

# Pluralism and Equality in the Perspective of Human Rights in Indonesia

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## Abstract

*In the context of Indonesia's plural society, where the demand for pluralism is increasingly urgent during the democratic transition, it often raises questions about how the implementation of the principle of equality can be the foundation of democracy and the fulfillment of human rights. The purpose of writing is to analyze how society respects pluralism/equality as part of the fulfillment of citizens' rights in a democratic country. The research method used is normative juridical by referring to legal norms contained in the constitution and legislation. The aim of the research is to identify the important dimensions that the state must consider in realizing pluralism and equality from the perspective of human rights in Indonesia. Moreover, it aims to demonstrate that in a diverse society, religious tolerance in the effort of developing religious life can still run harmoniously, dialogically, and tolerantly in the present modern Indonesia era. This is especially important for Indonesia, as it has the fourth-largest population in the world. Therefore, the presence of the state in supporting the multicultural democratic society is highly needed.*

**Keywords:** *Plurality and Equality; Human Rights; Democracy.*

## Abstrak

Dalam konteks masyarakat Indonesia yang plural, di mana tuntutan akan paham kemajemukan semakin mendesak pada masa transisi demokratisasi, sehingga kerap kali mengimbulkkan pertanyaan bagaimana penerapan prinsip kesetaraan dapat menjadi landasan perjuangan demokrasi dan pemenuhan hak asasi manusia. Pertanyaan tersebut itulah yang menjadi fokus riset ini, yakni meneliti tentang bagaimana tatanan masyarakat menghormati kemajemukan/kesetaraan sebagai bagian dari pemenuhan hak-hak warga negara dalam sebuah negara demokrasi. Metode penelitian ini menggunakan metode Yuridis Normatif yaitu dengan mengacu pada norma-norma hukum yang terdapat dalam konstitusi dan peraturan perundang-undangan. Tujuan penelitian mengetahui dimensi-dimensi penting yang menjadi perhatian negara dalam mewujudkan kemajemukan dan kesetaraan dalam perspektif hak asasi manusia di Indonesia. Lebih dari itu, juga hendak menunjukkan bahwa dalam ranah masyarakat majemuk, toleransi agama dalam upaya pengembangan kehidupan beragama tetap berjalan harmonis, dialogis, dan toleran dalam era Indonesia moderen sekarang ini. Apalagi Negara Indonesia dengan jumlah populasi penduduk terbesar ke 4 di dunia. Maka dari itu, kehadiran negara dalam rangka menopang pilar masyarakat demokratis multikultural sangat diperlukan.

**Kata kunci:** Kemajemukan dan Kesetaraan; Hak Asasi Manusia; Demokrasi.



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## A. INTRODUCTION

The state (government) is responsible for the protection of freedom of religion and belief.<sup>1,2,3</sup> This is a form of effort to recognize the existence of equal rights for all Indonesian citizens. Therefore, the formulation of the constitution has been practiced with the doctrines and principles that exist in a rule-of-law state<sup>4</sup>. One of the important formulations contained in a Democratic State is the guarantee of freedom of religion for all adherents of religion which is mandated in the 1945 Constitution of the Republic of Indonesia, specifically in Article 28 E, Article 28 I, Article 28 J, and Article 29 and strengthened by several other statutory products. However, in practicing religion there are guidelines that must be obeyed by all parties so that there is no friction between one another<sup>5</sup>.

Understanding of this reality, nowadays it is often not seen objectively, bearing in mind that the notion of a democratic state is only photographed in a study at the textual level (legislation) and does not understand contextually. This is where an authentic and comprehensive understanding of human rights values in constitutional doctrine is needed<sup>6</sup>. Because the actual actualization and acceleration of human rights are correct if the state is always on the right track. The spirit of human rights is always inherent in the spirit of equality and pluralism. Thus, the manifestation of human rights does not experience disorientation. Because, in reality, we are indeed in the vortex of a diverse (plural) society<sup>7</sup>. Especially in the current era of modern society which is characterized by technological advances (digitalization) so existing progress is like a double-edged sword. Besides bringing blessings (convenience) to humans, it is also undeniable that current progress is also very potentially (vulnerable) to violations of human rights values. Therefore, it is the duty of the state to provide protection for the safety of citizens, in accordance with the concept of "responsibility to protect"<sup>8</sup>.

Existing facts show or confirm to the public that the government quickly responds to dynamics that are considered relevant and contextual to current conditions. As a modern

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<sup>1</sup> Ija Suntana et al., "Ideological Distrust: Re-Understanding the Debate on State Ideology, Normalization of State-Religion Relationship, and Legal System in Indonesia," *Heliyon* 9, no. 3 (March 1, 2023): e14676, <https://doi.org/10.1016/J.HELIYON.2023.E14676>.

<sup>2</sup> Rizky Adi Pinandito, "Implementasi Prinsip Kebebasan Beragama Dan Berkeyakinan Di Indonesia (Studi Kasus: Tanggung Jawab Negara Dalam Konflik Sampang, Madura)," *Jurnal Pembaharuan Hukum* 4, no. 1 (April 15, 2017): 91, <https://doi.org/10.26532/jph.v4i1.1649>.

<sup>3</sup> Danang Risdianto, "Perlindungan Terhadap Kelompok Minoritas Di Indonesia Dalam Mewujudkan Keadilan Dan Persamaan Di Hadapan Hukum," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 1 (May 29, 2017): 125, <https://doi.org/10.33331/rechtsvinding.v6i1.120>.

<sup>4</sup> Ni'matul Huda, Dodik Setiawan Nur Heriyanto, and Allan Fatchan Gani Wardhana, "The Urgency of the Constitutional Preview of Law on the Ratification of International Treaty by the Constitutional Court in Indonesia," *Heliyon* 7, no. 9 (September 1, 2021): e07886, <https://doi.org/10.1016/J.HELIYON.2021.E07886>.

<sup>5</sup> Ija Suntana and Tedi Priatna, "Four Obstacles to the Quality of Constitutional Law Learning in Indonesia," *Heliyon* 9, no. 1 (January 1, 2023): e12824, <https://doi.org/10.1016/J.HELIYON.2023.E12824>.

<sup>6</sup> Peter M. Smudde, "Internal Public Relations' Role with Workplace, Spirituality, and Religion," *Public Relations Review* 47, no. 5 (December 1, 2021): 102121, <https://doi.org/10.1016/J.PUBREV.2021.102121>.

<sup>7</sup> David R. Hodge, "Children in Foster Care and Spirituality and Religion: Practice Guidelines and Policy Recommendations to Optimize Service Provision," *Children and Youth Services Review* 143 (December 1, 2022): 106694, <https://doi.org/10.1016/J.CHILDYOUTH.2022.106694>.

<sup>8</sup> Metin M. Coşgel, Richard N. Langlois, and Thomas J. Miceli, "Identity, Religion, and the State: The Origin of Theocracy," *Journal of Economic Behavior & Organization* 179 (November 1, 2020): 608–22, <https://doi.org/10.1016/J.JEBO.2020.09.026>.

Muslim country, not only have they implemented a modern constitution that guarantees civil rights and treats citizens equally before the law, they have even ratified the ICCPR (International Covenant on Civil and Political Rights) where citizens' religious rights are given strong guarantee therein.

Indonesia and the countries of the world have agreed to place the best interest in fulfilling the basic rights of citizens. In this context, one can listen to and see things that contain human rights as regulated in the constitution (UUD NRI 1945) as a constitutional norm. In the holistic understanding of constitutionalism, fulfillment of human rights in social and state life is the responsibility of the state. Because of this "pluralism/equality" is an urgent demand and should become the struggle for pluralism in the future.

Once again, the principle of protecting human rights in a democratic country is very important and strategic in a country.<sup>9</sup> This important aspect is related to how all stakeholders have the right insight and knowledge regarding the issue of freedom of religion or belief. This right is one of the most basic rights whose fulfillment cannot be reduced or suspended under any circumstances (non-derogable rights), including in the midst of a war or military invasion.

Even though we realize that it is not easy to face the challenges of upholding human rights values in a pluralistic society, because apart from being multi-cultural, the legal awareness of its citizens is still low, coupled with the fact that the government's ability is still limited in upholding the values of justice and equality as important elements of democracy. which form the operational basis of human rights.

Therefore, being aware of the conditions and constellation of pluralism that exist in Indonesia, efforts for deliberation and dialogue between religious communities will continue. Considering that the potential for conflict is very vulnerable, friction can occur which ultimately leads to conflict and division. When in fact the problem was only triggered by trivial things and then caused a dispute.

It is undeniable that the seeds of conflict in that direction are sometimes still faintly heard. For this reason, the state is obliged to care for and maintain the diversity of this nation. The government, both at the central and regional levels, must be fully aware of the principles that can encourage the success of interfaith dialogue. Interfaith dialogue that departs from an attitude of mutual trust and good faith from each religious community.<sup>10,11</sup>

Starting from the problems above, this study aims to explore the important dimensions of national pluralism that are of concern to the government in embodying the values of human rights and democracy, as well as to understand the factors that can encourage the success of interreligious dialogue in order to realize the unity and oneness of each. each religious community to reduce religious conflict and violence in Indonesia.

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<sup>9</sup> Oki Wahyu Budijanto and Tony Yuri Rahmanto, "Pencegahan Paham Radikalisme Melalui Optimalisasi Pendidikan Hak Asasi Manusia Di Indonesia," *Jurnal HAM* 12, no. 1 (April 2021): 57, <https://doi.org/10.30641/ham.2021.12.57-74>.

<sup>10</sup> Abu Tholib Khalik, "Negara Adil Makmur Dalam Perspektif Founding Fathers Negara Indonesia Dan Filosof Muslim," *Jurnal Theologia* 27, no. 1 (2016): 147–72, <https://doi.org/10.21580/teo.2016.27.1.920>.

<sup>11</sup> Irfan Irfan, "Pluralisme Dan Dialog Antar Umat Beragama," *Jurnal Al-Mubarak: Jurnal Kajian Al-Qur'an Dan Tafsir* 3, no. 2 (April 2020): 56–74, <https://doi.org/10.47435/al-mubarak.v3i2.220>.

This is important and strategic considering that religious-related conflicts and violence often re-emerge in several places in Indonesia, especially in Maluku or Ambon, Poso (Central Sulawesi), and most recently after Idul Fitri 1443 Hijriah. the conflict occurred in West Nusa Tenggara (NTB) between Muslims and Hindus. Such conditions deserve attention (researched) because there are too many regulations that are only beautiful at the theoretical level but lose meaning in practice (operations).

## B. METHOD

In the research process, researchers used empirical juridical methods<sup>12,13</sup> with a qualitative descriptive approach to describe and/or analyze the development of religious life in Indonesia after the constitutional amendment regarding religious freedom for its adherents. Empirical juridical law research methods include assessing actual conditions in society with the aim of finding facts related to the research issue.<sup>14</sup>

For the data collection process, this study uses primary data obtained directly from respondents and informants through interview sessions, as well as secondary data are taken from literature studies relevant to this research from journals and books. The interview process was conducted in the area of Mekar Maju Village, Ciwidey, Bandung, West Java.

## C. RESULTS AND DISCUSSION

Based on the mandate of the nation's founding fathers, in the course of the life of the nation and state it must become the main agenda that must be answered in the reality of life. That is the one and only God as part of the Pancasila precepts already implemented in every sector of life. Indeed, it is undeniable (deniable) that the progress achieved so far is also felt by the community in carrying out religious activities, as well as the achievement of progress from the noble values of Pancasila which must be manifested in daily actions.

Important dimensions that must be the concern/obligation of the state (Government) in implementing a conducive religious life are through interreligious dialogues, then accompanied by policies to prevent conflicts originating from SARA (Ethnicity, Religion, Race, Inter-group). In this way, inter-religious conflicts can be reduced to a minimal level. Through several prerequisites, among others:

### 1. Dimensions of Dynamics of Religious Harmony

As long as this country exists, there is harmony between religious communities, whether we like it or not, we have to admit that there are always disturbances (friction) between adherents of each religion. Therefore, it is not surprising that it must continue to be developed

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<sup>12</sup> Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219, no. 1 (May 31, 2016): 201–7, <https://doi.org/10.1016/j.sbspro.2016.05.006>.

<sup>13</sup> Jian Zhang, Ke Li, and Yang Feng, "Criminal Sanctions on Identity Theft in Shanghai: An Empirical Case Law Analysis," *International Journal of Law, Crime and Justice* 71 (December 1, 2022): 100562, <https://doi.org/10.1016/J.IJLCJ.2022.100562>.

<sup>14</sup> Kornelius Benuf and Muhammad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

at a more central, non-theological level: strictly speaking, covering ethical, legal, social, political, and economic levels.

However, its development at this level requires effort and sincerity to eliminate mutual suspicion and fear. On the other hand, developing honesty and justice in the development of preaching and preaching of each religion.

In this context, it is necessary to respect and tolerate the differences between the various existing religions. Only then can we hope for the creation of a harmonious and harmonious religious life, which is a very valuable contribution to national integration and the progress of Indonesia.

The momentum for the development of interfaith harmony in Islam and other religions in Indonesia can be traced further to the emergence of Muslim intellectual organizations. Jong Islamieten Bond (JIB), which was founded in early January 1925, for example, in its statutes on principles and objectives stated, among other things, that this organization aims to foster positive tolerance towards other people of different religions. On the other hand, JIB also seeks to foster sympathy for the Muslims themselves (Saidi 1990:16).

The culmination of the development of the Islamic "theology of harmony" in Indonesia, of course, was the acceptance of Pancasila as the basis of the state and national ideology on August 18, 1945. In the context of inter-religious relations in Indonesia, Pancasila can be said to be the embodiment of the call to develop "kalimatun sawa". From the process of accepting Pancasila, it is clear that Islamic leaders are more concerned with harmony and national integration than putting the interests of Islam and Muslims first.<sup>15</sup>

On this basis, in the perspective of the majority of Indonesian Muslims, acceptance of Pancasila is the greatest gift of Muslims for the unity and integrity of the nation and state of Indonesia which is plural in terms of religion, ethnicity, customs, and so on.

However, during the post-independence period, the inter-religious conflict remained a disturbance and obstacle to the tolerant, peaceful, and harmonious religious life in Indonesia.

The post-President Soekarno period can be said to be a period full of tension and conflict between Muslims and Christians. The tension was mainly triggered by the mass conversion of former members of the Indonesian Communist Party (PKI) and abangan Muslims to Christianity.

Therefore, the development of this unfavorable situation, President Soeharto's government began to take the initiative to hold interfaith dialogue. The government took the initiative by inviting religious leaders to resolve conflicts and disputes between religious communities. Thus, throughout the New Order government under the leadership of President Suharto until the fall of this government regime in 1998. During its 32 years in power, the New Order regime seemed to have intervened almost perfectly in religious life in the country. These interventions take at least three forms. First, state interference in the beliefs and lives of the diversity of citizens. The regime has banned many books, celebrations, and certain religious

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<sup>15</sup> Junita Br Surbajti and Asim Asim, "Kerukunan Umat Beragama Di Indonesia Menurut Tarmizi Taher," *Nazharat: Jurnal Kebudayaan* 26, no. 01 (June 2, 2020): 207–31, <https://doi.org/10.30631/nazharat.v26i01.32>.



groups which are considered to be able to disrupt and fight against its power. During the first two years of its reign, the New Order banned more than a hundred leftist beliefs or mysticism.<sup>16</sup>

Therefore, it is not an exaggeration to say, in Indonesia the issue of freedom of religion is a complicated and complex issue. Not only in the formulation of the regulation but also in its implementation in the field. History records that thousands of people became victims of religious violence throughout the period from the Old Order to the Reform Order, both by the state and civil society. Such is the journey of the dimensions of the dynamics of harmony in Indonesia from every phase of government from regime to regime.

## 2. The Constitutional Dimension of Freedom of Religion

Regarding freedom of religion, it has a strong constitutional umbrella. Article 29 of the 1945 Constitution clearly emphasizes this issue: (1) "The state is based on Belief in the One and Only God.", (2) "The state guarantees the freedom of each resident to embrace their religion. Each and to worship according to his religion and belief."

This is in line with the contents of the 1948 UN Universal Declaration on Human Rights, Article 18, namely: "Every person has the right to freedom of thought, conscience, and religion, in this case including the freedom to change religion or belief, and freedom to express religion or belief by teaching it, do it, worship and obey it, both alone and in community with others, in public and private." It is interesting that the Indonesian constitution contains a matter guaranteeing freedom of religion before the Declaration of Human Rights.<sup>17</sup> That is why Indonesia could easily accept the declaration.

To support the implementation of Article 29 (2) of the 1945 Constitution of the Republic of Indonesia, the government then issued Law No. 1/PNPS/1965 concerning the prevention of religious abuse and/or blasphemy which was confirmed by Law No. 5/1969 concerning statements of various Presidential Decrees and Presidential Regulations as Laws. Article 1 states, "Everyone is prohibited from knowingly publicly telling, advocating, or seeking public support, to make an interpretation of a religion that is adhered to in Indonesia or to carry out religious activities that resemble the religious activities of that religion; which interpretations and activities deviate from the main points of inter-religion".

At first glance, the rule of law is quite neutral, namely merely reminding citizens to be careful about making accusations that tarnish religious communities, such as calling out the term "infidel". This means that the rule applies in general to all religious and belief communities or communities of adherents. However, the decree issued by President Sukarno in early January 1965, and later confirmed by the Suharto government in 1969, had broad implications for freedom of religion in Indonesia in the following years.

The stipulation is actually used as legitimacy to "safeguard" official religions recognized by the state (Islam, Protestantism, Catholicism, Hinduism, and Buddhism) against acts of deviation and blasphemy from other religious groups or beliefs. It is even used as a tool to

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<sup>16</sup> Siti Musdah Mulia, "Potret Kebebasan Beragama Dan Berkeyakinan Di Era Reformasi," *Jurnal Hak Asasi Manusia* 6, no. 6 (2010): 32–66, <https://doi.org/10.58823/jham.v6i6.55>.

<sup>17</sup> Siti Musdah Mulia, "Potret Kebebasan Berkeyakinan Di Indonesia Sebuah Refleksi Masa Depan Kebangsaan Indonesia," *Nusantara; Journal for Southeast Asian Islamic Studies* 14, no. 2 (2007), <http://dx.doi.org/10.24014/nusantara.v14i2.7152>.

secure the stability of state power. This condition endangers religious life, namely, religion is used as a political tool for the rulers. Begin the politicization of religion for the benefit of the authorities.

In subsequent developments, the government issued a new policy supporting freedom of religion through the 1998 TAP MPR No. XVII concerning Human Rights recognizes the right to religion as a human right as stated in Article 13 "Every person is free to embrace their own religion and to worship according to their religion and belief." This provision is in line with and aligned with the formulation contained in the 1945 Constitution of the Republic of Indonesia.

Furthermore, this right to religion is recognized as a human right that cannot be reduced under any circumstances (non-derogable) as stated in TAP MPR No. XVII of 1998, chapter X concerning the Protection and Promotion of Human Rights, Article 37: being tortured, the right to freedom of thought and conscience, the right to have a religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of a law that applies retroactively are human rights that cannot be reduced under any circumstances (non -derogable)."

Other forms of intervention from the government can also be seen through the definition (ORBA version), namely "official religion" and "unofficial". In this way, the New Order controlled other religious groups outside the "official religion" which they considered dangerous to their power in the hands of the official religions. This proves that in those days the state wanted to make official religions an extension of power. In the sense of taking refuge behind the authority of existing power.

This definition appeared in the form of the issuance of Minister of Home Affairs Circular No.477/74054/1978 which among other things stated: Religions recognized by the government, namely Islam, Catholicism, Christianity/Protestantism, Hinduism, and Buddhism. The groups that clearly became victims were the Sundanese Wiwitan belief groups in Cigugur, Kuningan, the Parmalim community in Medan, the Tolotang community in South Sulawesi, and the Kaharingan community in Kalimantan.

At the same time, the presence of Law No. 1/PNPS/1965 concerning the prevention of abuse and or blasphemy of religion which was confirmed by Law No. 5/1969, clearly benefited the mainstream in official religions to control the growth of "reformers" within their bodies, which might also disrupt the New Order's power.

Therefore, it is not surprising that institutions such as MUI, WALUBI, PGI, KWI, and HINDUDHARMA emerged. It is these groups that are given the authority to control the forms of religious activities and interpretations in society. The purity and validity of correct interpretation will in turn be used as an excuse to control and control the extent to which religious practices carried out by an individual or community group deviate or not from the main lines of religious teachings or are said to be the main religion.

In Islam, for example, cases of deviation from the majority interpretation are shown in the Ahmadiyya case. In some areas, their rights are restricted, starting from the issue of building a place of worship to the issue of the pilgrimage. Even in Lombok, Tasikmalaya, and Kuningan District, West Java, they experienced expulsion and destruction of their settlements and places of worship. With this pattern of intervention, it is not surprising that the various variants within religious groups do not appear on the surface.

Examining this, it is clear that those who are able to survive are those who are able to get around the power of the New Order. For example, the life of splinter groups like Darul Hadith Islam Jamaah is considered to deviate from the mainstream. By supporting the ruling party and changing its name to Lemkari (Islamic Employees' Institute) or LDII (Indonesian Islamic Da'wah Institute), this group was able to survive to this day. This is different from what happened to Darul Arqam. The group was declared a "forbidden" group because it deviated from the Islamic Aqidah.<sup>18</sup>

In this context, various rules and legal legitimacy emerged with the release of the TAP MPR and the Ministerial Circular Letter. To strengthen an understanding that belief in God Almighty is not a religion and therefore its guidance is carried out so that it does not lead to the formation of a new religion and its adherents are directed to embrace one of the religions recognized by the State. Therefore, fostering adherents of belief in God Almighty is the responsibility of the government and society.<sup>19</sup>

This problem has actually been an important study for a long time: whether the existence of Ministerial Circular Letters and TAP MPR contradict the principle of freedom of religion contained in the 1945 Constitution of the Republic of Indonesia. The principle of the 1945 Constitution explicitly (obviously) only gives authority to the government to take steps through legislation and an invitation to regulate so that freedom of religion and freedom to practice religious teachings and preaching do not interfere with each other's religious harmony. This is because what is actually feared is not to jeopardize political stability and sustainable development, not to limit the definition and number of religions.

### 3. Policy and Legislation Dimensions

We can see in detail the guarantee of freedom of religion and/or belief in a number of policies as described below: The 1945 Constitution of the Republic of Indonesia Article 28 E, Paragraph (1): Everyone is free to embrace a religion and worship according to his religion. Paragraph (2): Everyone has the right to freedom of belief, to express thoughts and attitudes according to his conscience. The 1945 Constitution of the Republic of Indonesia Article 29, paragraph (2): The state guarantees the freedom of each resident to embrace their own religion and worship according to their religion and beliefs.

UU no. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights Article 18 paragraph (1): Everyone has the right to freedom of thought, conscience, and religion. This right includes the freedom to have or to adopt a religion or belief of his choice. And freedom, both individually and collectively with other people, either in public or closed places to practice religion or belief in worship, observance, practice, and teaching. Article 18 paragraph (2): No one may be coerced so as to interfere with his freedom to adopt or accept a religion or belief of his choice.

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<sup>18</sup> Dimiyati Sajari, "Fatwa Mui Tentang Aliran Sesat Di Indonesia (1976-2010)," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 39, no. 1 (June 9, 2015), <https://doi.org/10.30821/miqot.v39i1.38>.

<sup>19</sup> Alef Musyahadah Rahmah and Tedi Sudrajat, "PENEMUAN HUKUM IN CONCRETO DALAM KEBEBASAN BERAGAMA DAN BERKEYAKINAN," *Jurnal Dinamika Hukum* 9, no. 2 (May 2009), <https://doi.org/10.20884/1.jdh.2009.9.2.217>.



UU no. 39 of 1999 concerning Human Rights Article 22 paragraph (1): Everyone is free to embrace their own religion and to worship according to their religion and belief. Article 22 paragraph (2): The state guarantees the freedom of every person to embrace their own religion and to worship according to their religion and belief.

Law No. 1/PNPS/1965, jo. UU no. 5/1969 concerning the Prevention of Misuse and/or Blasphemy of Religion, in the explanation of Article 1 it reads: "The religions embraced by the Indonesian population are Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism (Confucius). This can be proven in the history of the development of religion in Indonesia. Because these 6 types of religions are religions that are embraced by almost the entire population of Indonesia, unless they receive guarantees as provided by Article 29 paragraph (2) of the Constitution, they also receive assistance and protection as provided by this article." However, it should be noted that the mention of the 6 religions is not a limitation which implies differences in legal status regarding recognized religions.<sup>20</sup>

Meanwhile, based on what is implied in Article 70 of Law No. 39 of 1999 concerning Human Rights and stated in Law no. 12 of 2005, Article 18 paragraph (3) Concerning Ratification of the International Covenant on Civil and Political Rights, the government can regulate/limit freedom to practice religion or belief through laws. Elements that can be contained in these settings include:

- a. Restriction for the Protection of Public Safety. Restrictions on the freedom to manifest religion in public can be carried out by the government, such as at religious gatherings, religious processions, and funeral ceremonies in order to protect individual freedom (life, integrity, or health) or property.
- b. Restriction for the Protection of Public Order. Restrictions on the freedom to manifest religion with the intention of maintaining public order, including the obligation to register legal entities for community religious organizations, obtain permits to hold public meetings, and establish places of worship designated for the public. Restrictions on the freedom to practice religion for convicts.
- c. Restriction for the Protection of Public Health. Allowable restrictions relating to public health are intended to give the government an opportunity to intervene to prevent epidemics or other diseases. The government is required to vaccinate, the government can require farmers to work daily to become members. Askes to prevent transmission of TB disease. How should the government behave if there are certain religious teachings that prohibit blood transfusions or the use of helmets to protect the head. A rather extreme example is the practice of female genital mutilation in certain customs in Africa.
- d. Restriction for the protection of Morals. For the justification of freedom to manifest religion or beliefs related to morals can lead to controversy. The concept of morality is derived from various religious, philosophical, and social traditions. Therefore, restrictions related to moral principles cannot be taken solely from tradition or religion. Restrictions can be made by law to complete the rituals of certain religious sects.

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<sup>20</sup> Ismardi Arisman, "Meredam Konflik Dalam Upaya Harmonisasi Antar Umat Beragama," *Toleransi* 6, no. 2 (2014): 200–222, <http://dx.doi.org/10.24014/trs.v6i2.907>.

e. Restriction for the Protection of The (Fundamental) Rights and Freedom of Others.

Proselytism (Spreading Religion), with the existence of punishment for acts of proselytism, the government interferes with the freedom of a person in manifesting their religion through missionary activities in order to protect the freedom of others from being converted.

The government is obliged to limit manifestations of religion or belief that endanger the fundamental rights of others, in particular the right to life, freedom, physical integrity from violence, privacy, marriage, property, health, education, equality, prohibition of slavery, cruelty, and also the right minorities.<sup>21,22</sup>

Referring to the above principles, from a human rights perspective, the right to freedom of religion or belief can be summarized into eight components, namely:

- a. Internal Freedom. Everyone has freedom of thought, belief, and religion. This right includes the freedom to adopt or determine a religion or belief of one's own choice, including changing one's religion or belief.
- b. External freedom. Everyone has the freedom, individually or in society, publicly or privately, to manifest his religion or belief in teaching, experience, and worship.
- c. No coercion. No one shall be subject to coercion that would impair his freedom to have or to adopt a religion or belief of his choice.
- d. Not discriminatory. The state is obliged to respect and guarantee the freedom of religion or belief for all individuals within its territory without distinction of ethnicity, skin color, gender, language and beliefs, politics or opinions, or native or immigrant, origin.
- e. Rights of Parents and Guardians. The state is obliged to respect the freedom of parents and legal guardians to ensure that the religious and moral education of their children is in accordance with their own beliefs.
- f. Institutional Freedom and Legal Status. A vital aspect of freedom of religion or belief is for religious communities, to organize or associate as a community. Therefore, religious communities have freedom of religion or belief, including the right to be independent in their organizational arrangements.
- g. Permissible restrictions on external freedoms. Freedom to manifest one's religion or beliefs can only be limited by law and the interests of protecting public safety and order, public health or morals, or the basic rights of others.
- h. Non-derogability. The state may not reduce freedom of religion or belief under any circumstances.

#### 4. Dimensions of Democracy and Indonesianness

Indonesia is the meeting point of all religions. Every adherent has the same right to express his basic beliefs both in private and public spaces. Therefore, it is inappropriate if

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<sup>21</sup> Muntoha Muntoha, "Otoritas Negara Dalam Pengaturan Kehidupan Beragama Di Indonesia : Urgensi Ataukah Intervensi," *Millah* XI, no. 2 (December 2016): 519–40, <https://doi.org/10.20885/millah.volXI.iss2.art9>.

<sup>22</sup> M. Syafi'ie, "Pemikiran Organisasi Islam Tentang Penerapan Hukum Pidana Islam: Tinjauan Hukum Hak Asasi Manusia," *Undang: Jurnal Hukum* 2, no. 2 (March 2020): 225–64, <https://doi.org/10.22437/ujh.2.2.225-264>.

Indonesia is only contested as a place to show the strength of a single truth associated with certain religious teachings.

For this reason, all forms of democratic contestation should only serve as lessons, otherwise, they should not be guided by religious teachings. So that in this way, the integrity of the Unitary State of the Republic of Indonesia (NKRI) is always maintained.

Indeed, Islam and the spirit of democratization that accompanied it in the early days of the establishment of the Republic of Indonesia became an important asset to unite this country. However, it must be admitted that in its journey the dynamics of Islamic relations with the state do not always experience harmonization.

That is, history records how the sincerity of Muslims in accepting a republican form for a state that houses all residents with various religious, ethnic, and national backgrounds has made Indonesia stand strong until now. With a pluralistic composition of society.

Although it cannot be denied, that one of the themes that continue to be discussed and never finished discussing is religion itself. The discussion ranges from the ideological side to the political one. In fact, in the Indonesian context, when the process of finding the basis of a state is one that draws attention to the issue of religion.

So philosophically, in the end, we found the formulation of "Belief in the One and Only God". As part of Pancasila which was later agreed upon by all parties. Then followed by constitutional values, which can be seen in Article 29 Paragraphs (1), (2) of the 1945 Constitution of the Republic of Indonesia, which essentially states that all people who have a religion and/or all residents who embrace their religion are guaranteed by the state to worship and embrace their respective religions. -respectively.

Referring to this formulation, on the one hand, soaring participating religions in the public sphere and on the other hand how the founding fathers (founding fathers) of the nation gave an inclusive and broad religious reasoning response. They know that Indonesian identity is a reality and that religious society is also a daily fact.

Basically, religion is a frame of Indonesian identity and humanity. The state has designed the rules for the life of the nation which refer to the 1945 Constitution as the basis of its constitution (vide Article 29 Paragraph 1, 2). Pancasila is the basis of its ideology and democracy as the system of government, therefore we must obey these rules of the game. This is because all the formulations of the rules of the game have become *sunnatullah* which cannot be replaced by any model, including models of certain religious teachings. Apart from that, Pancasila is also the legacy of the nation's founding fathers which we must obey and serve as a guideline to achieve the goals of the country.<sup>23</sup>

For this reason, it is not right for us to commit various acts of violence and anarchism, which in the end will tear the mosaic of our Indonesianness. However, the system of values or religion must strengthen the perspective of Indonesian identity which is moderate in the construction of religious understanding that is wise and inclusive.

Finally, in order to save Indonesian identity, there must be no separation between the majority and the minority. Bung Hatta, as one of the nation's founders, often reminds us that

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<sup>23</sup> Efendi Susanto, "SILA KE-EMPAT PANCASILA DAN IKLIM DEMOKRASI INDONESIA SAAT INI," *Masalah-Masalah Hukum* 50, no. 1 (January 2021): 84–93, <https://doi.org/10.14710/mmh.50.1.2021.84-93>.

we are descended from a great nation whose history was glorious in the past, and now we must redeem it.

Reinforcing the existence of Indonesia which lives up to the motto: *Bhinneka Tunggal Ika*, so that the potential for conflict and friction between adherents of religions does not need to occur. Although, the reality is different tribes, ethnicities, and religions with various streams and sects. However, there are historical similarities as a nation that has experienced the bitterness of the struggle against the colonialists, making these differences like a colorful painting that makes it beautiful. Thus, this Indonesianness should be able to flex existing ethnic groups and religious teachings.

Moreover, the State of Indonesia in its journey has been in the process of becoming a more democratic and growing legal state with a better civilization of human rights. This can be seen in the 1945 Constitution of the Republic of Indonesia which has accommodated human rights values. Its meaning is the existence of respect for the values of human rights in the life of the nation and state. Nevertheless, the current developments in the world and social change illustrate that human rights issues are undeniably growing.

That is something that is valid in the realm of democracy. Because democracy provides space for religious groups to thrive. Democracy is not born in a vacuum but requires a series of political processes which are not easy. Democracy requires a long process and important stages that must be passed, such as the process of consolidating democracy.<sup>24</sup> In the case of Indonesia, consolidation of democracy is the most appropriate way to increase the commitment of all levels of society to the rules of the democratic game. Without consolidation, democracy will stagnate and only focus on procedural democracy and that will definitely be a nightmare for all of us.

#### D. CONCLUSION

Finally, with this long description, let me draw the following conclusions: First, the state must be present to show its existence in managing religious life so that it becomes better, tolerant, and harmonious. Of course, this is a reflection of pluralism/equality in the perspective of human rights in Indonesia; Second, in the context of a state, shared wisdom is needed in addressing the dynamics of pluralism and/or diversity in religion. Therefore, the Indonesian state must support the pillars of a democratic society - multiculturalism that is harmonious and tolerant in all aspects of religious life acknowledgment.

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<sup>24</sup> Patrick Corputty, "Penerapan Asas *Ultimum Remedium* Pada Pelanggaran Pemilihan Umum Dalam Undang-Undang Nomor 7 Tahun 2017," *JURNAL BELO* 6, no. 2 (February 2021): 157–78, <https://doi.org/10.30598/belovol6issue2page157-158>.

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