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# PERSPECTIVES

*in*

# LAWS

VOLUME - 7



₹ 715 US \$16

Published by  
**AkiNik Publications,**  
#169, C-11, Sector - 3, Rohini,  
Delhi-110085, India  
Toll Free (India): 18001234070



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— CHIEF EDITOR —  
**Dr. Pramod Kumar Singh**

**AKINIK PUBLICATIONS**  
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# **PERSPECTIVES**

**in**

# **LAWS**

Volume - 7

Chief Editor

**Dr. Pramod Kumar Singh**

Professor, V.K.S. University, Arrah, Bihar, India

**AkiNik Publications®**

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**Published By:** AkiNik Publications

AkiNik Publications  
169, C-11, Sector - 3,  
Rohini, Delhi-110085, India  
Toll Free (India) – 18001234070  
Phone No.: 9711224068, 9911215212  
Website: www.akinik.com  
Email: akinikbooks@gmail.com

**Chief Editor:** Dr. Pramod Kumar Singh

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**Publication Year:** 2023

**Pages:** 105

**ISBN:** 978-93-5570-867-0

**Book DOI:** <https://doi.org/10.22271/ed.book.2485>

**Price:** ₹ 715/-

### **Registration Details**

- Printing Press License No.: F.1 (A-4) press 2016
- Trade Mark Registered Under
  - Class 16 (Regd. No.: 5070429)
  - Class 35 (Regd. No.: 5070426)
  - Class 41 (Regd. No.: 5070427)
  - Class 42 (Regd. No.: 5070428)

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**Chapter - 3**  
**Discrimination against Christian Minority in  
Muslim Societies: A Comparison of Indonesia  
and Bangladesh**

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# Chapter - 3

## Discrimination against Christian Minority in Muslim Societies: A Comparison of Indonesia and Bangladesh

Manotar Tampubolon

### Abstract

This chapter compares Christian religious freedom in two Muslim majority countries with divergent legal systems: Indonesia and Bangladesh. Indonesia's legal system is based on the Civil Law system, while Bangladesh's is based on the Common Law system; both countries are secular. The constitutions and other legal regulations of both states guarantee religious freedom. Nevertheless, the line is drawn there because, while the state guarantees citizens' freedom of religion and protects free practice, religion is treated differently in both countries. On the one hand, Bangladesh declares Islam to be the state religion; in Indonesia, all faiths (six state-recognized religions) are equal before the law, despite differing practices. Even though the constitution guarantees religious freedom, Christian minorities face discrimination and rights violations in both countries. Although Bangladesh provides Personal Law to Christians while Indonesia does not, they both arrive at the same conclusion: violations of Christians' right in terms of religion freedom are common in both countries. It provides to reaffirm discrepancies between the group and the larger society, so it threatens entirely alienating the community as a fringe group. Even though there are public or private systemic initiatives to enable religious minorities to engage in the public sphere, this may be the situation.

**Keywords:** Violations, Christian, minority, religious freedom, Bangladesh, Indonesia

### Introduction

Religious freedom has always been an issue in Asian countries as many reports by the Human Rights Associations point out that Christians' rights were under discrimination (Tarlton, 2001). This reality is especially true for countries like Indonesia and Bangladesh as these countries stipulate their official religions in the law. Therefore, some regulations may favor some

religions more than others (Van der Galien, 2006). This article focuses on explaining the legal framework of Indonesia and Bangladesh in terms of discriminating issues against the Christian minorities and also present real-life cases on how Christianity is being abused by the both the government and society.

At various times throughout history, "Buddhist, Hindu and Muslim" rulers have governed Bangladesh. The government prioritized religious freedom because they recognized its importance (Binawan, 2018). However, there have been cases where a person's right to exercise their faith has been violated. The emperors of ancient Bengal (beginning with Emperor Asoka the Great of the Maurya Empire, who ruled from 272-232 BCE) were Buddhists who generally accepted other religions.

During the Hindu period, which spanned around 1,000 years from the end of the third century to the beginning of the twelfth, Hindu governing dynasties generally followed a policy of religious toleration. Although this was the case, religion and state were not separate in ancient India. Despite their attempts, India did not have a secular state throughout the rule of Hindu emperors who adhered to Hindu dharma ideals. Muslims controlled Bengal from 1204 to 1757 (Ghosh, 2017) and religious freedom was widely granted to people of all religions. Because Islam prohibits the separation of state and religion, these rulers never enacted a religious separation policy (Steiner, 2011). Secularism undermines the core principles of Islam, according to the Bangla translation of the word "secularism," which implies "religious neutrality". As a result, many Muslims in Bangladesh believe that secularism equates to a lack of religious significance in the country. It's worth considering if the traditional separation thesis (church and state should be kept separate) holds true in Bangladesh, a predominantly Christian country (Sullivan, 2005). If a country has a substantial Muslim population, it must consider how far it can go to ensure that minorities have the same rights as the majority (Cohen, 2001).

In Indonesia, on the other hand, the right to religious freedom of the Christian minority is not inherent because it is curtailed by discriminatory and unjust legislation (Crouch, 2012). Indonesian Christians experience prejudice as a result of arbitrary regulations that limit their religious freedom (Tarnu, 2015). The rule of law's ability to control internal and external freedom is a constructive contribution to the restriction of freedom and the violation of rights since restrictions are based more on public safety and morality than on the substance and aim of religion (Carrithers, 2001). To put it another way, the nature of religion has nothing to do with the restriction of religious freedom against Christian minorities imposed by positive legislation



(Tampubolon *et al.*, 2021). Christians in Indonesia have problems as a result of discriminatory legislation prohibiting religious activities in venues that are not explicitly designated for such reasons. As a result, legislation such as the Joint Ministerial Decree and the Joint Ministerial Regulation have long been utilized to create discrimination towards Christians seeking to establish churches, which is a violation of religious liberty (Van Dijk, 1994). Because the state fails to fulfill its obligation to safeguard, maintain, and fulfill the constitutional rights to religious freedom, there has been an increase in discriminatory laws and abuses against minorities that have harmed religious life, both for minority and majority religions (Feuerbach, 2009). One result is the use of the law to legitimize bigotry, such as the refusal to create worshiping areas and the restriction of religious services in non-religious regions. Meanwhile, the minority group wants the local government to pay more to the building of the place of worship. The granting of such authorizations might result in unjustifiably prolonged periods of time.

## **Christians' rights in Bangladesh**

### **Discrimination in legal framework**

"The state religion of the Republic is Islam", according to the constitution, "but the State should maintain equal rights and equal status in the practice of Christian and other religions" (Anbarasan, 2001). In addition, Bangladesh's constitution states that any religion would not be provided political standing by the country itself. This guarantees the freedom to practice, propagate, or profess all faiths "according to law, public order, and morality" (Fealy *et al.*, 2019), as well as the right for religious groups or denominations to build, operate, and govern their religious institutions. No one attending an institution of education is forced to receive instruction or participate in rituals or worshipping for, a religion to which he or she does not belong, according to the constitution.

Expressions or deeds made with the "deliberate and malicious" intent to offend religious sensibilities are punishable by fines or up to two years in jail under the criminal code. Despite the fact that the law does not specify what constitutes a banned purpose, "courts have construed it to include insulting the Prophet Muhammad" (Bhardwaj, 2011). The government can seize the whole publications of magazine, newspaper, as well as other texts that contain content that "creates hostility and hate among residents or denigrates religious beliefs," according to the penal law (Bhuiyan, 2017). The identical limits apply to online publishing under the statute. Although there is no explicit blasphemy legislation, the law enforcements utilize the criminal code, together with a portion of a section of the Digital Security Act and a portion of

Information and Communication Technology Act, to prosecute people for conduct that are seen as insulting to Islam. Several types of online speech are illegal under the Information and Communication Act, including "obscene content," "expressions have the potential to create deterioration of law and order," and "statements hurting religious emotions" (Abdulla, 2018). Also, The Digital Security Act makes it illegal to publish or broadcast "any information that offends religious beliefs or feelings," rejecting bail and imposing up-to-10-year prison sentences.

Bangladesh's constitution forbids freedom of organization if it is created with the intention of "damaging religious harmony," coexisting peacefully between religious groups, or religious discrimination (James, 2015).

Personal houses of worshipping are exempt from government registration. Religious communities trying to set up associations with multiple institutions of worshipping, on the other hand, must register as non-governmental organizations (NGOs) with either the Ministry of Social Welfare or the NGO Affairs Bureau (NGOAB), depending on whether or not they receive foreign aid for development projects. All foreign-funded initiatives must be approved and monitored by the NGOAB, according to the legislation (Devine *et al*, 2019). For violations of the legislation, the NGOAB Director General has the right to impose punishment on NGOs, such as fines of up to three times the amount of the foreign gift or the dissolution of the NGO. NGOs can also face sanctions if they make "derogatory" remarks regarding the constitution or its institutions, the government, for example. The Directorate General of Forces Intelligence, Special Branch of Police, and National Security Intelligence, all require security clearance for expatriate employees, albeit the conditions for this clearance are opaque (IDLO, 2016).

Religious groups must comply with the same registration criteria and processes as non-religious organizations. "The Ministry of Social Welfare's registration requirements contain certifying that the name being registered is not already in use and presenting the organization's constitution and bylaws; a clearance of security for the organization's leaders "from the National Security Intelligence; details of the meeting appointing the executive committee; a complete list of executive committee and general members, as well as photographs of principal officers; a plan of work; and a copy of the organ's deed or lease" (Pereira, 2019). The NGOAB has comparable requirements for registration.

Separate laws for Christians exist in family law when it comes to marriage, divorce, and adoption. The same secular courts are used to enforce these laws (Islam, 2019). Mixed-faith families, as well as families of other

religions or no faith, are subject to a distinct civil family law. The marriage ceremonies and processes are governed by the family law of the two spouses' respective religions. A man who is Muslim may get married to up to 4 wives, but before marrying again, he must seek the written approval of his current wife or spouses. A Christian man is only allowed to marry one spouse (Islam, 2018).

### **Discrimination in social events**

Christians, similar to Buddhists, make up fewer than 1% of Bangladesh's population, with the majority living in Barisal, Khulna, and Gazipur. Until recently, sectarian conflicts between them and the mainstream population were uncommon (Jodhka, 2019). Their lives in Bangladesh, on the other hand, have been marked by prejudice in a variety of sectors, including work and housing. Some Muslim landlords have reportedly refused to rent flats to Christian families, while Christians and other minorities are disproportionately represented in the most marginalized, low-paying positions, such as street sweepers. Christians, like other minorities, have been targeted during times of political turmoil, such as in early 2014, when Christians in some places were attacked in the run-up to the country's elections in national level (Gianni, 2016).

In recent years, Bangladesh has seen a number of situations when Christians have been targeted directly. One of the first big assaults occurred on June 3, 2001, when a bomb went off in a Catholic church in Gopalgank village, Bangladesh, killing at least 9 people and wounding 20 more. While this remains the most serious single attack on the community, violence against Christians has continued, aided in part by their disadvantaged status in Bangladeshi culture. Sometimes in many cases, it appears that the attacks were motivated by material considerations such as land. "Christians are assaulted for their land and property, and the perpetrators are backed by all political parties" according to one Christian spokesman. They believe Christians are a small minority who are incapable of protesting and resisting" (Chaney & Sahoo, 2020).

Conflict for land with Muslim Bengali settlers has occasionally taken on a religious component in the CHT, particularly in regions dominated by Christian indigenous groups. Some Bengali immigrants are accused of spreading rumors about indigenous communities' aspirations to establish an autonomous Christian state, prompting local security authorities to increase their monitoring (Feldman, 2016). Similar conflicts exist between Christian and majority groups in other parts of the nation. For example, on January 7,

2014, a group of Muslims attacked Mandi Catholics, and a home in Jamalpur was set on fire, allegedly over a property dispute. 64 A July 2014 attack on a convent in Dinajpur by more than 50 armed men, which included theft and attempted rape, was blamed in part by clerics on a local property dispute (Gupta, 2018).

Christians are increasingly being attacked by extreme organizations. For example, purported Jama'atul Mujahideen Bangladesh (JMB) militants attempted to slice the neck of a preacher in Pabna in early October 2015. 66 A number of priests received death threats around the same time, apparently from members of the proscribed JMB and IS. In November, anonymous threats were made to priests in Rangpur<sup>68</sup>, and an attack on an Italian priest in Dinajpur was carried out (Rozario & Samuel, 2010, July). Three Christians were attacked in their house by unknown intruders on December 10th, leaving them in serious condition. While police described the crime as a robbery, residents alleged the stabbings were a planned attack on the neighborhood. Because of the rising number of threats made against Christian leaders in the aftermath of these assaults, Christians are said to have missed the usual Christmas midnight mass services.

### **Discrimination in government practices**

Land and property ownership conflicts and forced evictions, which include the ones by the government, continued to be reported by Christians and several members of many minority religious sects, the people who are oftentimes ethnic minority groups' members. Some human rights groups stated it was frequently impossible to tell if these conflicts and evictions were the consequence of official ineptitude or purposeful prejudice against religious minority. In the Moulvibazar and Modhupur forest regions, the government continued to build on land that was historically held by indigenous populations. Minority religious organizations claim that such conflicts arose along new roadways or industrial growth zones, where property values had recently risen (Bhuiyan & Hossain, 2017). They further claimed that local law enforcement, civil authorities, and political officials encouraged or sheltered politically powerful property appropriators from punishment. Numerous organizations of human rights carried on to blame the failure to resolve many of these conflicts on ineffective land registry and the overall judicial systems, as well as the targeted communities' lack of financial and political clout (Kumar, 2017), instead of government policy that discriminates against ethnic or religious minorities. In the Chittagong Hill Tracts, Buddhists, Hindus, and Christians live in great numbers among indigenous populations, in particular. A section of these people practice their tribal dialects and do not understand

Bangla, making official registrations and services harder to get and further marginalizing these populations (Baul, 2021).

The threat posed by the Vested Property Act of 1974 is the longest-running and most serious of all the concerns facing Bangladesh's non-Muslims in the plains (Galtung, 1994). Other forms of discrimination have made headlines, but they pale in contrast to the consequences of land grabbing over the last 36 years as a result of this law's abuse. Such statute has been the topic of several public demonstrations, editorials, seminars, research papers, and political excursions since the return to an elected parliamentary system of governance in 1991 (Badan Pusat Statistik, 2015). It's been dubbed "state sanctioned communalism" by op-ed columnists. Despite the heated controversy, the law remains on the books (albeit with considerable amendments) and is being used as a potent instrument against minorities.

After the India-Pakistan war in 1965, the Enemy Property Act was passed. It gave the government the power to seize the property of anyone who had moved from Pakistan to India (mostly Hindus from the then East Pakistan, now Bangladesh) (Syarif, 2017). The Vested Property Ordinance was passed in 1974, with the claimed purpose of allowing 'enemy' property to vest in the government. The law has been on the books since then, and its provisions have been used indiscriminately and repeatedly to seize enormous swaths of land owned by Christians.

The authorities has also proceeded to station law enforcement officers at festivals, sites of religion, and social occasions that were seen to be possible targets for violence, such as the Easter celebrations or Christmas holidays. Throughout the year, the government worked with houses of worship to help them apply COVID-19 measures during important celebrations

## **Christians' rights in Indonesia**

### **Discrimination in legal framework**

The constitution of Indonesia guaranteed the ability to practice one's preferred religion, which declares that religion freedom is a fundamental right that cannot be restricted. "The nation is founded on belief in one almighty God", (Andriansyah, 2019) the constitution declares, but it also gives everyone the ability to worship according to their own faith or believe, stating that "it is a human right to have a religion and that must not be discriminated against".

Although the Christian minority in Indonesia is small, Christians make substantial contributions to the economy and education. Christian people are

rarely engaged in political issues unless they are tied to religious freedom and its interests, due to internal and external constraints that apply to the church. As a result, Christian minorities' right to freedom of religion, particularly in terms of erecting places of worship and performing religious worship, is restricted by stringent and discriminatory regulations (Anagnostopoulos, 2019). Because this law is focused entirely on the interests of a few parties, it tends to be unjust. Unjust laws diminishing human individuality also insult the degree of human personality and are not in accordance with morality. Minority religion adherents are typically victims of such legislation, and their rights are frequently overlooked by the state (Case, 2015). The regulations are meant to promote religious peace, but they really stifle religious freedom (Human Rights Watch 2013). Christianity has been one of the religious minorities that has been subjected to the most legal discrimination (Tasevski 2017).

Similarly, diverse perspectives on Christianity arise, such as the assumption that protecting Christians' freedom to construct a church equates to agreeing with their views (Abdallah 2015). This perspective is based on Darmaputra's (2005) assertion that religion is used and misappropriated for practical political ends. According to Darmaputra, the World Council of Churches states that the rising tendency of religious politics presents major challenges not just for Christians, but also for religious minority populations in many parts of the world (World Council of Churches 2013). In a unique situation, the state actively participates in abuses of religious freedom, and at the very least, the violations perpetrated by the state meet the criteria of "systematic, sustained, and horrific" (United State Commission on International Religious Freedom 2015, 182). In some cases, such as the invasion and arson of churches by intolerant organizations, the state is seen as the perpetrator of breaches of Christian minority' rights (Hasani, 2019).

“Joint Regulation of the Minister of Religion and the Minister of Home Affairs (PBM) No. 8 and No. 9 of 2006 concerning Guidelines for Implementing Duties of Regional Heads/Deputy Regional Heads in Maintaining Religious Harmony, Empowering Religious Harmony Forums, and Establishing Houses of Worship” (Abdallah, 2015) is another law that facilitates religious minority violations. The goal of this regulation is to promote religious peace and mutual respect in Indonesia. Religious freedom is a human right that cannot be curtailed under any circumstances, according to the preamble of the law. However, because some stipulations in PBM for building places of worship are difficult to meet on a practical level, it is not unusual for PBM to result in violations of minority religious organizations' rights (Jodhka *et al*, 2020). Religious minorities in Indonesia struggle to secure

permissions to construct religious structures, and the worst-case scenario is that they become targets of violence (Human Rights Watch 2013).

Furthermore, the design of state policies that are inconsistent with formal and material criteria determining whether a rule is legitimate or not may be utilized to identify systematic and organized breaches perpetrated by state organs (Marshall, 2018). Regulations that did not follow the principles resulted in a defective legal system, and the rules that resulted were not lawful at all (Fuller 1964). Some prerequisites are not met while developing legislation on religious harmony and the creation of houses of worship / Two Ministers' Regulations when it comes to the official procedure of forming the aforementioned regulation (PBM) (McConnell, 2013). Religious harmony regulations, both formal and practical, are deemed faulty and incompatible with the 1945 Constitution and Law No. 39 of 1999 on Human Rights, which serve as the foundation for its creation. 4 The establishment of PBM also violates the "Principles for the Formation of Good Legislation,"<sup>5</sup> does not meet the formal requirements of the legislation, and does not meet the principles outlined in Article 5 of Law Number 10 of 2004, 6 does not meet formal and material principles, morality requirements, legality, and rule-making procedures.

### **Discrimination in government practices**

The landmark case in terms of how Government practices intervene with Christians' rights in Indonesia involve Mr. Sudarto, a human rights and environmental activist with the Pusaka Foundation Padang, was arrested in West Sumatra on January 7 for breaching the Electronic Information and Transaction (ITE) rule through information dissemination under the intension to promote hate religiously (Kementerian, 2018). Sudarto said on Facebook that Christmas has been banned by the local authorities in West Sumatra's Dharmasraya Regency. Per the news reports, police in Dharmasraya told the local community in December 2019 that they should not have Christmas ceremonies there and should instead go 75 kilometers to a church in the neighboring Sawahlunto Regency. Sudarto was discharged the same day he was taken into custody (Pearson, 2019).

In Indonesia, the regulatory challenge of freedom is problematic not only in terms of form but also in terms of implementation (Mulia 2009). The law should try to preserve rights, but in the case of religious freedom, it should not be used to justify activities that threaten the rights of minority religious groups. The establishment of numerous legislative norms that impede religious freedom and pluralism has given rise to this legitimization. For example, there

are over 42,000 rules that are considered troublesome in the form of Presidential Regulations, Government Regulations, Ministerial Regulations, and Regional Regulations (Kuwado 2016). Approximately 7,029 Regional and Regional Head Restrictions have been annulled, comprising 3,143 regulations that stifle investment and make it difficult to do business in various regions (Agustino 2017). Surprisingly, the administration paid less attention to the 130 laws that were deemed intolerable. Some anti-pluralism religious rules also keep people from enjoying their religious liberty (Silaen 2009). As a result, it's not surprising that prejudiced regional leaders continue to meddle with minority religious freedom because these discriminating rules justify their acts (Pew Research Centre, 2019). For example, in Sijunjung, West Sumatera, Christians are prohibited from praying and celebrating Christmas because of Wali Nagari's attitude, which is based on customary jointed shari'a and jointed sharia Al-Quran (The Wahid Institute 2015). The Minister of Religion, for the first time, stated that the ban was a result of a collaboration between Christians and the local population (Setiawan 2019).

The Indonesian government has historically aided and abetted militant Islamists who have committed acts of violence against religious minorities (Bagir *et al*, 2020). Officials and security officials regularly enable religious minorities to be harassed, and in certain cases, they even accuse victims. The Islamic Defenders Front, one of Indonesia's most infamous terrorist groups, has a long history of prejudice. It has been linked to a number of significant actions of religious minorities' harassment, intimidation, and mob violence (Hasani, 2019). Suryadharma Ali, Indonesia's then-minister of religious affairs, gave the keynote speech at the Islamic Defenders Front's annual convention in Jakarta in 2013, despite this. Laws that foster injustice towards religious minorities must be repealed by the Indonesian government. The blasphemy legislation, which punishes divergence from the six officially recognized religions with up to 5 years in jail, is one of these laws. It compels minorities to obtain official consent before constructing or renovating buildings of worship. Former Jakarta governor Basuki Purnama and three former religious leaders are among the high-profile targets of the blasphemy law.

State agencies have also directly violated the rights and freedoms of minorities. The Indonesian Ulama Council, the Ministry of Religious Affairs, the Coordinating Board for Monitoring Mystical Beliefs in Society (within the Attorney General's Office) have all issued decrees and fatwas against religious minorities, and have pushed for the prosecution of "blasphemers" (Tasevski, 2017). As a result, there's little sign that the Jokowi administration is prepared



to back up its lofty rhetoric about religious tolerance with action that safeguards religious minorities. The administration has dug in its heels and announced unambiguously that the repressive and harsh status quo would be maintained.

The Indonesian administration appears unsatisfied with just defying UN requests to repeal the blasphemy legislation. The Religious Affairs Ministry intends to improve and widen the law's scope through the so-called Religious Rights Protection bill, which parliament will likely examine in 2018. Religious minorities in Indonesia have reason to be concerned until the Indonesian government takes real steps to address the country's intolerance problem.

### **Discrimination in society**

The manifestation of religion in Indonesian society, which is in the domain of spirituality but governed in a friendly legal system with state standards, is a barrier to Christian minority religious freedom (Wahid Institute, 2015). That is, religious manifestations in the spiritual sphere are also governed by positive law. Christianity's spirituality encourages believing and exists in an abstract realm that cannot be translated into legal terms. Christianity believes in God and worships Him, usually through rituals or, more particularly, worship. To put it another way, Christianity thinks that free worship and rituals are the best way to speak with God. Worship is not about the physical (worldly) world, but about spirituality, which is beyond the reach of positive law.

### **Conclusion**

Based on the research and analysis shown above, it can be determined that the Christian minority's right to religious freedom in Indonesia and Bangladesh is not treated as a natural right since these rights are restricted by discriminatory and unjust regulations. In both of these countries, Christians are seen as a discriminating group in the people's religious life due to the restriction of religious freedom for Christian minority by harsh legislation (Indrati, n.d). Because restrictions are based more on public safety and morals than on the essence and purpose of religion, the regulation of internal and external freedom through the rule of law positively contributes to the restriction of freedom and violation of rights because restrictions are based more on public safety and morals and do not consider the essence and purpose of religion itself. Positive legal regulation of the right to freedom of religion and belief is insufficient to ensure the right to freedom of religion. Because the right to freedom of religion involves freedom of conscience, which cannot

be limited by positive legislation, it must be provided the following criteria as a natural right: autonomy and independence. For Christians, religious freedom should be focused on specific interests rather than the essence of religious liberties. Discriminatory arrangements and policies that stigmatize minorities lead to breaches of religious and belief freedom. As a result, there is no need for formal law to control the right to freedom of religion and belief, but the state should naturally allow religious freedom.

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