



Analysis of the Implementation of Chinese Rename Based On the Civil Code and Law Number 24 of 2013 Concerning Amendments to Law Number 23 of 2006 Concerning Population Administration (Analysis of Verdict Number 66/PDT. P/2019/PN. SKB)

Farahdinny Siswajanthy; Herli Antoni; Hj. Tuti Susilawati K

Lecturer of Faculty of Law, Pakuan University, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v8i6.2963>

Abstract

The problem of renaming the Chinese existed during the New Order refers to 1965. Chinese people who did not change their names tend to be associated with the Communist Party of Indonesia (PKI) or communists because it is considered affiliated with the Communist Party of China (CPC) in China. Even Indonesia's diplomatic relations with China were severed after the events of the 30 September movement related to the existence of the PKI in Indonesia. Chinese descendants then had to change their Chinese name on the basis of proof of nationalism. This was reinforced after President Suharto ratified Presidential Decree No. 240 of 1967 concerning The Wisdom of Foreigners. The legal basis governing the renaming of the Chinese class is stipulated in Article 5 of Presidential Decree No.240 of 1967 concerning the Principal Wisdom of Indonesian Citizens of Foreign Descent ("Presidential Decree 240/1967") which states "Especially against Indonesian citizens of foreign descent that still use chinese names are recommended to replace the names with Indonesian names in accordance with the provisions that apply". The purpose of this research is to find out how the procedure of implementation provisions, and the completion of the implementation of the name change of the Chinese class. This research is normative with a statutory approach, and is descriptively analytical. The data collection uses library research method, and using field research method. The data is processed and analyzed qualitatively. The results showed that the name change of the Chinese class based on Article 52 paragraph (1) of Law No. 23 of 2006 concerning Population Administration mentioned that the registration of name changes was carried out based on the determination of the district court where the applicant, and regarding the recording of name changes is one of the important events as stipulated in Law No. 23 of 2006 concerning Population Administration in Article 1 number 17 jo Article 52 paragraph (2) of Law No. 23 of 2006 concerning Population Administration.

Keywords: *Renamed of Chinese Descendants*

A. Introduction

a. Early History of Ethnic Chinese in Java

Before the establishment of the country named Indonesia, ethnic of Chinese had set foot in java. From various historical records Chinese traders have come to coastal areas of the South China Sea since

300 years BC, however written historical records show they came to Southeast Asia long after that.¹ Some of the oldest records were written by religionists, such as Fa Hien in the 4th century and I Ching in the 7th century. Fa Hien reported a kingdom in Java ("To lo mo") and I Ching wanted to come to India to study Buddhism and stop in Java to study Sanskrit.² In Java, he taught to someone named Janabhadra. In ancient Chinese records mention that the ancient kingdoms of Java have established close relations with the ruling dynasties in China.

At first they stayed only a short time during trade visits made in several coastal towns. But seeing the wealth and potential of Javanese land in the following years many ethnic Chinese came and settled in Java to obtain a better livelihood with the main goal is to trade. Their arrival (ethnic Chinese) was well received by the natives, the acculturation that runs between the two cultures went well.

Even because the Chinese nomads who came to Java were dominated by men, these Chinese people then married indigenous women. Many of these children converted to Islam and many of them were married to the daughters of the royal family. This is one of the ways of spreading Islam in the archipelago by the Chinese. The closeness of the Chinese people with the ruling kingdom at that time including majapahit century at the time of the rule of Hayam Wuruk gave many advantages, including the appearance of various preferential treatment of foreigners by giving equal positions to officials and giving authority to foreigners including Chinese people.³

b. The Cause of Renamed of Chinese Descendants

Changing the Chinese name to Indonesian is not something that Chinese Descendants deliberately did to get a job or blend to impress as a "native" of Indonesia. Nor is it for the sake of being the spy team of the country of origin, China.

In his research, Suharyo also concluded several causes of Chinese people leaving their real names, among others because of the issue of Racial and Inter-Racial Religions "SARA" and the custom of the New Order period. Even today, there are very few Chinese real names listed on the Identity Card (KTP).

The New Order's "custom" refers to 1965. Those who were not renamed tended to be associated with the Communist Party of Indonesia (PKI) or communists because it was considered affiliated with the Communist Party of China (CPC) in China. Even Indonesia's diplomatic relations with China were severed after the events of the 30 September movement related to the existence of the PKI in Indonesia. Peranakan Chinese then had to change their Chinese name on the basis of proof of nationalism. This was reinforced after President Suharto ratified Presidential Decree No. 240 of 1967 concerning The Wisdom of That The Foreigners.

The legal basis governing the renaming of the Chinese is stipulated in Article 5 of Presidential Decree No.240 of 1967 concerning the Principal Wisdom of That Indonesian Citizens of Foreign Descent ("Presidential Decree 240/1967") which states:

"Especially for Indonesian citizens of foreign descent that still use Chinese names are recommended to replace the names with Indonesian names in accordance with the provisions were apply".

¹ Abdullah Dahana, *Kegiatan Awal Masyarakat Tionghoa di Indonesia*, *Jurnal Wacana*, Vol.2 No.1, Jakarta : 2001, P. 54.

²FX.Lilik Dwi M.Imlek, *Tradisi Yang Tak Lagi Sendiri*, Jakarta (ANTARA News). Dalam <http://www.antaraneews.com/berita/53516/imlek-tradisi-yang-tak-lagi-sendiri>, accessed 27-02-2020.

³ Adrian Perkasa, *Orang-orang Tionghoa dan Islam di Majapahit*, (Yogyakarta : Ombak, 2012), P. 47

From this provision, it can be known that there is a suggestion to change the Chinese name to the name of Indonesia. However, advice is not an obligation that must be adhered to. Moreover, there are no sanctions in Presidential Decree 240/1967 that can be applied if it does not change the name of China to the name of Indonesia. Thus, until now there is no legislation in Indonesia that prohibits Indonesian citizens to use Chinese names.

According to Susanto, Indonesians do not actually reject the Chinese presence in Indonesia, but demand that they can *suit* well. It was this mindset that, directly or not, justified the racism of the "natives" into Chinese society. "The Chinese should be *intropeksi*, meaning to reflect on their own intolerance".⁴

The coercion of China-Indonesia assimilation in the Suharto era was not just a matter of name. In the provisional MPR (People's Consultative Assembly) decree (TAP MPRS) Number 32 of 1966, the government prohibited the use of Chinese characters and languages for mass media and store/company names. There is only one media that is allowed to publish in Chinese: Indonesian Daily. "All regulations were made by the Suharto government on the grounds of speeding up the assimilation process so that the so-called 'Chinese problem' could be solved. However, it is clear that this whole policy aims to remove the Chinese as a cultural group with distinctive characteristics". In addition, Suharto also issued Presidential Instruction No. 14 of 1967 on Chinese Religious Beliefs and Customs. In essence, religious freedom and the entrenched Chinese tradition of the Bamboo Curtain Country must be reviewed, watched, and conducted in private.

This assimilation will not have a good impact. The only way they were accepted was not by maintaining their identity, but by releasing their characteristics as ethnic Chinese. "The concept of Indonesian nationality has never been established, and in this situation, the Chinese are expected to be able to assimilate with the natives".⁵ As a result of this ban, most Chinese born after 1966, can only speak, write, and read Indonesian.⁶

During the Reformation, President Abdurrahman Wahid or commonly called Wahid tried to provide justice for ethnic Chinese. Not assimilation with prohibition and coercion, but rather giving freedom by revoking Presidential Instruction No. 14 of 1967 and TAP MPRS 32/1966. Renaming doesn't solve the problem of racism, it only eliminates the identity of Chinese descent.

B. Research Methods

In conducting this research using normative juridical approach method, namely approaching the problem based on the rules or legal norms that become the object of discussion. Specifications of analytical descriptive research, namely describing and describing the object that becomes the problem to be analyzed based on the theory and principles of applicable law, using theories of legal science, especially criminal law and based on legislation.

C. Deliberations Content

a. Case Position Of Decision No.66/Pdt.P/2019/PN.Skb

In this study take the example of the implementation of the name change of the Chinese in Case No. 66 / PDT. P/2019/PN. SKB, which is explained as follows:

⁴ Albertus Budi Susanto, *Membaca Postkolonialitas (di) Indonesia*, (Yogyakarta : Kanisius, 2008), P. 2.

⁵ Mely G Tan, *Etnis Tionghoa di Indonesia, Kumpulan Tulisan*, (Jakarta : Yayasan Pustaka Obor Indonesia, 2008), P. 157

⁶ Aimee Dawis, *Orang Indonesia Tionghoa Mencari Identitas*, (Jakarta : Gramedia Pustaka Utama, 2010), P. 1.

1. Subject

Tjung Tjoan Nio, place / date of birth: Sukabumi September 19, 1962, gender: Female, religion: Christianity, work: taking care of the household, address: Jalan RA Kosasih Gang Limus No.138 RT 001 RW 002, Cikole Village, Cikole Subdistrict, Sukabumi City, hereinafter referred to as **the Applicant**.

2. Posita

- a. That the Applicant was born in Sukabumi on September 15, 1962, the daughter of Tjung Tek Goan and Oey Ang Nio;
- b. That As evidence of birth certificate Number: One hundred and twenty-one tudjuh dated September 19, 1962 from sukabumi Civil Registry office;
- c. That the renaming because the applicant is called everyday with the call Neneng Mulyati;
- d. That the applicant has a Certificate of Completion of Study (STTB) of the High School of Economics (SMEA) issued by the Ministry of Education and Culture of the Republic of Indonesia. In Sukabumi on April 30, 1981. Neneng Mulyati was born on September 15, 1962 in Sukabumi, the daughter of Irwan;
- e. That the applicant has a Family Card No.3272020109060021 issued by the Cikole sub-district in 2006. And listed the name of the applicant Neneng Mulyati with the name of the parents father: Irwan and Mother: Ani Setiawati;
- f. That the applicant wishes to change the applicant's name with the reason to be the same in accordance with the existing documents (KTP, KK, STTB).

3. Petitum

- a. Grant the applicant's request;
- b. Declaring valid change of the applicant's name on the citation of birth certificate dated September 19, 1962 written Tjung Tjoan Nio was born in Sukabumi on September 15, 1962 the daughter of Tjung Tek Goan and Oey Ang Nio became Neneng Mulyati born in Sukabumi on September 15, 1962 the daughter of Irwan and Ani Setiawati;
- c. Give permission to the Civil Registration and Population Office of Sukabumi City to register about changing the name on the applicant's birth certificate into the register for such purposes;
- d. Costs incurred as a result of this application will be borne by the applicant.

4. Determination

Sukabumi City District Court Set:

1. Refuse the applicant's application for the entirety;
2. Give a fine the applicant a fee of Rp. 216.000,- (two hundred sixteen thousand rupiah).

b. Results of Analysis of Decision No.66/Pdt.P/2019/PN.Skb

1. Provisions for the Implementation of Chinese Name Changed Based on the Civil Code and Law No. 24 of 2013 about Amendments to Law No. 23 of 2006 concerning Population Administration.

In 1967 the then President (Suharto) issued Presidential Decree No. 240 of 1967 concerning the Principal Wisdom of Indonesian Citizens of Foreign Descent, in which it stated "Especially for Indonesian citizens of foreign descent that still use the Chinese name is recommended to replace the names of Indonesians in accordance with the provisions of that apply".

After this decision, not a few Chinese people changed their Chinese name to Indonesian name. The coercion of China-Indonesia assimilation in the Suharto era was not just a matter of name. In the provisional mpr (People's Consultative Assembly) decree (TAP MPRS) Number 32 of 1966, the government prohibits the use of Chinese characters and languages for mass media and took/company names. There is only one media that is allowed to publish in Chinese, namely *Harian Indonesia*. All regulations were made by the Suharto government on the grounds of speeding up the assimilation process so that the so-called "Chinese problem" could be solved. However, this whole policy aims to remove the Chinese as a cultural group with distinctive characteristics. In addition, Suharto also issued Presidential Instruction No. 14 of 1967 on Chinese Religious Beliefs and Customs. In essence, religious freedom and the entrenched Chinese tradition of the Bamboo Curtain Country must be reviewed, watched, and conducted in private. As a result of this ban, most Chinese people born after 1966, can only speak, write, and read Bahasa Indonesia.

In the considerant of the Presidential Decree 240/1967 refers, among others, to the Decree of the Presidium of the Cabinet No.127/U/Kep/12/1966 on The Regulation of Renaming for Indonesian Citizens Who Use Chinese Name. The renaming of China with the name Indonesia is only recommended, and there are no sanctions if the recommendations are not followed. The above legislation is part of the policy of assimilation of foreign nationals of the New Order government. The Decree of the Presidium of the Cabinet No.127/U/Kep/12/1966 is 1 (one) of 64 (sixty-four) regulations that restrict and burden its citizens, especially ethnic Chinese.⁷

After the New Order regime collapsed, President B.J. Habibie issued Presidential Instruction No. 26 of 1998 that abolished the use of indigenous and non-earthly terms in all formulation and implementation of policies, planning programs, or the implementation and administration of government. The President's instruction also instructs that government officials must provide the same services and services to all Indonesian citizens in the implementation of government services, community and development, and negate the distinction in all forms, properties and levels to Indonesian citizens both on the basis of ethnicity, religion, race and origin in the implementation.⁸

Along with the development of the reform era, President Abdurrahman Wahid or commonly called Wahid tried to provide justice for ethnic Chinese. Not assimilation with prohibition and coercion, but rather giving freedom by revoking Presidential Intruksi No. 14 of 1967 and TAP MPRS No. 32 of 1966. Renaming does not solve the problem of racism, but only eliminates the identity of Chinese descent.

In accordance with the current laws and regulations in Indonesia, the name is based on determining a person's nationality. This can be seen from the definition of Indonesian citizen referred to in Law No. 12 of 2006 concerning Citizenship of the Republic of Indonesia. The definition of an Indonesian citizen in Law No. 12 of 2006, there is no clause that states that a person's name determines himself or herself as an Indonesian citizen or a foreign citizen. Thus, people with Chinese names fall into one of the categories of Indonesian citizens, cannot be categorized as citizens simply because of their name.

The provisions of the implementation of the renaming of the Chinese group refers to Article 5 Presidential Decree No. 240 of 1967 concerning the Policy of The Principal of Citizen of Foreign Descent which states: "Especially for Indonesian citizens of foreign descent that still use the Chinese name is recommended to replace the names with the name of Indonesia in accordance with the provisions that apply".

⁷ Kartika Febryanti, "Memberi Nama Cina Untuk Anak" *m.hukumonline.com*, accessed 16-08-2020.

⁸ Tionghoa Info, "Apakah WNI Tidak Boleh Menggunakan Nama Tionghoa?" <https://www.tionghoa.info/apakah-wni-tidak-boleh-menggunakan-nama-tionghoa/>, accessed 16-08-2020.

So with the publication of the Presidential Decree, the Chinese people are encouraged to change their Chinese name in accordance with the applicable provisions, so that the Chinese people at that time many changed their Chinese name to impress to be an indigenous non-earthly.

Reviewed from the Second Chapter of Chapter Two civil code governing names, name changes, and first name changes (not applicable to Foreign Easterners, Non-Chinese Others, and Chinese) in Article 6 which reads:

"No one is allowed to change the name of descendants, or add another name to the name without the permission of the President. Whoever has a hereditary name or first names is unknown, is allowed to wear a hereditary name or original first names with the permission of the President."

Furthermore, article 11 reads:

"No one is allowed to change a first name or add first names to the first name, without permission from the district court where he lives upon request for it, and after hearing the prosecutor's office."

Then Article 12:

"If the district court allows a first name change or the addition of a first name, then the letter of determination must be submitted to the civil records officer of the requestor's place of birth, which employee must book it in the current register and record it also in the birth certificate jihat."

And the last is contained in Article 16 which reads:

"All decisions on the correction or addition of deed, when it has gained absolute power, shall be made by civil records officers in the current registers, as soon as the decision is shown to him, whereas if those decisions contain a correction this must also be recorded in the corrected deed, in accordance with the provisions in the reglemen on the implementation of the civil records register."

Further reviewed from Law No. 24 of 2013 concerning Amendments to Law No. 23 of 2006 concerning Population Administration containing the provisions on the implementation of name change contained in Article 1 number 17 which reads:

"Important events are events experienced by a person including birth, death, stillbirth, marriage, divorce, child recognition, name change and change of citizenship status."

In addition to contained in Article 1 number 17, there is also a provision for the implementation of name change in Article 52 Paragraph 1, Paragraph 2 and Paragraph 3 of Law No. 23 of 2006 on Population Administration.

2. Problems that Occur in The Decision No. 66/Pdt.P/2019/PN.Skb

In the court's decision No.66/Pdt.P/2019/PN.Skb the judge handling this case issued a determination that the applicant's application was rejected because even though it met the applicable requirements but the applicant was deemed unable to prove the evidence so as to make the applicant's application rejected. Based on the legal principle of "actori incumbit probatio" which means "who postulates, he who must prove".⁹

⁹ *Interview With Hakim Ibu Dhian Febriandari*, 25 June 2020 at Pengadilan Negeri Kota Sukabumi.

Evidence proof or evidence in English law often uses the term two words, namely proof and evidence. As for dutch law called "*bewijs*". But even so, the meaning of "proving" itself is a lot, because it proves to have a very broad understanding, for that an understanding has been put forward by R.M. Soedikno Mertokusumo as follows :¹⁰

- 1) The word *proves* known in a logical sense. Proof here means giving absolute certainty, because it applies to everyone and does not allow the existence of evidence of the opponent. Based on an axiom, i.e. general principles known in science, it is possible that there is absolute proof that does not allow the existence of evidence of the adversary. Based on an axiom, that two parallel lines are unlikely to cross can be proven that two legs of a triangle may not be aligned. There is no evidence of an opponent, unless it applies to everyone. Here the axiom is connected according to the provisions of logic with observations obtained from experience, so that conclusions are obtained that give absolute certainty.
- 2) The word *proves* to be known also in the conventional sense. On the other hand proves means also give certainty, it's just not absolute certainty, other than the certainty of relative or relative nature, which has levels:
 - a) Certainty based on mere feelings. Because it is based on mere feelings, this certainty is intuitive, and is called conviction intime.
 - b) Certainty is based on reasoned considerations, hence the so-called conviction raisonnee.
- 3) Proving in the law of the show has a juridical meaning. In the science of law there is no logical and absolute proof that applies to everyone and closes all possibilities of evidence of the opponent, but is a conventional proof of a special nature. This juridical proof applies only to parties who are litigants or who acquire rights from them. Thus, the evidence in the juridical sense does not lead to absolute truth, it is apparent that there is a possibility that the confession, testimony, or letters are not true or falsified. So in this case it is possible to have evidence of the opponent.

As for indonesian jurists, R. Supomo expressed the understanding of proof by distinguishing it as follows:¹¹

- a) Spacious understanding

Proof is to justify the relationship with the law. For example, the judge grants the plaintiff's claim, so this month means that the judge draws the conclusion that what the plaintiff put forward as the legal relationship between the plaintiff and the defendant is correct. In connection with that, it proves in a broad sense is to strengthen the conclusion of the judge on the condition that the evidence is valid.

- b) Confined understanding

It means that all that needs to be proven is that the defendants are disputing. This is what the defendant admitted did not need to be proven again.

And the evidence is related to the evidences of the dispute. Here the requirement that these things have to do with the disputed evidence is very important. After being elaborated some that have to do with the proof then it can be concluded that the law of proof is a series of rules of discipline that must be observed in conducting a debate before the judge. It is only the events. With the provenance of events or

¹⁰ Achmad Ali dan Wiwie Heryani, *Asas-Asas Hukum Pembuktian Perdata*, (Jakarta : Kencana, 2012), P. 16.

¹¹ *Ibid.*, p. 20.

events, it can be concluded that must be proven before a court hearing are facts or events to justify the existence of a right.¹²

Juridically, a request is a civil matter filed in the form of an application signed by the applicant or his/her proxies addressed to the head of the district court. The term application can also be referred to as voluntair lawsuit which is a unilateral application without any other party being withdrawn as a defendant. Characteristic of a voluntair application or lawsuit, it is :¹³

- 1) The proposed issue is of unilateral interest only (for the benefit of one party only);
- 2) The issue requested adjustment to the district court in principle without dispute or differences with another party);
- 3) No other person or third party is withdrawn as opposed to, but is absolutely one party (ex-parte).

The legal basis for the application or lawsuit refers to the provisions of Article 2 and the explanation of Article 2 paragraph (1) of Law No. 14 of 1970 concerning the Basic Provisions of The Power of Justice (Law No. 14 of 1970). Although Law No. 14 of 1970 has been replaced by Law No. 4 of 2004 on The Power of Justice, what is outlined article 2 and explanation article 2 paragraph (1) Law No. 14 of 1970, is still considered relevant as the basis of voluntair lawsuit which is an affirmation, in addition to the authority of the judicial body to resolve the problem or the case concerned with the jurisdiction of contentiosa ie the case of disputes of a party nature (there are plaintiffs and defendants) , also authorizes the resolution of problems or cases voluntair.

The legal consideration of the panel of judges related to the determination in which rejected the applicant's application because the panel of judges considered that from the applicant's application in essence to apply for the determination of the change of the name of the applicant and the parents of the applicant on the birth certificate of the applicant named Tjung Tjoan Nio to Neneng Mulyati the child from the previous Tjung Tek Goan to Irwan. Considering, that based on Article 52 paragraph (1) of Law No. 23 of 2006 concerning Population Administration mentioned the recording of name changes is carried out based on the determination of the district court where the applicant. Considering that the recording of name changes is one of the important events as stipulated in Article No. 23 of 2006 concerning Population Administration in Article 1 point 17 jo Article 52 paragraph (2). Considering that based on the applicant's information the reason the applicant wants the name change because the applicant is used to be called by the name of Neneng Mulyati and does not feel comfortable using a name that contains Chinese elements while the applicant is an Indonesian. Considering that to prove the evidence in the trial both through the evidence of the letter and the testimony of the witnesses, the applicant cannot prove what inconvenience the applicant received if the applicant was named Tjung Tjoan Nio. Considering that the applicant describes the frightening stigma regarding the application and the limitation of the applicant's knowledge on how to apply and the limitation of the applicant's knowledge as the reason that causes the new applicant to apply that is when the applicant is 57 (fifty-seven) years old. Considering that the birth certificate is the first authentic identity document about a person's status so it is appropriate that other documents concerning identity refer to the data contained in the birth certificate.

Based on the determination of the decision, with the determination of the panel of judges No. 66/Pdt.P/2019/PN.Skb who did not grant the applicant's request because based on Article 52 paragraph (1) of Law No. 23 of 2006 concerning Population Administration mentioned the recording of name changes carried out based on the determination of the district court where the applicant, and regarding the recording of name changes is one of the important events as stipulated in Law No. 23 of 2006 concerning Population Administration in Article 1 number 17 jo Article 52 paragraph (2) of Law No. 23 of 2006

¹² Koesparmono Irsan dan Armansyah, *Panduan Memahami Hukum Pembuktian dalam Hukum Perdata dan Hukum Pidana*, (Bekasi : Gramata Publishing, 2016), P. 10.

¹³ Zainal Asikin, *Hukum Acara Perdata Di Indonesia*, (Jakarta : Kencana, 2015), P. 16.

concerning Population Administration. This relates to the legal consideration of the panel of judges that his concerning the consideration of the judge relates to the theory of legal certainty and legal protection. Thus, the existence of legal certainty containing two understandings, namely first, the existence of general rules make individuals know what actions can or should not be done; and second, in the form of legal security for individuals from government arbitrariness because with the general rules that individuals can know what the state can charge or do to individuals. With the theory of legal certainty, the determination issued by the panel of judges refers to the protection of applicable laws, because thus the law aims to integrate and coordinate various interests, protection of certain interests can be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests, so that the law has the highest authority to determine the interests of human beings that need to be regulated and protected. Legal protection should look at the stages of legal protection born of a provision of law and all legal regulations provided by the community which is basically an agreement of the community to regulate the relationship of behavior between members of the community and between individuals and the government that is considered to represent the interests of the community.

Conclusion

Based on the description that has been stated in the previous chapters, it can be drawn some conclusions as follows :

1. The provisions of the implementation of the renaming of the Chinese group referring to the Civil Code and the Population Administration Law certainly have its own reasons why the Chinese people who live in Indonesia in the era of the "New Order" refers to the 1965 Chinese people who did not change their names associated with the issue of Racial and Inter-racial Religions (SARA) , and also associated with the Communist Party of Indonesia (PKI). In 1967 the then President (Suharto) issued Presidential Decree No. 240 of 1976 concerning the Principal Wisdom of Indonesian Citizens of Foreign Descent, in Article 5 in which states "Especially for Indonesian citizens of foreign descent that still use the Chinese name is recommended to replace the names of Indonesians in accordance with the provisions that apply".
2. In the provisions of the completion of the renaming of the Chinese class there are conditions that must be met by the interested applicant. The terms of name change are contained in Article 53 of Presidential Regulation No. 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration which stipulates that the recording of the name change of residents must meet the requirements including a copy of the determination of the district court, a citation of civil registration deed, family card (KK), electronic resident identification card (KTP-el), and travel documents for foreigners.
3. In the court decision No.66/Pdt.P/2019/PN.Skb the judge handling this case issued a determination that the applicant's application was rejected because even though it met the applicable requirements but the applicant was not able to prove the evidence so as to make the applicant's application rejected. Based on the legal principle of "*actori incumbit probatio*" which means "who postulates, must prove".

References

A. Laws and Regulations

Indonesia. Undang-Undang Dasar Tahun 1945.

_____. Undang-Undang tentang Administrasi Kependudukan (Lembaran Negara Republik Indonesia Tahun 2006 Nomor 124, Tambahan Lembaran Negara Republik Indonesia Nomor 4674).

- _____. Undang-Undang Nomor tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan.
- _____. Peraturan Pemerintah Nomor 37 Tahun 2007 tentang Pelaksanaan Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan dan Peraturan Presiden Nomor 25 Tahun 2008 tentang Persyaratan dan Tata Cara Pendaftaran Penduduk dan Pencatatan Sipil.
- _____. Peraturan Pemerintah Nomor 96 Tahun 2018 tentang Persyaratan dan Tata Cara Pendaftaran Penduduk dan Pencatatan Sipil.
- _____. Keputusan Presiden Nomor 240 Tahun 1967 tentang Kebidjaksanaan Pokok Jang Menjangkut Warga Negara Indonesia Keturunan Asing.
- _____. Instruksi Presiden Nomor 14 Tahun 1967 tentang Agama Kepercayaan dan Adat Istiadat Cina.

B. Books

- Adi, Rianto. (2019). *Hukum dan Masalah Kependudukan* [Law and Population Issues]. Jakarta: Yayasan Pustaka Obor Indonesia.
- Ali, Achmad and Wiwie Heryani. (2012). *Asas-Asas Hukum Pembuktian Perdata* [Principles of Civil Evidentiary Law]. Jakarta: Kencana.
- Asikin, Zainal, (2015). *Hukum Acara Perdata Di Indonesia* [Civil Procedural Law in Indonesia]. Jakarta: Kencana.
- Dawis, Aimee. (2010). *Orang Indonesia Tionghoa Mencari Identitas* [Chinese Indonesians Seek Identity]. Jakarta: Gramedia Pustaka Umum.
- Efendi, A'an, and Freddy Poernomo. (2017). *Hukum Administrasi* [Administrative Law]. Jakarta: Sinar Grafika.
- Fakrulloh, Arif, Zudan, and Endar Wismulyani. (2018). *Menuju Masyarakat Tertib Administrasi Kependudukan* [Towards an Orderly Society of Population Administration]. Klaten: Cempaka Putih.
- _____. (2018). *Teknologi Informasi dalam Administrasi Kependudukan* [Information Technology in Population Administration]. Klaten: Cempaka Putih.
- Haris, Abdul and Nyoman Adika. (2002). *Gelombang Migrasi dan Konflik Kepentingan Regional* [Waves of Migration and Regional Conflicts of Interest]. Yogyakarta: LESFI.
- Irsan, Koesparmono and Armansyah. (2016). *Panduan Memahami Hukum Pembuktian dalam Hukum Perdata dan Hukum Pidana* [Guide to Understanding Evidentiary Law in Civil law and Criminal Law]. Bekasi: Gramata Publishing.
- Johan, Bahri, Saiful, Teuku. (2018). *Hukum Tata Negara dan Hukum Administrasi Negara dalam Tataran Reformasi Ketatanegaraan Indonesia* [Constitutional Law and State Administrative Law in the State Of Indonesia's Constitutional Reform]. Yogyakarta: Deepublish.
- Kusnardi, Moh and Harmaily Ibrahim. (1983). *Pengantar Hukum Tata Negara Indonesia* [Introduction to Indonesian Constitutional Law]. Jakarta: Sastra Hudaya.

- Mantra, Bagoes, Ida. (2003). *Demografi Umum* [General Demographics]. Yogyakarta: Pustaka Pelajar.
- Marzuki, Muhammad, Peter. (2016). *Pengantar Ilmu Hukum Edisi Revisi* [Introduction to The Law; Revised Edition]. Jakarta: Kencana Prenada Media Group.
- Perkasa, Adrian. (2012). *Orang-Orang Tionghoa dan Islam di Majapahit* [Chinese and Muslims in Majapahit]. Yogyakarta: Ombak.
- Raharjo, Satjipto. (2000). *Ilmu Hukum* [Legal Sciences]. Bandung: Citra Aditya Bakti.
- Remaja, Gede, Nyoman, I. (2017). *Hukum Administrasi Negara* [State Administrative Law]. Singaraja: FH Universitas Panji Sakti.
- Ridwan. (2014). *Diskresi & Tanggung Jawab Pemerintah* [Discretion & Government Responsibility]. Yogyakarta : FH UII Press.
- Rumokoy, Albert, Donald, and Frans Maratis. (2014). *Pengantar Ilmu Hukum* [Introduction to Legal Science]. Jakarta: Rajawali Pers.
- Rusli, Said. (2012). *Pengantar Ilmu Kependudukan* [Introduction to Population Science]. Jakarta: LP3ES.
- S, A, Sugeng, Bambang and Sujayadi. (2012). *Pengantar Hukum Acara Perdata dan Contoh Dokumen Litigasi* [Introduction to Civil Procedure Law and Examples of Litigation Documents]. Jakarta: Kencana.
- Soemartono, Triyuni and Sri Hendrastuti. (2011). *Administrasi Kependudukan Berbasis Registrasi* [Registration-Based Population Administration]. Jakarta : Bina Profesi Mandiri.
- Soeprapto, Indrati, Farida, Maria. (2018). *Ilmu Perundang-undangan 1* [Legal Science 1]. Jakarta: Kanisius.
- Soeroso, R. (2007). *Perbandingan Hukum Perdata* [Comparison of Civil Law]. Jakarta: Sinar Grafika.
- Suryadinata, Leo. (2010). *Etnis Tionghoa dan Nasionalisme Indonesia, Sebuah Bunga Rampai 1965-2008* [Ethnic Chinese and Indonesian Nationalism, A Potpourri 1965-2008]. Jakarta: Kompas.
- Susanto, Budi, Albertus. (2008). *Membaca Postkolonialitas di Indonesia*. [Reading Postcoloniality in Indonesia]. Yogyakarta: Kanisius.
- Tan, G, Mely. (2008). *Etnis Tionghoa di Indonesia, Kumpulan Tulisan* [Ethnic Chinese in Indonesia, Writings Collection]. Jakarta: Yayasan Pustaka Obor Indonesia.
- Usman, Nurdin.(2002).*Kontekas Implementasi Berbasis Kurikulum*[Curriculum-Based Implementation Context]. Jakarta: Raja Grafindo Persada.

C. Others

Dahana, Abdullah. Kegiatan Awal Masyarakat Tionghoa di Indonesia, *Jurnal Wacana*, Vol. 2, No. 1, Jakarta: 2001.

Febryanti, Kartika. "Memberi Nama Cina Untuk Anak" *m.hukumonline.com*, diakses 16- 08-2020.

Ibu Dhian Febriandari. *Wawancara*. Hakim Pengadilan Negeri Kota Sukabumi, tanggal 25 Juni 2020.

Ibu Nani Sriyani. *Wawancara*. Kepala Bidang Pelayanan Pencatatan Sipil Kota Sukabumi, tanggal 29 Juni 2020.id.m.wikipedia.org diakses 09-03-2020.

Indonesia, Universitas, Fakultas, Ekonomi, Demografi, Lembaga. *Dasar-Dasar Demografi*, Jakarta: Fakultas Ekonomi Universitas Indonesia, 2007.

Marselli, Aldila, Upaya Penataan dan Penertiban Dalam Penerbitan Dokumen Kependudukan, *Diponegoro Law Journal*, Vol. 5 No.3, Diponegoro : 2016, hlm. 4.

M, Dwi, Lilik, FX. *Imlek, Tradisi Yang Tak Lagi Sendiri Jakarta* (ANTARANews). <http://www.antaranews.com/berita/53516/imlek-tradisi-yang-tak-lagi-sendiri>.

Suharyo, Pola Nama Masyarakat Keturunan Tionghoa, *Humanika: Jurnal Ilmiah Kajian Humaniora*, Vol. 18, No. 2, Desember 2013.

Sinta, “Tinjauan Umum Tentang Pencatatan Sipil” Sinta.unud.ac.id, diakses 07-07-2020.

Tionghoa Info, “Apakah WNI Tidak Boleh Menggunakan Nama Tionghoa?” <https://www.tionghoa.info/apakah-wni-tidak-boleh-menggunakan-nama-tionghoa/>, diakses 16-08-2020.

Vannisa, “Pengertian Penduduk dan Warga Negara Menurut Para Ahli dan Umum” <https://perpustakaan.id/pengertian-penduduk-dan-warga-negara/>, diakses 01-05-2020.

Wahyuningtyas, “Kinerja Dinas Kependudukan dan Pencatatan Sipil Dalam Pelayanan Administrasi Kependudukan” Repository.umy.ac.id, diakses 28-05-2020.

Yanlik, “Sistem Informasi Pelayanan Publik” Sipp.menpan.go.id, diakses 30-06-2020.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).