

Citizenship Without Belonging: Legal Identity and the Continuing Marginalization of Indigenous Belief Communities in Indonesia

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Abstract

Formal citizenship does not necessarily guarantee substantive equality for communities whose religious or spiritual identities fall outside dominant religious categories. This article examines the gap between formal legal recognition and lived citizenship among indigenous belief communities in Indonesia. It focuses on how administrative systems concerning civil registration, marriage, education, and public services may continue to reproduce exclusion despite constitutional and statutory recognition of the right to religious and spiritual freedom. Using a normative and socio-legal methodology, the study analyzes constitutional provisions, administrative regulations, relevant judicial developments, and selected cases involving indigenous belief communities. The article conceptualizes citizenship as extending beyond possession of legal identity documents to include equal recognition and effective access to public institutions. The analysis demonstrates that administrative neutrality may become discriminatory when institutional categories are designed around dominant religious assumptions. Although legal reforms have expanded formal recognition, implementation gaps continue to create unequal burdens for communities whose beliefs do not fit conventional administrative classifications. The article argues that substantive citizenship requires the state to redesign administrative practices according to principles of equality, dignity, and freedom of belief rather than merely adding formal recognition. It contributes to minority justice scholarship by connecting citizenship theory with everyday administrative exclusion and demonstrating how bureaucratic practices can sustain marginalization even after legal recognition has been formally achieved.

[Kewarganegaraan formal tidak selalu menjamin kesetaraan substantif bagi komunitas yang identitas agama atau spiritualnya berada di luar kategori agama dominan. Artikel ini mengkaji kesenjangan antara pengakuan hukum formal dan kewarganegaraan yang dihayati di kalangan komunitas kepercayaan adat di Indonesia. Artikel ini berfokus pada bagaimana sistem administrasi yang berkaitan dengan pencatatan sipil, perkawinan, pendidikan, dan layanan publik dapat terus mereproduksi eksklusi meskipun

ada pengakuan konstitusional dan undang-undang tentang hak kebebasan beragama dan spiritual. Dengan menggunakan metodologi normatif dan sosio-legal, studi ini menganalisis ketentuan konstitusional, peraturan administrasi, perkembangan peradilan yang relevan, dan kasus-kasus terpilih yang melibatkan komunitas kepercayaan adat. Artikel ini mengkonseptualisasikan kewarganegaraan sebagai sesuatu yang melampaui kepemilikan dokumen identitas hukum untuk mencakup pengakuan yang setara dan akses yang efektif ke lembaga publik. Analisis menunjukkan bahwa netralitas administratif dapat menjadi diskriminatif ketika kategori kelembagaan dirancang berdasarkan asumsi agama dominan. Meskipun reformasi hukum telah memperluas pengakuan formal, kesenjangan implementasi terus menciptakan beban yang tidak setara bagi komunitas yang keyakinannya tidak sesuai dengan klasifikasi administratif konvensional. Artikel ini berpendapat bahwa kewarganegaraan substantif mengharuskan negara untuk mendesain ulang praktik administrasi sesuai dengan prinsip-prinsip kesetaraan, martabat, dan kebebasan berkeyakinan, bukan hanya sekadar menambahkan pengakuan formal. Hal ini berkontribusi pada kajian keadilan minoritas dengan menghubungkan teori kewarganegaraan dengan pengucilan administratif sehari-hari dan menunjukkan bagaimana praktik birokrasi dapat mempertahankan marginalisasi bahkan setelah pengakuan hukum secara resmi tercapai.]

Keywords: indigenous beliefs, citizenship, legal identity, administrative discrimination, religious freedom

Introduction

Citizenship is commonly understood as a legal relationship between an individual and the state involving formal membership, rights, duties, and political participation. However, formal membership does not necessarily produce substantive belonging. A person may possess Indonesian citizenship, hold an identity card, and formally enjoy constitutional rights while still encountering institutions designed around assumptions that exclude the person's religious or spiritual identity. This problem is particularly relevant to indigenous belief communities, commonly categorized in Indonesian law and administration as *penghayat kepercayaan*. For decades, these communities experienced a persistent gap between constitutional guarantees of freedom of religion and belief and the practical operation of state institutions. Their marginalization demonstrates that citizenship is not exhausted by nationality. It also concerns whether individuals are institutionally legible, whether public categories accommodate difference, and whether legal recognition can be translated into equal access to everyday public institutions (Marshall 1950; Sukirno 2019).

The Indonesian Constitution provides a substantial normative foundation for religious and spiritual freedom. Article 28E guarantees the freedom to embrace

religion and hold beliefs, while Article 28I protects freedom of religion and freedom of thought and conscience within the constitutional framework of human rights. Article 29(2) further obliges the state to guarantee the freedom of every resident to embrace religion and worship according to religion or belief. These provisions indicate that Indonesian citizenship is constitutionally pluralistic. Nevertheless, constitutional language has historically coexisted with administrative classifications that distinguished between religious communities recognized by dominant state practice and indigenous or local belief communities that were treated differently. The consequences were not merely symbolic. The inability to obtain equal recognition in identity documents affected access to civil registration, family administration, education, and other public services, thereby transforming differences in belief into institutional inequalities (Jufri 2020; Khaidar and Nugraha 2022).

The exclusion of indigenous belief communities is therefore best understood as a problem of legal identity. Legal identity is not simply the possession of an official document; it is the institutional recognition through which a person becomes visible and intelligible to the state. Identity categories determine how public institutions collect information, allocate rights, and process legal claims. When the state requires citizens to fit their beliefs into categories designed around dominant religious assumptions, administrative classification can become a source of exclusion. A citizen may be formally recognized as Indonesian while being only partially recognized as the person he or she actually is. This produces what may be described as “citizenship without belonging”: membership in the political community without full acceptance within the institutional categories through which citizenship is experienced (Yuval-Davis 2006; Penatas et al. 2020).

A major legal turning point occurred through Constitutional Court Decision No. 97/PUU-XIV/2016. The Court rejected the exclusion of indigenous belief adherents from the religious identity provisions of Indonesia’s Population Administration Law and affirmed that the constitutional protection of religion and belief could not justify unequal treatment in population administration. The decision represented an important transition from administrative invisibility toward formal recognition. However, judicial recognition did not automatically eliminate the institutional legacies of earlier exclusion. Administrative systems consist not only of legal texts but also of databases, bureaucratic practices, institutional competence, public attitudes, and organizational routines. Consequently, the removal of a discriminatory norm does not necessarily ensure that officials and public institutions immediately operate according to a non-discriminatory understanding of citizenship (Palguna 2021; Penatas et al. 2020).

Previous studies have largely focused on the constitutional implications of Constitutional Court Decision No. 97/PUU-XIV/2016 and the question of whether indigenous belief communities have obtained equal recognition in population administration. Sukirno (2019) examined the legal politics underlying the recognition of indigenous belief communities in population administration, while

Jufri (2020) identified continuing legal problems concerning the administrative rights of belief adherents. Palguna (2021) further analyzed the constitutional status of Constitutional Court decisions and the legal remedies available when constitutional rights remain inadequately protected after judicial recognition. Other scholarship has situated the question within the broader protection of indigenous communities and their rights under Indonesian and international legal frameworks (Khaidar and Nugraha 2022; Fahmi et al. 2023).

However, the existing literature has not sufficiently conceptualized the relationship between legal identity and substantive citizenship. Much scholarship asks whether indigenous belief communities have been formally recognized, but formal recognition represents only one stage in the realization of equal citizenship. A deeper question concerns whether institutional categories, procedures, and bureaucratic practices have been redesigned to make equal recognition meaningful in everyday life. This article contributes to minority justice scholarship by connecting citizenship theory with administrative exclusion. Its novelty lies in demonstrating that discrimination may persist after formal legal recognition when the architecture of public administration remains organized around dominant religious assumptions. The central argument is that substantive citizenship requires more than the addition of an identity category; it requires institutional transformation capable of translating legal recognition into effective equality.

This article addresses three principal questions. First, why does formal citizenship fail to guarantee substantive belonging for indigenous belief communities in Indonesia? Second, how do administrative systems continue to reproduce exclusion despite constitutional and judicial recognition? Third, what legal and institutional reforms are necessary to transform formal recognition into substantive citizenship? The study employs normative juridical and socio-legal approaches. The normative analysis examines the 1945 Constitution, Law No. 39 of 1999 on Human Rights, Law No. 23 of 2006 as amended by Law No. 24 of 2013 on Population Administration, relevant ministerial regulations, and Constitutional Court Decision No. 97/PUU-XIV/2016. The socio-legal analysis evaluates documented implementation problems and examines how institutional practices shape the lived experience of legal recognition. Through this combined method, the article analyzes the distance between formal constitutional recognition and the everyday operation of citizenship.

Results and Discussion

1. Legal Identity as the Foundation of Substantive Citizenship

The modern state depends on administrative classification to recognize citizens and distribute rights. Birth certificates, identity cards, family registers, marriage certificates, and educational records do more than document existing facts; they establish institutional pathways through which individuals access the state. Legal identity therefore has a constitutive relationship with citizenship. When identity documentation accurately recognizes a person, it facilitates access to

services and strengthens legal certainty. When documentation fails to recognize a central aspect of identity, however, the person may encounter barriers extending far beyond the document itself. For indigenous belief communities, the historical exclusion from administrative recognition demonstrates how apparently technical classifications can affect the practical enjoyment of constitutional rights (Penatas et al. 2020; Jufri 2020).

T. H. Marshall's theory of citizenship is useful because it distinguishes civil, political, and social dimensions of membership. Civil citizenship concerns legal liberty and equality, political citizenship concerns participation, and social citizenship concerns access to institutions and social welfare necessary for dignified membership in society (Marshall 1950). The experience of indigenous belief communities demonstrates that these dimensions are interconnected. A limitation in legal identity may undermine civil equality, restrict participation in institutions, and generate barriers to education, family administration, and other social services. Consequently, citizenship cannot be evaluated solely according to the possession of nationality. A person who is legally a citizen but must conceal, modify, or administratively misrepresent a fundamental belief may possess formal membership while lacking substantive equality.

The distinction between recognition and belonging also helps explain this condition. Recognition occurs when the state formally acknowledges the existence and legal status of an individual or community. Belonging is broader: it concerns whether individuals are treated as legitimate members of the social and institutional order without being required to abandon their identity. Yuval-Davis (2006) argues that belonging operates through social and political boundaries that distinguish those perceived as naturally included from those whose presence remains conditional. For indigenous belief communities, constitutional recognition may remove one formal boundary while other institutional boundaries remain. A citizen may be legally entitled to identify as a belief adherent yet still encounter public officials unfamiliar with the relevant rules or institutions whose procedures implicitly assume affiliation with dominant religions.

This distinction is particularly important because administrative exclusion often operates without an explicit statement of hostility. A public official may simply follow an outdated form, database, procedure, or institutional routine. Yet the effect can be discriminatory if the system repeatedly makes access easier for citizens who fit dominant categories and more difficult for those who do not. The absence of discriminatory intent therefore does not necessarily eliminate institutional responsibility. Equality requires attention to outcomes and burdens as well as formal intentions. Administrative systems should be assessed according to whether citizens can obtain equivalent recognition and access without unreasonable additional costs arising from their religious or spiritual identity. The continuing need for legal and institutional protection reflects the fact that formal equality cannot automatically overcome structural differences embedded in administrative systems (Khaidar and Nugraha 2022; Palguna 2021).

2. Constitutional Recognition and the Transformation of Legal Identity

Constitutional Court Decision No. 97/PUU-XIV/2016 marked a decisive intervention against the exclusion of indigenous belief adherents from population administration. The Court held that the legal framework governing identity documents could not constitutionally distinguish belief adherents in a manner that denied them equal recognition. The decision was significant because it challenged the assumption that population administration was merely a technical field beyond substantive constitutional scrutiny. Instead, the Court recognized that identity classification directly affects equality, dignity, and the practical enjoyment of freedom of belief. Administrative documentation thus became a constitutional issue rather than a matter of bureaucratic convenience (Palguna 2021; Sukirno 2019).

The Court's reasoning reflects a broader constitutional principle: the state may categorize citizens for legitimate administrative purposes, but classifications must remain consistent with equality and fundamental rights. Categories become constitutionally problematic when they systematically render particular groups invisible or inferior. In the case of indigenous belief communities, the previous framework placed belief adherents in an uncertain position by separating their spiritual identity from categories effectively accommodated in official documentation. This uncertainty generated what may be described as administrative marginality. Individuals were present within the state but were not fully accommodated by the state's classification system. The Court's decision therefore constituted an attempt to restore congruence between constitutional pluralism and administrative identity (Jufri 2020).

The implementation of the decision led to regulatory and administrative changes that allowed belief affiliation to be recorded in official population documents. These developments were important because legal identity operates as an entry point to other rights. The recognition of *Penghayat Kepercayaan Terhadap Tuhan Yang Maha Esa* in population documentation signaled that indigenous belief adherents could no longer be required to remain administratively invisible. Nevertheless, the category adopted by the state also illustrates the complexity of recognition. A broad administrative label may enable inclusion while simultaneously failing to capture the diversity of specific indigenous spiritual traditions. This problem is closely connected to broader debates regarding the legal definition and recognition of indigenous identity in Indonesia, where state classifications do not always correspond neatly with the self-understanding and diversity of indigenous communities (Fahmi et al. 2023).

This tension demonstrates that recognition is not a binary condition. A community may move from non-recognition to partial recognition without achieving complete equality. Legal reform can alter the text of official documents while deeper institutional assumptions remain unchanged. The continuing challenge is therefore implementation. Public officials require knowledge and training, databases require integration, and sectoral institutions must harmonize their procedures with constitutional developments. Without such transformation, a

progressive constitutional judgment may remain stronger as a legal principle than as an everyday administrative reality. The difference between law on paper and law in action is particularly important for minority communities because implementation failures are rarely distributed equally across society (Penatas et al. 2020; Jufri 2020).

3. Administrative Discrimination after Formal Recognition

Administrative discrimination is often less visible than direct legal prohibition because it emerges through procedures that appear ordinary. Forms may lack relevant categories, officials may interpret regulations narrowly, databases may fail to communicate with one another, and institutional staff may rely on assumptions derived from dominant religious practices. Each problem may appear minor in isolation, but their cumulative effect can create substantial exclusion. Indigenous belief communities may therefore encounter what can be described as a bureaucratic afterlife: even after a discriminatory legal rule has been corrected, its effects survive within administrative habits and organizational structures. This condition demonstrates why legal reform must be accompanied by institutional implementation and monitoring (Sukirno 2019; Jufri 2020).

Civil registration provides the clearest example of this phenomenon. Population administration is often treated as a neutral mechanism for recording facts, yet the state's choice of what facts to record and which categories to recognize is inherently normative. The exclusion of indigenous beliefs from identity documentation historically communicated that certain forms of spirituality were less administratively legitimate than others. The post-decision inclusion of belief identity corrected part of this inequality, but implementation depends on the capacity of local registration offices and related institutions to process the category consistently. Where officials lack training or rely upon outdated practices, citizens may continue to experience uncertainty and unequal treatment despite the formal availability of recognition. The legal status of population documents is therefore closely connected to the practical capacity of administrative institutions to implement constitutional change (Penatas et al. 2020).

Marriage administration represents another area in which legal identity and substantive citizenship intersect. Marriage is not only a private relationship but also an institutional event involving registration, family status, inheritance, children's legal documentation, and access to other public rights. Historically, belief adherents encountered difficulties because administrative practices frequently assumed that marriage had to be processed through frameworks associated with dominant religious institutions. Legal reforms have created pathways for the registration of marriages involving indigenous belief adherents, but the existence of a legal mechanism does not automatically ensure uniform accessibility across administrative institutions. Unequal knowledge among officials and the persistence of dominant religious assumptions can still create burdens that are not experienced by citizens whose religious identities fit established institutional expectations.

Education similarly reveals the limitations of formal recognition. Citizenship in schools is not limited to enrollment; it also includes whether students can receive instruction and institutional treatment consistent with their beliefs. A constitutional commitment to freedom of belief requires public education systems to avoid forcing students from indigenous belief communities into religious categories that do not reflect their identity. The realization of inclusive education has nevertheless required sustained advocacy and institutional collaboration. Research on collaborative governance concerning indigenous belief communities in Yogyakarta shows that civil society organizations and public institutions play an important role in expanding practical access to educational rights, demonstrating that formal recognition alone is insufficient when institutional systems remain inadequately prepared for diversity (Ramadhani and Amaliah 2024).

Public services provide a broader illustration of the same structural problem. Access to employment, social assistance, health services, burial administration, and community-level governance can be affected by identity classifications and social assumptions. Where officials or local communities treat indigenous beliefs as abnormal, incomplete, or less legitimate, citizens may be pressured to modify their identities in order to avoid discrimination. This pressure undermines the meaning of constitutional freedom because a formally protected identity becomes costly to exercise. The relevant measure of equality should therefore not be whether the law formally permits a belief identity, but whether citizens can use that identity without suffering disproportionate administrative or social disadvantage. Human-rights scholarship concerning indigenous and local belief communities consequently emphasizes that formal legal protection must be accompanied by effective safeguards against discriminatory practices in everyday institutions (Khaidar and Nugraha 2022; Fahmi et al. 2023).

4. Administrative Neutrality and the Problem of Dominant Religious Assumptions

Administrative neutrality is frequently invoked to defend standardized procedures, but standardization can reproduce inequality when the underlying standard is based on the experience of dominant groups. A procedure designed around a single model of religion may appear neutral because it applies uniformly, yet it can disadvantage communities whose beliefs are organized differently. For example, institutions may assume that every religion has a centralized clergy, standardized doctrine, a fixed hierarchy, or a universally recognized administrative representative. Indigenous belief traditions may not fit these assumptions. When access to public services depends upon conformity with a dominant institutional model, neutrality becomes a mechanism of assimilation rather than equality. The diversity of indigenous identity in Indonesia demonstrates why administrative categories cannot always be designed according to a single institutional understanding of religion or belief (Fahmi et al. 2023; Yuval-Davis 2006).

This problem can be analyzed through the distinction between formal and substantive equality. Formal equality requires the state to apply the same rules to all persons. Substantive equality recognizes that identical rules may produce unequal outcomes when citizens begin from different social or institutional positions. Indigenous belief communities do not necessarily require special privileges; rather, they require administrative systems capable of recognizing their identities without imposing requirements derived from other religious traditions. Substantive equality therefore demands reasonable institutional adaptation. The question is not whether belief adherents should receive different treatment because they are different, but whether they can receive equal treatment without forcing them to become administratively similar to the majority.

The concept of dignity strengthens this argument. Human dignity requires recognition of individuals as persons whose fundamental identities are entitled to equal respect. A state that requires citizens to conceal or alter a core belief in order to access ordinary services places institutional convenience above personal dignity. Constitutional freedom becomes meaningful only when individuals can exercise it without being penalized through administrative disadvantage. The recognition of indigenous belief communities should therefore be understood not merely as a technical correction in civil registration but as part of a broader constitutional obligation to organize public institutions around pluralism. The protection of indigenous and local belief communities must consequently be evaluated in terms of both recognition and the effective realization of their human rights (Khaidar and Nugraha 2022).

The persistence of dominant assumptions also demonstrates the limits of judicial decisions as instruments of social transformation. Courts can invalidate discriminatory norms and establish constitutional interpretations, but they cannot by themselves redesign every database, train every official, or eliminate social prejudice. This does not reduce the importance of Constitutional Court Decision No. 97/PUU-XIV/2016; rather, it clarifies the institutional work required after constitutional recognition. Effective rights protection depends upon coordination between constitutional adjudication, executive regulation, administrative implementation, education, and accountability mechanisms. The transition from legal recognition to lived equality is therefore a process of institutional reconstruction rather than a single legislative or judicial event (Palguna 2021; Ramadhani and Amaliah 2024).

5. From Formal Recognition to Substantive Belonging

The principal implication of this analysis is that substantive citizenship requires the state to redesign administrative practices according to constitutional pluralism. First, population administration should not be treated as an isolated sector. Identity information is used across numerous institutions, meaning that recognition in one database must be reflected consistently in education, marriage administration, social services, and other public systems. Fragmented

implementation creates a hierarchy of recognition in which citizens are accepted in one institution but questioned in another. The state should therefore establish integrated standards ensuring that constitutional recognition follows the citizen across the administrative system. This is particularly important because the protection of indigenous and local belief communities cannot be achieved through civil registration reform alone (Khaidar and Nugraha 2022).

Second, public officials require systematic training concerning the legal status and constitutional rights of indigenous belief adherents. Implementation failures are often connected to institutional uncertainty. Officials who do not understand the relevant legal framework may reproduce discriminatory practices without recognizing their constitutional consequences. Training should therefore extend beyond technical data-entry procedures and include equality, freedom of belief, non-discrimination, and the constitutional authority of judicial decisions. Public administration must be understood as a rights-bearing activity because everyday decisions by frontline officials often determine whether constitutional promises become meaningful. The implementation of Constitutional Court Decision No. 97/PUU-XIV/2016 should therefore be accompanied by continuous institutional capacity building and administrative supervision (Penatas et al. 2020; Palguna 2021).

Third, complaint and remedy mechanisms should be accessible to indigenous belief communities. A formal right has limited value when individuals must navigate complex institutions without effective mechanisms for challenging discriminatory treatment. Administrative complaints, ombudsman oversight, judicial remedies, and internal accountability procedures should be coordinated so that violations can be addressed promptly. Remedies should not be confined to correcting individual documents after lengthy disputes. Where discrimination reflects a systemic problem, institutions should be required to correct the underlying procedure. This approach would shift legal protection from reactive correction toward structural prevention and is consistent with the broader understanding that constitutional rights require effective implementation rather than merely formal declaration (Palguna 2021; Jufri 2020).

Fourth, policy reform should be developed through meaningful participation by indigenous belief communities themselves. Administrative categories should not be designed exclusively from the perspective of state officials or dominant religious organizations. Communities affected by classification systems possess knowledge about how their beliefs are organized and how public procedures affect them in practice. Participation can therefore improve both democratic legitimacy and administrative accuracy. The diversity of indigenous identities in Indonesia further demonstrates that uniform legal categories should not erase important differences between communities. A rights-based state should not merely recognize diversity from above; it should enable minority communities to participate in shaping the institutional rules through which they are recognized (Fahmi et al. 2023; Yuval-Davis 2006).

Conclusion

This article has demonstrated that formal citizenship does not automatically produce substantive belonging. Indigenous belief communities in Indonesia have long occupied a paradoxical position: they are Indonesian citizens protected by constitutional guarantees of freedom and equality, yet their spiritual identities have historically been marginalized by administrative classifications and institutional practices. Constitutional Court Decision No. 97/PUU-XIV/2016 represented a major legal transformation by extending recognition to indigenous belief adherents within population administration. Nevertheless, the achievement of formal recognition should not be mistaken for the completion of equality. Administrative systems can continue to reproduce exclusion through fragmented implementation, inadequate institutional knowledge, outdated procedures, and dominant assumptions about what a legitimate religion or belief should look like.

The concept of “citizenship without belonging” captures this continuing contradiction. Citizens may possess nationality and identity documents while remaining only partially accommodated by the institutions that govern everyday life. Substantive citizenship requires that citizens be able to access civil registration, marriage, education, and public services without concealing or modifying their beliefs. The central challenge is therefore institutional redesign. Equality cannot be achieved merely by adding a category to an official document; the state must ensure that recognition operates consistently throughout the administrative system. Constitutional pluralism must become an organizational principle of public administration rather than remaining a declaration in constitutional and judicial texts.

Future research should examine the implementation of legal recognition through broader empirical and comparative methods. Quantitative studies could map regional variations in access to civil registration, education, marriage administration, and public services among indigenous belief communities. Qualitative research should document the experiences of belief adherents, public officials, teachers, and local administrators to identify the institutional mechanisms through which exclusion persists. Comparative research could also investigate how other plural democracies recognize indigenous and non-dominant spiritual identities within legal identity systems. Such research would deepen understanding of the relationship between administrative classification, minority rights, and citizenship. Ultimately, Indonesia’s constitutional commitment to equality will be measured not only by whether indigenous belief communities are recognized in law, but by whether they can live as fully recognized citizens in the institutions of everyday life.

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