

Study of the Position of the Court Decision as a requirement to fulfil the condition of "Important Event" as in the Recording of the Application for Gender Reassignment

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ABSTRACT

Gender change is the choice and right of every individual. In Indonesia, there are no specific regulations regarding gender change. However, the rules regarding gender changes are closely related to Article 56, paragraph (1) of the Civil Administration Law (UU Adminduk) and its explanation. Article 56, paragraph (1) of the Population Administration Law states that the Civil Registration Officer records other essential events at the resident's request after obtaining a court decision with permanent legal force. Transgender or transsexual individuals have the same rights as other members of society or different genders, both men and women. Indonesian law recognizes that every human being is a legal subject. Article 1, paragraph (1) of the Civil Code (KUH Perdata) states that enjoying civil rights does not depend on political rights. This article aims to show that the conditions set by the state do not determine a person's position as a legal subject. Humans are recognized as legal subjects from birth until death. However, in reality, transgender or transsexual groups often receive unfair treatment from society and even the government. There have been many cases where a transsexual who applied for a gender change after undergoing gender reassignment surgery was rejected. Gender change or gender reassignment surgery is every human's right and must be legally protected. Every person with sexual orientation and gender identity has the right to enjoy all their human rights. Everyone is born free and equal in rights and dignity. Everyone also has the right to recognition before the law, and those with different sexual orientations and gender identities must also receive total legal capacity and equal rights.

Keywords: Rejection; Application for Gender Change; Article 56 Civil Administration Law; Subjective Rights; Civil Code (KUHPer)

INTRODUCTION

Gender is a fundamental element of individual identity that is present from birth. In Indonesia, only two recognized genders, male and female, are determined biologically. However, there is often uncertainty regarding a person's gender. This uncertainty arises from a mismatch between biological

sex and perceived gender identity. For example, someone who was born male may feel like they are female, or vice versa, which is known as transgender [1]. With advances in science and technology, especially in the medical field, individuals who experience gender dysphoria can undergo gender reassignment surgery. Those who have undergone this operation are referred to as transsexuals.

Transgender individuals are not a new phenomenon in Indonesia. In Bugis society, before the arrival of Islamic influence in the 1600s, there were already five gender classifications, two of which can be categorized as transgender, namely calalai and calabai [2]. Transgender people are open about their gender identity, which is different from their biological sex. One of the human rights of transgender individuals is to receive protection without discrimination. However, discrimination against transgender people often occurs because they are considered a minority group, and their behavior is considered a disease or deviation. Indonesian society usually considers transgender issues to be taboo, triggering various adverse reactions. Many believe that changing one's gender violates the right to life, leading to widespread rejection of transgender individuals.

This discrimination often takes the form of teasing, rejection, and insults, which harms their mental health. Changing this negative perception is not easy, but society should respect and appreciate them as human beings protected by human rights from birth. Transgender individuals are citizens who have the same rights and freedoms as everyone else. These human rights are regulated in Article 28D paragraph (1) of the 1945 Constitution, which states that "every person has the right to recognition, guarantees, protection, and fair legal treatment" [3]. In essence, gender change is the choice and right of every individual. In Indonesia, there are no specific regulations regarding gender change.

However, the regulations regarding this matter are closely related to Article 56, paragraph (1) of the Population Administration Law (UU Adminduk). This article states that civil registration officers record other essential events at the resident's request after obtaining a court decision with permanent legal force. In the article's explanation, it is stated that what is meant by "other important events" are events determined by the district court to be recorded by the implementing agency, including gender reassignment [4].

Based on Article 56, paragraph (1) of the Population Administration Law, a person who changes gender must request a court order. This decision is necessary to gain legal recognition of gender change. After receiving legal recognition from the state, the individual can apply for a change of identity, both name and gender, in official documents. This regulation is further outlined in Presidential Regulation 25 of 2008 concerning Requirements and Procedures for Population and Civil Registration. Article 97, paragraph (2) of this regulation also mentions other essential events, including gender change [5]. In Indonesia, many sex change requests have been approved, such as the case of Lucinda Luna, who submitted it to the South Jakarta District Court and was approved [6]. However, quite a few sex change requests are rejected, one of which is the case of Faqih or Cindy, who applied for a sex change after undergoing surgery but was rejected because it violated the natural order. Further legal consequences for instances of faqih based on Chapter 56 of the Population Administration Law states that a gender change cannot be registered because it does not meet the formula "other important event," even though his external condition has changed due to the operation. This rejection case shows that gaining civil recognition as a person in Indonesia remains challenging, and the fulfillment of human rights is subjective as a legal subject [7].

This condition is because, based on the formulation of "Important Events" in Article 56 Paragraph (1), an individual's decision regarding the desired sex change must be decided by another party, namely the court. So, starting from this background, this study discusses whether the formulation of "important events" in Article 56 Paragraph (1) of Law Number 24 of 2013 concerning Population Administration is the basis for recording or rejecting requests for gender change if it is related to efforts. Protection of subjective rights according to the Civil Code. This study will compare regulations in other countries, namely the Netherlands, to get a comprehensive picture of the ideal regulations that should be implemented in Indonesia regarding the Basis for Recording or Rejecting Gender Change Applications, which protect the subjective rights of legal subjects.

METHOD

Legal research methodology involves a systematic approach to studying and analyzing legal principles, doctrines, and regulations. This research aims to understand, interpret, and criticize the legal framework, specifically focusing on the formulation and implementation of laws.

Research Design: uses a normative legal research design that examines legal norms, principles, and doctrines to understand their application and implications in the legal system. This research will focus on Law Number 24 of 2013 concerning Population Administration (UU Adminduk) and related regulations, presidential decrees, and the Civil Code regarding protecting the Subjective Rights of Legal Subjects. A comparison was also made with practice in the Netherlands to gain a comprehensive understanding of this arrangement, which will be used to develop suggestions and solutions in this study.

Data Analysis: The analysis will involve the following:

- a. **Doctrinal Analysis:** Examining the legal principles and doctrines underlying gender change and civil registration regulations.
- b. **Comparative Analysis:** Comparing Indonesia's legal framework with the legal systems of other countries, particularly the Netherlands, to identify best practices and potential improvements.
- c. **Critical Analysis:** Criticize the legal provisions in force in Indonesia, especially Article 56 Paragraph (1) of the Administering Law, and identify gaps and inconsistencies that impact the protection of individual rights.

This research is expected to analyze legal provisions related to gender change in Indonesia comprehensively. Recommendations for regulatory reform to increase legal recognition and protection of gender change. A comparative framework that highlights the strengths and weaknesses of the Indonesian legal system in this area. Practical suggestions for policymakers to improve the legal framework and protect individual rights.

RESULTS AND DISCUSSION

1. Analysis of the Relationship Between Gender and Subjective Rights

Gender is often equated with sex (biological sex), but it has a different meaning. Gender is related to biological sex but has its concept. The concept of sex refers to physical and biological differences between humans that are permanent or inherent, while the idea of gender is more flexible

and can change. Gender refers to the distinctive characteristics of a person's sex and social role or identity. For example, men are considered solid and rational, while women are seen as soft and emotional. In its development are gentlemen and strong women, known as transgender individuals [8]. Transgender individuals are those whose gender identity does not match their biological sex at birth. Waria are transgender individuals who undergo medical procedures to change their gender according to their wishes [9].

In Indonesia, there are no specific regulations regarding gender change for individuals who have undergone gender reassignment surgery. However, Law Number 23 of 2006 concerning Population Administration was issued to provide protection, recognition, and determination of personal and legal status for every population event and other significant events experienced by Indonesian residents. Law Number 24 of 2013, concerning Amendments to Law Number 23 of 2006, mentions essential events, including birth, death, stillbirth, marriage, divorce, recognition of children, validation of children, adoption, adoption, change of name, and change of citizenship status. Other important events in Article 56, paragraph (1) of the Population Administration Law include changing gender [10].

According to Article 56, paragraph (1) of the Population Administration Law Number 24 of 2013, changing gender after gender reassignment surgery is an essential event that civil registration officers must record at the request of the resident concerned after a permanent court decision. Legal force. Legal problems arise because there are no guidelines for judges in examining requests for status changes, so decision-making is based on judicial practice. Every person who has changed their gender must obtain a court decision to validate the change. Reporting of gender changes is regulated in Article 3 of the Population Administration Law, which states that every resident is obliged to report population events and essential events they experience to the implementing agency [11].

Population administration issues in Indonesia are significant for development. The recording of vital events is carried out by civil registration officers tasked with recording essential events experienced by individuals. Civil registration is a right and obligation for everyone who experiences a vital event to ensure that the event has authentic evidence that has legal force. Presidential Regulation Number 25 of 2008 concerning Requirements and Procedures for Population Registration and Civil Registration mentions other vital events, including changing gender. Name changes can be recorded in the civil registry as regulated in Article 52 of the Population Administration Law, which states that name changes are recorded based on the district court's decision where the applicant is domiciled [12].

Name changes must be reported to the implementing agency 30 days after the resident receives a copy of the district court decision. Then, the civil registration officer makes additional notes to the list of civil registration deeds and excerpts from the civil registration deed. Regarding changes in gender status, Article 56 of the Population Administration Law states that civil registration officers carry out registration of other important events at the request of the resident concerned after a district court decision has permanent legal force. Other important events are recorded by making side notes in the birth certificate register and extract. Additional notes are information regarding changes in status due to important events, which are recorded on the side or part of the deed by the civil registration officer. If the procedure has been carried out and fulfilled, then a person who has undergone sex change surgery will have a new identity recorded in their civil documents [13].

The issue of gender change is a significant legal issue affecting the development of society. This event was not explicitly regulated in law because lawmakers at the time did not expect such an event to occur. The law only recognizes the terms male and female. This legal vacuum causes the Indonesian judiciary to need a legal basis for judges. Law Number 23 of 2006 concerning Population Administration and its implementing regulations are limited to the population administration system. This law aims to create order in population administration in Indonesia [14].

In social life, which is closely linked to religious values, changing gender is very contrary to spiritual values, especially in Islam. Gender change is also a consideration for the court when examining applications or cases. Registration of sex change is a legal event that concludes psychiatric medical events and medical events related to organ adjustment through surgery. If there is a request regarding the registration of a sex change, it is an integrated process. Article 56 of Law Number 23 of 2006 concerning Population Administration explains that gender changes can be carried out in Indonesia as long as they receive court approval and can then be recorded in the civil registry [15].

When a transgender person has received court approval, their gender has changed according to what was proposed. With this article, Indonesia indirectly recognizes the existence of transgender individuals. Transgender or transsexual individuals have the same rights as other members of society. Indonesian law recognizes that every human being is a legal subject. Article 1, paragraph (1) of the Civil Code states that enjoying citizenship rights does not depend on state rights. This article aims to show that the conditions set by the state do not determine a person's status as a legal subject. A person is recognized as a legal subject from birth until death [16].

However, in reality, transgender or transsexual groups often receive unfair treatment from society and even the government. There are many cases where transsexual individuals who apply for gender change after undergoing gender reassignment surgery are rejected. Sex change surgery or gender reassignment surgery is the right of every individual and requires legal protection. Everyone with different sexual orientations and gender identities must enjoy all their human rights. Everyone is born free and has the same rights and dignity. Everyone also has the right to receive recognition before the law. Individuals with different sexual orientations and gender identities must have equal legal capacity [17].

Article 28D paragraph (1) of the 1945 Constitution regulates the right to legal protection, stating that every person has the right to recognition, guarantees, protection, and fair treatment before the law. The obligation to protect human rights means that the state must treat every individual equally, respect the dignity of every person, and not interfere with or reduce their rights, both physical security and the right to a fair legal process, equal protection, and freedom of expression. Expression [18].

In Indonesia, there are frequent cases of gender change through gender reassignment surgery from male to female or vice versa. This requires the party undergoing gender reassignment surgery to apply for a change of gender or change of identity. Legal events that can affect a person's civil status, such as changes in name identity, are recorded through civil registration. This registration determines a person's legal position in civil law. The Civil Code does not explicitly regulate cases of gender change. However, regarding identity changes, the Civil Code can accommodate this need through the civil registration deed in Articles 13-16 concerning corrections and additions to the civil registration deed [19].

A transsexual who changes gender must obtain a court decision for legalization. In Indonesia, there are no specific regulations governing gender change, creating a legal vacuum. However, judges can only accept a case if the law exists or needs clarification. This is regulated in Article 10 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which states that courts are prohibited from refusing to examine, try, and decide on a case submitted because the law does not exist or does not exist. It needs to be clarified, but it is mandatory to examine and adjudicate it [20].

In Indonesia, many cases involve individuals who want to change their gender from male to female or vice versa. Gender change is every individual's right and does not affect their status as a legal subject. However, there are many cases where requests for sex change are rejected. The law should facilitate this. Otherwise, a transgender person will not receive legal certainty. According to the law, a person can determine their own will when choosing their path in life. Human rights are one of the benchmarks for protecting someone who wants to change gender. This can be linked to the Population Administration Law, which regulates the arrangement and publication of population documents and data through population and civil registration. Article 56, paragraph (1) states that significant events can be recorded if a final decision is obtained from the district court [21].

A transgender person wants to live a life like other members of society, but many cases prevent them from getting legal certainty regarding their chosen gender. As a result, they face practical difficulties, including in marriage. A transgender person who has received court approval for their gender change and has changed their identity in documents or population data should be able to continue their life without legal constraints. Marriage in Indonesia is between a man and a woman. Article 1 of Law Number 1 of 1974 states that marriage is between a man and a woman. A transgender person who has not legally or medically changed their gender cannot marry [22].

Article 1 of the Marriage Law explains that marriage is a spiritual bond between a man and a woman as husband and wife to form a happy and eternal family or household based on belief in the Almighty God. The validity of a marriage is regulated in Article 2, paragraph (1) of the Marriage Law, which states that a marriage is valid if it is carried out according to the laws of each respective religion and belief. A transgender person who has obtained court approval for his gender change and has changed his identity in civil documents should not face any problems related to marriage. The legal consequence of transgender marriages without legal sex change that has received court approval is that the marriage is not registered or is considered unofficial. Meanwhile, the legal consequence of transvestite marriage with the legality of gender change that the court has approved is that gender status at the time of inheritance distribution is based on the status after gender change. Another consequence of transsexual marriage is the inability to have children [23].

In Indonesia, there are no specific regulations governing gender change. Someone who wants to change gender can refer to Law Number 39 of 1999 concerning Human Rights and Law Number 24 of 2013 concerning Population Administration, as well as jurisprudence that refers to human rights. In the United States, legislation gives transgender people more rights and obligations to change their gender and live their lives without state decisions.

2. Best Practices: Gender Reassignment Application Practices in the Netherlands

Countries recognized as having the best regulations for gender reassignment practices and legal recognition of gender change while ensuring adequate legal protection include several European

countries, especially the Netherlands. These countries have progressive and inclusive legal frameworks to support transgender rights. The Netherlands is known for its progressive policies regarding transgender rights. In 2014, the Netherlands changed its laws to remove the requirement for gender reassignment surgery and sterilization before a person can change their gender on official identification documents. This is a significant step forward in protecting the bodily autonomy and privacy rights of transgender individuals [24].

Gender change and the legal recognition of gender identity are complex and often sensitive issues. In the Netherlands, this procedure is strictly regulated through various laws and regulations aimed at protecting the rights of transgender individuals. The process includes several stages, including medical and psychological evaluation, hormone therapy, gender reassignment surgery, and official recognition through changes to identity documents such as birth certificates, KTPs, and passports [25]. This article will provide an in-depth review of these stages, including the court and civil registry registration process and examples of cases in the Netherlands in 2022 or 2023.

a. Gender Reassignment Medical Process

1. Psychological Evaluation and Diagnosis

The first step in the gender reassignment process is a psychological evaluation. Individuals who wish to undergo gender reassignment surgery must receive a diagnosis from a mental health professional stating that they are suffering from gender dysphoria. Gender dysphoria is a condition where a person feels uncomfortable or depressed with their biological sex. This evaluation usually involves several consultation sessions to ensure that the individual truly wants to transition and understands the implications of the medical steps that will be taken [26].

2. Hormone Therapy

After diagnosis, the next step is hormone therapy. This therapy involves administering sex hormones that align with the individual's gender identity. For example, estrogen is given to individuals transitioning from male to female (MTF), while testosterone is given to individuals transitioning from female to male (FTM). Hormone therapy helps develop physical characteristics that are more consistent with an individual's gender identity, such as breast development for MTFs, facial hair growth, and a deeper voice for FTMs [27].

3. Gender Reassignment Surgery

Gender reassignment surgery, also known as gender confirmation surgery, is an essential stage in the transition process for many transgender individuals. Surgical procedures may include:

- **Mastectomy:** Breast tissue removal for FTM individuals.
- **Vaginectomy day Metoidioplasty/Phalloplasty:** Male genital construction in FTM individuals.
- **Penectomy and Vaginoplasty:** Construction of female genitalia in MTF individuals.

- **Facial Feminization Surgery:** Facial feature feminization procedures for MTF individuals [28].

Each of these surgical procedures requires thorough preparation and recovery. Gender reassignment surgery is part of a long process that demands strong commitment from the individual undergoing the transition.

b. Gender Legal Recognition Process

1. Changes to the Birth Act

In the Netherlands, changing gender on a birth certificate is regulated by law and involves several administrative steps. Previously, individuals who wanted to change the gender on their birth certificate had to undergo gender reassignment surgery and obtain medical approval. However, a new law passed in 2014 removed the requirement for gender reassignment surgery to gain legal recognition. Currently, individuals only need a statement from two medical professionals confirming that they have gender dysphoria and have been on hormone therapy for at least one year [29].

2. Changes to Other Identification Documents

Apart from birth certificates, gender changes can also be made on other identity documents such as KTPs and passports. This process involves applying to the relevant government authorities for the necessary medical records. The Dutch government also allows the gender marker "X" for non-binary individuals, reflecting recognition of diverse gender identities [30].

c. Court Process and Civil Registry [31]

1. Court Application

To begin the gender change process in the Netherlands, individuals must apply to their local court. This application must include statements from two medical professionals confirming the diagnosis of gender dysphoria and the hormone therapy that has been undertaken. The court will then review the application and, if approved, issue a decision allowing gender changes on official documents.

2. Civil Registry Process

After receiving a court decision, individuals must submit a gender change application to the civil registry office. This application must include a copy of the court decision and relevant identification documents. The civil registry office will then update the birth certificate and other identity documents according to the individual's new gender.

The process of gender reassignment and legal recognition of gender identity in the Netherlands involves a series of complex medical and legal stages. Despite significant progress in recent years, challenges remain. Support from family, society, and progressive government policies is essential to ensure that transgender individuals can live lives of dignity and free from discrimination.

3. Practical Comparison Gender Reassignment Application Between the Netherlands and Indonesia

Based on the practices above, the following table compares the regulations for the gender change process, legal recognition of gender change, and the registration process in Indonesia and the Netherlands (**Table 1**).

Table 1.

Aspect	Indonesia	Dutch
Legal framework	There are no special rules, referring to Article 56 of Law Number 24 of 2013	The 2014 Transgender Law does not require surgery or sterilization
Psychological Evaluation	Mandatory part of the court process	Required two medical professionals confirm gender dysphoria
Hormone Therapy	Not expressly regulated in law	Requires hormone therapy for at least one year
Gender Reassignment Surgery	Not mandatory according to Article 56 of Law No. 24 of 2013	Not needed since amendments to the law in 2014
Application Submission	The application is submitted to the court with medical approval	The application is submitted to the local court with a medical statement
Changes to the Birth Act	Article 56 of Law Number 24 of 2013 requires a court decision	Administrative process after a court decision
Other Document Changes	Through the courts and civil registration after changes to the birth certificate	Through government agencies that have relevant medical documents
Non-Binary Gender Recognition	Unregulated	Recognized and permitted with gender marker "X."

Legal Framework: Indonesia does not have specific regulations governing the gender reassignment process. The existing regulations only refer to Article 56 of Law Number 24 of 2013 concerning Population Administration, which states that gender changes must be recorded based on a court decision that has permanent legal force. In contrast, the Netherlands has a more progressive legal framework with the Transgender Law of 2014, which abolished the requirement for gender reassignment surgery and sterilization to change the gender marker on official identification documents. This significantly increases the protection of transgender individuals' bodily rights and privacy.

Psychological Evaluation and Hormone Therapy: Indonesia and the Netherlands consider psychological evaluation an essential part of the process. In Indonesia, this evaluation is part of the court procedure. In contrast, in the Netherlands, two medical professionals must confirm that the individual has gender dysphoria and has been undergoing hormone therapy for at least one year before they can change their gender based on official documents. Gender Reassignment Surgery, Indonesia does not strictly require gender reassignment surgery to change gender on official documents, as regulated in Article 56 of Law No. 24 of 2013. The Netherlands, since 2014, no longer requires surgery or sterilization as a prerequisite for changing gender markers on identification documents, which is a progressive step in safeguarding the rights of transgender individuals.

Submission of Application and Change of Documents: In Indonesia, a gender change application with relevant medical evidence is submitted to the court. After the court issues a decision, the change is recorded in the civil registry. Likewise, in the Netherlands, an application is submitted

to the local court with statements from two medical professionals. After receiving a court decision, the changes are recorded in the civil registry, and other identification documents are updated accordingly. Recognition of Non-Binary Gender: Indonesia does not have provisions for or recognize non-binary gender in its legal and administrative system. In contrast, the Netherlands recognizes non-binary individuals who can choose the gender marker “X” on official identification documents. This demonstrates the country's commitment to inclusivity and recognizing diverse gender identities.

The Netherlands has a more progressive and inclusive legal framework for regulating the gender reassignment process and the legal recognition of gender change. Dutch regulations not only protect the rights of transgender individuals but also ensure they do not have to undergo surgery or sterilization to be legally recognized. Meanwhile, Indonesia needs to develop a more specific and inclusive legal framework to support transgender rights and ensure adequate legal protection.

4. Proposed Improvements to Regulations Regarding the Gender Change and Recognition Process in Indonesia

Gender change is a crucial and complex issue that includes medical, psychological, social, and legal aspects. In Indonesia, the process of recognizing and recording gender changes is regulated in Article 56 Paragraph 1 of the Population Administration Law (UU Adminduk). However, these regulations are often considered inadequate in protecting the subjective rights of individuals who experience gender change. In contrast, the Netherlands has a more advanced legal system for recognizing individual subjective rights regarding gender change, as regulated in the Civil Code (KUHPer). This article will outline a new regulatory model that can be implemented in Indonesia by referring to regulations in the Netherlands and criticize the formulation of "Important Events" in Article 56, Paragraph 1 of the Population Administration Law.

Current Indonesian Legal Framework, Article 56 Paragraph 1 of the Population Administration Law, states that recording essential events, including gender changes, is carried out by Civil Registration Officers at the request of the population concerned. However, this procedure requires a court decision, which is often time-consuming and complicated. Apart from that, there are no special provisions that protect the rights of individuals who experience gender change, which has the potential to cause discrimination and stigma in society.

Regulatory Framework in the Netherlands The Netherlands is one of the most progressive countries in recognizing LGBT rights, including the right to change gender. Dutch law emphasizes the protection of individual subjective rights and simplifies administrative procedures. In the Netherlands, individuals who wish to change their gender can report to the civil registry office without requiring a lengthy court decision. The Dutch Civil Code (KUHPer) allows gender changes based on individual subjective rights, prioritizing individual will.

New Regulatory Model for Indonesia, several essential points from Dutch regulations that Indonesia can adopt:

- a. Application of the Principle of Subjective Rights: Individuals' subjective right to identify their gender must be legally recognized. Gender change decisions must prioritize individual wishes without requiring lengthy court procedures [32]
- b. Simplified Administrative Procedures: Administrative procedures for recording gender changes should be simplified. In the Netherlands, gender changes can be made simply by reporting to the civil registry office without requiring a lengthy court decision [33]

- c. **Comprehensive Legal Protection:** Legal protection for individuals undergoing gender change must be strengthened. This includes protection against discrimination and harassment and the right to necessary health services [34]
- d. **Human Rights-Based Approach:** The process of recognizing and recording gender changes must focus on protecting human rights. Every individual has the right to recognition of their gender identity without discrimination [35]
- e. **Education and Outreach:** The government needs to provide education and outreach to the public about individual rights related to gender change. This is important to increase understanding and reduce the stigma that exists in society.

Criticism of Article 56 Paragraph 1 of the Population Administration Law states that every change in population data, including gender changes, must be recorded as an essential event. However, this provision does not provide much detail regarding the procedures and protection of the rights of individuals who experience gender change. The main criticisms of this article include:

- a. **Complicated and Lengthy Procedures:** Legal procedures that require a court decision are considered too long and complex, thus hindering individuals who wish to change their gender.
- b. **Lack of Protection of Subjective Rights:** There are no explicit provisions regarding protecting the subjective rights of individuals who experience gender change, resulting in the absence of guarantees for their rights.
- c. **Discrimination and Stigma:** The lack of comprehensive regulations means that individuals who experience gender change still face discrimination and stigma in society.

Implementing this new regulatory model requires strategic steps involving various stakeholders, including the government, legislative institutions, and society. Steps that can be taken include:

- a. **Revision of the Administering Law:** Revision of Article 56 Paragraph 1 of the Administering Law is necessary to clarify procedures and protect the rights of individuals who experience gender change. These revisions should include recognition of subjective rights and simplification of administrative procedures.
- b. **Training and Education for Civil Registration Officers:** Civil Registration Officers must be trained and educated about the new procedures and the importance of protecting the subjective rights of individuals. This is important to ensure the administration process runs smoothly and without discrimination.
- c. **Public Campaigns:** Extensive public campaigns are needed to raise awareness about individual rights regarding gender change. This campaign should include information about the new procedures and respecting human rights.
- d. **Collaboration with Human Rights Organizations:** The government should collaborate with human rights organizations to ensure that the rights of individuals undergoing gender reassignment are well protected. This collaboration may include providing support services and legal aid to individuals facing discrimination or harassment.
- e. **Monitoring and Evaluation:** The process of recognizing and recording gender changes should be monitored and evaluated periodically to ensure that the procedures are effective and comply with human rights principles. Monitoring and evaluation are also essential to identify and overcome potential barriers to implementation.

A new regulatory model based on the Dutch system could be a solution to increase the protection of subjective rights for individuals experiencing gender change in Indonesia. By implementing the principles of subjective rights, simplifying administrative procedures, strengthening legal protection, a human rights-based approach, and providing education and outreach, Indonesia can create an environment that is more inclusive and respects the rights of every individual.

CONCLUSION

Gender is a fundamental aspect of personal identity, but Indonesia officially recognizes only two genders: male and female. This binary view often conflicts with the reality of transgender individuals who may undergo gender reassignment surgery to align their physical sex with their gender identity. Historically, certain cultures in Indonesia, such as the Bugis, recognized more than two genders. However, contemporary Indonesian society often stigmatizes transgender individuals because they consider their identity and actions to be deviant. Article 56 Paragraph 1 of the Administering Law requires a court decision to record gender changes, which a civil registration officer must then register. The process is long and complicated, often posing legal and social challenges for transgender individuals.

Compared with Netherlands, this article compares Indonesia's legal framework with the more progressive Dutch system. The Netherlands emphasizes protecting subjective rights and simplifies administrative procedures for gender recognition. Dutch law does not require gender reassignment surgery to gain legal recognition, prioritizing individual autonomy and streamlining the legal process.

Proposed Improvements This article suggests several essential improvements for Indonesia: **Recognition of Subjective Rights:** Legal recognition of an individual's right to identify their gender; **Simplified Administrative Procedures,** Simplify the process to avoid lengthy court procedures; **Comprehensive Legal Protection:** Strengthen laws to protect against discrimination and harassment; **Human Rights Based Approach:** Ensure the process is aligned with human rights principles; and **Community Education and Outreach:** Raising awareness to reduce stigma and increase community acceptance. This article concludes that adopting a model similar to the Netherlands could improve the protection of the rights of transgender individuals in Indonesia. By simplifying procedures, recognizing subjective rights, and increasing legal protection, Indonesia can create an environment that is more inclusive and respectful of all individuals.

CONFLICT OF INTEREST

The authors state that there is no conflict of interest in this article.

REFERENCES

- [1] American Psychological Association. "Guidelines for psychological practice with transgender and gender nonconforming people." *American psychologist* 70.9 (2015): 832-864.
- [2] Sihombing, Mutual Sabrina. "Human Rights Juridic Review on Transgenders as a Tool of Social Control in Indonesia." *Indonesian Scientia Journal* 6.2 (2020): 127-156.
- [3] Novemza, Lia. "Protection of Human Rights on Gender Reassignment." *Verstek Journal* 8.3 (2020).

- [4] Legal Procedures for Gender Reassignment, [Online]. Available: <https://www.Hukumonline.com/klinik/a/prosedur-Hukum-ganti-Jenis-kelamin-lt5499758a512e5/>. [Accessed: 14-Jul-2024].
- [5] "Regulation of Changes in Gender Status in Indonesia," [Online]. Available: <https://balrev.ulm.ac.id/index.php/balrev/article/view/34>. [Accessed: 4-Jul-2024].
- [6] "Is There a Gender Mistyping on a Family Deed or Card?," [Online]. Available: <http://misaelandpartners.com/whether-ada-kelaluan-pengetikan-jen-kelamin-pada-akta-atau-kartu-famili/>. [Accessed: 14-Jul-2024].
- [7] "Concerning Civil Registration Services," [Online]. Available: <https://disdukcapil.endekab.go.id/dukcapil/2020-11-08-02-40-07/tangan-adminduk/316-bahan-pecepatan-civil>. [Accessed: 10-Jul-2024].
- [8] T. Heraty, *Feminine transcendence: gender equality according to Simone de Beauvoir*. Gramedia Pustaka Utama, 2019, p. 34.
- [9] A. Kartini and A. Maulana, "Redefinition of gender and sex," *An-Nisa Journal of Gender Studies*, vol. 12, no. 2, pp. 217-239, 2019.
- [10] D. P. Tagel, "Implementation of Marriage Registration at the Population and Civil Registration Service," *Vyavahara Duta*, vol. 14, no. 2, p. 84, 2020.
- [11] Op.Cit. Kartini, A., & Maulana, A. (2019) 217-239.
- [12] Fadhil, Muhammad, and Muhammad Ilham. "The Role of the Population and Civil Registration Service in Optimizing Services for the Indonesian Movement for Aware Population Administration (Gisa) in the City of Bandung, West Java Province." *Registratie Journal* (2019): 1-20.
- [13] Hidayat, Eet Saeful. "Analysis of the implementation of population administration policies at the Garut Regency population and civil registration service." *Dynamics: Scientific Journal of State Administration Science* 5.4 (2019): 8-16.
- [14] Ibid.
- [15] Andriyani, Agustini, and Rr Rina Antasari. "Study of the Theory of the Existence of Transsexual Legal Status on Gender Changes Post-Court Determination." *Muamalah* 5.1 (2019): 15-30.
- [16] F. S. Dhamayanti, "Pros and Cons of Views Regarding LGBT Based on Human Rights, Religion and Law Perspectives in Indonesia," *Indonesian Law Student Writers Association Law Journal*, volume. 2, no. 2, 2022. p.210-231,
- [17] Op.Cit. A Andriyani, RR Antasari., *Muamalah*, 2019
- [18] Quarterly, Ni Gusti Agung Ayu Mas. "The Problem of Providing Structural and Non-Structural Legal Assistance in Relation to the Principle of Equality Before the Law." *Legal Policy Scientific Journal* 14.3 (2020): 539-552.
- [19] Husnulwati, Sri. "Civil Registration in Civil Law Review." *PGRI Pelambang University* 16.02 (2018): 189-194.
- [20] Perwira, I. Nyoman Satria, Ida Ayu Putu Widiati, and Diah Gayatri Sudibya. "Changes in Gender Status from a Positive Legal Perspective in Indonesia." *Journal of Legal Interpretation* 2.1 (2021): 74-78.
- [21] Noviani, Dwi. "Society's perception of gender equality in the family." *Journal of Innovation Research and Knowledge* 1.11 (2022): 1517-1522.
- [22] Mulia, Mulia, Utary Maharany Barus, and Idha Aprilyana Sembiring. "Court Determination Concerning Change of Identity of a Transsexual." *Journal of social and science* 2.9 (2022): 980-994.
- [23] Ibid.
- [24] Review of Law and Policy in Asia," [Online]. Available: <https://bureaucracy.gapenas-publisher.org/index.php/home/article/download/182/201/234>. [Accessed: 1-Jul-2024].

- [25] Patel, S. (2021). Gaps in the protection of athletes gender rights in sport—a regulatory riddle. *The International Sports Law Journal*, 21(4), 257-275.
- [26] "Changes in Gender Status in Positive Legal Perspective in Indonesia," [Online]. Available: <https://www.ejournal.warmadewa.ac.id/index.php/juinhum/article/download/3095/2233/>. [Accessed: 1-Jul-2024]. DOI: <https://doi.org/10.22225/juinhum.2.1.3095.74-78>
- [27] "The Construction of Judges' Considerations: Recognition of a Transgender Person's Gender Identity in the Syntonic Phase," [Online]. Available: <http://nalrev.fhuk.unand.ac.id/index.php/nalrev/article/view/541>. [Accessed: 4-Jul-2024]. DOI: <https://doi.org/10.25077/nalrev.v.7.i.2.p.199-211.2023>
- [28] "Legality of Gender Reassignment Surgery in Indonesia," [Online]. Available: <http://ejurnal.uwp.ac.id/lppm/index.php/prosiding/article/download/283/168/1145>. Proceedings of the National Seminar & Call for Paper "Strengthening Human Resource Capacity Towards a Golden Indonesia 2024" Vol. 9 No. 1: November 2023 ISSN. 2355-261 [Accessed: 4-Jul-2024].
- [29] J. Chorus, Ed., *Introduction to Dutch Law*. Kluwer Law International BV, 2016, p. 134.
- [30] Marra, Elske, Suzanne Meijer, and Hanneke de Graaf. "Changes in young women's contraceptive use in the Netherlands: findings from three sex under the age of 25 surveys." *Genus* 76.1 (2020): 7.
- [31] IDoorduin, Tamar, and Willy Van Berlo. "Trans people's experience of sexuality in the Netherlands: a pilot study." *Journal of Homosexuality* 61.5 (2014): 654-672.
- [32] Rohmah, Miftakhur, and Wiwik Afifah. "The right to equality and anti-discrimination of gender neutral (non-binary) identity groups in Indonesian positive law." *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3.1 (2023): 298-312.
- [33] *Ibid.*
- [34] Wartoyo, Franciscus Xavier, and Yuni Priscila Ginting. "Sexual Violence in the Higher Education Environment Seen from Pancasila Values." *Lemhannas RI Journal* 11.1 (2023): 29-46.
- [35] Garcia Acosta, Jesus Manuel, et al. "Gender Identity: The Human Right of Depathologization." (2019).