

# **Comparison of Rights and Obligations of Believers in Islam and Regulation in Indonesia**

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## **ABSTRACT**

Each adherents of religion in a country have rights and obligations. Indonesia is a country of law which is predominantly Muslim. Islam also has regulations of its own in arranging the rights and obligations of the followers. Indonesian state which adheres to the rule of law certainly regulates the relationship between followers of one religion and those of other religions so that if a problem occurs legally it can be resolved and each adherent of the religion knows his rights and obligations. This paper scrutinizes the Rights and Obligations set out in Islam and regulations in Indonesia towards respective faiths. The method used in this study is Juridical Normative methods and the approach applied for this study is qualitative approach and comparative study. The results indicate that the Rights and Obligations of the followers of the religion which is set in Islam is the right to choose a religion and the obligation to respect the religious choice, the Rights and Obligations to safeguard and maintain the dignity of all religious adherents, the Rights and Obligations not to be insulted and do not insult the beliefs and worship of religious believers, the Rights and Obligations to guard and guard the places of worship of all religious adherents, the Rights and Obligations to get the same treatment before the law . The rights of each religion follower in regulation in Indonesia include: the Right to freedom to embrace religion and the obligation to respect the freedom of each religious adherent in choosing religion, the Right to religion or worship according to their respective religions and beliefs, and Obligation to respect and appreciate the difference of religion in the running of worship according to their religion or belief the right to legal protection from the state, and the Right to equal treatment before the law as well as the obligation to comply with any matter that has been set that related to religion.

**Keywords:** *rights and obligations, religion adherent, Islam, Indonesian regulatory*

## **1. INTRODUCTION**

In Islamic teaching, there are absolute aspects which cannot be inviolable such as aqidah matters/the pillar of faith. The oneness and the almightiness as well as the perfection of Allah, ibadah mahdhah etc. However, there are also some flexible and non-monolith aspects of Islamic teachings which always can be adapted by current development. The aspects are related to muamalah which govern the relationship between human and other creatures (human beings, animals, plants and environments). In a country where there are much variety of religious believers, of course, in the relationship, there are sometimes some clashes occur among them. Therefore, the state should govern how every believer interacts with one another. Since Islam is a religion of the majority of citizen in Indonesia, there are many regulations related to ibadah and aqidah that are implemented by the

majority of Indonesian citizen. Beside Islam, there are five other religions which are approved in Indonesia, they are Hinduism, Buddhism, Catholic Christian, Protestant Christian, and Khong Hu Cu (Confucius). This study examines what are Islamic regulations that govern the rights and obligations of every religious believer and what are the regulation in Indonesia that governs the right and the obligations of every religious believer. Islam prohibits forced conversion. It is, therefore, important to compare how Islamic law and Indonesian regulation controlled the rights and obligations of every religious believer.

## **2. Method**

The method used in this study is Juridical Normative methods and the approach applied for this study is qualitative approach and comparative study. The

data used were collected from the literature library and selected according to relevance and authenticity.

Qualitative research is the type of research that produces findings without using statistical procedures or other means of verifications procedures. The inductive method used to collect data relating to a diverse yet integrated data. Inductive method is a method of thinking that starts from the specific aspect to the general aspect (Rahmat, 2009). This study uses comparative study in finding the rights and obligations of believer in Islam and regulation in Indonesia.

### **3. Finding And Discussion**

#### **3.1. *Right And Obligations Of Every Religious Believer In Islam***

Every religious believer has the rights and obligations, such as:

1. Right to choose the religion and obligation to respect the choice
2. Right to oblige and to be protected and preserve the dignity of every religious believer.
3. Right and oblige not to be mocked and not to mock other beliefs and God
4. Right and oblige to be protected and protect every believers' house of worship.
5. Right and obligation to be treated equally in front of the law and Obligation to obey the law and all regulations related to religious believers.

The explanation on the above rights and obligations are as follow:

##### **3.1.1. *Right to choose the religion and obligation to respect the choice***

The protection of the right to profess religion can be in the form of freedom to have faith either to choose religion/beliefs or in worship. The freedom to have faith can be defined as every individual frees to choose the religion that he/she believes in. other individuals could not force him/her to convert or to leave the religion. The freedom to worship means having the power or right to perform religious practice or religious observance such as praying, fasting and other rituals. Such freedom is based on public ethics and benefit. Therefore, to achieve the public benefit, it is needed a regulation that governs the freedom of faith. When the freedom of faith can lead to anarchy, regulation is needed (Ija Suntana, 2010).

In the Islamic context, the prohibition to force people to embrace Islam is stated in Quran Surah Al Baqarah verse 256, which means "There is no compulsion in the religion. Surely has become distinct the right (path) from the wrong. Then whoever disbelieves in false deities and believes in Allah, surely, he grasped the handhold - [the] firm, (which) not (will) break [for it]. And Allah (is) All-Hearing, All-Knowing." ( QS. Al Baqarah 256). This

verse is revealed to answer the problem of one-man Ansar Bani Salim bi 'Awf, he is also called Al-Hushayn. He has two sons who are Christian, meanwhile, he is a Muslim. He then asked the Prophet Muhammad SAW, "Do I need to force them to embrace Islam, while they prefer to be Christian?". Then this verse is revealed. The verse explains the prohibition to force conversion to a certain religion. According to Al-Maraghi, faith is the result of obedience and submission; therefore, it is rational and cannot be forced. People by nature cannot be forced to obey and submit to something that they do not understand. The obedience and submission will be internalized when there are freedom, independent, and sincerity in the soul. The soul understand and can have guidance from Allah.

In a Muslim life, non-believers who are also part of a citizen in an Islamic state are provided freedom to embrace their religion. Islam also forbid Muslims to enforce their beliefs to other religious believers. The house of worship must be protected including their religious preacher or scholars. This is in line with Ibnu Abbas statement in interpreting Allah revelation in Quran Surah al-Hajj verse 40, He said that there should not be any positions, authorities and regulations that are against Islamic beliefs and law. Nevertheless, freedom is not limitless. Kafir Dzimmi, for instance, is forbidden to show his religious symbols such as ringing a church bell in the middle of Muslims lives, display the cross outside the churches and houses, raised their voice of worship and display pigs and chambers among the Muslims. Islam also prohibits violence and forcing others to follow certain beliefs.

There are no records in the history showing that Prophet Muhammad SAW and his companions force the society to believe in Islam. The system of Islam guarantees non-believers to practice and observe their religious teachings. Prophet Muhammad SAW provided freedom to Jews in Madinah to practice their religion. Similarly, Caliph Umar provided freedom to worship for the Christian citizen.

##### **3.1.2. *Right to oblige and to be protected and preserve the dignity of every religious believer***

The dignity (*al-karamat*) is a basic right of every people that is protected by Islam and Islam put it as legal principles in *muamalah* basis. Ones cannot trample on one's dignity or justify his blood and honor, be it Muslims or other-believers. It is due to the role of punishment or sanctions in fixing and rehabilitating, providing deterrent effect but for revenge, torture and humiliation. It is forbidden by Islamic law to backbite, humiliate, ridicule and destroy someone's privilege and fame. In a similar vein, Islam forbids its followers to mutilate someone either while they are alive or dead, even to the enemy during the war or after it. It is haram or forbidden to imprison someone without providing food or water, to plunder and to loot. Al Quran surah Al Hujurat verse 13 with the meaning, "O mankind, indeed We have created

you from male and female and made you peoples and tribes that you may know one another. Indeed, the noblest of you in the sight of Allah is the most righteous of you. Indeed, Allah is All-knowing and acquainted". The reason why this verse revealed is when Fathu Makkah in the year of 8 H, Bilal was standing on top of Ka'bah to recite Azan. Some people said, "Is it appropriate that this black slave calling for prayer on top of Ka'bah?" other people then answered, "if Allah hate him, certainly Allah will replace him" (K.H.Q. Shaleh, 2004: 2018)

In another record, it is stated that Harist bin Hisyam said, " Muhammad will not find other people to do Azan except this black sparrow". He mocked Bilal for his black skin. Later on, Jibril the angel revealed the verse of Al Quran from Allah to prohibit people to be proud of himself for his position, authority, property, offspring, scoff at the poor and cursing includes cussing, backbiting, saying bad words, mocking etc. Doing so are included into wrongful acts which are mentioned in Al Quran Surah Al An'am verse 151, "the act of associating partner with Allah, do not kill your children since you are afraid of being poor. Do not kill those who are forbidden unless based on strong reason" (Departemen Agama, 1998: 452). Fighting fellow Muslims is not an appropriate thing to do by Muslim. Such bad deed is commonly done by the non-believers who have not any regulation which forbids them to kill brothers in the same religion (Ibnu Hajar Al-Asqalani, 2006:678). There is also a hadith which prohibit Muslims not to claim their brother in Islam as a non-believer. Abdullah bin Umar has reported that the Messenger of Allah, peace and blessings be upon him, said, "When a man calls his brother an unbeliever, it turns against at least to one of them. Either the accused is as he claimed, or else the charge will turn against him." (HR. Muttafaqun Alaihi).

All the interest and benefit should be along with the will of Allah as the one who creates the rule or following al-maqasidal-syariah to ensure the continuity of welfare. It means that the focus of the law is to see the aim behind the implementation of Islamic law (syariah) which contain in Al Quran and Al-sunnah. Therefore, the concept of mankind prosperity corresponds with al maqasidal-syar'iah especially in realizing the public needs (tahqiq a/-mash/ahafti).

### *3.1.3. Right and oblige not to be mocked and not to mock other beliefs and God*

In Al Quran, there is a prohibition to insult other people's beliefs and religion as stated in Al Quran Surah Al An'am verse 108, with the meaning, "And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus, we have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do". Many Islamic scholars such as Al Qurtubi states that it is forbidden for Muslim to insult non-believers God in every condition. If the non-believers could protect themselves from preventing Islam, prophet

and Allah, so it is not allowed for Muslim to insult their religion, god, churches, and do something similar to that which lead to wrongdoing. (Al- Qurtubi, Aljami' lil Ahkam Al Quran, 2003:61/VII).

Allah also reveals surah Al Kafirun from verse 1-6 which has meaning, " 1) Say, O disbelievers, 2). I do not worship what you worship. 3) Nor are you worshippers of what I worship. 4) Nor will I be a worshipper of what you worship. 5). Nor will you be worshippers of what I worship. 6). For you is your religion, and for me is my religion". The asbabun nuzul of this verse is revealed is there is one record stated that Quraish clan tried to influence Prophet Muhammad SAW by offering lots of property so that he became the richest man in Makkah. They also offered whoever woman that he likes for him. They stated that "this is what we offer o Muhammad. The requirement is to stop mocking our gods and insulting him or pray to our god for one year." The prophet then answered it after the surah Al-kafirun is revealed to refuse the offer of Quraish clan.

The abovementioned case shows that the aqidah matter cannot be bargained. It should be as what Allah has ordered. Mankind cannot mix their aqidah with another aqidah. In one of hadith, recorded by Abdullah bin Amr, prophet states that "whoever kill kafir dzimmi, he cannot even smell the scent of heaven. While actually, the scent of heaven can be smelled from 40 years of travel" (HR. An-Nasa'i).

### *3.1.4. Right and oblige to be protected and protect every believers' house of worship*

In Islam, all the followers of religion have the freedom to worship whatever the religion they believe in. Wahbah Zuhaili has strengthened this statement by saying that the freedom to practice the religion and beliefs by non-believers lead to Muslim should not disturb their house of worship and Muslims should protect it in case of war or similar situation. Wahbah also argues that the implementation of Aqidah freedom demands the implementation of law and ritual practices. Therefore, as Muslim, we need to protect their right to practice their religion as we have equal right and obligation in this world. Muslims are also not allowed to debate with them unless with soft and polite words.

In the Islamic history, Khalid bin Walid, the military commander had ever done peace treaty with Hirah citizen. One of the points of the treaty mentions that the non-believers churches are not allowed to be destroyed and they still could ring their church bell in their house of worship. Likewise, Amr Bin Al-Ash who signed a peace treaty with Egyptian, one point of the treaty was their safety was guaranteed in practicing their religion in their worship house. They are also not forced to embrace Islam. The security assurance is paid off by jizyah and fa'l, the payment or tax for protection (Abu Yusuf 1348:148)

### ***3.1.5. Right and obligation to be treated equally in front of the law and Obligation to obey the law and all regulations related to religious believers.***

Right to have equal treatment in the law has also been explained in some literature that if there are non-believers who violate the rules as stated in Islamic law, the person will be punished by a proper punishment as stated in Quran and hadith. It also applies to Muslims who violate the rules by disturbing other people's right to worship be it non-believers or other Muslim, they will be punished. In conclusion, whoever violate the rules, one will be punished. Al Quran has warned it in Surah Taubah verse 12 with the meaning, "And if they break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease. (QS. At Taubah verse 12).

The right and obligation have been implemented by Rasulullah when he led Madinah. Rasulullah made a regulation called Madinah treaty or Madinah Constitution with 47 chapters. One of which governs the rights and obligation of followers of the religion. At that time, Madinah had been recognized for a safe and peaceful place. Its constitution has become the pioneer of the constitution for other countries in this world which set human rights. One of them is the rights and obligations for followers of the religion.

### ***3.2. The Rights and obligation of followers of the religion in Indonesian regulations***

Indonesia as a country with Pancasila as the legal principle through the constitution, UUD 1945, guarantees the freedom of its citizen to embraced religion. It is stated in its content namely chapter 28E, 28I, 28J and chapter 29 of UUD 1945. In chapter 28E article, it is stated that "every people are free to choose their religion and worship based on it, choose their education and teaching, choose occupation, citizenship, choose the place to live in in the country or leave it, and has the right to be back". Besides, the concept of chapter 28E article 2 states that "everyone deserves the freedom to believe and articulate their thought and behavior based on their believe"

In Chapter 28I verse 1 UUD 1945, it is confirmed that the right to live, the right not to be tortured, the right to have freedom of thinking and conscience, the right to have religion, the right not to be enslaved, the right to be

approved as an individual in front of law, and the right not to be sued on the basis of prevailing law is a human right that cannot be deprived of any circumstances. Furthermore, in Chapter 29 article 1 of UUD 1945 affirms that "the state guarantees the freedom of every citizen to embrace his religion and worship based on his religion and belief". However, the rights that have been formulated previously in Chapter 28E article 1 and article 2 and Chapter 29 are then limited by Chapter 28J in which the limitation or restriction is not always understood as discrimination as long as the limitation is in the form of protection of people's right and orderliness of the community lives. Regarding the limitation of freedom to embrace religion or beliefs (*forum internum*) is only can be implemented based on rule of law which has been arranged in Chapter 28J article 1, "everyone must respect the human rights of others in living in the community, national and state". In article 2, it is mentioned that "in implementing the right and freedom, everyone is subject to the restriction set by the law as an attempt to ensure the recognition and respect toward other people's freedom of rights and to meet the justice of the demand according to moral consideration, religious values, security and public order in a democratic society."

## **4. CONCLUSION**

From the explanation, we can draw some conclusion as follows:

1. The right and obligation of every religious believer in Islam are a) Right to choose the religion and obligation to respect the choice, b) Right to oblige and to be protected and preserve the dignity of every religious believer. c) Right and oblige not to be mocked and not to mock other beliefs and God, d) Right and oblige to be protected and protect every believers' house of worship. e) Right and obligation to be treated equally in front of the law and Obligation to obey the law and all regulations related to religious believers.
2. The regulations that have been implemented in Indonesia which explain the right of every religious believer are: a) the right of freedom to embrace religion, b) the right to have religion and practice it based on its beliefs, c) the right to have law protection guarantee from the state, d) the right to be treated equally in front of law. While, the obligation of every follower of religion based on Indonesian regulations are: a) obligation to respect the freedom of every followers of religion to choose their religion, b) obligation to respect and appreciate the differences of every followers of religion in worshipping and practicing his religion based on his religion and beliefs, c) obligation to obey everything that has been arranged related to the followers of religion.

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