

# Conflict Between Religious Believers: A Human Rights Perspective

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## ABSTRACT

The right to religion is a basic right inherent in human nature. Unfortunately, the various laws and regulations in Indonesia that have been enacted to protect religious rights have not been sufficient to guarantee their protection. Many efforts have been made to unravel and find the causes of conflicts between religious believers by considering that Indonesia is considered as a religious and polite nation. In principle, conflicts can be caused by political factors, economic disparities, and cultural disparities, ethnic and religious sentiments. Based on this reality, research on religious conflicts, especially the persecution of religious minorities, is appropriate to discuss how to anticipate, reduce, and eliminate them to create harmonious life between religious believers, the research discussed the way to anticipate, reduce and eliminate the conflict between religious believers to create harmonious life between religious believers and investigate the dimensions of religious rights to produce a basic theory of religious freedom. This research type is the doctrinal legal research to examine the legal norms of religious freedom in international and national legal instruments on human rights.

**Keywords:** *Religious freedom, conflict, local wisdom*

## 1. INTRODUCTION

Indonesian society is a pluralistic society, consisting of various religions, cultures, languages, ethnicities, and others.[1] Specifically for religion, there are 6 religions, namely Islam, Christianity, Catholicism, Hinduism, Buddhism, Confucianism, and hundreds of beliefs.[2] Religious plurality has become an inseparable part of Indonesian society. Pluralism has potential to cause big problems if the state policy denies this plurality by establishing an official religion. One of the state practices that cause the constitutional rights of citizens to not be properly fulfilled is related to the state's discriminatory policy that stipulates belief as a non-official religion that has been recognized by the state. In this condition, the state views that the existence of belief is limited to the cultural products of the people of the archipelago and is related to the teachings of virtue and humanity which has nothing to do with the religious status that must be recognized by the state.[3]

Mutual respect between religious believers, commonly known as tolerance, is a form of accommodation without formal approval. Tolerance

arises unconsciously and unplanned because of the character of individuals or groups of people to avoid a dispute as much as possible.[4] Development in the political field should present the state to fight for democracy and human rights. One of them is by introducing the concepts of recognition of human rights, especially the right to religion or belief to the community because they are the actors who come into contact with religion. But sometimes in religion, both the figures and the institutions are trapped in the tendency of an exclusive attitude so that in the end they are not solving problems but as problem makers [5]

The emergence of bad prejudice from one group to another with different religions usually triggers conflict between religious believers which is followed by attempts to attack each other, kill each other, burn houses of worship, and worship places for followers of their respective religions. In the last few decades, many adherents of other religions have given prejudice to other religions as being radical, intolerant, and very subjective in seeing the truth of other religions. Usually, the majority group is seen as an aggressive and ambitious group, with tendency to dominate all aspects of life [6].

The number of violations of religious freedom committed by the majority group often occurs, including disturbances to houses of worship.[7]

One example of conflict between religious believers that has not found a common ground is the conflict between the Sunni-Shia religious community in Sampang in 2012 which resulted in the death of one person.[8] This different view of the teachings between Sunni-Shia influences different behaviour which has an impact on intra-religious communication between Sunni and Shia followers in hostile communities. This problem will never be resolved unless there is an effort to find a middle ground that was initiated by the government to sit down and mediate through various elements that can mediate to find solutions to resolve these conflicts between one another.

Conflicts between religious believers seem to be continuing, including the uncertainty of government officials in enforcing the law in society in the event of a conflict with religious nuances. This study aims to answer two major questions, namely, first, how is the role of the state which not optimal in understanding the roots of conflict and efforts to uphold human rights against religious minorities who have been living side by side in areas involved in the conflict and second, why regulations are needed to resolve the issue of conflicts between religious believers that lead to persecution of adherents of minority religious teachings. The study results will provide the concept of anticipating, reducing, and eliminating conflict between religious believers so that they do not spread and create universal harmony in community life. The local wisdom possessed by Indonesia in inter-religious relations involved in the conflict is the main capital to support the realization of pre-and post-conflict integration between religious believers in Indonesia.

## **2. UNDERSTANDING THE ROOTS OF THE CONFLICT AND EFFORT FOR ENFORCEMENT OF HUMAN RIGHTS IN THE RELIGIOUS MINORITY PROBLEMS IN INDONESIA**

As written by John T. Sidel that to see the issue of conflict between religious believers, it is necessary to explain in the context of a particular time event, the location, the actors involved, the targets of the conflict, its forms, and the mobilization processes associated with this religious conflict phase in Indonesia.[9] Sidel also says that there is paradigm shift in inter-religious violence that occurred in Indonesia from communal religious conflicts to religious mass violence and jihadi movements to date. According to Coloombijn and Thomaslindblad [9], to recognize or describe the conflict in Indonesia after the New Order regime era is by knowing several keys. According to them, the key to

understand the violence that occurred in Indonesia after the New Order era was to compare it with other cases of violence. The two write down the keys, among others: first, comparing cases of violence with cases of violence that occurred in Indonesia at the same time. Second, compare it with violence that occurs in other countries. Third, comparing it with incidents of violence/conflict in the past or before. With this comparison, it will be able to reveal what is unique in each particular situation of conflict/violent events and what generally occurs under the same conditions [9].

In the horizon of Indonesian culture, 'having a religion' as part of the necessity of personal identity is important marker in the process of reproducing 'identity politics'. Religious ownership has even become part of the 'national identity'. Indonesian people must have one of the six religions that have been recognized by the state; Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. The obligation to have a religion that is legitimate and recognized by the State at the same time marks one's national identity, as modern individuals tend to identify with their nation rather than their country. As stated by John Stratton and Ien Ang in their article Multicultural Imagined Community, modern individuals cannot identify themselves with the state, but with the nation. The concept of the nation itself, according to Stratton and Ang, refers to the experience of people in a country united by a common language, culture, and tradition (religion) [10].

In this context, Islam as an identity appears as reference for the formation of new power relations. Currently, the discourse on the involvement of Islam in the Indonesian public sphere is expanding, both at the level of discourse and action. At the same time, the birth of the decentralization policy has resulted in changes in power relations that occur not only at the central level but also find their momentum thicker at the regional level. This situation is marked by the promulgation of sharia regulations or certain ethnic and religious regulations in the Indonesian region. One area wants to be an area with one community with one homogeneous religion, while the other area wants to be an area with one community with one single ethnicity.[11] The process of regional autonomy seems to be interpreted as the freedom to choose to become a single identity.

Thus, the Sunni-Shia conflict is complex, not only differences in religious understanding but also interests in changing power relations. Hefner emphasized that in the post-New Order political transition conditions, so-called interest groups often emerged that moved between the state and society. These groups enter into horizontal conflicts, playing ambiguously as protagonists or antagonists, or both. They often use issues of religion and identity politics as commodities.[12] Various forms of rejection and blasphemy against religious minority groups, both within the scope of intra-religious and inter-

religious, however, contradict the basic spirit of the Indonesian constitution. Article 29 of the 1945 Constitution stipulates that all religions before the state must be treated equally. This article applies in the sense that religions that have been embraced by their respective people as citizens must be treated and treated equally. The spirit of justice that underlies this article not only means that the state must guarantee the existence and freedom of religions but also must ensure that there are no acts of blasphemy in the name of religion or the beliefs of other adherents. The state also has no right to interfere with the truth that is believed by each religious community.[13]

Looking at the context of conflict transformation, the government is sufficiently committed to being present as a force or party that is also responsible for resolving conflicts, and subsequently maintaining peace and normal post-conflict conditions. The issuance of Law Number 7 of 2012 concerning the Handling of Social Conflicts is a manifestation of the state's commitment to issues surrounding the conflict. One of the things emphasized in this law is the role of local governments in responding to and dealing with conflicts that occur.[14] The roles determined to be played by the government and local governments cover 3 (three) scopes of conflict transformation, namely: conflict prevention, conflict cessation, and post-conflict recovery.[15]

As part of efforts to reduce potential conflicts, the government and local governments are also required to develop early warnings, which intended to prevent: [a] conflicts in areas identified as potential conflict areas; and/or [b] expansion of the conflict in areas where conflict is occurring. An early warning system can be in the form of delivering information about potential conflicts or the occurrence of conflicts in certain areas to the community. The government and local governments build early warning system through communication media.[15] The cessation of conflict is carried out through three stages, namely: [a] cessation of physical violence; [b] determination of the status of the state of conflict; [c] emergency rescue and victim protection measures; and/or [d] assistance in the use and deployment of the Indonesian National Armed Forces. The cessation of physical violence is coordinated and controlled by the Indonesian National Police. The cessation of physical violence also involves community leaders, religious leaders, and/or traditional leaders. The cessation of physical violence is carried out following the provisions of the legislation.[15]

The central and local governments are obliged to carry out post-conflict recovery efforts in a planned, integrated, sustainable, and measurable manner. Post-conflict recovery efforts include reconciliation, rehabilitation, and reconstruction.[15] Reconciliation, among others, can be carried out with customary and/or social institutions or task forces for resolving social

conflicts. Rehabilitation carried out post-conflict under the duties, responsibilities, and authorities of the government and local governments. Reconstruction includes: [a] restoration and improvement of public service functions in post-conflict environments and/or areas; [b] restoration and provision of access to education, health, and livelihoods; [c] improvement of public facilities and infrastructure in conflict areas; [d] improvement of various structures and frameworks that lead to inequalities and injustices, including economic disparities; [e] improvement and provision of service facilities to meet the specific basic needs of women, children, the elderly, and groups of people with special needs; [f] repair and restoration of worship places.

### **3. THE REGULATION IMPROVEMENTS FOR CONFLICT SOLUTION BETWEEN RELIGIOUS BELIEVERS SO THAT PERSECUTION AGAINST MINORITY RELIGIOUS ADHERENTS DOES NOT HAPPEN**

Protection of minority groups is the first form of human rights protection in the framework of protecting minority groups from the arbitrariness of the authorities.[16] With this protection, the state must protect the minorities rights to be able to continue to enjoy and live their lives in the context of culture, ethnicity, language, and/or religion. When referring to the notion of minority, until now there is no definition of "minority" that can be used universally by all countries in the world. The current definition of minority, both regulated in international instruments and according to national law, has not been agreed upon by countries in the world because it is considered unclear.[17]

Minority groups can be defined as groups which because of their physical and cultural characteristics are separated or distinguished from other groups in a society, where they experience different and unequal treatment and are subjected to collective discrimination. Minorities are not always related to quantity, but from a different point of view, for example, the so-called political minority tends to the reality of politics and sociology. Javaid Rehman [18] states that the minority situation is based more on political participation and social territory than on the number of members in a particular group, because sometimes a group is considered a minority not because of its number but because it is outside the territory of the ruler.[18]

Regional instruments containing special rights for minorities include Draft Convention for the Protection of National Minorities, European Charter on Regional or Minority Languages (Council of Europe); and the Copenhagen Meeting Document on the Conference on the Human Dimension of the Organization for Security and Cooperation in Europe. The only UN instrument that

mentions special rights for minorities in a separate UN document is the Declaration on the Rights of Persons belonging to a Minority Nation or Ethnicity, Religion, and Language. Considering that religion or belief, for anyone who adheres to it, is one of the fundamental elements in the conception of life and that freedom of religion or belief must be fully respected and guaranteed.[19] Although the text of this Declaration guarantees a balance between the rights of persons belonging to minorities to maintain and promote their identity and characteristics with the obligations of the State, this Declaration also fully guarantees the territorial integrity and political independence of a nation completely. The principles contained in the Declaration apply to minority groups in addition to the universally recognized human rights guaranteed in other international instruments.

Minority rights in Indonesia are fully guaranteed through the constitution, in this case, the 1945 Constitution. The 1945 Constitution divides the protection of minority groups into two categories, namely individual rights and collective rights. Protection of the minority groups rights in the category of individual rights protection can be seen in the provisions of Article 28 E (1), Article 28 I (1); (2); (3) and Article 28 D (1) these three articles constitute negative rights in which the state is prohibited from interfering in the life of individuals and Article 28 H (2) which are positive rights, which oblige the state to actively participate in the lives of individuals in fulfilling their rights.[20]

The potential for conflict between religious believers can be seen when interpreting the meaning of "religion adhered in Indonesia." Until now, the Indonesian government only recognizes 6 (six) religions, namely Islam, Protestantism, Catholicism, Hinduism, Buddhism, Confucianism, and 1 (one) belief. The Indonesian government officially only recognized 5 religions in Indonesia, namely Islam, Protestantism, Catholicism, Hinduism, and Buddhism.[21] But then through the Presidential Decree No. 6 of 2000 concerning the Revocation of Presidential Instruction No. 14 of 1967 plus Chinese Beliefs and Customs.

In the life of democratic state that puts the law forward, the three aspects above, namely the principle of legality, equality of rights before the law, and the minority rights protection, are an integral part in realizing the rule of law. In an ideal democratic life, it can be seen by the implementation of equality before the law and equal protection through the law with the prohibition of discriminatory practices and the protection of minority groups. The existence of these three principles must be implemented properly in state practice both in the legislative, administrative, judicial spheres within the framework of fulfilling and protecting human rights.[22] The relationship between the legality principle in the context of written legislation as the main source of law in

the process of protecting and enforcing the law cannot be separated from the existence of equality principle before the law and the minority rights protection. Respect for human rights and fundamental rights without distinction is a basic rule of international human rights law.

Minority rights protection in the context of the legality principle is a rule of law that must be applied equally without being discriminatory against individuals or certain groups, especially minority groups. So that the enforcement of non-discrimination principle can be considered as one of the efforts to realize the enforcement of human rights.[23] In relation to the principle of equality before the law and the protection of minority rights, the government in formulating a policy, rule or criminal act must see whether the subject being regulated will cause discrimination to a person or group of people or there are parties whose rights are not protected in this case the minority group. What is meant by law in the principle of legality is the law. The laws referred to in this case are laws that are produced and made by the central government, not those formed by local governments. In the process of forming state law, it has an attachment to the norms that apply in human rights, namely to respect, protect and fulfil the human rights of its citizens, so that the legislation made must reflect these three things, even though there may be restrictions, but these restrictions must be proportional and following a legitimate purpose without prejudice to the essence of the rights protected.[24]

Indonesia is legal state that imbued with Pancasila in the implementation of national and state life, so that although it is not religious state it is also not a secular state, let alone an atheist state, but it is an Indonesian legal state, where there is close relationship between the state and religion, so that in terms of religious teachings that require state intervention, then this must be regulated in laws and regulations, and followed up with various government policies. This concept is following current developments, where political and civil rights are also negative rights, namely rights that require the role of the state to realize them.[25] The right to freedom of religion and worship is part of political and civil rights, so it also requires the role of the state in matters whose implementation is not only done individually but in groups or minorities, even concerning other countries.

#### **4. CONCLUSION**

The conflict root in the religious minorities problem in Indonesia, one of the causes of conflict is caused by the prejudice of one group against another group with different religions and followed by efforts to attack each other, kill each other, burn houses of worship and important places for each community. The regulation of an action cannot only protect a certain group but must apply equally to all people or without the potential to

cause discrimination against a person or group of people who in this case are a minority group based on religion.

Regulation improvement for resolving conflicts between religious believers so that persecution of religious minorities does not occur by maximizing the role of legislators and courts because based on constitutional theory, an action that can be categorized as a crime must be made and ratified by lawmakers/legislators and run by the executive and the judiciary. This is in line with the concept of good governance which can be effective if human rights are protected, for the realization of good governance must apply the principles of legality and the rule of law, do not discriminate, and apply good administrative law. Protection of minority rights in a rule of law that must be applied equally without discrimination against a group, especially minority groups.

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