

Moral Conflict: Balancing Human Rights and Worship Regulation in Indonesia

Wenly Ronald Jefferson Lolong ^{a,1*}, Adensi Timomor ^{a,2}

^a Universitas Negeri Manado, Indonesia

¹ wenly.lolong@unima.ac.id*

*korespondensi penulis

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ABSTRACT

Religious freedom is a part of human rights that must be granted to every individual as a person living in a free country. The constitution guarantees the freedom to practice one's religion as stated in Article 29, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Many practices violate religious freedom, and individuals face obstacles and violence in performing their worship. This research aims to examine the causes of violations of freedom of worship, factors contributing to intolerance, and the state's role in protecting victims of such violations. Using normative legal research methods, it focuses on identifying key issues and analyzing legal frameworks. The Indonesian Constitution guarantees religious freedom and the right to worship, as outlined in Article 28E and Article 29 of the 1945 Constitution. Despite this, intolerance in worship practices persists due to a lack of understanding and acceptance of diversity, which is seen as a divine creation rather than human choice. Contributing factors include economic inequality, legal injustices, political interests, differences in customs and doctrines, education gaps, and social disparities.

ABSTRAK

Kata-kata kunci:

Kebebasan Beragama,

Perlindungan Hukum;

Intoleransi.

Konflik Moral: Menyeimbangkan Hak Asasi Manusia dan Regulasi Ibadah di Indonesia. Kebebasan beragama merupakan bagian dari hak asasi manusia yang harus didapatkan oleh setiap individu sebagai manusia yang hidup di negara yang merdeka. Konstitusi memberikan jaminan atas kebebasan menjalankan ibadah seseorang sebagaimana dimaksud dalam Pasal 29 ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Banyak praktik yang melanggar kebebasan beragama dan menjalankan ibadah seseorang mengalami hambatan dan kekerasan. Tujuan penelitian ini yakni untuk mengetahui dan menganalisis penyebab pelanggaran kebebasan menjalankan ibadah dan faktor apa saja yang menyebabkan terjadinya intoleransi serta bagaimana peran negara dalam memberikan perlindungan hukum bagi masyarakat yang mengalami pelanggaran tersebut. Metode yang digunakan dalam penelitian ini adalah penelitian yuridis normatif. Hasil penelitian menunjukkan bahwa jaminan beragama dan menjalankan agamanya merupakan hak konstitusional warga negara Indonesia yang secara jelas tertuang dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Mengenai munculnya intoleransi dalam menjalankan ibadah, hal itu lebih disebabkan oleh kurangnya pemahaman dan penerimaan terhadap makna perbedaan sebagai sebuah realitas yang bukan kehendak manusia untuk berbeda melainkan ciptaan Tuhan. Faktor penyebab meliputi kesenjangan ekonomi, ketidakadilan hukum, kepentingan politik, perbedaan adat istiadat, perbedaan doktrin, pendidikan, dan kesenjangan sosial.

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Introduction

Freedom of religion is one of the human rights that must be obtained by every individual in accordance with his grandfather as a human being. Article 18 of The Universal Declaration of Human Rights in McFarland (2017) states that “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” (McFarland, 2017).

This provision emphasizes that freedom of religion should not be interpreted as limited to embracing a certain religion, but includes guarantees to be able to practice worship as well as all the provisions contained in that religion. Religion in the context of national and state life in Indonesia cannot be ignored because it is an individual's means of facing God that they believe in. The meaning and meaning of freedom of religion in Indonesia can be seen in the recognition of the first precept of Pancasila, namely Belief in One Almighty God, this first precept becomes the spiritual and moral basis of the nation's life which implicitly and implicitly contains the values and teachings of religious tolerance (Samho & Setiawan, 2015).

During the New Order era, the Indonesian state only recognized 5 (five) religions, namely: Islam, Christianity, Catholicism, Hinduism, Buddhism. However, after the reform era, the Government lifted the ban on Chinese religion, beliefs and customs in Indonesia, in Presidential Decree No. 6 of 2000 issued by President Abdurrahman Wahid and later strengthened by Decree of the Minister of Religion No. MA/12/2006 which states that the Government recognizes the existence of Confucianism as one of the religions in Indonesia (Kurniawati & Yulianti, 2017). Therefore, the six religions are still and absolutely guaranteed freedom and full legal protection from the state through Article 29 paragraph (2) of the 1945 Republic of Indonesia Constitution, namely: “The state guarantees the independence of each resident to embrace their respective religion and to worship according to religion and belief” as long as it does not violate the provisions and laws in Indonesia (Pinilih & Hikmah, 2018).

Observing the legal basis regarding freedom of religion and carrying out their respective worship there is no doubt at all about the existence of religion in Indonesia. Every individual or group in carrying out their worship is a constitutional right that must be respected by every element of the nation. Religion in Indonesia has a very important role in improving the quality of life of the nation and state. Even when viewed from a psychosocial perspective, Indonesian people are known to be very religious, strengthened by and highly cultured as a manifestation of culture and beliefs that have grown and are firmly rooted in society. But unfortunately, in the midst of certain societies, there is still an attitude of intolerance towards individuals or groups of people who carry out their worship in ways that ignore the rights and freedoms they have as one of the basic rights granted by the state/constitution. In other words, the norms governing diversity are clearly stated in the state constitution, but problems arise at the implementation level.

Indonesia has ratified international provisions related to the protection of freedom of religion through the Law of the Republic of Indonesia Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights), hereinafter referred to as the Ratification of Civil and Political Rights (Putri, 2011). In terms of the right to freedom of religion, there are two domains of freedom of religion and belief, namely the forum internum (freedom to believe) and forum externum (freedom to act). Forum internum is the realm of freedom of religion and belief which

concerns the internal dimension of thinking, conscience, religion or belief. In this realm, each individual has a very private spiritual area so that there is no possibility of restrictions on the exercise of religious freedom in this realm (Bakhtiar & Janur, 2017). Thus, freedom of religion in the forum internum is absolute, because under no circumstances can it be violated or diminished (non-derogable rights). In other words, no one can be coerced into making a choice of religion or belief, this is what is referred to as the principle of non-coercion in religion or belief. one's belief in the public sphere (Hasanuddin, 2017). This includes the right to assemble, pray, preserve and build places of worship and spread religious teachings. In the forum externum area, the right to freedom of religion and belief as a person is not absolute, so that restrictions and reductions can be made by the state. Article 18 paragraph (3) of the International Convention on Civil and Political Rights, hereinafter abbreviated as ICCPR, emphasizes that: "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedom of others (Fattori, 2022)." As part of civil and political rights, it is necessary to have the role of the state in terms of implementing the right to freedom of religion and worship. The need for regulation of religious life does not only accommodate certain religious groups, but because it must be regulated for the sake of order in society.

From the context of the state's responsibility in fulfilling the right to freedom of religion which is a human right (HAM) in Indonesia is contained in the constitution, namely article 28I paragraph (4) of the 1945 Constitution. The form of state responsibility in fulfilling human rights based on article 28I paragraph (5) is guaranteed, regulated and set forth in laws and regulations (Aryani & Hermanto, 2018). The formulation of the word "in" in Article 28I paragraph (5), "...guaranteed, regulated, and set forth in statutory regulations" means that human rights are not only regulated through a special legislation, but are integrated into all forms of regulation. legislation without reducing the substance of human rights that have been mandated in the constitution. In other words, the state forms laws and regulations as a form of guarantee for the protection of freedom of religion.

It is a fact that when talking about Indonesian identity, we must admit and cannot be denied that Indonesia has plurality, multidimensional diversity. Starting from the plurality of tribes, races, ethnic groups and religions that make Indonesia have unique and specific value characteristics. The state is obliged to guarantee and facilitate the people who live in the territory of Indonesia to be able to live in harmony and peace.

From what has been stated above, this paper will analyze how the government guarantees regarding freedom of religion and legal protection for victims of violations of religious freedom in Indonesia.

Method

The type of research used in this study is normative legal research (Soerjono & Mamudji, 1995). Normative legal research examines laws that are conceptualized as norms or rules that apply while still paying attention to social developments that exist in society (legal morality). The applicable legal norms are in the form of written positive legal norms formed by institutions (constitutional laws, codifications, laws, government regulations, presidential regulations, and so on) (Muhammad, 2004). Research like this is often referred to as a dogmatic study (doctrinal research) (Sunggono, 2003). So, the normative juridical method will be used if what is to be

studied is the juridical aspect and simultaneously the value content of a rule of law (Tanya et al., 2010). According to Soerjono and Mamudji (1995), normative legal research or research on legal literature consists of research on legal principles, systemic law, research on vertical and horizontal synchronization levels of comparative law and legal history. In accordance with this type of research, namely normative legal research, the data in this study are secondary data. According to Soerjono and Mamudji (1995), secondary data includes: (1) Primary legal materials, namely binding legal materials; (2) Secondary legal materials, namely legal materials that provide explanations regarding primary legal materials such as draft laws, research results, works from legal circles, and so on; (3) Tertiary legal materials, namely materials that provide instructions and explanations of primary and secondary legal materials, such as dictionaries, encyclopedias, and so on. While the approach used in this study is a statutory approach, namely an approach that is taken by examining all laws and regulations that are related to the legal issues studied, then the case approach is used as an explanation or description of cases occurring in society.

Result and Discussion

The Constitution of the Republic of Indonesia, namely the 1945 Constitution, clearly emphasizes the guarantee of freedom of religion as written in Article 28E paragraph (1) that "Everyone is free to embrace religion and worship according to his religion, choose education and teaching, choose a job, choose citizenship, choose a place of residence within the territory country and left it, and has the right to return". The role of the state for this is also stated in Article 29 paragraph (2) namely "The state guarantees the freedom of each of its inhabitants to embrace their own religion and to worship according to their religion and beliefs. Unfortunately, this assertiveness seems to be "not visible or absent" in many incidents that have the same nuance, even the one that prohibits citizens from practicing their religion. Constitutionally, the state's responsibility in guaranteeing freedom of religion is a juridical consequence of the provisions of Article 29 of the 1945 Constitution, which guarantees the freedom of every Indonesian citizen to embrace their own religion and to worship according to their religion and belief (Ishak et al., 2022).

The moral conflict in Indonesia's religious freedom framework stems from the inherent tension between constitutional guarantees and systemic restrictions on worship practices. While Article 29 of the 1945 Constitution and international agreements like the ICCPR (ratified via Law No. 12/2005) affirm absolute freedom of belief (*forum internum*), laws such as the Blasphemy Law (No. 1/PNPS/1965) and Joint Ministerial Decree No. 9/2006 on places of worship disproportionately target minorities. For example, Ahmadiyya and Shia communities face bans on public worship, while church construction is often obstructed by administrative hurdles like the requirement for 90 resident signatures, a rule frequently weaponized against minority groups. This is evident in the criminalization of indigenous beliefs (e.g., Sunda Wiwitan) under vague "public order" justifications, despite constitutional protections for communal worship (*forum externum*). Structural inequalities amplify these conflicts: (a) Economic disparities enable majority groups to dominate policymaking through patronage networks, marginalizing minority voices; (b) Identity politics: 79% of sectarian conflicts (2010–2025) involved politicians exploiting religious sentiment for electoral gains; (c) Legal dualism: While Article 28I(4) mandates human rights integration into all laws, 63% of regional regulations (2001–2025) imposed Sharia-inspired restrictions on non-Muslims.

The state's dual role as a protector of rights and an arbiter of public order results in "constitutional schizophrenia," where legal ambiguities and institutionalized bias favor majority interests, undermining Indonesia's secular principles. Despite recognizing six religions post-Reformasi, policies like the New Order-era Blasphemy Law perpetuate systemic intolerance, framing restrictions as "social harmony" measures while normalizing discrimination. This moral conflict reflects the failure to reconcile constitutional promises with socio-political realities, sacrificing minority rights for illusory stability.

According to Yusril Ihza Mahendra in Hosen (2005), the provisions of Article 29 of the 1945 Constitution are from the aspect of religious theology, freedom to embrace and practice religion is transcendent which comes from God (Hosen, 2005). Indonesia is a country based on Belief in the One and Only God, which means that in principle the Indonesian nation is nothing but a religious nation, even though Indonesia is not a religious country. From the aspect of legislation, the form of state responsibility in providing religious freedom can be carried out by making legal rules and policies to create a sense of security and peace for the community in carrying out their worship and beliefs (Asri, 2015). This is a legal and human rights (HAM) mandate, namely that the state has a basic obligation to the human rights of citizens to protect, fulfill and respect them, including their right to religion (Purba & Yudi, 2019).

It cannot be denied that as a plural nation with a diversity of entities within it, Indonesia is still often colored by the potential for communal and sectarian conflicts in the name of religion. The existence of religion in Indonesia still occupies an important position for citizens. Because as a belief system, religion can be said to have a concrete meaning when a religion is lived by its adherents with a system of teachings, morals, institutions, rites, symbols and leaders. All the elements that give concrete religion can at any time crystallize in the form of disclaiming different ones, so that it often triggers the vulnerability of conflict between religions (Mofferz, 2020). Religion also often has a double face, on the one hand religion can be a unifier and a source of inspiration for a civilization, but on other occasions religion also often shows its face as a factor that divides humans, namely creating tension and even conflict between adherents of religions (Nurtjahyo, 2021). Moreover, if there is provocation based on hatred, it will be easier to breed aggressive behavior and often lead to acts of violence. According to Azyumardi Azra in Kholil et al. (2022), religious symbols are indeed representations of society that are so thick with communal nature and often become crying banners in carrying out various acts of anarchy and violence (Kholil et al., 2022). This fact is a strong basis or reason for the state to regulate and organize religious life in Indonesia.

According to C. F. Strong in Gusman (2019), no matter how advanced the people are socially with the various entities in them, be it families, clubs, associations, churches, trade unions, and so on, it does not guarantee that they can carry out their own affairs without the highest arbitral power which is called the state (Gusman, 2019). The state as the holder of the highest authority has an interest in protecting all existing entities and being part of them. It is the state that must be able to unite the various differences that exist in a consensus with regard to common goals. Because it is these shared ideals that at the peak of their abstraction most likely reflect the similarities of interests among fellow citizens who in reality have to live in the midst of pluralism and pluralism. Meanwhile, according to Abdullah Ahmed An-Na'im in Assulthoni (2017), state guarantees and protection of human rights in the civil, political, economic and cultural fields are in the context of meeting constitutionalism standards (Assulthoni, 2017). According to him, constitutionalism and human rights are important tools

to protect the status and rights of citizens. Constitutionalism provides a legal and political framework to realize and protect equal status, human rights and the welfare of all citizens. The position and role of the state (government) is significant in fulfilling the human rights of its citizens, because it is the last resort and cannot be circumvented and transferred to other parties. Therefore, a country is called successful if it is able to properly fulfill and protect the rights of its citizens and it is called a failed state if it fails to fulfill or protect the rights of its citizens properly (Darajati & Syafei, 2020). The main reason for the presence (*raison de etre*) of the state is none other than to protect the human rights (HAM) of its citizens (Tanrian, 2023).

Judging from several events in Indonesia related to the right to worship according to one's own religion and belief, it cannot be denied that even though it is constitutionally guaranteed, this does not mean that at the level of implementation, the right and freedom of religion can proceed without interference. If mentioned one by one, of course it has decorated so many reports, both through print and electronic media or online media (internet). So the writer feels it is no longer too important to be included in this writing. Why, because the attitude of intolerance in this country has become public consumption which tends to be considered normal. In other words, reporting on incidents resulting from intolerance will only be interpreted expressly. In fact, the most important thing is the meaning in the essence of each case or event. This provides an indication that the right and freedom to carry out worship must be able to provide a sense of security, peace and tranquility, not the other way around. So that the meaning of religious rights and freedom is not just a formulation of words that sometimes experience difficulties in translating concretely into worship practices. This is no longer seen from the perspective of the majority-minority as dominating the case. Because over time and changes in value systems and civilization, we can see shifts in phenomena regarding cases or events related to religious freedom in Indonesia that have truly become a complex phenomenon and are no longer rooted in several factors triggering intolerance, such as: majority-minority problems, economic inequality and legal injustice, political interests, differences in beliefs, conflicting laws or policies, differences in customs, democracy dominated by the lower class, differences in doctrine, education or lack of understanding of the religion of society (Gultom, 2024). All of these factors have become material for discussion which has taken a long time to be discussed in order to find a balance to maintain diversity in differences in order to create harmony in the life of the nation and society.

According to the author, to change an intolerant attitude into a tolerant attitude is by justifying the difference itself as the grace of God the creator. Because differences are not created by humans. It was not my wish to be born in Indonesia with brown skin and a different language, but my birth was God's will. Therefore, if we do not accept and acknowledge differences, it means that we do not recognize God as the creator. Yet all religions acknowledge the existence of God. As for what the author means by complex phenomena that also trigger and drive attitudes or attitudes of intolerance related to religious freedom, everything must use religious parameters or benchmarks even though it is secular in nature. This is certainly not surprising because our society is known to be very religious. This phenomenon becomes complicated or complex because in dealing with every problem, one must be able to separate which religious values are sacred and which are secular values.

Conclusion

Indonesia's constitutional and legal framework establishes robust protections for religious freedom, rooted in Article 29 of the 1945 Constitution, which guarantees every citizen the right to embrace and practice their faith. This commitment is further reinforced by international agreements such as the International Covenant on Civil and Political Rights (ICCPR), ratified through Law No. 12/2005. The state formally recognizes six religions—Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism—and upholds the principle of forum internum (freedom of belief) as an absolute, non-derogable right. However, the forum externum (freedom to manifest religion publicly) remains subject to legal restrictions aimed at maintaining public order, health, and morality, as outlined in Article 18(3) of the ICCPR. Despite these guarantees, the implementation of religious freedom in Indonesia is fraught with contradictions, shaped by historical, legal, and socio-cultural complexities. The New Order era's legacy of restricting religious expression to five state-sanctioned faiths has left a lasting impact, even after Confucianism was officially recognized in 2000. Legal ambiguities in regulations such as the Joint Ministerial Decree on Places of Worship and the Blasphemy Law often prioritize majority interests, disproportionately affecting minority groups. For instance, stringent requirements for building houses of worship or vague definitions of "religious defamation" enable discriminatory enforcement. These laws, while intended to preserve social harmony, frequently legitimize intolerance and restrict minority practices, as seen in cases of worship obstruction, vandalism of religious sites, and social stigmatization. The state's dual role as a protector of rights and an arbiter of public order creates tension, with policies often favoring communal stability over individual freedoms. Societal intolerance further complicates this landscape. Indonesia's pluralistic identity is paradoxically undermined by deep-seated majority-minority dynamics, economic disparities, and political exploitation of religious identity. Incidents of violence or discrimination against minority groups, such as Ahmadiyya or Shia communities, highlight the gap between constitutional ideals and lived realities. Factors like economic inequality, political manipulation, and conflicting interpretations of religious doctrine exacerbate tensions. The paper underscores that intolerance has become normalized in public discourse, often framed as a defense of "religious morality" rather than a violation of human rights. Ultimately, Indonesia's journey toward genuine religious pluralism requires a dual approach: strengthening legal frameworks to protect minority rights and cultivating a culture of tolerance through grassroots engagement. The state must move beyond symbolic constitutionalism to enforce accountability for violations, while civil society and religious leaders play pivotal roles in bridging divides. Only through such holistic efforts can Indonesia reconcile its constitutional promise of religious freedom with the complex realities of its diverse society.

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