right of the population to embrace "beliefs". Prior to 2016, the law only recognized the existence of religion as one of the resident identities listed on the KTP (Resident Identification Card). Meanwhile, the identity of a person's beliefs is not accommodated in the law.

Amendments to the 1945 Constitution have recognized this "right to belief". Article 28E and Article 28I, apart from formulating the right to religion as a human right, also formulates recognition and respect for the right to "belief" in addition to the right to religion as a human right. This is formulated in Article 28E paragraph (2): "Everyone has the right to freedom of belief, expression of thoughts and attitudes, in accordance with his conscience." Of course, "having the right to believe in a belief" is not related to "belief/faith in a religion".

In 2016, the Constitutional Court of the Republic of Indonesia (MKRI) as the Guardian of Constitutional Court made a significant decision regarding the existence of the right to trust in Indonesia (Sampe et al., 2023). Through Decision Number 97/PUU- XIV/2016, the Constitutional Court of the Republic of Indonesia granted the entire lawsuit filed by believers in religious beliefs by stating that the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of Law Number 23 of 2006 concerning Population Administration, as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, contradicts the 1945 Constitution of the Republic of Indonesia and has no conditional legal force as long as it does not include "belief."

If previously, believing in God was interpreted solely as being religious, then through Decision of the Constitutional Court of the Republic of Indonesia Number 97/PUU- XIV/2016, believing in God, in addition to being religious, also means believing in the One Almighty God. This means that believing in God can certainly mean being religious or it can also mean having faith (in the sense that faith is not based on religion). From a legal perspective, the Constitutional Court Decision Number 97/PUU-XIV/2016 will undoubtedly change the legal configuration that regulates religion as an interpretation of belief in God in Indonesia.

## II. STUDY METHOD

To obtain answers to the issues and problems raised in this paper, the research method used is the normative juridical method, namely the research is carried out by examining legal materials or secondary data alone (Kelvin, 2021). In line with the study method, which is normative juridical, the approach taken is based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to the legal issue of belief in God in Indonesia after the amendment of the Indonesian Constitution in 1945. Meanwhile, the analysis method is by using a qualitative analysis method, which is carried out by tracing laws and library materials which are then written descriptively (Sarwono, 2022).

## III. DISCUSION

### Belief in God in Indonesia After the 1945 Amendment to the Indonesian Constitution

The existence of God as the *prima causa* for the Indonesian nation is something that is very sacred and highly respected. The independence achieved by the Indonesian people was not solely due to their own efforts, but "By the grace of Almighty God and driven by the noble desire to live a free national life, the Indonesian people hereby declare their independence" (Paragraph 3 of the 1945 Constitution of the Republic of Indonesia). Belief in God, which will shape and become the foundation of Indonesian national and state life, is evident in the phrase: "..., therefore, Indonesian National Independence is formulated in a Constitution of the State of Indonesia, which is formed within the structure of the Republic of Indonesia with the sovereignty of the people and based on the Belief in the One Almighty God, ... (Paragraph 4 of the 1945 Constitution of the Republic of Indonesia).

Divinity is not God. God is something that humans believe in, adore, and worship because of His omnipotence. Whereas Divinity is an attribute of God. Thus, the Indonesian State, based on Belief in the One Almighty God, means that everything related to the administration of the state, nation, and society must be built on the basis of these attributes. God. In a God-believing nation, the essence of religion becomes the basis and guide for national life (Saragih, 2018).

As briefly explained above, the understanding that believing in God is the same as being religious is common in Indonesia. Being religious as an embodiment of believing in God is a requirement for holding a state office. One example is that to become President, one must be religious. This is clearly stated in Article 9 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states, "Before assuming office, the President and Vice President shall swear an oath according to their religion,...".

Religion is an absolute identity for Indonesian citizens who believe in God. Article 61 paragraph (1) and Article 64 paragraph (1) of Law No. 23 of 2006 concerning Population Administration and its amendments clearly state that one of the information contained on the National Identity Card (KTP) is the religion column. For non-religious citizens, namely adherents of religious sects, the religion column is left blank. Despite the blank column, their identity as adherents of a particular faith is still recorded in the population database.

However, through the decision of the Indonesian Constitutional Court (MKRI) No. 97/PUU-XIV/2016, the understanding of belief in God for Indonesian citizens, as evidenced by the religion that is their identity and printed on the KTP and Family Card, has undergone a fundamental change. Belief in God has acquired a broader meaning, not merely meaning religion but also embracing a belief (believing) (Widyaningrum, 2018). This can be read in the MKRI's ruling, which among other things states that the word "religion" in Article 61 paragraph (1) and Article 64 paragraph (1) of Law No. 23 of 2006 concerning Population Administration as amended by Law No. 24 of 2013 is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional binding legal force as long as it does not include "belief". The ruling also states that "Article 61 paragraph (2) and Article 64 paragraph (5) of Law No. 23 of 2006 as amended by Law No. 24 of 2013 is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional binding legal force." Among the considerations of the Constitutional Court when making the decision was that ".... Recognition of believers in the One and Only God is impossible because belief is not included in the definition of religion. Likewise, with regard to legal certainty. Because the legal certainty obtained by believers in the One and Only God is the certainty that they are not adherents of a religion recognized in accordance with the provisions of the Law. This also makes it impossible for them to enjoy equal treatment before the law fairly because conceptually in the construction of the Population Administration Law they are no longer included in the definition of religion. Likewise, when linked to the guarantee of equal treatment before the law and government, from the beginning believers have been differentiated from adherents of religions recognized in accordance with the law not based on constitutional reasons. Meanwhile, the obligation to uphold the law and government remains attached to them as citizens of Indonesia.

A belief system is not a religion. According to the Big Indonesian Dictionary (KBBI), a belief system is a belief system that acknowledges the existence of one Almighty God, but is not included in or based on the teachings of any of the five "official" religions in Indonesia (Islam, Catholicism, Christianity, Protestantism, Hinduism, Buddhism, and Confucianism). Belief systems are not considered religions because they cannot

prove the existence of prophets, holy books, or specific religious systems, and are therefore not recognized as such (Devi & Andrean, 2021). The Indonesian Constitution does not even consider belief systems as a religion. Initially, the Constitutional Court's ruling generated mixed reactions within the community. Basri Bermenda, Head of the Legal and Legislation Division of the Indonesian Ulema Council (MUI), stated that the MUI deeply regretted the ruling. He argued that the Constitutional Court's ruling had hurt the feelings of religious communities, especially Muslims. However, Ahmad Farhan Hamid, Deputy Chairman of the MPR Research Institute, stated that "the Constitutional Court's decision is in accordance with Articles 28A to 28J of the 1945 Constitution of the Republic of Indonesia."

Some suspected that the Constitutional Court's ruling would "align" and "equate" belief with religion. This meant that religious systems were the same as belief systems. In response, leaders of the Yogyakarta Belief and Mystical Sects declared that their sects were not considered religions. Although not a religion, their beliefs do not conflict with Pancasila and the 1945 Constitution.

If this statement is upheld, it can be argued that having a belief exists within the framework of a religious nation-state. Therefore, placing believers on an equal footing with other religions does not mean equating them with other religions. What is equal and equal are their civil rights, such as the right to do business, the right to education, the right to marry, and so on.

Constitutional Court Decision No. 97/PUU-XIV/2016 confirms the recognition of the Indonesian nation-state as a believer in the Godhead of the existence of beliefs in Indonesia. Based on this decision, believers, whose constitutional rights are based on Article 28E paragraph (2), which states: "Everyone has the right to freedom to believe in their beliefs, to express their thoughts and attitudes, in accordance with their conscience," shall receive legal guarantees, legal certainty, justice, and equal treatment before the law with adherents of other religions.

The legal configuration of a God-believing nation, initially interpreted as a nation whose citizens are religious, has certainly changed following the Constitutional Court's Decision No. 97/PUU-XIV/2016, with the recognition of the existence of adherents of religious beliefs. This means that, philosophically and legally, the Indonesian nation-state as a God-believing nation-state (nation-state religious) following the Constitutional Court's Decision No. 97/PUU-XIV/2016 has undoubtedly been broadened to include a nation-state whose citizens consist of both religious and religious citizens. The right to choose a religion or belief is a human right guaranteed by the state. No one, including the state, can force its citizens to choose and embrace a particular religion or belief, as religion and belief are rights guaranteed by law. Religion and belief are expressions of a God-believing nation-state.

State recognition of religion is based on Law No. 1/PNPS/1965. concerning the Prevention of Abuse and/or Blasphemy of Religion. Based on the Explanation of Article 1, there are 6 (six) religions recognized (embraced) by the Indonesian population, namely Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism (Devi & Andrean, 2021). However (still in the Explanation of Article 1) it is also formulated that "This does not mean that other religions, for example: Judaism, Zoroastrianism, Shintoism, Taoism are prohibited in Indonesia. They receive full guarantees as provided by Article 29 paragraph 2 and are permitted to exist, as long as they do not violate the provisions contained in this regulation or other laws and regulations." Upon further examination, Law No. 1/PNPS/1965 also recognizes the existence of belief systems besides religion. Belief systems are alluded to in Law No. 1/PNPS/1965 in one of its explanations as follows: "Regarding spiritual bodies/streams, the Government strives to channel them towards a healthy perspective and towards the One Almighty God. This is in accordance with MPR Decree No. II/MPRS/1960, Attachment A. Field I, Number 6.

The Constitutional Court's decision is final and binding. Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia states: "The Constitutional Court has the authority to adjudicate at the first and final instance, with its decisions being final, to test laws against the Constitution, to decide on disputes over the authority of state institutions whose authority is granted by the Constitution, to decide on the dissolution of political parties, and to decide on disputes regarding general election results." The phrase "its decision is final" emphasizes that the Constitutional Court's decision is immediately enforceable. This is because the Constitutional Court's judicial process is the first and final judicial process. In other words, after a decision is made, there is no further judicial process that can be pursued, meaning that the Constitutional Court's decision cannot and does not provide the opportunity to file further ordinary or extraordinary legal remedies.

The explanation of Article 10 paragraph (1) of Law No. 8 of 2011 concerning Amendments to Law No. 24 of 2003 concerning the Constitutional Court also states that the Constitutional Court's decision immediately obtains permanent legal force from the moment it is pronounced and no legal action can be taken. The final nature of the Constitutional Court's decision also includes binding legal force (final and binding) (Kusuma et al., 2021).

The Indonesian Constitutional Court Decision Number 97/PUU-XIV/2016 dated October 18, 2017, was responded to by the Minister of Home Affairs by issuing Circular Letter of the Minister of Home Affairs Number 470/1989/MD dated May 19, 2018 concerning Population Administration Services (Adminduk) for



Believers in Beliefs. The Directorate General of Population and Civil Registration of the Ministry of Home Affairs has also issued instructions regarding the improvement of data elements for Believers in Belief in God Almighty on Family Cards (KK) to all Heads of Civil Registration Services throughout Indonesia so that changes to data elements can be made immediately.

Although the Constitutional Court Decision No. 97/PUU-XIV/2016 relates to Law No. 23 of 2006 concerning Population Administration, its legal spectrum is quite broad. Several laws and policies will undoubtedly undergo adjustments/changes. Some examples of legal policies that will undoubtedly be adjusted/changed include: the phrase "oath of office," for example, was changed to include religious beliefs. Previously, the Marriage Law formulated that a marriage is valid if conducted according to the law of each religion and its beliefs, where the phrase "belief according to religion" was interpreted as "faith according to religion," would undoubtedly be changed to "marriage is valid if conducted according to the law of each religion and its beliefs." Whereas previously, the education sector had only recognized religious education, following the Constitutional Court Decision, legal policies that accommodate education for adherents of religious beliefs will undoubtedly be issued. These are examples of legal policies that need to be adjusted/changed to align with the contents of the Constitutional Court Decision No. 97/PUU-XIV/2016. A significant adjustment to the existence of this belief system is the inclusion of this belief system in the 2023 Criminal Code. In addition to the formulation of the crime of blasphemy, this new Criminal Code also formulates the crime of blasphemy against belief systems. This is contained in Chapter VII, entitled "Criminal Acts Against Religion, Belief, and Religious Life or Belief." There are three types of actions related to criminal acts against religion and belief that are prohibited in this new Criminal Code. Chapter VII consists of two parts and six articles, namely Articles 300 to 305.

The title of Part One: Criminal Offenses Against Religion and Belief contains Articles 300 to 302. Meanwhile, the title of Part Two: Criminal Offenses Against Religious Life or Belief and Facilities of Worship contains Articles 303 to 305. The definition of the crime of blasphemy against a religious belief is set out in Article 300 along with an explanation of that article. This is evident in Article 300 as follows: "Any person in public who:

- a. commits acts of hostility;
- b. expresses hatred or hostility; or
- c. incites hostility, violence, or discrimination,

against the religion or beliefs of another person, group, or group based on religion or belief in Indonesia, shall be punished with a maximum imprisonment of 3 (three) years or a maximum fine of category IV.

In the explanation of Article 300 it is stated: "Every written or oral act or statement that is carried out objectively, is limited to one's own circle, or is scientific in nature regarding a religion or belief accompanied by an effort to avoid words or sentences that are hostile, statements of hatred or hostility, or incitement to hostility, violence, discrimination or blasphemy is not a criminal act according to this article."

The use of the word "or" in the formulation of the offense in Article 300 between the words "religion" and "belief" indicates that the new Criminal Code recognizes the existence of religious beliefs parallel to religion. This parallelism does not equate religion with religious beliefs. Religion stands alone with its own system of teachings and beliefs, and religious beliefs also stand alone with their own system of teachings and beliefs, all of which are within the framework of belief in the One Almighty God (Septiani et al., 2025).

#### IV. CONCLUSION

Philosophically, the Indonesian nation-state is built on the foundation of Belief in One Almighty God. A nation based on Belief in God is not a religious state, nor is it the same as a religious state, nor is it a secular state. The appropriate term for an Indonesian nation-state based on Belief in God is a religious nation-state. The general view of a religious nation-state is often interpreted as a state whose citizens are religious. Therefore, the mainstream view maintains that Belief in God is the same as being religious. Adhering to a belief is not included in the category of Belief in God because belief is not a religion.

This view changed with the issuance of Constitutional Court Decision No. 97/PUU- XIV/2016, which included belief systems alongside religions in the Population Administration Law. This Constitutional Court Decision is certainly in accordance with the 1945 Constitution of the Republic of Indonesia, which recognizes the existence of belief systems alongside religions.

Although Constitutional Court Decision No. Although Law No. 97/PUU-XIV/2016 only concerns the Civil Registration Law, its impact is quite broad and fundamental, both philosophically and legally. Philosophically, it undoubtedly changes the view that belief in God encompasses beliefs other than religion. Legally, it will undoubtedly change legal policy related to religion by defining beliefs other than religion.

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