



The Court Ruling Regarding Gender Change in Human Rights Law

Fernando J. M. M. Karisoh¹, Caecilia J. J. Waha², Jemmy Sondakh³, Emma V. T. Senewe⁴

Sam Ratulangi University^{1,2,3,4}
Bahu, Malalayang, Manado City, 95115, North Sulawesi, Indonesia
Correspondence Email: fernandojmmkarisoh@gmail.com
ORCID ID: 0000-0001-8352-3891

ABSTRACT

The phenomenon of gender change in Indonesia shows that many people want to change their gender. This study aims to examine and analyze legal arrangements in the field of human rights regarding gender change, the implementation of court decisions in Indonesia regarding gender change and the effect of the formation of laws and regulations that specifically regulate gender change on court decisions in Indonesia. Normative research carried out by means of law, conceptual and case approaches. The results showed international agreements and national legislation have not specifically regulated gender change. The court ruling is based on consideration of the results of the medical examination and legal considerations. The establishment of legislation in particular can strengthen court ruling.

Keywords: Court Ruling, Gender Change, Human Rights

JEL Classification Codes: K30, K38, K39

INTRODUCTION

The 1945 State Constitution of the Republic of Indonesia, Article 1 paragraph (3) stated that Indonesia is a state of law. All citizens have the same position before the law, and government is obliged to uphold the law without exception (The 1945 State Constitution of the Republic of Indonesia, Article 27 paragraph 1). Article 28A stated that everyone has the right to live and has the right to defend their life and also in Article 28 I paragraph (2) mentioned that everyone has the right to be free from discriminatory treatment on any basis and is entitled to protection against such discriminatory treatment. The concept of the state Rule of Law is the most ideal state concept today, although the concept is implemented with different perceptions. The term 'rule of law' in Indonesian is often also interpreted as "supremacy of law" or "rule of law", government by law". In addition, the term "state of law" (government by law) or *RECHTSSTAAT*, is frequently used term (Fuady, 2009).

The protection, advance and enforcement of human rights have been regulated in international treaties that have been ratified by the Law Number 39 of 1999, concerning Human Rights. The enactment of laws and regulations in the field of human rights is



expected to be able to provide legal certainty, justice and benefits for everyone in accordance with their nature. Everyone must treat equally before the law, have the right to defend their lives and has the right not to be discriminated against.

Generally, discrimination can be divided into two types, direct discrimination, which occurs when laws, regulations or policies clearly state certain characteristics, such as gender, sexual orientation, race, and hinder the existence of equal opportunities. Meanwhile, indirect discrimination can be committed through the regulation, when neutral regulations become discriminatory when it is applied in the field to other people (Ariyanto & Triawan, 2008).

The prominent issue of gender change is an issue that still causes dissent among society. There are groups of people who do not agree because it is against human nature in accordance with religious teachings. Some groups agreed if it is related to health problem, which is certainly should get agreement from hospital and court. The phenomenon of gender change shows that a court order is expected to be able to provide protection, fair legal treatment, legal certainty and equal treatment before the law to protect the rights and freedoms of everyone.

The efforts to change gender through formal legal route and in accordance with the results of medical examinations have encouraged certain parties to apply to the court for a court order. This is certainly not an easy matter, because to get the court order requires expert witness, due to the fact that the court ruling is based on considerations of the results of the health examination and legal consideration.

The fact is that there are no laws and regulations in the field of human rights that specifically regulate gender change. Moreover, court ruling is only based on general human rights laws and regulations, such as protection of the right to life, equal status before the law and no discriminatory treatment.

Court stipulations in their legal considerations need to pay attention to the Law Number 48 of 2009, concerning Judicial Power, stated in Article 53 paragraph (1), in examining and deciding cases, judges are responsible for the decisions they make. Paragraph (2), the Stipulation and decision as referred in paragraph (1) must contain the judge's legal considerations based on the right and correct reasons and legal basis.

Researchers assume that many people who intend to change their gender is a reality that must be accepted. The government should protect the rights and freedoms of every citizen. The Law that specifically regulates gender change is required to strengthen the legal basis for court considerations to obtain legal certainty and not cause differences of opinion among society.

One example of gender changes was carried out by Aprilia Manganang, they were born in Tahuna, precisely in Sangir Island or often called Tahuna, North Sulawesi, in April 27th1992. When Aprilia Manganang was born, their father was a plantation worker and



their mother were a housekeeper. Their parents did not know and understand that their child have hypospadias, and listed Aprilia Manganang on their birth certificate as female. This situation continued until Aprilia Manganang finished elementary school and junior high school in Tahuna, then moved to a senior high school in Manado, then pursued a professional volleyball career in Jakarta and was finally recruited into the Indonesian National Army (Tagar.id, 2021).

Hypospadias is a type of congenital penile abnormality in baby boys. This congenital abnormality makes the appearance and function of the penis abnormal like the male genitalia in general. Hypospadias makes it difficult for the sufferer to urinate in a standing position, having to urinate in a squatting or sitting position. If left untreated, hypospadias can also make sex difficult because it causes erectile and ejaculatory problems.

The National Commission on Violence against women asked the public not to label a negative stigma against Aprilia Manganang who is now a soldier in the Indonesian Army. Aprilia Manganang was declared male, previously raised as a female (Tsa Tsia & Ferdinan, 2021). What the community must do is giving support to Aprilia Manganang so that they can continue to work and contribute to the development of the nation and state and stop all forms of stigma, persecution and discrimination against them. According to Commissioner National Commission on Violence Against Women, Bahrul Fuad, by citing the Article 28 I of the 1945 Constitution, that every person has the right to be free from discriminatory treatment on any basis and is entitled to protection against such discriminatory treatment, the state should protect all their citizens from acts of discrimination regardless of gender and sexual orientation.

The Tondano District Court, finally determined Serda Aprilia Santini Manganang as a man, through Court Decision Number 98/Pdt.P/2021/PN Tnn, Friday (19/3/2021). Determined to change the name of the original Petitioner named Aprilia Santini Manganang changed to the name Aprilio Perkasa Manganang.

The main issues that will be discussed in this research is:

- 1). How the legal arrangements in the field of human rights regarding gender change,
- 2). The implementation of court decisions in Indonesia regarding gender change, and
- 3). The influence of the formation of laws and regulations that specifically regulate gender that will be applied in Indonesia.

This study aims to examine and analyze legal arrangements in the field of human rights regarding gender change and the implementation of court ruling in Indonesia regarding gender change and the effect of the formation of laws and regulations that specifically regulate gender change on court ruling that have been in force in Indonesia. The theoretical benefits of this research are for the development of legal science, especially regarding human rights, in accordance with the theories and concepts of legal experts is providing legal certainty, justice and benefits regarding gender change through court decisions. Practically, it can become an academic reference in the form of contributions of scientific thoughts and recommendations for the government, non-governmental



organizations, legal practitioners, community organizations and other stakeholders.

Literature Review

Rule of Law theory

A state based on law must guarantee the equality of every individual, including the freedom of individual to exercise their human rights (Gautama, 1983).

Legal Protection Theory

The principle of legal protection for the Indonesian is the principle of recognition and protection of human dignity based on fifth principle of Pancasila and the principle of the rule of law based on fifth principle of Pancasila (Hadjon, 1987). According to Satjipto Rahardjo in Bustami, Fitriani, and Krisna (2018), legal protection provides a guardianship to human right that harmed by others and the protection is given to all people, so they can feel the legal right.

Legal Certainty Theory

To create a legal certainty, the main requirement that must be fulfilled is that the legislation must have distinct rules. There are some matters which are very important, but not included in the laws and regulations, because the dynamics of people's lives are more complex than the laws and regulations (Ismatullah & Hariri, 2012)

Conceptual Framework of Human Rights

Human right is objective because they are rooted in human nature, therefore it cannot be abolished, these rights still exist as moral rights and respect. These rights will distinguish which countries are humane and which are based solely on power (Suseno, 2001).

Gender Change

Human is most commonly said to have a gender change when they undergo sex reassignment therapy, which is a medical procedure performed by people to change their sexual characteristics from male to female or from female to male. The term can also refer specifically to sex reassignment surgery, which usually refers only to genital surgery. The term sometimes also used for medical procedures on intersex people. Transgender is a general term used to describe people with a gender identity (their sense of being male or female) or gender expression that differs from what is normally associated with gender of their birth (Mamuaya & Karsona, 2018).

Transsexuals are transgender people who want to live fully as members of the opposite sex of their gender. Transsexuals usually seek medical intervention, such as hormones and surgery to make their bodies as congruent as possible to their preferred sex. There are two types of transsexuals, biological women who want to live and be recognized as male-to-female (MTF) and biological men who want to live and be recognized as women called female-to-male (FTM).



Court Determination

There are 5 (five) meanings of the word "determination" in Indonesia Dictionary (KBBI) which falls into the class of nouns (nouns): a) Unilateral action to determine the concrete rules of law that apply specifically; b) Process, manner, act of prescribing; c) Determination; d) Appointment (department etc.); e) Implementation (promises, obligations). The decision is a court ruling on a lawsuit based on a dispute or case, in the sense that the decision is a product of the court in contentious cases, that is, the actual product of the court. Called jurisdiction contentious, because there are 2 (two) opposing parties in the case (plaintiff and defendant). The determination is a voluntary Jurisdiction (not the actual judiciary), because in the determination there is only the petitioner and there is no opponent of the law. In the setting. Judges do not use the word "judge", but simply use the word "determine".

A Judge's Determination is a declarative judge decision to prescribe a particular event (Marbun & Bram, 2012). Determination, *beschikking*, is a statement issued by a judge on matters that are their authority in examining matters held outside the court's decision, for example 1) an order to release the defendant from custody; an order for the addition of evidence (Hamzah, 2013). Jurisprudence is the decision of a previous judge that is often followed and made the basis of a decision by another judge on the same issue (Masriani, 2007).

Framework of Thought

The problems that will be discussed as described in the formulation of the problem, based on theory of the state of law, the theory of legal protection and the theory of legal certainty. The results obtained from the study and analysis of court rulings on gender reassignment in human law, is a legal novelty of a study to provide appropriate solutions to problems faced, such as the importance of establishing special legislation in the field of human rights, regulating gender reassignment and addressing legal loopholes. Special legislation can strengthen the legal basis of court determination.

The court's ruling of parties intending to change gender in their legal considerations is only based on general provisions in the field of human rights, especially the right to live, equality before the law and the elimination of discrimination. It is necessary to regulate the establishment of a special institution that is independent and has the task and authority to regulate gender change in laws and regulations that specifically regulate gender change, including the convenience of conducting medical examinations and changing the name on the birth certificate if it has obtained a court order and convenience for parties who intend to correct a civil registry deed, if the deed has been recorded in the event of an error, deficiency or other error in determining gender since birth. The Law Number 24 of 2013, which has been amended from Law Number 23 of 2006, concerning population administration need to provide an understanding of gender change.

RESEARCH METHOD

The normative juridical approach is an approach carried out by studying theories and



concepts related to the problem. The normative approach or library approach is a method used in legal research carried out by examining existing library materials (Soekanto & Mamudji, 2015). Approaches which are used in legal research are the statute approach, the case approach, the historical approach, the comparative approach and the conceptual approach (Marzuki, 2011).

The normative research approach in this research is carried out by:

1. The legal approach (statue approach), carried out by examining the laws and regulations relating to gender change.
2. Conceptual approach, which is based on the thoughts of experts, it can be found legal concepts that are relevant to gender change.
3. Case approach, is based on legal considerations, a court order will provide a solution regarding gender change.

Normative legal research also known as doctrinal legal research. Normative legal research is a process to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced (Marzuki, 2011). Legal research conducted by examining library materials or secondary data merely, it can be called normative legal research or library law research (in addition to sociological or empirical legal research which mainly examines primary data) (Soekanto & Mamudji, 2015). Research legal materials, such as primary and secondary legal materials that have been collected were analyzed in a qualitative normative manner and described descriptively.

Data collection techniques were carried out through library research, including information through print and electronic media. Legal materials collected include:

1. Primary legal materials covering laws and regulations, in the field of human rights, court decisions relating to gender change.
2. Secondary legal materials consisting of legal literature and scientific works.
3. Tertiary legal materials, such as general dictionaries and legal dictionaries to provide an explanation of the terms and their meanings in this research.

RESULTS AND DISCUSSION

A. Legal Arrangements in the Field of Human Rights Regarding Gender Change

1. International treaties on human rights as a source of law

The Law of Republic of Indonesia Number 37 of 1999, concerning foreign relations, Article 1 point 3, International Agreement is an agreement in any form and designation, which is regulated by international law and made in writing by the Government of the Republic of Indonesia with one or more countries, international organizations or other international legal subjects, and creates rights and obligations on the Government Republic of Indonesia which is public law.

The Constitutions of the Republic of Indonesia Number 24 of 2000 concerning International Agreements. Article 1 letter (a) International Agreement is an agreement, in a certain form and name, which is regulated in international law which is made in



writing and gives rise to rights and obligations in the field of public law. Article 38 paragraph (1) of the Statute of the International Court of Justice stipulates that the sources of international law used by the Court in adjudicating cases are:

1. International Conventions, both general and specific.
2. International customs (International Customs).
3. General principles of law implemented by civilized nations.
4. Judicial Decisions and the opinion of experts who have recognized expertise (Teaching of the Most Highly Qualified Publicists) (Mauna, 2001).

Universal Declaration of Human Rights, 1948, Covenant on Civil and Political Rights, 1966, Covenant on Economic Social and Cultural Rights, 1966, International Convention on the Elimination of All Forms of Racial Discrimination, 1965, Convention Concerning the Elimination of All Forms of Discrimination Against Women 1979 and Convention on the Children's Rights 1989, do not specifically regulate gender change. The results of the study show that the international treaties in the field of human rights that apply do not specifically regulate gender change.

2. Human Rights Legislation as the Legal Basis for Gender Change

The 1945 State Constitution of the Republic of Indonesia (Articles 28 A to J), MPR Decree Number XVII of 1998, concerning Human Rights, Law Number 39 of 1999, concerning Human Rights, Law Number 40 of 2008 Regarding the Elimination of Race and Ethnic Discrimination, Law of the Republic of Indonesia Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, can be used as a legal basis in the formation of laws and regulations that specifically regulate gender change, due to the fact that in Indonesia there is no legislation that specifically regulates gender change.

3. Implementation of Court Decisions in Indonesia Regarding Gender Change

The implementation of court decisions in Indonesia regarding gender change is based on consideration of the results of the health examination, showing:

1. Some people born with physical conditions, especially the genitals that do not appear clearly as male or female, so it is necessary to do an examination at the Molecular and Cytogenetics Laboratory and the results of the chromosome examination are 46 XY meaning male.
2. Some people behave contrary to their sex and intend have sex reassignment surgery. Therefore, they have to do a psychological evaluation at the mental hospital which states there is no sign of mental disorder.
3. There are parties who are born physically appear to be female and in their daily development tend to behave like male. After a medical examination, the results showed that the applicant had a male chromosome showing 46 XY and a statement from a psychiatrist explained that if the applicant was forced to be a woman, they would experience depression.
4. There are parties who are physically born as women but wish to change their gender to become men. The court's decision rejected the request for a gender change from female to male, because the results of the chromosome examination from the infertility



clinic cytogenetic laboratory showed that XX means that it tends to be female.

5. There are parties who apply for a sex change because they have multiple sexes and based on chromosome examination it is known that they are male (XY) so the court granted the applicant's request to change the sex of a woman to a man.

The implementation of court decisions in Indonesia regarding gender change is based on legal considerations, showing that court decisions are only based on human rights laws and regulations, in general and do not specifically regulate gender change, such as protection of survival, equal status before law and there is no discrimination. The court's determination is based on legal considerations in accordance with the 1945 State Constitution of the Republic of Indonesia, Law Number 39 of 1999, concerning Human Rights, Law Number 48 of 2009, concerning Judicial Power, and Law number 24 of 2013 amended from Law number 23 of 2006, concerning Population Administration. This proves the importance of gender change which is specifically regulated in laws and regulations to protect human rights and to avoid a legal vacuum, because court decisions require proper and correct reasons and legal basis in order to fulfill a sense of justice in society.

The court ruling based on legal considerations in accordance with Law number 24 of 2013 amended from Law number 23 of 2006, concerning population administration. In the Elucidation of Article 56 paragraph (1) what is meant by other important events are events determined by the district court to be recorded at the implementing agency, including changes in gender. This proves that the law on population administration has been used as the basis for legal considerations for court decisions, even though the law does not provide a formula for understanding gender change.

4. Cases of Gender Change and Opinions from Various Parties

The Judicial Commission (KY) stated that the decision was valid, if there was a reason based on the results of the examination by a team of doctors. According to the Chairman of KY Busyro, before a case is legally decided, the panel of judges must ask for considerations from various parties to strengthen the decision.

That the existence of a transsexual group such as the applicant's situation cannot be denied and this group is also an Indonesian citizen whose rights are guaranteed both by the 1945 Constitution and the legislation below it so that groups like the applicant must also receive protection in accordance with the Indonesian nation's philosophy of life, Pancasila. Finally, the judge granted the applicant's request in Decision No.19Pdt/P/2009/PN.BTG (Busro, 2013). The National Human Rights Commission (KOMNAS HAM), Natalius Pigai, said that the state has an obligation to protect Indonesian citizens regardless of type, ethnicity, religion, racial, or minority groups and vulnerable groups (which are vulnerable to violence). The state has an obligation to fulfill the human rights of all Indonesian citizens regardless of ethnicity, religion, including minority and vulnerable groups and LGBT people (Maulana, 2019).

According to Deputy Secretary of the Fatwa Council of the Indonesian Ulama Council



(MUI), Asrorun Ni'am Sholeh, the act of performing gender change operations by medical personnel (doctors) is clearly against the Medical Code of Ethics and religious law. Asrorun Ni'am Sholeh believed that the current medical code of ethics does not conflict with religious law, considering that this medical code of ethics is subject to moral values and applicable laws (Abdulah, 2012).

The Honorary Council of Medical Ethics (MKEK) of the Indonesian Doctors Association (IDI), instead of giving sanctions to the team of doctors in the case as demanded by MUI, MKEK actually believed in the decision taken by RSU Soetomo Surabaya to do a sex change surgery without violating medical ethics. The Chairperson of MKEK IDI, Agus Purwadianto, ensured that before the hospital decided to perform surgery, it was certain to first conduct a lengthy assessment process involving several doctors and psychiatrists. The importance of establishing legislation specifically regarding gender change to strengthen the basis for consideration the law of court decisions in particular, so that the applicable court decisions do not cause differences of opinion in the community.

5. Comparison with Other Countries

June 26, 2015 is a historic day for Americans, especially those who are pro-same-sex marriage. On that day, the Supreme Court of the United States officially legalized same-sex marriage in all American states through their controversial Decision 'Obergefell v Hodges (Chalid & Yaqin, 2021). However, after the issuance of the Decision, same-sex marriage became legal in the United States. America's entire territory and state laws that previously banned same-sex marriage are now invalid. The decision of Supreme Court of the United States, in the case of Obergefell vs Hodges, director, Ohio Department of Health is the latest court ruling on same-sex marriage and is a landmark ruling that radically changes the legality of same-sex marriage in the United States and has major implications for other countries (Kalangit & Susetyo, 2020).

On January 05, 2016 a court in Changsha, South Hunan Province of China, learned of Sun Wenlin's application for permission to marry a male colleague that was filed earlier in December 2015, but was rejected by the Civil Affairs Bureau. Heard of this case, on April 13, 2016, The United Nations Development Program (UNDP) helped Lesbian, Gay, Bisexual, and Transgender (LGBT) people and same-sex marriage advocates to launch a massive campaign before the Changsha court. This is done for the advancement of the LGBT community in China. This made the Supreme Council of China support same-sex marriage because it was based on human rights and allowed Sun Wenlin to have marriage in Changsha China, even though this was done in private decision.

China's supreme council grants the right to same-sex marriage, as there is no official law on same-sex marriage, but it is only a matter of time before the government officially declares same-sex marriage permissible (Tama, 2017). Singapore is still one of the many countries that prohibit and criminalize Lesbian, gay, bisexual, transgender, intersex and queer (LGBT) actors and same-sex marriage. The prohibition and criminalization of same-sex marriage is contained in Section 377A of the Penal Code of Singapore which



reads: Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.

First, the case of *Tan Eng Hong V Attorney General*. This case was filed by Tan Eng Hong on 24 September 2010 who requested that Section 377A of the Penal Code of Singapore to be removed or not enforced because it was deemed to violate the rights of citizens protected by the Singapore Constitution. This application submitted by Tan Eng Hong was ultimately rejected by the Court of Appeal on the grounds that the suit cannot be granted by the court because changing or removing statutory provisions is the task of Parliament, not the Court. Therefore, the Court considers that the desire to decriminalize gays as requested by Tan Eng Hong is more appropriately directed to Parliament.

Second, the case of *Lim Meng Suang v Attorney-General*. This case was filed by Lim Meng Suang on 30 November 2012 who also demanded that Section 377A of the Code Penal of Singapore to be abolished or cancelled because it was deemed to be contrary to Article 9 of the Singapore Constitution regarding equality before the law and Article 12 The Singapore Constitution on the right to life and the right to personal liberty. It was ended like Tan Eng Hong's previous application, this application was finally rejected by the Court of Appeal (The Highest Court in Singapore) on the grounds that Section 377A of the Code Penal of Singapore did not conflict with Article 9 and Article 12 of the Singapore Constitution. Legal politics to maintain Section 377A of its Penal Code (maintaining the criminalization of gays). Therefore same-sex marriage is not recognized and has no place in the Singapore legal system to date.

B. The Influence of the Establishment of Legislations Specifically Regulating Gender Changes on Court Decisions That Have Been Applicable in Indonesia.

1. Opinions of Legal Experts Regarding the Importance of Legislation That Specifically Regulates Gender Change

In accordance with the opinion of legal experts on the importance of legislation that specifically gender reassignment, shows a legal void when there is no legislation regulating gender reassignment. Legislation that specifically changes gender can strengthen the basis of legal considerations in court determination. In accordance with Law Number 48 of 2009 on Judicial Power. Article 50 paragraph (1) the decision of the court in addition to containing the reasons and basis of the decision, must also contain certain articles of the relevant legislation or unwritten legal sources that are used as the basis for adjudication. Article 53 paragraph (1) in examining and deciding cases, the judge is responsible for the determination and decision they make. Paragraph (2) the determination and decision as referred to in paragraph (1) must contain the judge's legal considerations based on appropriate and correct legal reasons and basis.

2. Establishment of Legislative Regulations Specifically on Gender Change

The establishment of legislation that specifically regulates gender reassignment is very



necessary, because the Constitution of the Republic of Indonesia in 1945 Article 28 A to Article 28 J, Resolution of the People's Consultative Assembly of the Republic of Indonesia Number XVII /MPR /1998 on Human Rights, Law No. 39 of 1999 on Human Rights does not specifically regulate gender reassignment. Law Number 24 of 2013 on Amendments to Law Number 23 of 2006 on Population Administration, does not provide a definition of gender change. Law Number 15 of 2019 on Amendments to Law Number 12 of 2011 on the Establishment of Legislation. Article 5, in formulating legislation must be done based on the principle of the establishment of good legislation, which includes letter (f) clarity of formulation. In the explanation of letter (f) what is meant by the "principle of clarity of formulation" is that each legislation must meet the technical requirements of the preparation of legislation, systematic, choice of words or terms, and legal language that is clear and easy to understand so as not to give rise to various kind of interpretation in its implementation.

Legislation that specifically regulates gender reassignment must provide legal certainty in particular regarding the results of medical examinations by expert witnesses stating that people who will undergo gender reassignment are not allowed if they actually have an XY male or XX female chromosome, as well. With the everyday behavior of the appearance of looking like a woman or men are allowed or do not make a change of gender.

CONCLUSIONS

Legal arrangements in the field of human rights regarding sex change, both in international treaties and national laws and regulations have not specifically regulated gender change. Courts in Indonesia regarding sex change are based on consideration of the results of the health examination and legal considerations as well as the information from expert witnesses. The legal basis for judicial considerations in Indonesia is based on the 1945 Constitution of the Republic of Indonesia and Law Number 39 of 1999 concerning Human Rights. Law Number 48 of 2009 concerning Judicial Power, Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration.

Legal arrangements in the field of human rights that specifically regulate sex change need to be immediately established, especially in international treaties and national laws and regulations, so that there is legal certainty. The implementation of court decisions in Indonesia regarding sex change needs to be strengthened by the existence of laws and regulations that specifically regulate sex change. The establishment of laws and regulations in Indonesia that specifically regulates gender change must be able to provide guarantees for the protection of human rights for parties who have fulfilled the requirements according to the results of the health examination to obtain a court order.

REFERENCES

Abdulah, A. D. (2012). Laporan penelitian individual legal reasoning hukumpergantian



- ganti kelamin penderita transeksual (Studi komparisasi antara hukum Islam dan hukum perdata). *Istinbath: Jurnal Hukum Islam IAIN Mataram*, 12(2), 221-240.
- Ariyanto., & Triawan, R. (2008). *Jadi, kau tak merasa bersalah? Studi kasus diskriminasi dan kekerasan terhadap LGBT*. Jakarta: Arus Pelangi & Yayasan Tifa
- Busro, H. A. (2013). Analisis putusan P.n. Batang No.19 Pdt/p/2009/pn.btg. Tentang perubahan status hukum setelah operasi penyesuaian kelamin. *Masalah-Masalah Hukum*, 42(4), 557-564.
- Bustami., Fitriani, R., & Krisna, L. A. (2018). Implementation of social security protections for workers at the village level (Research study at Langsa City, Aceh). *International Journal of Applied Business and International Management*, 3(2), 1-7.
- Chalid, H., & Yaqin, A. A. (2021). The global debate and phenomenon of same sex marriage legalization: Case studies of the United States, Singapore and Indonesia. *Journal of the Constitution*, 18(1), 138-167.
- Fuady, M. (2009). *Teori negara hukum modern (rechtstaat)*. Bandung: Refika Aditama.
- Gautama, S. (1983). *Pengertian tentang negara hukum*. Bandung: Alumni.
- Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat di Indonesia. Sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan peradilan administrasi negara*. Surabaya: Bina Ilmu.
- Hamzah, A. (2013). *Terminologi hukum pidana*. Jakarta: Sinar Grafika.
- Ismatullah, D., & Hariri, W. M. (2012). *Pengantar ilmu hukum*. Bandung: Pustaka Setia.
- Kalangit, H. K. M., & Susetyo, H. (2020). Perkawinan sesama jenis dan hak asasi manusia: Penerapan prinsip equality dalam putusan Obergefell, et.al. v. Hodges, USA serta analisis mengenai perkawinan sesama jenis di Indonesia. *University of Bengkulu Law Journal*, 5(2), 177-200.
- Mauna, B. (2001). *Hukum internasional: Pengertian peranan dan fungsi dalam era dinamika global*. Bandung: Alumni.
- Mamuaya, H., & Karsona, A. M. (2018). Pelaksanaan hak atsa pekerjaan terhadap transgender/transeksual di Indonesia. *Jurnal Bina Mulia Hukum*, 2(2), 244-253.
- Marbun, R., & Bram, D. (2012). *Kamus hukum lengkap*. Jakarta Selatan: Transmedia Pustaka
- Maulana. (2019). Pelaksanaan hukum hak asasi manusia terhadap pelaku Lesbian, Gay, Biseksual, Transgender (LGBT) di Indonesia. *Sol Justicia*, 2(2), 122-131.
- Masriani, Y. T. (2007). *Pengantar hukum Indonesia*. Jakarta: Sinar Grafika.
- Marzuki, P. M. (2011). *Penelitian hukum*. Jakarta: Kencana Prenada Media Group.
- Suseno, F.M. (2001). *Kuasa & moral*. Jakarta: PT.Gramedia Pustaka Utama.
- Soekanto, S., & Mamudji, S. (1995). *Penelitian hukum normative: Suatu tinjauan singkat*. Jakarta:Rajawali Pers.
- Tama, A. (2017). The role of the United Nations Development Program (UNDP) in legalizing Lesbian, Gay, Bisexual, Transgender (LGBT) marriage in China. *JOM FISIP*, 4(2), 1-15.
- Tagar.id (2021, March 10). *Hipospadia: Aprilia Manganang perempuan ternyata laki-laki*. Retrieved online from <https://www.tagar.id/hipospadia-aprilia-manganang-perempuan-ternyata-lakilaki>
- The 1945 State Constitution of the Republic of Indonesia, Article 27 paragraph 1, concerning all citizens have the same position before the law, and government is



obliged to uphold the law without exception
Tsa Tsia, W., & Ferdinan. (2021, March 10). National commission on violence against women: Stop the negative stigma from Aprilia Manganang. Retrieved from <https://voi.id/en/news/38171/national-commission-on-violence-against-women-stop-the-negative-stigma-from-aprilia-manganang>