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Legal analysis of the application of the principle of *Contrarius Actus* related to the cancellation of documents to fulfil citizen's rights in population administration at the population and civil registration office

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Abstract

This research describes and examines the implementation of the *Contrarius Actus* principle in cancelling population documents and the obstacles to applying the *Contrarius Actus* principle in cancelling population documents. The type of research used is descriptive empirical research with a qualitative approach. The description of the research results is complemented by primary and literature data relevant to the research topic. The results of this study indicate that the application of cancelling population documents through the *Contrarius Actus* principle has its criteria, namely, not changing the meaning in population documents and population documents issued by the Population and Civil Registration Office. Based on the analysis of implementation theory by Merilee S. Grindle, implementing the *Contrarius Actus* principle in cancelling population documents follows and fulfils the indicators of the success of policy implementation, namely policy content and implementation environment. Although this implementation has gone well, some internal and external obstacles remain. Internal barriers include the absence of templates and detailed steps from the centre and the absence of Standard Operating Procedures (SOP) updates. External barriers include the high number of applications, the lack of understanding of this principle among the population, and the difficulty in determining the time between the applicant and the head of the field for the interview.

Keywords: Cancellation of Population Documents, Citizen Rights, *Contrarius Actus* Principle

Introduction

Citizenship rights in population administration are a fundamental aspect of fulfilling civil rights guaranteed by the state. However, global challenges continue to test their implementation. Shaham-Maymon (2024) highlights how an increasing number of cities are



making efforts to address threats to human rights, while Pegram (2015) asserts that although the United Nations remains the primary international governmental organization for promoting human rights, the persistent gap between international standards and domestic practices remains a serious concern. In this context, the *Contrarius Actus* principle becomes highly relevant, as it grants the authority to the body or official issuing an administrative decision to revoke or annul it, ensuring flexibility and accountability in population governance.

In population administration, the application of the *Contrarius Actus* principle serves as a crucial mechanism for the Civil Registry Office (Disdukcapil) to ensure the validity of civil documents such as birth certificates, identity cards (KTP), and family cards (KK). This principle allows for the cancellation or revision of documents if errors are found, safeguarding citizens' rights to possess legally recognized identities. The sustainability of this principle plays a vital role in ensuring equitable access to public services in accordance with the law. However, amid efforts to guarantee administrative rights, Yazici (2019) highlights the paradox within the concept of republican human rights, while Krain, Murdie, and Beard (2024) reveal that in democratic systems, human rights defenders are paradoxically more vulnerable to threats from actors seeking to evade public scrutiny. This underscores the ongoing challenges in protecting rights, even in nations that uphold democratic principles.

A legal analysis of the *Contrarius Actus* principle in the annulment of population administration documents emphasizes that its implementation must be carried out with clear, transparent procedures that do not infringe on citizens' rights. In a broader context, Enemark et al. (2014) point out how nationalism can negatively impact various aspects of human rights, while Farahat & Leijten (2022) stress the need for effective responses to present and future challenges in human rights protection. Lorion (2021) calls for a new approach to the professionalization of human rights, advocating for a balance between bureaucratic efficiency and justice values. Therefore, every citizen has the right to legal protection and administrative certainty in any process involving the annulment or modification of their civil documents. A robust mechanism within Disdukcapil is required to ensure that annulment decisions are based on a solid legal foundation while also providing avenues for citizens to appeal if they feel disadvantaged. Thus, the application of *Contrarius Actus* not only serves as an instrument of state authority in regulating official documents but also functions as a tool for protecting citizens' rights to obtain legally recognized identities.

Implementing population administration services is a fundamental aspect of fulfilling the basic rights of citizens in matters of population administration. These rights are stipulated in Article 2 of Law No. 23/2006 on Population Administration, which guarantees every citizen the right to obtain population documents, access equal services in population and civil registration, protection of personal data, legal certainty over document ownership, access to information regarding population and civil registration data for themselves and/or their families, as well as the right to compensation and restoration of reputation in cases of errors in population registration and civil registration or misuse of personal data by the implementing agencies.

To ensure the fulfilment of these rights and to enhance public awareness of population administration, the Ministry of Home Affairs of the Republic of Indonesia has continuously introduced innovations and policies to simplify the process of managing population administration. One such policy is the application of the *Contrarius Actus* principle. This principle, rooted in administrative law, asserts that state administrative officials who issue administrative decisions automatically possess the authority to amend, replace, revoke, or cancel those decisions (Izhharulhaq et al., 2020; Nalle, 2017). They help in interpreting laws and making judicial decisions that align with broader moral and ethical standards (De Vanna, 2015; Neves, 2021).

Article 66 of Law No. 30/2014 on Government Administration provides a comprehensive framework for the annulment of administrative decisions, emphasizing the importance of legal certainty and adherence to good governance principles. The article stipulates that an

administrative decision may be revoked by the official who issued it, a superior authority, or through a court ruling. This provision ensures that decisions that are flawed—whether due to defects in authority, procedural irregularities, or substantive errors—can be corrected to prevent injustices and administrative inefficiencies. Furthermore, if a decision is annulled, it must be replaced with a new decision that has a clear legal foundation, aligning with the General Principles of Good Governance (AUPB in Bahasa). This legal safeguard not only strengthens accountability within government administration but also protects citizens from the negative consequences of erroneous administrative rulings. By requiring a structured and legally sound replacement for annulled decisions, the law aims to balance governmental authority with the protection of individual rights, reinforcing the integrity of the public administration system

The *Contrarius Actus* principle, as defined in administrative law, allows a state administrative body or official to revoke a state administrative decree independently (Sukadi, 2019). This principle applies even when an administrative decision does not explicitly include a safeguard clause, which is commonly found in decrees stating: "If in the future an error or mistake is identified, this decision shall be subject to review" (Hadjon & Djatmiati, 2024). The policy for implementing the *Contrarius Actus* principle was introduced to address the various challenges faced by the Population and Civil Registration Office in administering population documents. Some common challenges include:

1. Cancellation of civil registration certificates due to duplicate ownership,
2. Revocation of certificates before they are officially issued (i.e., input errors before printing),
3. Correction of errors in population data entry,
4. Revocation of family cards due to inaccuracies in data elements and other similar administrative issues.

Previously, resolving such cases required applicants to provide court rulings from the district court, which posed significant difficulties for many residents due to the lengthy legal procedures and the requirement to undergo multiple hearings. This procedural complexity has contributed to public non-compliance with population administration regulations. To address this, the *Contrarius Actus* policy was introduced to simplify administrative processes (Radchuk et al., 2023; Tuzov, 2016), making population administration services more efficient while enabling the Population and Civil Registration Office to provide high-quality services.

With the *Contrarius Actus* principle formally established by the Ministry of Home Affairs, the Population and Civil Registration Office (Disdukcapil) now has the authority to resolve various legal identity document issues more efficiently and without requiring applicants to undergo lengthy court proceedings. This policy enables Disdukcapil to directly address and correct errors in names on legal identity documents, resolve cases of multiple ownership of legal identity data, and rectify administrative inconsistencies. By eliminating the need for judicial intervention, the *Contrarius Actus* principle streamlines bureaucratic processes, reduces financial and time burdens on citizens, and enhances accessibility to essential legal identity services. Furthermore, this approach aligns with the General Principles of Good Governance (AUPB) by ensuring fairness, transparency, and accountability in public administration. As a result, the *Contrarius Actus* policy not only strengthens the effectiveness of population administration but also reinforces citizens' rights to legal identity with greater efficiency and certainty

Based on the above considerations, this study examines the cancellation of population documents by applying the *Contrarius Actus* principle. Therefore, the researcher is interested in conducting a juridical analysis of applying the *Contrarius Actus* principle in cancelling documents in population administration at the Population and Civil Registration Office. This study introduces a novel perspective in the field of population administration by analyzing the

application of the Contrarius Actus principle in the annulment of civil documents as a means of fulfilling citizens' rights. It focuses on how this principle is implemented in the Population and Civil Registration Office (Disdukcapil) and its impact on the protection of civil rights. By highlighting procedural aspects, transparency, and accountability in managing civil documents, this research provides new insights into how legal mechanisms can function to ensure the legitimacy of citizens' identities while preventing potential administrative misuse of power.

The contribution of this study to the field of Civic Education lies in strengthening the understanding of civil rights in population administration and the importance of the Contrarius Actus principle in maintaining the balance between state authority and citizens' rights. This research serves as a reference for the development of civic education curricula, particularly in topics related to human rights, administrative law, and population governance. Furthermore, it enriches academic discourse on how legal principles can be effectively applied to support democracy and social justice, thereby enhancing young generations' understanding of the importance of transparent and justice-based population administration

Method

Empirical research within the legal domain provides a unique opportunity to gain a deeper understanding of the field. It focuses on systematically gathering and analysing empirical data derived from human behaviour. This encompasses both verbal responses obtained through structured or unstructured interviews and actual behavioural patterns observed in real-world situations. In essence, empirical legal research is anchored in evidence collected from direct observation or experiential input and subjected to qualitative and quantitative analysis. This approach primarily utilises descriptive research methodologies.

In this study, two primary data collection techniques have been employed: direct observation and in-depth interviews with individuals who possess substantial expertise and qualifications in their respective fields of law. The researcher's role in direct observation is crucial, as it is strategically utilised to collect data in a naturalistic setting. This unfolds in contexts where participants interact authentically, and the researcher's skills allow for capturing genuine behaviours and interactions without interference.

Conversely, interviews are meticulously designed to elicit detailed information directly from respondents by asking targeted questions. The role of the interviewer is crucial in this process, as it is characterised by direct, face-to-face communication between the interviewer and the interviewee. The interviewer's skills facilitate a rich verbal exchange, allowing for the exploration of complex legal concepts and practices and providing insights into the perspectives and experiences of those actively involved in the legal process.

Result And Discussion

Every resident must possess a population document, which serves multiple essential functions: providing clarity regarding identity and status, ensuring legal certainty, offering legal protection and security for the holder, and facilitating administrative processes and access to public services. Therefore, residents are required to report any changes to their population documents and inform the population administration service agency, namely the Population and Civil Registration Office, of any population-related events. Kirby (2021) and Ackerly (2016) emphasize the significance of administrative governance in safeguarding individual rights and ensuring equitable access to public services. Their insights underscore the necessity of a well-regulated population administration system that upholds both state authority and the rights of citizens.

However, in administering population services, the Population and Civil Registration Office, as the implementing agency, continues to encounter various challenges. One of the main issues arises when a population document is found to be defective, meaning that the information recorded does not align with actual facts. For instance, errors in the redaction of names on population documents, duplication of population data (such as multiple Identity

Card), and similar discrepancies can create significant administrative difficulties. When a population document is flawed, it can structurally disrupt a resident's ability to access other essential services.

An example of how defective population documents can impede residents' access to services is in school registration, where a birth certificate is required. If the birth certificate does not match other supporting documents, such as the Family Card, Child Identity Card, or electronic ID card (KTP-el, *in bahasa*), the registration process cannot proceed. Similarly, discrepancies in the Family Card can create complications when registering for civil servant recruitment (CPNS, *in bahasa*), particularly if it does not align with other official documents such as birth certificates and educational diplomas.

These issues can be addressed by the Population and Civil Registration Office, provided that a determination or ruling is obtained from the district court. However, for many residents, this process is perceived as burdensome due to its lengthy duration and the financial costs involved. This situation creates a significant gap between legal procedures and public expectations, as most residents seek a resolution that is both swift and cost-free. Consequently, there is a growing need for a more efficient and accessible administrative mechanism that ensures legal certainty without imposing excessive burdens on citizens.

The *Contrarius Actus* principle can be applied to annul population documents across all population and civil registration categories. This is stipulated in regulations of the Minister of Home Affairs Regulation Article 38 and Article 89 of Regulation Number 108 of 2019, which serves as an implementation regulation for Presidential Regulation Number 96 of 2018 concerning the requirements and procedures for population and civil registration, including the annulment of registration documents and civil registration deeds. Based on this regulation, the Population and Civil Registration Office can apply the *Contrarius Actus* principle to all population documents. However, since its initial implementation, applications submitted by residents under this principle have predominantly involved birth certificates, marriage certificates, Family Cards, and identity cards,

Cases concerning the annulment of population documents at the Population and Civil Registration Office can be resolved through a court ruling or the *Contrarius Actus* principle. Determining whether a document annulment can proceed under *Contrarius Actus* occurs during the verification of the submitted documents. If the request does not meet the criteria for annulment under this principle, the applicant will be directed to seek a court ruling. Among the various legal identity document corrections processed under the *Contrarius Actus* principle, errors range from editorial name mistakes to multiple national identity numbers (NIK, *in Bahasa*) and date-of-birth corrections. The most common cases involve name corrections or editorial errors in personal details.

Determining a case of cancellation of a population document can be resolved through the principle of *Contrarius Actus*, which has its conditions. The conditions for cancelling population documents that can be resolved through *Contrarius Actus* include:

1. Does not change the meaning

The meaning of not changing the meaning is that if there is an editorial error in the name, such as "i", it should be changed to "y". This does not alter the meaning of a person's name, so it can be resolved with *Contrarius Actus*. As in one of the cases in the birth certificate, namely the father's name, there is a redaction error which initially contained the letter "d" to no letter "d" or omitting the letter "d". In this case, the meaning of the father's name should not be changed, so it can be resolved through the principle of *Contrarius Actus*.

2. Published Products

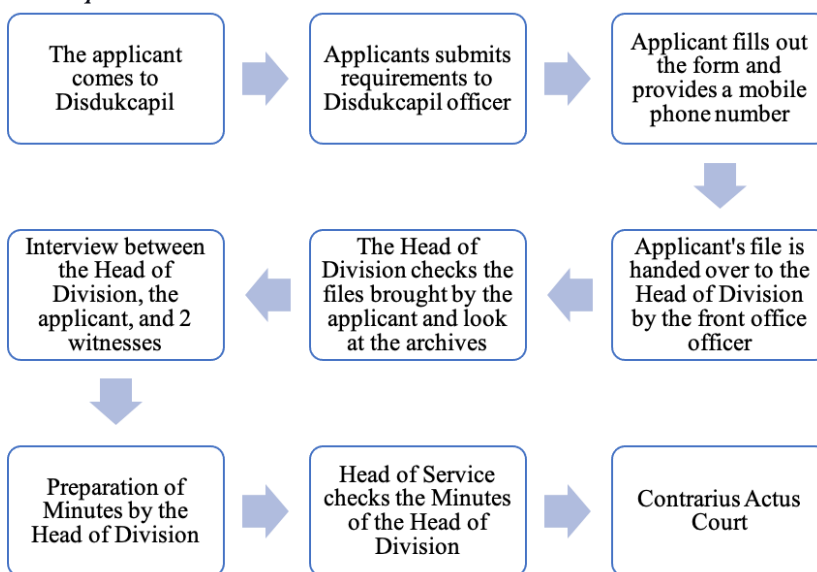
This means population documents issued by the Population and Civil Registration Office. Cancelling population documents through the *Contrarius Actus* principle is done if there is a

request or submission from the applicant. The process of cancelling population documents through the *Contrarius Actus* principle at the Population and Civil Registration Office is as Figure 1.

The end of the *Contrarius Actus* hearing is the last process of cancelling population documents through the *Contrarius Actus* principle. After the trial is over, the applicant waits for the output or population document to be appropriate or correct. Civil registration deeds such as birth certificates and marriage certificates will get a new deed with an additional marginal note that reads, "*Based on the minutes of Contrarius Actus of the Head of the Population and Civil Registration Office Number: ... dated ..., the cancellation of Deed ... No. ... on behalf of ...*". Meanwhile, new family cards and identity cards will be issued for population registrations such as family cards and identity cards in accordance with the changes that have occurred.

Figure 1.

Flow of Application for Cancellation of Population Document through Contrarius Actus Principle



Source: Population and Civil Registration Office of Salatiga City

Using the *Contrarius Actus* principle in resolving the cancellation of population documents is considered to have various advantages compared to going through the district court. Some advantages include a fast process, no fees, and easy procedures. However, behind these advantages, there are shortcomings in the use of the *Contrarius Actus* principle in resolving the cancellation of population documents compared to through the district court, namely that the applicant is personally responsible for the population documents that have been corrected. This is stated in the minutes: "*If the erroneous document as referred to in this Minutes has been used in various interests/affairs then problems arise, it will be the consequence and absolute responsibility of Party I (the applicant who applied)*".

In this study, researchers used the implementation theory proposed by Merilee S. Grindle to determine the success of implementing the *Contrarius Actus* principle in cancelling population documents at the Population and Civil Registration Office of Salatiga City. Merilee S. Grindle named her implementation model as implementation as a political and administrative process in which the measurement of the success of policy implementation is seen from two things.

1. The Policy Process

A policy is said to be successful if it is seen from the implementation of the policy that is under the plan. The application of the *Contrarius Actus* principle in the cancellation of population documents is following orders from the Ministry of Home Affairs of the Republic of

Indonesia. In addition, the application of the *Contrarius Actus* principle is carried out under what has been stated in Article 38 and Article 89 of Minister of Home Affairs Regulation Number 108 concerning the Implementation Regulation of Presidential Regulation No. 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration.

Judging from the process of applying the *Contrarius Actus* principle policy in cancelling population documents at the Population and Civil Registration Office, it can be concluded that it is quite good. From the beginning of the application of this principle, the Population and Civil Registration Office has determined a separate classification for cases of cancellation of population documents that can be resolved through the *Contrarius Actus* principle. In addition, in applying this principle, the Population and Civil Registration Office also always pays attention to the stages from beginning to end by the Standard Operating Procedures (SOP) that have been determined.

2. The Objective of a Policy

The purpose of the success of a policy implementation is measured by looking at two factors, namely the impact or effect on the community individually or in groups and the level of change that occurs in individuals or groups that receive the target of the policy. The application of *Contrarius Actus* principle in cancelling population documents is applied to make it easier for residents to take care of population administration. In addition, this policy is an answer to problems or obstacles for the implementing agency, namely the Population and Civil Registration Office, in serving the community in the field of population administration. With this policy, it is hoped that the population can increase their awareness of orderly population administration.

In addition, according to (Grindle, 1980), the success of implementation is influenced by two significant variables, namely the content of the policy and the implementation environment (context of implementation). These variables include:

1. The Interests of The Target Group

The policy of applying the *Contrarius Actus* principle in cancelling population documents is very concerned about the interests of the policy target, namely the population. With this policy, residents can easily cancel population documents with defects quickly and free of charge.

Population documents are essential to support the various interests of the population. Starting from the education, social, and economic fields. If the population document is defective or does not match the facts, the interests of other residents will be disrupted. With this policy, residents do not need to worry if they experience problems in their population documents. By fulfilling the specified requirements, residents can easily cancel their legal identity documents at the Population and Civil Registration Office.

2. Benefits Received by The Target Group

Indeed, the benefits that residents can receive by applying the *Contrarius Actus* principle in cancelling population documents make it easier for residents to take care of defective population documents or not follow existing facts. The process is faster than through the district court, making residents more effective and efficient. In addition, cancelling residents with the *Contrarius Actus* principle at the Population and Civil Registration Office is free.

3. The Desired Level of Change from A Policy

This policy is expected to increase the population's awareness of order in administration by reporting all changes in population documents and important events. This is not enough to improve changes in the population. People will realise that their legal identity documents have errors when they need them for other purposes such as school registration, work, etc. If they do not feel an interest, they will not realise if their legal identity documents are following the existing facts.

4. Location of a Program

The *Contrarius Actus* principle policy is appropriately applied in resolving cases of cancellation of population documents. Currently, where all aspects of the population use documents or data, synchronising all population documents is essential. If a document is defective or does not match the existing facts, the interests in other aspects will be disrupted.

5. Implementor of a Policy

From the beginning of applying the *Contrarius Actus* principle policy in cancelling population documents, it is very clear who has the right to carry out the policy. The principle of *Contrarius Actus* is attached to the position, not to the official, which means that the official who serves as the head of the Population and Civil Registration Office has the right to carry out *Contrarius Actus*.

6. The Resources Involved are the Implementers and The Target Group

Based on the research results at the Population and Civil Registration Office, the Head of Service, as the policy implementor, understand the application of the *Contrarius Actus* principle. The Head of the Population and Civil Registration Office is cautious in solving the problem of cancelling population documents through the *Contrarius Actus* principle. Therefore, the head of the Population and Civil Registration Office makes more detailed regulations regarding the application of this policy, namely, the cancellation of population documents must not change the meaning of the population document, and the Population and Civil Registration Office must issue the population document. In addition, as the highest authority holder in this policy, the Head of the Population and Civil Registration Office always verifies and validates in detail the minutes and files that have been prepared by the head of the Population and Civil Registration Office before the *Contrarius Actus* hearing.

Based on several indicators of success described above, it can be concluded that implementing the *Contrarius Actus* principle in cancelling population documents at the Population and Civil Registration Office is following and fulfils the indicators of successful policy implementation. This success can be seen from the number of cases of cancellation of population documents resolved by the Population and Civil Registration Office through the *Contrarius Actus* principle from 2021 to 2023 as of March, with a total of 48 cases. However, there are still some things that need to be considered, such as more understanding to the population regarding this policy so that residents can be orderly in population administration, not because of urgent interests and then submit an application, but rather anticipate the population so that they are not in a hurry when there is a sudden interest because they have expected in advance.

Conclusion

Application of the *Contrarius Actus* principle in cancelling population documents at the Population and Civil Registration Office. In its application, the Population and Civil Registration Office has its criteria for cancelling population documents through the principle of *Contrarius Actus*, namely, not changing the meaning in population documents and population documents issued by the Population and Civil Registration Office. In addition, based on the results of the analysis of the implementation of the *Contrarius Actus* principle in cancelling population documents at the Population and Civil Registration Office, it follows and fulfils the indicators of the success of policy implementation of Merilee S. Grindle's theory, namely the content of the policy and the implementation environment (context of implementation). In applying the *Contrarius Actus* principle in the case of cancelling population documents, the Population and Civil Registration Office does not always run well. There are various obstacles, such as the absence of a template and detailed steps from the centre and the absence of Standard Operating Procedure (SOP) updates.

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Authors' contributions

ET, MBAW, an APM research planning, implementation, and analysis. NK reviewed the text and language.

Competing interests

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