



Is there room for minorities in the *RUU Adminduk*?

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The current discussions surrounding the proposed law on Civil Administration (*RUU Administrasi Kependudukan – RUU Adminduk*) have escaped public attention, despite the fact that this law is scheduled to be ratified by the end of 2006. The purpose of this proposed law is to organise and publish data and documents concerning citizenship by means of formal registration, documentation and information management of Indonesian citizens to ultimately be used in the development of public services and other civil services. The question is, will the *RUU Adminduk* also acknowledge the rights of all minority groups in Indonesia?

Article 2 of *RUU Adminduk* states that ‘all citizens retain the right to:

- a. Obtain equal treatment in the extension of registration and documentation services;
- b. Access public documents;
- c. Confidentiality of private information;
- d. Legal guarantee of ownership of documents;
- e. Information concerning themselves or their family members resulting from citizen registration and documentation; and
- f. Reimbursement for any financial damage or damage to reputation incurred through the misuse of personal data by the Office of the Registrar.’

The foundation of this document on citizenship states that every citizen is required to report all changes of information (*peristiwa kependudukan*) and other important life events (*peristiwa penting kependudukan*) to the Office of the Registrar. Changes of information include anything that would need to be changed on one’s family registration (*Kartu Keluarga*), identity card (*Kartu Tanda Penduduk*), and/ or Certificate of Citizenship (*Surat Keterangan Kependudukan*), such as moving from abroad, change of address, temporary residence, and changing from restricted residency status to permanent residency status. Important life events include births, deaths, still births, marriage, divorce, recognition of children, legalisation of custodial rights over children, legal recognition of children, change of name and change of nationality.

The definition above indicates that all citizens in Indonesia have the right of status and ownership over their registration documents. However, upon closer examination of the stipulations provided with changes to personal information and other important life events, it becomes clear that this law does not accommodate the rights of many minority groups in Indonesia. One of the groups overlooked by the Working Panel (*Panitia Kerja*) for *RUU Adminduk* in the DPR-RI are transsexuals (*warias*). This oversight is caused by the absence of any mention of sexual minorities or change of gender in the stipulations listed under the definitions of ‘changes to personal information and other important life events’. As such, the right for *warias* to possess those documents required by all citizens is significantly affected.

According to data collected by *Forum Komunikasi Waria (FKW*, Transsexuals Communication Forum) in Jakarta, almost 70% of *warias* living in Jakarta do not possess any legal documents concerning citizenship, such as identification cards. The main obstacles include:

1. Change of name;
2. change of address;

3. lack of appropriate gender choice (often referred to as the ‘third sex’);
4. lack of access to original copies of their legal documents.

These stats are even more disturbing when we realize that there are over 4000 *warias* living in Jakarta. The ramifications of not possessing any legal documents are immeasurable, but perhaps the most significant is the possible result of not possessing identification when one dies. Without any indication or proof of origin, name, age, or current address, not only do *warias* remain unidentified, and thus undocumented in the death records, but often there is no one to claim their bodies or provide burial rights.

Though the process for legally changing one’s name is outlined in Article 59 of *RUU Adminduk*, the process for reporting this name change is too long, if not impossible, for *warias*. In order to legally change one’s name, one must first apply for legal name change at the local offices of the Federal Courts, before submitting this permission to the Office of the Registrar. This may seem quite simple, but is complicated by the fact that *warias* often don’t possess any form of legal documentation or identification in the first place and thus cannot even begin the process. Furthermore, many *warias* come from lower-income backgrounds and do not have the financial means to go through this legal and administrative process.

Articles 15 and 16 of *RUU Adminduk* outline the registration procedures if someone is forced or chooses to move, but these both involve long administrative processes in one’s region of origin *before* moving to a new area. One must first register for a change of address at the Office of the Registrar and receive a certificate confirming one’s change of address before proceeding to register in a new town, city, or region.

How are *warias* able to satisfy these requirements when they often have to flee rather than move from their hometowns? The social stigmatisation of *warias* is sometimes so severe that *warias* often become victims of discrimination and even hate crimes from which they feel the need to escape. This does not afford them the time or the opportunity to register their move first, and for reasons of self-protection many *waria* may not want to have their moving plans known in their hometowns.

As a result of this, Jakarta (and many other big cities in Indonesia) harbours a large population of *warias* who either do not possess any legal identification or documents, or, at the very least, do not possess the necessary documents to register themselves legally in Jakarta. As time goes by, most *warias* lose their ability to register at all.

Another obstacle for the legal registration of *warias* is the age at which they leave their *kampung*s. Many *waria* who arrive in big cities are minors (meaning under 17 years of age), and thus have never had access to their own legal documents or identification cards. Upon reaching adulthood, without any proof of birth, registration, or background, these migrants find themselves unable to register as well.

The limitations placed on *warias* in the registration process can have significant ramifications in all aspects of their lives, especially in a country as administration-bound as Indonesia. They are unable to seek work in the formal sector as they are considered non-citizens in the government’s eyes, which makes them unable to register for taxes or public services. This, in turn, restricts their options for making a living and we find that the stereotype of *warias* as sex- or salon workers, and beauticians becomes a self-fulfilling prophecy.

When discussing the issue of formal registration, many *warias* complain about the same thing. If they register themselves as males on their identity cards, they will inevitably be forced to reassume the customs, dress, and mannerisms of men when looking for a job. When we think of the social and psychological trials they have endured in the process of coming to terms with their own sexual identities themselves; the fear of ostracisation, discrimination, and self-doubt, asking them to reverse this process, which often takes years or even their whole lives, in order to fulfill employment requirements, seems an insurmountable request.

So registering as males isn't an option for most, why not register as females then, you ask? Possibly in day-to-day life this would be the better option, but this solution does not come without its own hitches. The primary problem for *warias*, should they decide to register themselves as females, is what should happen with them if they were incapacitated and their fate lay in the hands of others. If they were in an accident, for example, or died alone, and their genitals did not match the gender indicated on their identification cards, most *warias* fear that their bodies would be disrespected, or medical services would be denied, because of the untruth on their legal documents.

The ultimate truth is that *warias* fall neither under the category of male or female, but make up a 'third sex', which needs to be formally recognized. Minority groups who experience similar problems in producing evidence concerning their backgrounds and identities receive special recognition in the *RUU Adminduk*: victims of natural disasters and social upheaval, street kids, and isolated tribal communities are all accounted for in this law, so why can special recognition not be given to *warias* as well?

We can look to Papua for an example. From 1992 – 97 Heni (39), head of the *FKW* in Papua, lobbied to have the term *waria* included in the gender column of identity cards, even though at the time the identity cards clearly only included the 'ideological' concept of gender: male and female. "We kept pushing until we were able to meet with the *Camat* and requested that *waria* be included as one of the gender options on our i.d. cards, and he accepted," said Heni, born Lucky Morse. An identity card is not merely a document used for traveling. Nor is this an issue for which the solution can be bought. But this represents a legitimization of *warias* role as human beings and of their gender. The agreement reached in Papua implies a formal granting of permission for *warias* to seek work in the formal sector and a right to post-secondary education, Heni claimed, "however, at present *warias* have still not been permitted to work in the civil service." (excerpt taken from *Kompas*, Sunday, 7 April 2002)

It's a shame that that the story above has only been realized in one region in Indonesia, and is not reflected in national policy. It is also worrying that this Regional Policy has not been passed through the Regional Government officially, but remains an unwritten agreement that can be overturned by new representatives in next the government shuffle.

In light of the effects the *RUU Adminduk* will have on *warias*, officially excluding them from the ranks of legal citizens of Indonesia, I sincerely hope that our Parliamentary Representatives will rethink and revise this proposal before voting on the law before the end of 2006. *Warias* need to be included in the *RUU Adminduk* as an official minority group, and their rights need to be protected as those of any citizen living in this country.

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