

THE PROTECTION OF RELIGIOUS FREEDOM OF SUNDA WIWITAN BELIEVERS

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Abstract

Sunda Wiwitan as a religion had existed prior to the other, more well known religions in Indonesia, but is currently is not recognized as an official religion by Act No.1/PNPS/1965. The state, as opposed to guaranteeing the freedom of belief and its practice, instead imposes restrictions on religion in this particular case, leaving the believers of Sunda Wiwitan feeling abandoned and as outcasts. As a result, many violations and discriminations are experienced by adherents of Sunda Wiwitan. One example of such discrimination is the “whiting-out” of the “religion” column in ID Cards. The result of this discrimination is difficulty in accessing civil documents, in addition to verbal violence from certain parts of the society who assume the Sunda Wiwitan belief as heretic.

Sunda Wiwitan sebagai agama lebih dahulu ada dibanding dengan agama lainnya di Indonesia, tapi tidak diakui sebagai agama resmi berdasarkan UU No. 1/PNPS/1965. Negara yang seharusnya hadir memberikan perlindungan hak beragama berupa kebebasan menganut agama dan menjalankan ibadah, justru memberikan batasan yang membuat agama di luar agama resmi tidak diakui. Akibatnya, berbagai bentuk pelanggaran dan diskriminasi dialami oleh penganut keyakinan Sunda Wiwitan. Pengosongan kolom agama di KTP adalah salah bentuk diskriminasi yang mereka alami. Dampak dari pengosongan ini menghasilkan berbagai pelanggaran HAM seperti akses terhadap dokumen

kependudukan, kesehatan, pendidikan dan bahkan kekerasan verbal dikatakan agama sesat.

Keywords: Belief, Rights of Religion, Sunda Wiwitan.

Introduction

The freedom of religion is one of the basic rights that the State must protect. Many human rights legal instruments, whether domestic or international, have laid out and regulated freedom of religion. Manfred Nowak elaborates freedom of religion as absolute, or a right that cannot be limited or derogated (non-derogable right).¹ In fact, the freedom of religion have sometimes been said as the founding idea of human rights protection, which first stemmed from the protection of religious minorities.² In Indonesia, freedom of religion is laid out in Article 28I of UUD 1945 (The Indonesian Constitution) jo Article 4 of Law Number 39 Year 1999 on Human Rights.

However, the protection of religious freedom in Indonesia itself has been inconsistent at best. The recognition of the freedom of religion as non-derogable, is contradicted with the limitations put upon the religions and faiths that is recognized by the State, as per Law Number 1/PNPS/1965 jo. Law Number 5 Year 1969 on the Prevention of Abuse of Religion and/or Blasphemy, and MPRS Decision Number XXVII/MPRS/1966, which only listed 6 recognized religions. The six are Islam, Catholicism, Christianity, Buddhism, Hindu, and Kong Hu Cu (Confucianism). Any other faiths or religions outside the six are not recognized as official religions.

In fact, the Government has gone to great lengths to keep tabs on the religious groups that are of outside the six “official religions”, such as through MPR Decision No. IV/MRP/1978 that is continued with the Minister of Religion Instruction Number 4 Year 1978 and the Attorney General Decision Number KEP-108/JA/5/1984 on the

¹ Manfred Nowak, “Civil and Political Rights”, in *Human Rights: Concept and Standard*, ed. by Janusz Symonides, (Paris: UNESCO Publishing, 2000), p.55.

² Martin Scheinin, “Article 18”, in *The Universal Declaration of Human Rights*, ed. by G. S. Alfredsson & A. Eide (The Hague: Martinus Nijhoff Publisher, 1999), p. 379.

creation of Societal Beliefs Supervision Coordinating Team (PAKEM).³ The existence of these set of regulations have given way to religious discrimination. The problem is that this discrimination has constitutional basis; which is the derogation of certain human rights per Article 28J sub-article (2) of UUD1945. This does not reflect the reality of Indonesian society, where one can find many other religions and faiths that are outside the 6 recognized above. Religious groups such as Baha'i, Ahmadiyah, Al Haq, Al-Qiyadah Al Islamiyah, Jamaah Tabligh, LDII, and Nurul Yakin are all subsets of preexisting recognized religions but whose existence is questioned. Also prevalent are the beliefs of Dayak Losarang tribe,⁴ Lampung ethnic societies, Sunda Wiwitan of the people of Kenekes (Baduy), and AKUR (Adat Karuhun Urang), Cigugur, whose adherents could be found in pockets all over Western Java.⁵ This article, however, is only limited to the discussion of Sunda Wiwitan, due to the interest of the researcher towards the existence of the Sunda Wiwitan beliefs in the Sunda lands whose followers, until today, still suffer from many forms of discrimination. This is ironic, since Sunda Wiwitan is one of the oldest "true beliefs" of certain groups of Indonesians, and a belief that grew naturally within the community, as opposed to the "heavenly religions" that were introduced and brought in much later into Indonesia.

Many religious groups that of outside the recognized six are also very prone to violations, especially heavy ones such as the prohibition of practice.⁶ Adherents of Sunda Wiwitan themselves have experienced this, as they were barred from conducting their traditional "Seren Taun" ceremony during 1980-1999.⁷

Until the time of writing, Sunda Wiwitan is only recognized as a belief, as opposed to as a religion. This opens the doors to many forms of discrimination, such as several administrative difficulties with the government. One of those difficulties is the existence of the "religion"

³ Alef Musyahadah Rahmah, and Tedi Sudrajat, "Penemuan Hukum in Concreto dalam Kebebasan Beragama dan Berkeyakinan", *Jurnal Dinamika Hukum*, vol. 9, no. 2 (2009), p. 96.

⁴ Alef Musyahadah Rahmah and Tedi Sudrajat, "Penemuan Hukum ...", p. 96.

⁵ Ira Indrawardana, "Berketuhanan dalam Perspektif Kepercayaan Sunda Wiwitan", *Melintas: Jurnal Budaya dan Humaniora*, vol. 30, no. 1 (2014), p. 107.

⁶ Alef Musyahadah Rahmah and Tedi Sudrajat, "Penemuan Hukum ...", p. 96.

⁷ Ira Indrawardana, "Sunda Wiwitan dalam Dinamika Zaman", *2nd International Conference on Sundanese Culture*, Bandung, 19-22 December 2011, p. 4.

column in Indonesian ID Cards, as is regulated under Article 64 sub-article (2) Law Number 23 Year 2006 on Citizenship Administration. The article states that for those whose religions are unrecognized, or those who are adherents to “beliefs” (as opposed to religions) then their “religion” column shall be left blank, when in fact all of the columns must be filled. This has led to many Sunda Wiwitan practitioners filling their religion columns with religions that are already recognized, such as Islam, or Buddhism, when they do not prescribe to those religions. The fact that the religion column is left blank for other people would result in certain public services to be closed for them. Certain kinds of employment and education are just some of the things towards which those people lose access. Those who are of “beliefs” cannot apply for government jobs such as civil servants, the military, or the police. In addition, there is the added social stigma of people with no “religions” in their IDs as being heretics or faithless.⁸

The many forms of discrimination incurred by Sunda Wiwitan believers is not in line with the idea that Indonesia as a state based on the rule of law upholds the principles of equality and non-discrimination,⁹ which are two of the basic principles of human rights protection as laid out within UUD 1945 and Law 39 Year 1999. Therefore, a cause and a solution to the Sunda Wiwitan problem must be found so as to protect the related rights.

The method used in this journal is normative juridical. This approach requires secondary data that usually utilizes normative law. The data and information contained within this journal was obtained from reviews of legal materials combined with library research for data compilation.

Sunda Wiwitan: Belief, or Religion?

Sunda Wiwitan means “early Sunda”, or “the start of Sunda”. The word “Sunda” itself could mean three things: (1) philosophically means white (*bodas*), cleanliness, light, beauty, good, and other words of similar positive connotations; (2) ethnically refers to the community of the

⁸ Edward Febriyatri Kusuma, “Melihat Lebih Jelas Masalah Penganut Kepercayaan Soal Kolom Agama di KTP”, *news.detik.com* (Dec 7 2016), <https://news.detik.com/berita/d-3365030/melihat-lebih-jelas-masalah-penganut-kepercayaan-soal-kolom-agama-di-ktp>, accessed April 22, 2017.

⁹ Article 1 sub-article (3) 1945 Constitution 4th Amendment.

Sunda tribe, which is one of the many ethnic groups of the world that have their own unique physical and/or cultural characteristics; (3) geographically refers to the area of Indonesia where the Sunda people could historically be found, or the Greater Sunda Islands that encompass the major islands within present-day Indonesia (Sumatra, Borneo, Java, Madura), and the Lesser Sunda Islands (such as Bali, Lombok, Flores, Sumbawa, Sumba, Roti, and others).¹⁰

Sunda Wiwitan is a religion with a distinct characteristic of primordial monotheism,¹¹ which is the worship of a Singular All-Mighty and Supreme God that is formless called “Sang Hyang Kersa”, who is comparable to God All-Mighty in other monotheistic religions. The followers of this religion could be found within several villages within the province of Banten and West Java, such as within the villages of Kanekes in Lebak, Banten; Ciptagelar Kasepuhan Banten Kidul in Ciselok, Sukabumi; Kampung Naga in Tasikmalaya; Cireundeu in Cimahi; and Cigugur, Kuningan.¹²

Sunda Wiwitan as a belief could be traced back to the finding of ancient religious sites. These sites represented prehistorical religious values, such as “menhir”, “lingga”, and “yoni”. Menhir is a symbol of respect, as well as a place of worship towards ancestors and/or “The Almighty” in accordance with the system of beliefs of prehistoric Sunda people. Meanwhile, Lingga and Yoni are symbols of fertility, as well as the conscious belief of the Sunda people towards the idea of “papasangan” (or pairing) in life.

The sites of Cipari and Sagarahieng in Regency of Kuningan and the Domas Statue in Kanekes, are just some of the sites that also contain many prehistoric artefacts and all in all points to the conclusion that the Sunda people have been religious and have had beliefs since prehistoric times, with a belief system that worships God.¹³

¹⁰ Ira Indrawardana, “Berketuhanan dalam Perspektif...”, p. 109.

¹¹ Alimah Fauzan, “Hanya Karena Dianggap Berbeda, Mereka Dibungkam dan Dipaksa Mengikuti Identitas Resmi”, *Kompasiana.com* (Nov 28, 2012), <https://www.kompasiana.com/alimahperempuan/5519c3a0a33311151bb6595d/hanya-karena-dianggap-berbeda-mereka-dibungkam-dan-dipaksa-mengikuti-identitas-resmi?page=all>, accessed 23 March 2017.

¹² Edi S. Ekadjati, *Kebudayaan Sunda: Suatu Pendekatan Sejarah* (Jakarta: Pustaka jaya, 1995), p. 72-73.

¹³ Ira Indrawardana, “*Sunda Wiwitan...*”, p. 3.

The Sunda people of current themselves react differently to how Sunda Wiwitan could be spiritually traced back as one of the first religions in the region. Ira Indrawardana explains that the Sunda people until now are still of the perception that the old Sunda kingdoms were mostly Hindis, although some are also of the perception that the old Sunda kingdoms had adopted “real” Sunda religions before Hindi influence was brought in. The other religions whom those people attach to Sundanese is Islam, which gave birth to the assumption that Sundanese people are also Muslims.¹⁴ The stigma attached to Sunda Wiwitan resulting from it not being recognized as an official religion, is not in line with the definition of religion that is used by Indonesian law. Before the application of electronic ID Cards (e-KTP), Sunda Wiwitan was commonly used to fill the “religion” column within ID Cards of people in the village of Kanekes (1970-2010). However, ever since the e-KTP program, Sunda Wiwitan is no longer available as an option as it is deemed as not being an “official religion”. Beforehand, Law Number 23 on Citizenship Administration has also been discriminative towards Sunda Wiwitan followers. The belief system of AKUR Sunda people is not a belief organization that has articles of association or any conventional written text. This points to the Indonesian law being too simplistic in defining “religion”, whereby it is assumed that religions are only those that applied belief systems from outside Indonesia, which is the belief in a certain God, with a designated holy book, prophet, rites, and others that are usually associated with the major religions.¹⁵

Religion is seen as playing a vital role in society, as the essence of religion is a set of beliefs that dictate a certain way of life.¹⁶ Many theories have been put forward to answer the age-old question of “what is religion?” Pals elaborates 7 major theories on religion. Those 7 theories are: (1) Animism and magic theory by E.B. Taylor and J.G. Frazer; (2) Religion and personality by Sigmund Freud; (3) Society and sacredness by Emile Durkheim; (4) Religions as alienation by Karl Marx (5) The reality of the sacred by Miecea Eliade (6) Society “Construct of

¹⁴ Ira Indrawardana, “*Sunda Wiwitan...*”, p. 4.

¹⁵ Ira Indrawardana, “*Sunda Wiwitan...*”, p. 16.

¹⁶ Brice Dickson, “The United Nations and freedom of religion”, *International & Comparative Law Quarterly*, vol. 44, no. 2 (1995), p. 237.

the heart”, by E.E. Evans-Pritchard; and (7) Religion as a cultural system by Clifford Geertz.¹⁷

The definition of religion itself varies between experts and scholars. Streng says that “*the definition will vary from person to person, they are likely to vary along predictable lines: according to one’s deepest personal feeling, according to one’s culture, and according to one’s highest values in life.*” Streng then defines religion as the “ultimate transformation”, or a foundational transformation that affects human life as a whole, and helps a person to come out of existential crisis and of his ignorance.¹⁸

Durkheim opines that religion comes from members of the society themselves. Different members of society have different perceptions as to what is deemed sacred. Durkheim thus defines religion as a manifestation of a “collective consciousness”; or a set of unwritten rules outside a particular “contract”, notwithstanding the fact that those rules could be laid out in written form, subject to the rules of a social contract that defines what is allowed and what is not. The rule that are outside of this “contract” is known as a collective consciousness. There are two main characteristics of a collective consciousness, which is that it is exterior and has constraint. Exterior defines how it exists outside the person but enters that specific person through a set of rules such as morals, religion, and other values that determines what is right and wrong, and what is noble or forsaken. Constraint defines how it has enforceability towards the individual. The values are enforced when the individual commits a violation, through sanctions and punishment.¹⁹

Another definition can be taken from Pritchard, who states religion as a system of beliefs that is adopted by a group of people with all its related rituals. The belief of a god or spirit that is deemed as primitive by Tylor, Bruhl, and Muller, is what is actually known as monotheistic religions, or the belief that there is a most supreme spirit. This concept is what is known as “God” according to several tribes, such the Nuer Tribe in Sudan.²⁰

¹⁷ Daniel L. Pals, *Seven Theories of Religion* (New York:Oxford University Press, 1996).

¹⁸ Frederick J. Streng, *Understanding Religious Life*, third edition (Belmont: Wadsworth Publishing Company, 1985), p.1-2.

¹⁹ Emile Durkheim, *The Elementary Forms of the Religious Life*, 1959.

²⁰ Daniel L. Pals, *Seven Theories of Religion...*, p. 344-345, 373.

The opinion of Durkheim on societies that form religion, and Pritchard's opinion that religion is a tradition that is held by society should be able to make clear the existence of Sunda Wiwitan within the context of religion. If Sunda Wiwitan is seen as an ancestral religion, with all of the related aspects of belief of a supreme spirit and its traditions, then it is indistinguishable from other religions that is also the result of tradition that is inherited. This is strengthened by the fact that Sunda Wiwitan is a monotheistic belief. Sunda Wiwitan contains a belief of respect towards the spirit of ancestors and the belief in a single power (Sanghyang Keresia or the All-Mighty), also known as Batara Tunggal (The Singular), Batara Jagat (The ruler of nature), and Batara Seda Niskala (The All-Mystical), that lives in the Buana Nyungcung (Upper world or earth). From a historical perspective, Sunda Wiwitan is also the true religion of Sunda people (in the context of Nusantara, covering the Greater and Lesser Sunda Islands), before the divine religions were brought into Indonesia. From this context, Sunda Wiwitan should therefore be seen as equal to the "recognized" or "official" religions of Indonesia.

Protection of Human Rights for Followers of Sunda Wiwitan

Many international Human Rights instruments have managed to define clearly the freedom of religion. This freedom entails the freedom to believe in anything, and even the freedom to not have a belief. Article 18 Universal Declaration of Human Rights (UDHR) 1948 lays out that, *"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and public or private, to manifest his religion or belief in teaching, practice, worship and observance."*

In accordance with the UDHR, Article 18 ICCPR states that:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching;
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice;

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others;
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Based on these two Human Rights instruments, it is clear that freedom of religion is a freedom that must be protected for individuals and groups as well. It encompasses the freedom to choose any religion, to change religions or beliefs, and to not adopt any. It also encompasses the freedom from indoctrination and other religious manipulation that might infringe upon the freedom of religion.²¹ In other words, there should not exist any conduct that forces a change of religion.²² Indeed, the Cairo Declaration on Human Rights within Islam states that; *“It is forbidden to use coercion in any form towards people or the exploitation of poverty or lack of acknowledgment for the sake of changing a person to another religion, or to atheism.”*²³

Therefore, all forms of religion, whether “divine” or traditional, must be recognized and be allowed to be adopted by anyone, and also have its followers be allowed to conduct worship. While Article 18 sub-article (3) allows the limiting of the freedom of the conduct of religious worship based on the law under the basis of security, order, health, or public morals, this must be interpreted as positive protection towards the basic freedoms of the world community at large, and not for the basis of discrimination. The prohibition of discrimination based on religion or beliefs has in fact been said to be *Jus Cogens* according to Brownlie, as is the case with discrimination based on race, gender, and language.²⁴

²¹ Manfred Nowak, “Civil and Political I...”, p. 55.

²² Rhona KM., Smith, “Hukum hak asasi manusia”, ed. by Knut D. Asplun, et al. Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia, 2008), p. 106.

²³ Article 1 Cairo Declaration.

²⁴ Ian Brownlie, *Principles of International Law* (New York: Oxford University Press, 1991), p. 513.

This is also made all the more clear in the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief 1981. Pasal 3 Deklarasi berbunyi, “*Discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations...*” The aim of these international Human Rights instruments is to eliminate the many forms of discrimination based on religion within the current era of equality.²⁵ It is therefore evident that all forms of religion must be recognized, along with the related rights.

Within Indonesian law, the freedom of religion is constitutional. Article 28E sub-article (1) and (2), and Article 29 sub-article (2) of the UUD 1945 contain the foundation of those rights. The former lays out that “*Every person shall be free to choose and to practice the religion of his/her choice...*” in sub-article (1), and “*Every person shall have the right to the freedom to believe his/her faith, and to express his/her views and thoughts, in accordance with his/her conscience*” in sub-article (2). Additionally, Article 28I sub-article (1) establishes the freedom of religion as a non-derogable right, which means that it cannot be reduced or derogated in any shape or form. The direct wording of the article is as follows:

- (1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.
- (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.

More specifically, the freedom of religion is also elucidated within Article 22 of Law Number 39 Year 1999 on Human Rights, which states that “(1) Everyone has the right to freedom to choose his religion and to worship according to the teachings of his religion and beliefs. (2) The state guarantees everyone the freedom to choose and practice his religion and to worship according to his religion and beliefs.” Sub-article (2) here indicates that the protection of the freedom of religion is of the State’s obligation. Furthermore, Article 4 of the same law restates the

²⁵ Rafael Domingo, “A right to religious and moral freedom?” *International journal of constitutional law*, vol. 12, no. 1 (2014), p. 233.

constitution on the non-derogability of the freedom of religion, by stating that “*The right to life, the right to not to be tortured, the right to freedom of the individual, to freedom of thought and conscience, the right not to be enslaved, the right to be acknowledged as an individual before the law, and the right not to be prosecuted retroactively under the law are human rights that cannot be diminished under any circumstances whatsoever.*”

From the regulations elaborated above, it can be seen that normatively, Indonesian laws are in line with international legal instruments on Human Rights on the matter of freedom of religion. The reasoning for this could also be seen in the status of Indonesia as a state that has ratified the ICCPR through Law Number 12 Year 2005, and the International Convention on the Elimination of All Forms of Racial Discrimination through Law Number 29 Year 1999. melalui UU No. 29 Tahun 1999. However, what must also be underlined is the content of the constitution and Law Number 39 Year 1999 that allows limitation of the freedom of religion.

More specifically, Article 28J sub-article (2) elaborates the exercise of rights be people to be subject to restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society. Meanwhile, Article 73 of Law Number 39 Year 1999 states the limitations on rights is allowed insofar as those limitations being based on the law, and solely for the purposes of guaranteeing recognition and respect for the basic rights and freedoms of another person, fulfilling moral requirements, or in the public interest. According to the elaboration of the article, the limitation could only be done on rights that are not non-derogable, in which article 4 of the same regulation states that the freedom of religion as one of them. Therefore, it follows that the freedom of religion is a right that must be protected by the State at all cost, without any form of limitations.

On the contrary, the limitation of human rights produces a sense of ambiguity within the protection of human rights.²⁶ The fact that Law No. 1/PNPS/1965 limits recognized “religions” to only 6, is a sign of ambiguity within the current Indonesian system which recognizes both freedom of religion as a non-derogable right, while at the same time

²⁶ Anthony Woodiwiss, *Human Rights*, Routledge (New York: Madison Ave, 2005), p. 5-6.

derogates that freedom. The religions outside of the six are only seen as “beliefs”, such as the beliefs of the Samin people, and includes Sunda Wiwitan. This reality causes religion to no longer be an individual right, towards which everyone has freedom, and rather becomes something of the State’s authority. In other words, the State has the control over what religions could be adopted by its people, as opposed to the people having the freedom to choose.

The limitation of the freedom of religion in Indonesia stems from how the legal system defines a religion, which is a system of beliefs that is kept and laid out within scriptures, contains clear teachings, has a prophet or messiah, and has a holy book. This very restricting definition of what a “religion” is opens room for discrimination, as those that do not contain the elements laid out by the definition according to the law, should therefore not constitute as a “religion”. This is indeed the experience of the Sunda Wiwitan belief.

A central problem within the larger picture of discrimination against Sunda Wiwitan is regarding citizenship administration. One such example is that the believers of Sunda Wiwitan is not allowed to enter “Sunda Wiwitan” as a religion within their national ID Cards. Therefore, in order to obtain an ID Card, which is itself important for a myriad of other things related to civil services and overall government administration such as driver’s licenses, marriage registration, and passports, those same people must put in another religion (usually Islam, Hinduism, or Buddhism). It can therefore be seen that Sunda Wiwitan people are under threat of losing access to basic rights that should belong to citizens, such as healthcare, education, and politics, and that to access those rights would be to declare that they adopt another religion that is not actually of their true beliefs. This is, of course, a violation of human rights. Therefore, the only way to mitigate such a violation is to revoke the relevant law that limits religious rights. Unfortunately, this attempt to revoke Law No.1/PNPS/1965 through a judicial review within the Indonesian Supreme Court (or the Mahkamah Agung) was roundly rejected; the judgment of which could be seen in Supreme Court Decision No.140PUU-VII/2009. The decision stated that the protection of religious freedom in Indonesia is not universal, in that it is idiosyncratic. This decision implies a cultural relativism approach used by the Supreme Court Judges. The court then

was of the opinion that human rights was not an absolute right and is subject to limitations, which includes the freedom of religion.²⁷

This Supreme Court decision all but strengthens the paradigm that religious rights within Indonesia is merely a legal, not a moral, right, and closes the doors to the possibility of recognition, and thus acceptance, of other religions and faiths. It also strengthens the idea that religious rights in Indonesia has become political, as the decision as to what is acceptable in the context of the adoption of certain religions is left to those in power.²⁸

Ironically, Islam, as the majority religion within Indonesia, itself does not prohibit other religions from being adopted and adhered to by its respective followers. The Quran elaborates the freedom of religion within al-Kafirun [109] verse 6 which states,

“For you is your religion, and for me is my religion”.

Additionally, Al-Baqarah [2] verse 256 states:

“There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong. So whoever disbelieves in Taghut and believes in Allah has grasped the most trustworthy handhold with no break in it. And Allah is Hearing and Knowing.”

Both verses should be interpreted as a clear directive for muslims to let others hold their own faiths and religions. tersebut memberikan kebebasan kepada agama lain untuk tetap dianut oleh para pemeluknya. Not a single verse within the Quran allows for the limitation of the freedom of religion.

Rasulullah SAW, the Prophet Muhammad (pbuh), also practices freedom of religion within the period of the State Medina. As a foundation to the formation of the State of Medina, the Medina Charter did not limit the religions that is allowed to be adopted by its inhabitants. The Prophet Muhammad (pbuh) as head of State realized the plurality of the people of Medina and protected every one of them and their rights without considering the differences in race, nationality, or faith. According to Montgomery Watt, the people of Medina at that

²⁷ Suparman Marzuki, “Perspektif Mahkamah Konstitusi tentang Hak Asasi Manusia”, *Jurnal Yudisial*, vol. 6, no. 3 (2013), p. 203.

²⁸ Donald Eugene Smith, *Religion and Political Development* (New York: Litle Brown and Company, 1970), p. 6.

time were of many faiths, such as muslims, jews, christians, Zoroantrists, Zandiks, and many other faiths or beliefs, including atheists and pagans. Under the simple value of humanity, everyone was given the freedom and the right to practice their beliefs, and that such rights were of the State's obligation to guarantee for both muslims (as a majority) and non-muslims.²⁹ This is evident in article 25-33 of the Medina Charter. The following is the content of Article 25:

“The Jews of the B. ‘Auf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freedmen and their persons except those who behave unjustly and sinfully, for they hurt but themselves and their families.”

Therefore, in Indonesia, as long as that faith or religion does not infringe or contradicts the principle of “Belief in the one and only God”, which is a part of the constitution by virtue of paragraph 4 of the preamble and Article 29 sub-article (1), the State could and should recognize that religion. In this context, Sunda Wiwitan should be recognized, as it is a monotheistic religion and in line with the first principle.

Conclusion

The discrimination experienced by adherents of Sunda Wiwitan within their livelihoods is the result of the lack of official recognition towards Sunda Wiwitan as a religion or faith by the State. This gives way to many forms of discrimination, such as lack of access to healthcare, education, and citizenship services. In addition, they also experience verbal abuse, such as being called heretics by the general public. The State should be providing protection to these people, by not limiting the religions that are recognized as “official”, as the freedom of religion and its related religious rights qualifies as a non-derogable human rights. The State should also prescribe to a new legal definition of “religion”.

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