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Violating Christian Minority Freedom of Religion in Indonesia

MANOTAR TAMPUBOLON AND NORAZLINA ABDUL AZIZ

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Violating Christian Minority Freedom of Religion in Indonesia

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Abstract: Focusing on violations of Christian religious freedom in Indonesia, this article examines violations of the Christian minority's religious freedom by means of unfair laws. Even more impressive, the state participates in shackling Christian's freedom and belief by creating discriminatory laws. Based on unfair law, the state contributes to violations of the right to religious freedom, such as the rejection of the establishment of houses of worship and the prohibition of performing worship. As a result, the Christian minority is one of the most vulnerable minority religions in Indonesia. Places of worship are sacred, so they are unreachable by positive law.

Keywords: Christian Minority, Freedom of Religion, Worship, Violation, Illegal Law

Background

Indonesia is one of the most multicultural states in the world; it has approximately 1,331 ethnic groups, using 625 languages (Badan Pusat Statistik, n.d.), there are six official religions recognized by the state and more than 607 sects or belief systems (Kementerian Agama Republik Indonesia 2018). The six religions recognized by the state are Islam, Christianity (in the form of Catholicism and other Christian denominations), Hinduism, Buddhism, and Konghucu, as stated in Law no. 1 PNPS 1965 on the Prevention of Blasphemy. Based on the last national census, the number of followers of these religions is 87.2 percent Islam, 6.9 percent Protestant Christians, 2.9 percent Catholics, 1.7 percent Hindus, 0.7 percent Buddhists, and 0.05 percent Confucians (Indonesia.Go.Id, n.d.).

Christians in Indonesia face challenges derived from discriminatory law, which rejects the construction of houses of worship, including the prohibition of performing worship in places not designated for religious activities. A law such as the Joint Ministerial Decree of the Ministries of Religion and of Home Affairs of 1969 and the Joint of Ministerial Regulation of the Ministries of Religion and of the Home Affairs of 2006, have long been violating religious freedom by restricting the construction of minority places of worship and such laws are used to discriminate against Christians who want to build churches (Human Rights Watch 2017). Religious minorities often struggle to construct and maintain houses of worship due to legal obstacles and social discrimination (IDLO 2016). Laws and policies restrict religious freedom (such as requiring that religious groups be registered to operate) and government favoritism of religious groups (Pew Research Centre 2019b). Identically, the Setara Institute for Democracy and Peace in its report noted that the number of violations of freedom of religion and belief is still high. From November 2014 to October 2019, there were 846 incidents of violations of freedom of religion and belief, with 1,060 legal actions (Hasani 2019).

The data shows the high number of violations of religious freedom in the last five years. This rising trend is partly due to the policy of enacting rules for establishing houses of worship such as Law No. 1 PNPS of 1965 concerning the Prevention of Abuse/Defamation of Religion, SKB 3 of the Minister of 2008 concerning Ahmadiyah, PBM 2 of the Minister of 2006 concerning Houses of Worship, and a regional regulation that limits freedom of religious

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minorities. Along with discriminatory laws, an increase in violations against minorities that harm religious life, both for minority and majority religions occurs because the state does not carry out its obligations to respect, maintain, and fulfill the rights to religious freedom as guaranteed by the constitution. One impact that has arisen is using the law as a means of legitimating intolerant actions such as refusing to build houses of worship and prohibiting holding services in places that are not places of worship. Meanwhile, the minority community also demands more local government efforts to help construct the house of worship, and the approval of such authorizations can lead to unjustifiably more extended periods.

Although previous studies have criticized Indonesian policy against violations of religious minorities and have demanded the abolishment of discriminative laws as a prerequisite of religious tolerance (Bagir et al. 2020; Binawan 2018; Crouch 2012; Fealy and Ricci 2019; Lindsey and Pausacker 2016; Marshall 2018), yet the State and local government in particular, have so far paid no attention to overcome the issues. This indifference makes minority groups extremely vulnerable to the majority of community members who normally take the law into their own hands (Pearson 2018). In recent years, the Indonesian government has long enacted a law that has subjected minority religions to official discrimination (Pearson 2018). The Pew Research Center report notes that Indonesia is one of the countries with the largest population in the world with the highest level of violations of religious freedom, where social restrictions and hostility are the leading indicators (Pew Research Centre 2019a). Indonesia has become one of the countries with a degree of religious freedom restrictions imposed by the government/state (Pew Research Center 2019a).

Indonesia has legal frameworks concerning the protection of religious freedom and belief. It started from the Indonesian Constitution year 1945, which establish the right for everyone to religious freedom. Also, Law No 39 of 1999 concerning Human Rights and Law No. 12 of 2005 concerning ratification of the ICCPR guaranteed freedom of religion and belief. Nevertheless, the problem is such legislations are not applicable in practice. For instance, the United States Commission on International Religious Freedom 2020 Annual Report on Indonesia reports that religious intolerance occurs, including discrimination, hate speech, acts of violence, and rejections of permits to build houses of worship for minority religious communities. The central government does not intervene when provincial and regional governments impose unconstitutional regulations or policies that exacerbate religious divisions (United States Commission on Religious Freedom 2020).

So it is not surprising that cases related to violations of religious freedom and belief of minority religions such as persecution, prohibition of worship, rejection to build the house of worship continue until today. For example, from the end of 2019 until mid of 2020, Indonesia media released the issue of a ban on celebrating Christmas, persecution of Christian adherents, rejection of permits to build the house of worship, and prisoner of conscience in many areas of Indonesia (Ardiansyah 2019; Wicaksono 2019; Santoso 2019).

Based on the problems mentioned above, this research seeks to answer questions such as: How are unlawful and discriminatory laws used to violate the Christian minority's religious freedom? What is the position of Christianity, and how to avoid such discrimination in the future? This article used a descriptive qualitative research method with a philosophical perspective and systematized into five parts. The first section is about the background of the violation of the religious freedom rights of Christian minority groups in Indonesia and the systematization of article writing. The second section or literature review contains previous research on religious freedom in the general and religious freedom of Christian minorities, including violations of the religious freedom rights of Christian minorities and discriminative law in Indonesia. The method and conceptual framework used in writing this article are in section three. Part Four is an analysis of the religious freedom of Christian minority groups in Indonesia. The fifth section contains conclusions and suggestions for further research.

Theoretical and Conceptual Framework

Protecting the right to religious freedom and or belief of religious minorities has been the focus on a longstanding debate among scholars. Some scholars say that religious freedom infringement is the hindrance of a person to be truly human. For instance, Nussbaum claims: "Because religion is so important, it searches the ultimate meaning that is truly human" (Nussbaum 2000, 343). Locke, as quoted by Hurd: "belief should be the incoercible thing because it affronts the dignity of the individual, and reside in the private space of the individual mind" (Hurd 2015, 57). Also, Tocqueville claims that religious faith is indispensable for a well-functioning society, that irreligion is a dangerous and pernicious threat to societal well-being, and that non-believers are natural enemies of social harmony (Tocqueville 200).

Similarly, *Dignitatis Humanae*, or human beings' dignity, became one of the foundations of Christian freedom of religion (Lindholm, Durham, and Lie 2010). It emphasizes that Man's response to God in faith must be free (Vatican 1965). The church itself requires a full measure of freedom and sacred freedom to carry out its mission (Hurd 2015). It is not to misunderstand that freedom from a Christian perspective as wild freedom in unchecked individualistic freedom (Grome 1980). Freedom of conscience is a natural right because of the existence of conscience, freedom of thought, or feeling to distinguish humans from other creatures (Tarnu 2015). Spinoza's thought on beingness refers to as "men as they are," become one of the bases of maintaining human freedom (Cohen 2001). The logical consequence drawn directly from that statement is that man and his mind are free. Mind and conscience are outside the jurisdiction of the state or authority. The essential things done by the state are security only, while virtue is a personal matter. Therefore, the real purpose of the state is to provide true freedom (Richardson 2015).

In the same way, the Doctrine of Enlightenment (Kindregan 1970) teaches that: 1) The right to believe and practice religion or not believe are the most critical event in man as a thinking, willing being; 2) The right to practice religion freely forbids the state to coerce the individual; and 3) The natural right to religious freedom becomes a civil (constitutional) right and requires the state to protect the citizen against religious coercion. Sullivan in his book *The Impossibility of Religious Freedom*, says: "legal protection for religion is certainly theoretically incoherent and possibly unconstitutional" (2005, 10). He further noted that "forsaking religious freedom as a legally enforceable right might enable greater equality among persons and greater clarity and self-determination for religious individuals and communities" (Sullivan 2005, 11).

Another argument that it is unnecessary to regulate Christian religious freedom by positive law is that such laws are fundamentally different from divine laws (*ius divinum positivum*) (Huijbers 1982). There are several reasons for this. First, suppose religious freedom is purely a matter of conscience to seek the highest meaning of life. In that case, it does not need to be regulated in positive law because life's ultimate meaning is something supernatural and automatically unaffordable by the legal system. Spiritual matters are imprescriptible in the form of law, so law enforcement will not be effective, and the government/state does not need the obligation to protect religion and belief in the constitution and laws.

Second, it is difficult to limit what exactly is the highest truth in human life. Aristotle gives meaning to the highest truth in human life is happiness (James 2015, 87). Eudaimonia (Anagnostopoulos 1987) is the highest goal expected by humans, and the most basic purpose of human life is to seek happiness (Magnis-Suseno 1987). Through his Eudaimonia, Aristotle claims that humans are trying to achieve a better quality of life. To achieve happiness and the purpose of life, humans use conscience (*hati nurani*) as a means. According to Nussbaum, conscience is the cognitive power of perception inherent in the human mind to look for the primary meaning of life (Nussbaum 2008). If the right to freedom of religion is a natural right and is inseparable from human beings as natural beings, it must not be restricted. However, the empirical facts show that religious freedom has not yet become a reality, and there are still restrictions on the right to freedom of religion and belief (Lindholm, Durham, and Lie 2004, 682).

Christian Minority and Illegal Laws in Indonesia

The Christian minority is indeed very insignificant in Indonesia, but Christians contribute significantly to the economy and education (Sairin 1996). Due to internal and external restrictions that apply to the church, Christian people are rarely interested in political matters except those related to religious freedom and its interests (Singgih 2000). Hence, the right to freedom of religion of Christian minorities, especially for constructing houses of worship and carrying out vulnerable worship, with restrictions due to restrictive and unfair laws. The formation of this law is based solely on certain parties' interests, so it tends to be unfair. It also insults the degree of human personality and is not in harmony with morals are unjust laws degrading human personality (Van der Galien 2006). Adherents of minority religions become victims of such laws, and their rights are often ignored by the state (Case 2015). The rules intend to maintain religious harmony, but in practice, undermine religious freedom (Human Rights Watch 2013). Christianity has become one of the minority religions that has experienced the most deprivation of discrimination by law (Tasevski 2017).

In the same fashion, different perceptions about Christianity also emerge, such as defending the right of Christians to establish a church is considered the same as agreeing with their beliefs (Abdallah 2015). This perception is following what was said by Darmaputra (2005), that religion is manipulated and misused for practical political purposes. In line with Darmaputra, the World Council of Churches conveys that the increasing trend of politicization of religion causes serious problems not only for Christians, but it affects the religious life of religious minority communities in many regions of the world (World Council of Churches 2013). Uniquely, the state plays an active role in violations of the rights to religious freedom, and at least the violations committed by the state fulfill the elements: "systematic, sustainable, and terrible" (United State Commission on International Religious Freedom 2015, 182). The state is even considered the initiator of violations of Christian minorities' rights, such as the invasion and arson of churches by intolerant groups (Setara Institute for Democracy and Peace, n.d.).

Another law facilitates violations of a religious minority is 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. This law is to create harmony and mutual respect between religious communities in Indonesia. The law strictly set in the preamble says that religious rights are human rights that cannot be reduced under any circumstances.² However, at the operational level, PBM is not uncommon to trigger the violation of the rights of minority religious groups because several clauses for establishing houses of worship contained in PBM are challenging to fulfill. Religious minorities in Indonesia find it difficult to obtain permits to erect religious buildings, and the worst thing is to become targets of violence (Human Rights Watch 2013).

Additionally, the design of state policies contrary to formal and material principles regarding whether a rule is valid or not can be used to determine systematic and structured violations committed by state organs. Rules that did not fulfill the principles did not only produce an imperfect legal system, and even the resulting rules were not a legal system at all (Fuller 1964). If it is related to the formal process of forming the said regulation, some conditions do not fulfill when forming legislation on religious harmony and the establishment of houses of worship / Two Ministers' Regulations (PBM)³. Regulations regarding religious harmony in terms of formal and material aspects are considered flawed and contradictory to the 1945 Constitution and Law No. 39

² Peraturan Bersama Menteri No. 8 dan No. 9 Tahun 2006 [Joint Regulation of Ministers No. 8 and No. 9 of 2006].

³ Joint Minister of Religion and Minister of Home Affairs Regulation No. 9 and No. 8 of 2006 concerning Guidelines for Implementing the Duties of Regional Heads and Deputy Regional Heads in Maintaining Religious Harmony, Empowering Forum for Religious People, and Establishing Houses of Worship.

of 199 concerning Human Rights, which forms the basis of its formation.⁴ The establishment of PBM also violates the “Principles for the Formation of Good Legislation,”⁵ does not meet the formal requirements of the legislation, and does not meet the principles set out in Article 5 of Law Number 10 the Year 2004,⁶ does not fulfill formal and material principles (Indrati 2007), morality requirements, legality and rules forming procedures (Fuller 1964).

This discriminatory law, however, is unknown in the Indonesian legal system. Law no. 4 of 2004 was later replaced by Law No. 12 of 2011 concerning legislation and became one of the preambles of not knowing PBM’s rules. In other words, PBM is a regulation that is “illegal” because it does not exist in the Indonesian legal system after the enactment of Law No. 4 of 2004⁷. Uniquely, PBM’s invalidity is due to juridical defects found in the regulation. The ruler (Minister) who issued the intended regulation contained “new norms” in the issued regulation, while the new regulation governing the new norm was not the Minister’s right but the right or authority of the People’s Representative Council and or the government. In other words, both the Minister of Religion and the Minister of Home Affairs are not legitimate authorities for making new rules in the Indonesian legal system because the two authorities do not yet have a legal basis in the form of laws as the basis for their formation. Also, the objects regulated in PBM are not the authority of the Minister; the rules contained therein are also unfair, so they are considered worthless. Huijbers claims that “the rule of law becomes legitimate when it comes to the power that makes and maintains it” (Huijbers 1982, 166).

The way to measure the legitimacy of this law is simply to see whether it exists or not. Suppose there is a constitution as a despot’s will or whether else might not be accepted there as supreme law (Tarlton 2001). It is “An expressed will of a despot” or commonly referred to as the will of an unjust ruler (Carrithers, Mosher, and Rahe 2001, 231). This means that the law made by despot is not a law that comes from a social agreement between the people and the state. The law is only the one-sided will of those in power to justify their wishes. Through this law, the state has the role of being an interpreter of an action’s merits, including providing a theological assessment of one’s conscience and religion.

Another critical point is that the violation of freedom of religion and belief in Christian minority religious groups tends to be systematic and structured. While structural violations refer to violence, some social structure or social institution may harm people by preventing them from meeting their basic needs (Galtung 1990). In other words, systemic violence is the activity carried out in the form of a crime where some social structures or social institutions could endanger people by preventing them from fulfilling their basic needs. Furthermore, structural crimes occur when the actions distance and widen the distance between potential and reality. For instance, the prohibition of establishing houses of worship in Tolikara, Papua is considered a systematic and structured violation of human rights (Galtung 1990; Indrawan 2015).

Strangely, some discriminative Regional Regulations (PERDA) in several regions in Indonesia rarely say, there, are violations of structural human rights. These regulations can be found in several areas such as the Prohibition of Ahmadiyah Activity in Bekasi City (Bekasikota.go.id, n.d.) through Bekasi Mayor Regulation No. 40 of 2011 concerning the Prohibition of Ahmadiyah Activities in the City of Bekasi because its activities deviated from Islam (Viva 2013). The Mayor of Bekasi stopped Ahmadiyah activities just because it did not

⁴ Law No. 10 of 2004 Concerning the Formation of Legislation (replaced by Law No. 12 of 2012), among others: Clarity of objectives; Appropriate institutional or forming organ; Conformity between type and material content; Can be implemented; Usability and efficacy; Clarity of formulation; and Openness

⁵ Article 5 Law No. 10 of 2004 contains the principles of good regulation formation, among others; shelter; humanity; nationality; kinship; archipelago Unity in Diversity; justice; equality in law and government; order and legal certainty; and / or balance, and harmony.

⁶ Article 6 (1) UU Law No. 10 of 2004

⁷ Article 7 paragraph (1) Law No. 4 of 2004.

comply with the provisions in the joint decision of the Minister of Religion, Attorney General, and the Minister of Home Affairs.⁸

Moreover, the substance of Law No. 1 / PNPS / 1965 Regarding the Prevention of Abuse and Blasphemy of Religion consists of several clauses that discriminate against minority religions, including: 1) Discriminating adherents of minority religions with subjective interpretations deemed incompatible with the majority; 2) With the inclusion of the word "prohibited" there are indications that the state has intervened in the individual's private space (*forum internum*), even to the point of interpreting the scope of one's ratios and awareness; and 3) The state does not guarantee legal certainty for adherents of different religions in realizing their religion and beliefs (*externum forum*) because the substance is vague and unreasonable (for example, carrying out religious activities that resemble that religion's religious activities).

Whereas the enactment of Law No. 1 PNPS / 1965 is to prevent the abuse and blasphemy of religion, but in practice, this rule mixes the authority of religious leaders with the authority of the state. Regulations on the prevention, abuse, or blasphemy of religion, the contents have set about the internal area (internal forum) of religion or belief (Jusuf 2010). Those who violate Law No. 1 / PNPS / 1965 put on trial as a prisoner of conscience. According to Forbes notes that up to 2020, there were more than 150 prisoners of conscience living in Indonesian prisons convicted of violating the Blasphemy Law (Ochab 2020). The cases above confirm the fact that Law on Religious Freedom, especially Blasphemy Law, only applies to the majority rather than to minority religious offenders.

In a practical setting, how the law assigns religious minorities can be seen through the Supreme Court judgment. This attitude can be traced through the court's judgment/verdict regarding cases of violation of the right to freedom, which was appealed to the Indonesian Supreme Court. There are three examples of how the state positioned the position of a minority religion in the case of the Protestant Batak Christian Church (HKBP) Filadelfia, the Indonesian Christian Church (G.K.I.) Yasmin and the Protestant Batak Christian Huria Pangkalan Jati Cinere. The three cases have permanent legal force by the Supreme Court of the Republic of Indonesia, but the decisions are still non-executable so that the congregation's rights were ignored.

It is important to note that the Bekasi HKBP Filadelfia case began with residents rejecting the church existence until the issuance of a sealing house of worship warrant by the Bekasi Regent. The Decree of the Jakarta State Administrative High Court (PT.TUN) No.255 / B / 2010 / P.T.TUN.JKT, dated March 30, 2011, canceled the Bekasi Regent Decree regarding the construction activities of the HKBP Filadelfia Congregation and granting permission to build a house of worship for HKBP Philadelphia. Nevertheless, the reality is that until today, the Bekasi Regent does not implement the contents of the court's decision. As a result, the congregation still does not get their rights to worship.

The most compelling evidence that the case of GKI Yasmin originated from the falsification of the signatures made by the Head of the RT so that the residents considered that there was engineering in applying for a permit to the Mayor of Bogor. However, the legal process that has permanent legal force through the Supreme Court Decision through decision Number 127 PK / TUN / 2009 dated December 9, 2010, has also rejected the request for a review (PK) submitted by the Bogor City Government. As a result, the congregation is still waiting, for the long road to take justice (Damanik 2018).

The state's partial attitude in law enforcement while maintaining discriminatory rules is evident from the Decision of the Constitutional Court on Application for Judicial Review of Law No. 1 / PNPS / 1965. The decision of the Constitutional Court is a state representation that is not consistent in upholding the right to religious freedom. The Constitutional Court still maintains discriminatory and restrictive regulations in nature because, in their implementation,

⁸ Consideration point C, Bekasi Mayor Regulation No. 14 of 2011 concerning the Prohibition of Ahmady Activities in Bekasi City

they limit religious freedom so that they do not provide justice and happiness to the community, especially the freedom of adherents of minority religions (Rahardjo 2010). On the other hand, the regulation has the substance that contradicts the fundamental law, including provisions governing the promotion and protection of the rights of adherents of minority religions, including contradicting the Universal Declaration of Human Rights rules.

To point out that the implementation of constitutional guarantees of freedom of religion/belief is also not conducive is proven through the Constitutional Court of the Republic of Indonesia's attitude in one of its decisions, which rejected the request for judicial review was only with political reasons/considerations. It mentions that the regulation still has validity, but substantially has various weaknesses due to very fundamental changes to the 1945 Constitution in particular articles relating to human rights (Mahkamah Konstitusi Republik Indonesia 2009). The Constitutional Court does not include strong juridical arguments as the basis for its judgment by stating that the said regulation still has validity. The court only gives political considerations: to keep in mind that the law is one of the constitutions. The Constitutional Court, through Decision 140 / PUU-VII / 2009, acknowledges that Law Number 1 / PNPS / 1965 has weaknesses, but it still needs to be maintained. Although the material testing steps of the PNPS Law have been carried out, however, the state through the Constitutional Court still maintains the PNPS Act with the consideration that the Law on Prevention of Blasphemy is constitutional (Mahkamah Konstitusi Republik Indonesia 2009). In the Constitutional Court Decision Number 140 / PUU-VII / 2009, one of the Assembly's considerations said:

However, because the court does not have the authority to make improvements to the editorial and scope of the content, but may only declare constitutional or unconstitutional, then remembering that the law on the Prevention of Blasphemy Prevention is entirely constitutional, the court cannot overturn or change the editorial. Constitutionally, the court cannot cancel or change its editorial. (Mahkamah Konstitusi Republik Indonesia 2009).

From the perspective of community demands and legal certainty, the decision creates a conflict between legal certainty and a sense of community justice. The Constitutional Court should cancel the regulation because it harms the rights of minority religious freedom. Through cancellations that should have been made, it can be reconciled between the legal certainty and social interests by giving new meaning to existing laws (Manan 2008, 5).

State Involvement in the Infringement of Christian Religious Freedom

The regulatory problem of freedom in Indonesia is complicated not only in the form but also in its application (Mulia 2009). The law should aim to protect the rights, but in the case of religious freedom, the law as a tool to legitimize actions that harm minority religious groups' rights. This legitimation is due to the emergence of various enacted rules which hamper religious freedom and pluralism. For example, there are around 42,000 rules in the form of Presidential Regulations, Government Regulations, Ministerial Regulations, and Regional Regulations, which are considered problematic (Kuwado 2016). Around 7,029 Regional Regulations and Regional Head Regulations have been canceled, including 3,143 regulations that inhibit investment and ease of doing business in various regions that have been canceled (Agustino 2017). Strangely, the government paid less attention to the 130 intolerant regulations. Some rules that are anti-pluralism based on religion also imprison people in exercising religious freedom (Silaen 2009).

So it is not surprising that intolerant regional heads still interfere with minority religious freedom because their actions are justified by these discriminatory rules. For instance, Prohibition of worshipping and celebrating Christmas for Christians in Sijunjung, West Sumatera, based on the

statement of Wali Nagari's attitude, that is, customary jointed shari'a and jointed sharia Al-Quran (The Wahid Institute 2015). Uniquely, the Minister of Religion said that the ban was a joint agreement between Christians and the local community (Setiawan 2019).

Disobedience to Law

The state apparatus tends to disobey rather than defy the law. The falsification of the signature initiated by the Mayor of Bogor by the chairman of the neighborhood coordinator (Ketua RT) as the basis for issuing the Church Permit (Prabowo 2013). The case of license suspension by the Mayor of Bogor and then the G.K.I. Yasmin Board filed a lawsuit over the decision to freeze their church's building development permit (I.M.B.) to the Bandung Administrative Court (2008), the Jakarta Administrative Appellate Court (2009), and the Supreme Court (2010), which were all won by them. They are:

1. Bandung Administrative Court Judgment No. 41 / G / 2008 / PTUN. B.D.G. September 4, 2008,
2. Jakarta Administrative High Court Judgment No. 241 / B / 2008 / P.T.TUN.JKT, on February 11, 2009;
3. Supreme Court Judgment No. 127 PK / TUN / 2009 dated December 9, 2010, letter of DTKP Bogor City No. 503/208-DTKP Regarding Suspension Permit dated February 14, 2008.

The Mayor of Bogor issued Decree No. 503.45-135 of 2006 Dated March 8, 2011, to revoke the freezing of the Building Construction Permit (I.M.B.) On the verdict of the Supreme Court, the Ombudsman then gave a recommendation stating that the Mayor of Bogor had deviated from administrative practices, judging the act was against the law and ignoring legal obligations, asking the Mayor of Bogor to revoke Decree Number 645.45-137 on March 11, 2011, within 60 days (September 18, 2011), and asked the Governor of West Java to coordinate with the Mayor of Bogor to implement the recommendation under the supervision of the Minister of the Interior (Prabowo 2013). The actions of the Bogor Mayor who refused to carry out the Supreme Court's Cassation Decision which already had permanent legal force (*inkracht van gewijsde*) and permanently revoking the G.K.I. Yasmin Permit, showing defiance of the law. As Shinta Nurwahid said, the state participates as an actor in institutionalizing religious minority discrimination through its policies (Purnamasari 2019).

State Subject to Intolerant Groups

Some cases of church closure show that the authorities are subject to the intolerant majority party. The dispute between the Huria Protestant Batak Christian Church of Filadelfia Bekasi and the Bekasi Regency (Bupati) is an example of how the state's suppression of religious rights is still ongoing. However, the HKBP Filadelfia Church has to be legally granted permission by the Bekasi Regent, through the decision of the Jakarta State Administrative High Court (PTTUN) Number: 255 / B / 2010 / P.T.TUN.JKT Jo. The decision of the Bandung State Administrative Court (PTUN) Number: 42 / G / 2010 / PTUN-BDG, which has permanent legal force, but the Regent refused to implement the PTTUN decision on the grounds because of the people's resistance to the planned erection of the church. The Regent argued that he did not want physical friction in the community (Hamluddin 2013). The domination and majority rule make the sovereign rulers avoid, and even tend to bow to intolerant groups (Andreas 2013). Another reason is fear of the majority, which is shown through refusal to permit places of worship for fear of mass pressure, as indicated by the Regent of Bekasi Regency regarding the Decree of the Jakarta State Administrative Court No. 255 / B / 2010 / P.T.TUN.JKT on March 30, 2011 (Andreas 2013).

Similarly, some regional heads showed their disobedience to the law, especially those who made rules about freedom of belief. Religious freedom, especially in minorities, because the government is not severe in realizing its responsibilities as stated in the conventions and constitution. It is seen that many very unjust conditions deny the freedom of religion and belief. This condition is exacerbated by the fact that security officers do not support the role in public safety and comfort. State institutions such as the police (POLRI) must wait at the forefront to tackle and prevent various forms of violence. However, the POLRI is often observed to be indecisive and insensitive to the needs of victims of religious minority groups who are victims of attacks and violence in the name of religion. The government tends to, have no alignments towards minority groups who are victims of violations of freedom of religion/belief (Setara Institute for Democracy and Peace 2020).

Politicization of Religion

The principle of protecting religious freedom states that the government's role is not to carry out theological judgments but to protect the public so that they can pursue their understanding of the truth, within the boundaries of common interests (McConnell 2013). The state carries out a "politized belief" or politicizes religion. The state's partiality towards the majority is not without a goal, ultimately the continuity of state power (Syarif 2017)

When the state uses religion as a political vehicle, religion is directed toward political manipulation to make it vulnerable and sacrifice the continuation of power. The politicization will cause conflicts between religious communities, damages culture, and diverse religious communities' harmony. This conflict occurred due to the politicization of religion by the political elite, which made religion a political asset and openly discussed religion in the political sphere (Widyawati 2014). Religion is used as a means and political vehicle because it is considered an extraordinary power to maintain power. The politicization of religion will exacerbate tolerance and relations between religions of different religions.

Religious politicization is carried out in the political arena by positioning certain religions (usually the majority) as the most real religion and threatened by minority religions. A politicization of religion mixing up with the scriptures, such as not electing non-Muslim leaders by Muslims, is valid (Syarif 2017). With this background, religion has been politicized quickly and aggressively. One the negative side of religious politicization occurred in 2017 when a Chinese Christian politician named Basuki "A Hok" Tjahaja Purnama ran for re-election. After he made a comment that did not consider religion and politics, his opponents could support religious sensitivity and mobilize millions of Muslims at the request of defamation. A Hok not only lost the election that was supposed to win, but he was also sentenced to two years in prison because of the sentence for violating the Religious Defamation Act of 1965. Even Muhammadiyah Central Executive Yunahar Ilyas, who has been an expert witness on religious defamation cases by A Hok, considered the ban on choosing non-leader Muslims not to violate the constitution.

Challenges of Christian Religious Freedom in Indonesia

An obstacle to religious freedom of the Christian minority is the manifestation of religion, which is in the domain of spirituality but regulated in a favorable legal system with the state's standards. That is, the manifestations of religion that are in the spiritual realm are also governed by positive law. The spirituality of Christianity promotes belief and is in an abstract realm that cannot be interpreted in the law's language. Christianity believes and worships God, usually done through rituals or more specifically through worship. In other words, Christianity believes that free worship and rituals are the way to communicate with the creator's almighty. The things done in worship are not the physical (worldly) world but the spirituality untouchable by positive law.

The right to freedom of religion is diverse in a zone separate from other civil rights, both the purpose and the way to realize it. Religion and belief lie outside the domain of state affairs, and its aims differ with the state. Religion has a spiritual goal (eternal), while other civil and political rights are contemporary (worldly) purposes, likewise with places of worship and countries formed with different goals. Places of worship are used for heavenly affairs while the state is used for worldly matters. Herein lies the privilege of religious freedom as a natural right with other civil and political rights held by each individual. The right to religious freedom is believed to have the highest level of freedom besides the right to life because it is outside the state's domain. The right to freedom of religion and belief is a matter of the purpose of human life in the hereafter carried out through human communication with the divine.

The purpose of religion is the priority reason for human life. The priority affirms that the doctrine of Christianity provides benefits or blessings that are more valuable and more important than meeting humans' needs. The purpose of human life is confirmed by the words: What is the use of a person obtaining the whole world but losing his life? Furthermore, what can he give in exchange for his life? (Alkitab SABDA, n.d). With deontological terms, religion must be prioritized over all social duties and obligations, including social, economic, and political tasks.

Regarding tolerance, Christians contribute to the doctrine of free will and personal freedom as a further dimension to human individuality. Christians believe that all human beings are the product of human creations and forms in God's image. Humans are given the right to enjoy the freedom inherent in them. God never distinguishes humans based on status, race, sex, occupation, and all social differences. Actions are the only determinants of human position in the hereafter. His message is directed at humans, humans who determine whether to do or refuse to do. Theologian Augustine recognized that humans could choose between good and evil and choose to accept or reject the divine will. Rejecting His commands and following one's desires will produce dissatisfaction and unhappiness in worldly life and receive eternal punishment in the hereafter. Humans who choose the divine will be blessed with eternal life. However, freedom remains in the hands of individuals, whether to submit or reject His offer. That is, the beginning and end of humanity's fate remain in human beings themselves. His presence is unique in believers' conscience, with the implication that faithful Christians are directly responsible to God, not to the government or the state.

The consequence is that state authorities do not bear safety. That is why the claim of respect for the state of freedom of conscience in worship is something absolute. No one knows God's ultimate truth, so there is no reason to reject the teachings of other people's religions and beliefs or just claim the truth of his religion. No one knows the truth about God, so it cannot be used to seek the truth. It is equally crucial that religious freedom for Christians is not only because of humanitarian issues. Freedom to realize religion plays an essential role in various human affairs, including the safety of the hereafter. Religious freedom is essential in itself and for other human beings and correlates with other civil freedoms.

One of the most apparent relationships is with economic prosperity and freedom. Religious freedom correlates with increased income and economic welfare. Of course, that correlation does not prove causal relations, but some reasons reinforce that freedom of religion directly contributes to the economic, social, and political. The Christian belief says: But first seek the kingdom of God and its truth, then all of it will be added to you (Alkitab SABDA, n.d). This co-relation can also be interpreted that countries with high intolerance/restrictions on religious freedom tend to experience violence that will affect the country's economic, social, and security.

In view of humans and religious freedom are two inseparable entities, humans must be let free and responsible for determining their own belief, and humans must be responsible for their action in the hereafter. The case for freedom of religion is an absolute right and escapes the reach of the law. Laws are only needed to protect, not to regulate or intervene in a person's religion and beliefs. Worship is done by humans not because of fear of legal sanctions if it does not but is a moral awareness that wants to find the highest truth and peace of mind. Moral

awareness should be done without obstacles to the highest good (*summum bonum*). Humans cannot create this goodness, so humans submit it to rational subjects who are believed to give it. Humans are empirically determined, but numerically they are free (Hardiman 2007), and that freedom does not require arguments from society to justify it because such freedom is only forced moral freedom (Hart 2009).

To be sure, freedom of religion does not need to be conditional because the conditions will reduce the essence of freedom. That is, to be free to religion, one does not need to get the blessing or approval of other religions, it does not need to ask for a commitment from the state, because individual freedom is natural freedom possessed by humans. The free individual does not demand agreements from his fellow human beings but expect to find it because it is inherent in human nature (Steiner 2011). Consent is a condition, while a condition is a condition that must be fulfilled for the action taken to be considered valid. If the agreement is considered a condition of moral freedom, it means that moral freedom is not implemented without that agreement. To be morally free, there is no need for conditions because restrictions on freedom are actions that are contrary to humans' conscience and morality.

Religion is like light to the eyes, like air to the lungs, like food for the stomach and human manifestations about themselves (Feuerbach 2004). On the one hand, this concept can be justified because morality is inseparable from religion. Nevertheless, on the other hand, religion does not make human morals better because the behavior of religious people is not always in accordance with their religious doctrine. Humans who claim to be religious are not always tolerant of others. Christians can be religious, but there is no guarantee they are more tolerant than humans who are less concerned with religion. Only a few countries with religious societies are far more moral than non-religious countries. Some countries where the majority of the population are religious, but crimes and harm to the rights of others still occur (Abdulla 2018). This possibility can be used as a reason that a religious society is not always moral.

It is essential to realize that humans are an expression of intelligence accompanied by morals present in the universe. Humans transcend the natural conditions of life; he does not become himself before reaching the highest he knows, Allah (Gianni 2016). Humans try to find religious truth that comes from a Creator who is lived through faith and trust. Humans, as imperfect creatures always equip themselves with knowledge. One that is not possessed by humans in its imperfections is a religious truth. If human freedom is prevented from becoming perfect, then humans will never reach the highest goal in their lives. Humans are prevented from seeking spirituality, which can only be found through the teachings of a religious belief.

If religious freedom is the freedom to seek ultimate truth, then it is believed that no religious person is right because followers of the religion are still searching for the truth. To seek the truth, humans embrace different religions, different in worship, but the overall goal is to seek the truth. The ultimate truth is only one, namely the highest truth that humans can only reach with a mind that can capture the existence of something that exists behind the material world, a world that cannot be captured in plain sight. Truth is not an abstract moral quality but a breakdown of events in history, right actions (Davidson 2001). World happiness is the concern of God, and humans with their knowledge are not justified in determining conduciveness for happiness (Sidgwick 1981).

The state's perception of recognizing official religion (true religion) is a fallacious view. No one knows whether the officially recognized religions by the state are true or not. The truth claim against official religion is inseparable from the limitations of human beings themselves, so they want to spread it. Religion and belief are diverse; maybe there is only one official religion recognized by the proper state or may also be downright heretical. Alternatively, maybe there is a religion or belief and practice that can qualify as a true religion. The problem is that the state cannot prove and know the true religion, but someone only believes that his religion can lead him to find the highest truth.

Conscience is the core of the religion professed by humans. Humans are able to act not only based on desires or instincts but on judgments about what is good and evil, right and wrong. Through conscience, humans have a moral responsibility that cannot be separated from their capacity as the highest creation of all creation. Forcing and restricting someone to act contrary to conscience is forcing to violate his moral integrity. Efforts to impose truth do not have rational justification. Even if religious truth can be established, the heart's conviction cannot be imposed by external forces (Sirry 2003). Violation of conscience will be more dangerous than physical crime because it will harm the human ability to determine life's merits, including harming its purpose.

The right to freedom of religion is an international forum or "inner life of religious belief" (Van Dijk and Van Hoof 1998, 541), which cannot be confiscated or restricted. Choosing a religion is the right of each individual with a specific uniqueness and basis of religion, absolutely and cannot be contested by any power, and no religion prescribes the order to damage and do violence to anything around it. No entity can stop it and obligations to God must be implemented. Obligations to God are carried out based on the principle of equality, whatever their beliefs.

From the aspect of its formation that PBM by two ministers is not only difficult to implement, but also from its formation procedures that seem forced to limit the freedom of other parties (Christian minority). The application of the rules for establishing places of worship is difficult because the rule-makers set conditions that are difficult to fulfill. The clause specified in articles 13, 14, and 18 paragraph (3) PBM becomes a problem for minorities, especially for Christians in establishing worship places. For people who are already aware of pluralism, this regulation is not a problem for fulfilling the requirements for constructing houses of worship. However, in the implementation of ninety members of the congregation's minimum requirements and must get approval from sixty people around the place of worship to be built, get approval from the Religious Harmony Forum (FKUB), often misused and often disapproved due to pressure from certain parties.

In addition to these difficulties, PBM also determines the requirement that the construction of worship places can only be done based on real needs coupled with recommendations from the FKUB. The real needs of houses of worship are only known to those who need them. Real needs cannot be calculated in general and cannot also be predicted because the need to worship is an internal matter of the owner of a place of worship. For this reason, the real and severe needs clause must be abolished. The clause is believed to be an act that makes it difficult to establish a house of worship. The state's compulsion to obey the rules that violate the rules of establishing houses of worship on the grounds of real necessity is coercion against conscience. There is no party outside the people who know the real needs other than the owner of worship itself. As a result of clauses that are difficult to fulfill, it is only natural that those who are complicated by rights are not interested in implementing the regulation's contents.

Regardless of the real need for houses of worship, only users of the house of worship know, and determination of the real needs should be left to the parties concerned, not to other parties. Such surrender would only make it challenging to build a house of worship because FKUB would be the first to obstruct the construction of a synagogue. Extraordinary conditions and real needs are forms of action that are contrary to the purpose of establishing the PBM itself, namely: the creation of harmony among religious communities based on tolerance, mutual understanding, mutual respect, respect for equality in the practice of religious teachings and cooperation in social life, nation, and state in the Unitary State of the Republic of Indonesia based on the Pancasila and the 1945 Constitution of the Republic of Indonesia. The rule/law is invalid because it only pursues specific goals and ideals and does not provide happiness for the Christian minority.

In spite of the fact that regulation on freedom of worship does not mean that it must issue rules governing religious freedom because the term freedom itself is contradictory to the term regulating. The terminology of regulation is meant not only to determine what are the rights and

obligations of adherents of different religions but how the rules are made/presented. In this context, law is seen more like the process of its making than its application. Protection of the rights of religious freedom must be free and without state interference, unless religion's practice is detrimental to others or damages other social arrangements. The state cannot force any faith, obedience, or practice of faith on its citizens.

Although the concept of regulation about religious harmony is not necessary, there is an assumption that rampant violation of religious freedom, so the formation of rules on religious freedom is a must (Hasani and Naipospos 2011). It is incorrect because freedom of religion is freedom in the spiritual realm, outside positive law. The urgency of the Religious Freedom Act is: firstly, in order to be able to limit state authority so that it does not cause state interference in matters of creed (basics of belief) and worship and religious sharia (code) in general. Secondly, on the other hand, it gives awareness to every citizen of their human rights, in opinion, belief and religion.

Again, the Freedom of Religion Act's urgency needs to be explored through several considerations, including the essence of religion and the relationship of religion with the state. Religion is something that involves the relationship between humans and God. Through religion, humans are obliged to love themselves and their surroundings and such actions are a reward in their second life. Because freedom of religion is freedom of conscience, that freedom cannot be regulated by state authority. A person's religion and beliefs must be left to each other's beliefs and conscience. Based on these considerations, religion cannot be regulated by law (state).

Conclusion

Based on the study and analysis above, it can be concluded that the right to religious freedom of the Christian minority in Indonesia is not, by the essence, as natural rights because there are restrictions on these rights by using discriminatory and unfair laws. The restriction of religious freedom for Christian minorities through unfair laws places Christians as a discriminatory group in religious life in Indonesia. The regulation of internal freedom 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 of religion and the purpose of religion itself. Thus the regulation of the right to religious freedom against Christian Minorities in positive law is not by the essence of religion itself, namely

1. Religion is the relationship between God and humans;
2. Religion is spiritual development;
3. Opposing religious teachings will be punished by God, not from the state/government.

Regulation of the right to freedom of religion and belief in positive law is unable to guarantee the right to freedom of religion. As a natural right, the right to freedom of religion must be given the following conditions: autonomy and independence, because the right to freedom of religion is freedom of conscience, which cannot be governed by positive law. Religious freedom for Christians is not based on the nature of religious rights and is based more on specific interests. Discriminatory arrangements and policies that discredit minority groups (Christians) contribute to violations of the right to freedom of religion and belief. Therefore, there is no need to regulate the right to freedom of religion and belief in positive law, but the state should naturally permit religious freedom.

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