

REVIEW ON GLOBALIZATION FROM AN ISLAMIC PERSPECTIVE

by Afni Regita Cahyani Muis

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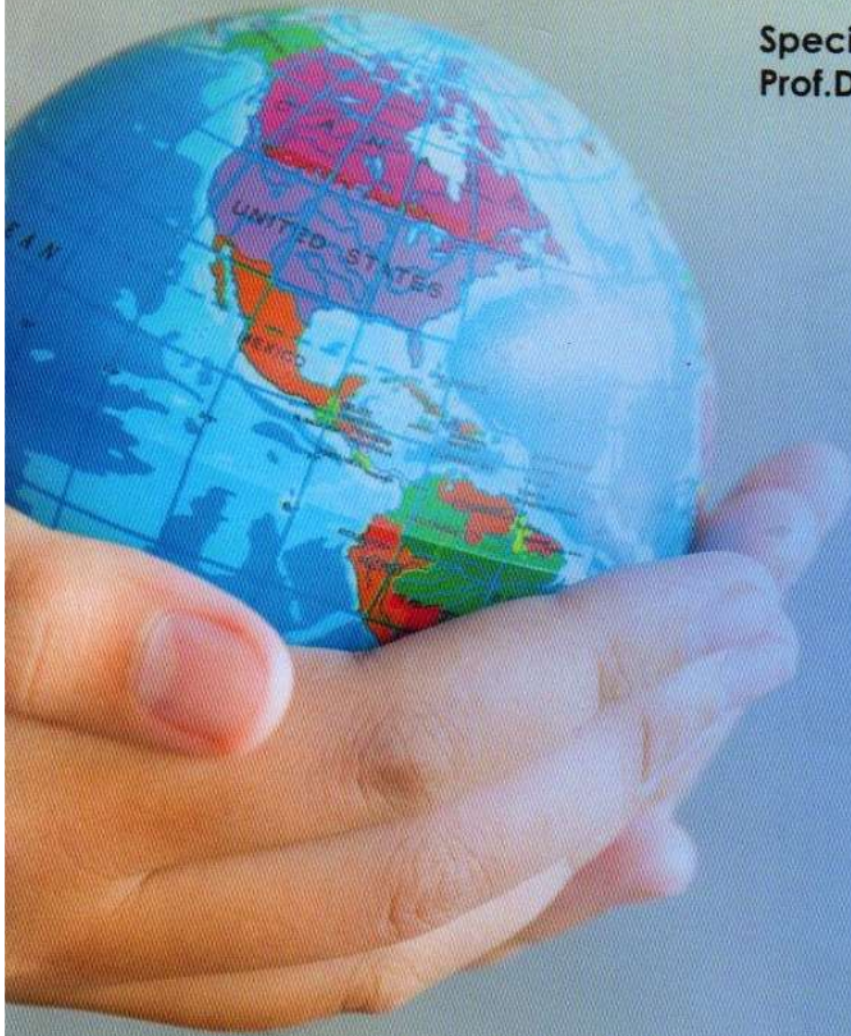
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Review
ON GLOBALIZATION
FROM AN ISLAMIC PERSPECTIVE

Edited by Ali Musa Harahap

Special Address by
Prof.Dr. Mohtar Mas' oed



REVIEW ON GLOBALIZATION

FROM AN ISLAMIC PERSPECTIVE

Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 tentang Hak Cipta

Lingkup Hak Cipta Pasal 1 Angka 1 Hak Cipta adalah hak eksklusif pencipta yang timbul secara otomatis berdasarkan prinsip deklaratif setelah suatu ciptaan diwujudkan dalam bentuk nyata tanpa mengurangi pembatasan sesuai dengan ketentuan peraturan perundang-undangan.

Pasal 1 Angka 4 Pemegang Hak Cipta adalah pencipta sebagai pemilik Hak Cipta, pihak yang menerima hak tersebut secara sah dari pencipta, atau pihak lain yang menerima lebih lanjut hak dari pihak yang menerima hak tersebut secara sah.

Pertentuan Pidana Pasal 113

- (1) Setiap Orang yang dengan tanpa hak melakukan pelanggaran hak ekonomi sebagaimana dimaksud dalam Pasal 9 ayat (1) huruf i untuk Penggunaan Secara Komersial dipidana dengan pidana penjara paling lama 1 (satu) tahun dan/ atau pidana denda paling banyak Rp 100.000.000 (seratus juta rupiah).
- (2) Setiap Orang yang dengan tanpa hak dan/ a tau tanpa izin Pencipta atau pemegang Hak Cipta melakukan pelanggaran hak ekonomi Pencipta sebagaimana dimaksud dalam Pasal 9 ayat (1) huruf c, huruf d, huruf f, dan/atau huruf h untuk Penggunaan Secara Komersial dipidana dengan pidana penjara paling lama 3 (tiga) tahun dan/atau pidana denda paling banyak Rp 500.000.000,00 (lima ratus juta rupiah).
- (3) Setiap Orang yang dengan tanpa hak dan/ a tau tanpa izin Pencipta atau pemegang Hak Cipta melakukan pelanggaran hak ekonomi Pencipta sebagaimana dimaksud dalam Pasal 9 ayat (1) huruf a, huruf b, huruf e, dan/atau huruf g untuk Penggunaan Secara Komersial dipidana dengan pidana penjara paling lama 4 (empat) tahun dan/ a tau pidana denda paling banyak Rp1.000.000.000,00 (satu miliar rupiah).
- (4) Setiap Orang yang memenuhi unsur sebagaimana dimaksud pada ayat (3) yang dilakukan dalam bentuk pembajakan, dipidana dengan pidana penjara paling lama 10 (sepuluh) tahun dan/ a tau pidana denda paling banyak Rp 4.000.000.000,00 (empat miliar rupiah).

REVIEW ON GLOBALIZATION

FROM AN ISLAMIC PERSPECTIVE

EDITED BY ALI MUSA HARAHAP

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Praise be to Allah (SWT) for enabling us to complete this book. I wish to express our heartfelt to the Department of International Relations at University of Darussalam gontor for the intellectual environment it has provided us in completing this work.

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Ali Musa Harahap

Introduction

This book is a collaborative effort by the lecturers of the Department of International Relations, University of Darussalam Gontor. As editor, I gather my colleagues at the Department to contribute chapters to the book. The response was encouraging. By March 2021, we were able to gather ten chapters. One major limitation of the book is the absence of a central theme that links all its chapters.

In our contemporary age, which is fundamentally different in many ways, from the situation of the humanity during those past centuries - especially with the growth of Western ideological 'globalization' through satellite channels and internet and the intellectual, technological, economical and political influence and negative effect that this 'globalization' has on the Ummah, this ensures as Muslims, the need to have a fundamental review of general contemporary globalization, especially, at the International Relations arena. For, this globalization is born under the shade of those distortions and unpleasant practices and pressures. The reviews to these phenomena should be comprehensive and include all that relates to civilizational vision of the Ummah, its past methodologies of life and all the heritage laws relating to these methodologies.

While making these reviews, its essence should be properly understood. The Qur'anic principles and their goals should be returned to, through an awareness that is religious, intellectual, social and structural, so that the Ummah's thinking and its laws and orders will keep pace with new human cultural evolutions and their potentialities and challenges under the name of 'globalization'. Through lively and informative exercise of independent judgment, the Islamic fundamentals could be defined, its goals could be clarified and its discourse could be reformed so that confusion could be avoided and fundamentals are not mixed with secondary matters, and the discourses, laws, and orders are not put in conditions, forms and expressions that are not suitable with the current reality of the Ummah and this age. It will be possible for Islamic discourses on International Relations, to always achieve the goals of the Qur'anic guidance and aspirations of the human nature irrespective of the difference in times and places. By addressing the specificities of particular regional and historical situations in Africa, the Middle East, and Asia, this special issue highlights the dynamic and heterogeneous nature of contemporary identifications of globalization. Contributors of this book have successfully examined globalization as its engagement with the state, business and economics, security, history, fashion, and guided imagination from Islamic point of view.

This book is an acknowledgement of contributions of the Department of International Relations to the department and progress of this University.

Finally, we dedicate this book to our students, the real source of our pride and inspirations.

*Ali Musa Harahap
Siman, Ponorogo*

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Legal Perspectives of Religious Freedom in Indonesia

Aprilia Restuning Tunggal

Introduction

In Indonesia, the issue of religious freedom has been going on for a very long period of time. Even before the Indonesian state became independent, the people in the archipelago at that time had lived in a plurality of religions. But then when Indonesia became independent and became a sovereign country, the leaders of this country wanted to unify these differences into a unity that was protected and guaranteed by the state. Freedom of religion itself is an individual's choice in determining his religion and their respective beliefs to worship and carry out his teachings. In this case, religious freedom as existed in Indonesia has been protected by the legal umbrella of our country, namely the 1945 Constitution and then elaborated in article 29 of the 1945 Constitution that the Indonesian State is based on God of the Almighty and the State guarantees the independence of each population to embrace their respective religions and to worship according to his religion and beliefs.

This proves that, Indonesia is a religious state, not an atheist state. In Indonesia alone there are currently 6 religions that have been legally recognized by the government of the Republic of Indonesia, namely; Islam, Christianity, Catholicism, Hinduism, Buddhism and Confucianism, in accordance with Keppres No. 6/2000 and Decree of the Minister of Religion of the Republic of Indonesia Number MA / 12/2006 stating that the government recognizes the existence of Kong Hu Cu religion in Indonesia. With the legal umbrella established by the government of the Republic of Indonesia, it is hoped that religious communities in Indonesia can respect each other, tolerance among religious communities and be able to worship and practice religious teachings properly and solemnly without any discrimination / coercion and threats from any party and can guarantee freedom they are in religion.

With the motto of Indonesian Bhineka Tunggal Ika which has meaning, although it is different but still one is also a philosophy of the Indonesian people. The Indonesian nation is a nation that has various races, skin colors, languages, cultures and religions, but with the motto Bhineka Tunggal Ika these differences remain united under the Unitary State of the Republic of Indonesia. The philosophy of the nation or the motto of the Indonesian people is of course not only spoken orally, but must be implemented in daily life practices in national and international relations. This is what is expected of our founding fathers, Mr. Soekarno-Hatta, in formulating the nation's philosophy and uniting a pluralistic Indonesian nation so that people in Indonesia can live in harmony and peace in accordance with applicable law in the Republic of Indonesia. Then what about religious freedom in Indonesia when viewed from the perspective of Islamic law and the Universal Declaration of Human Rights.

Discussion: The Qur'anic Evidence on Religious Freedom

Islamic law or Islamic Shari'a is a system of rules based on the revelations of Allah and the Sunnah of the Apostles regards the behavior of the mukallaf (people who can be burdened with obligations) that is recognized and believed, which is binding for all adherents. And this refers to what the Apostle has done to carry it out totally. While the Shari'a according to Islam are the laws that were ordered by Allah SWT for his people who were brought by a Prophet, both those related to beliefs (Aqeedah) or those related to amaliyah. Islamic Sharia according to the language means the path traveled by humanity to get to Allah SWT. And apparently Islam does not only teach about how to practice worship to Allah. But the existence of rules or systems of Allah provisions to regulate human relations with God and human relations with each other. These rules are sourced from the Qur'an and the Hadith. The definition of Islamic law is Shari'a which means the rules held by Allah for His people which are carried by a Prophet Muhammad SAW, both laws relating to belief (aqidah) and laws relating to amaliyah (deeds) committed by all Muslims.

By using a theory review of Islamic law, we can find out how Islamic law look a phenomena above, that is religious freedom in a very pluralistic country, that is Indonesia. One of the sources of Islamic law that we will use to analyze in this paper is the Qur'an. In the Qur'an there are many verses that explain and illustrate the concept of freedom in religion. Among them are contained in Surat Al Baqarah Verse 256 which mean:

“There is no compulsion in (adhering to) religion (Islam), in fact it is clear between the right path and the wrong path. Anyone who reneges on Thaghut and believes in Allah, then in fact he has been holding (firm) to a very strong rope gusset that will not break. Allah is Hearing, Hearing, Knowing.” The spaciousness of Islam and not being forced into a Muslim.

A classical Interpreter, Al Thabari in his creation Jami Al Bayaan explains the story of the cause of the fall (Asbabun Nuzul) from the above verse. In its history it is told that the reason for the decline of the verse begins with the story of a man named Abu Al Husain from the Bani Salim Ibn Awf family who had two sons who had embraced Christianity before the Prophet Muhammad was sent by God as a Prophet and Apostle. Then, the child came to the city of Medina after the arrival of Islam. So, their father always asked them to convert to Islam. They then complained about this to the Prophet Muhammad and his father also said whether a part of my body will go to Hell? then this verse comes down. And in the history of Al-Tabari the father let them remain in the original religion.

As strengthened in the Interpretation Jalalayn, the ayat above can be interpreted as follows; (There is no compulsion in religion), the intention is to enter it. (Indeed, the right way is clear from the wrong way), the meaning is clear with the existence of evidence and strong statements that faith means that truth and disbelief is error. This verse comes down to an Ansar who has children who are forced to convert to Islam. (So whoever denies the tagut), meaning devil or idol, is used for singular and plural (and he has faith in Allah, so surely he has been clinging to a tightly knotted string) a strong string (which will never break and Allah is All-Hearing) of all utterances (All-Knowing) all deeds.

²⁶ Narrated by Abu Daud, Nasai and Ibn Hibban, from Ibn Abbas said "There is a woman who often miscarried, so she promised to herself, if there were children who lived, she would be made a Jew. So, when the Banu Nadhir were expelled from Medina, it happened that among them there was a child of Ansar "We will not allow our children, so Allah has revealed no compulsion in religion. Then explained again in the Qur'an Surah Al Kafiruun Ayat 1-6:

“Say ² disbelievers, I will not worship what you worship. And you are not the worshipers of God that I worship. And I have never been a worshiper of what you worship. And you have never (also) been a worshiper of the God I worship. For you your religion and for me my religion “.

Ayat above explains that religious tolerance is already explained and recommended in the Qur’an. Where we have to respect and respect each other between believer of one religion to another religion. In my opinion, the way someone respects and respects other religions can be shown in a way as in Ayat Al Kafiruun not to worship / worship what they worship ² and vice versa you or you do not need to join worshipping the God I worship. ² And I have never been a worshiper of the God you worship. ² And neither do you or you need to worship the God I worship. For you your religion and for me my religion. By understanding the Qur’anic ayat above we can find out that Islam is a religion full of tolerance. Islam really values differences in human life. Islam teaches respect for each other even though we were created differently. So beautiful is the Islamic Religion in guiding and teaching humans in the life of the world and the hereafter.

Furthermore, in the Qur’an, surah Yunus, which means:.

“And if your God wish, surely all the people of the earth have complete faith. Then do ⁵ you (want to) force people so that they become believers? And no one will believe except by Allah’s permission; and Allah inflicts wrath on those who do not use their minds “. (Qur’an, Yunus: Ayat 99-100).

Allah says: though Sya-a Rabbuka (“If your God wills,”) Muhammad! Undoubtedly God allows all population of the earth to believe in what you bring to them, then they all believe. But God has wisdom in what He does. Almighty Allah.

For this reason, Allah Ta’ala said: afa anta tukrihun naasa (“Then do you [want to] force people.” That is, you oblige and force them. hattaa yakuunuu mu’miniin (“So that they are all

believers?") That is, it is not your duty and is not imposed on you, but God misleads who He wants and shows who He wants, then do not be yourself. perish because of their sorrow. "(QS. Faathir: 8). Other from the verses that show, that Allah is the One Who does what He wants, Who guides who He wants and misleads who He wants, because of His knowledge, His wisdom and His justice . Therefore Allah Ta'ala said: *wa maa kaana linafsin an tu'mina illaa bi-idznillaaHi waj'alur rijsa 'alal ladziina ya'qiluun* ("And no one will believe except by Allah's permission, and Allah inflicts wrath on those who do not use their minds, ") that is crazy and misguided, the meaning of the revelations of Allah and His arguments. God is the Most Just in everything, in giving guidance to who has the right to be pointed out and to mislead anyone who should be misled. (Tafsir Ibn Kathir Surat Yunus Ayat 99-100).

The Concept of Human Rights

If we see in the concept of Human Rights the act of mutual respect and appreciate for fellow human beings is a universal value that must be carried out by every human being wherever they are. The concept of human rights is rooted in respect for humans as valuable and dignified creatures. The concept of human rights places humans as subjects, not objects and see humans as beings who are be valued and respected regardless of race, skin color, gender, gender, ethnicity, language, or religion. As a dignified creature, humans have a number of basic rights that must be protected, such as the right to life, the right of opinion, the right to assemble, as well as the right to religion and the right to believe. Human rights values teach that these basic human rights are protected and respected. Human rights teaches the principle of equality and human freedom so that there can be no discrimination, exploitation and violence against humans in any form and also there should not be any restrictions and restrictions on basic human freedoms, including the right to religious freedom.

In ¹⁸ *Universal Declaration of Human Rights Article 18* “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 in public or private, to manifest ¹⁸ his religion or belief in teaching, practice, worship and observance.” (Universal Declaration of Human Rights Article ⁴⁰ 18). that in the universal declaration of human rights declared by the UN General Assembly on December ⁶ 10, 1948 through resolution 217 A (III) states, every person has the right to freedom of thought, conscience and religion; in this case includes the freedom to change religion or belief, with the freedom to express religion or belief by teaching it, doing it, worshipping and ¹⁰ obeying it, both alone and together with others, in public or alone. (Universal Declaration of Human Rights: Article 18).

The Universal Declaration of Human ⁴¹ Rights is a declaration adopted by the UN General Assembly on December 10, 1948 at the Palais de Chaillot, Paris, France through the General Assembly Resolution 217 A (III). This declaration is a general standard that states that international human rights must be protected. This declaration is the first general statement from the world ²⁰ community about human rights and it contains 30 articles. This declaration then inspired the birth of various international treaties, human rights instruments at the regional level, the constitutions of each country, and the laws in each country related to human rights issues.

In general, ¹⁶ the International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights along with two optional protocols, and the International Covenant on Economic, Social and Cultural Rights. Related to the issue of defamation, the provisions relevant to that are ⁸ Article 19 of the UDHR which reads “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media

and regardless of frontiers.

The issue of religious freedom in addition to being ¹⁰ listed in the Universal Declaration of Human Rights (abbreviated DUHAM), is also found in various historical documents about human rights, such as the Rights of Man France document (1789), ⁴⁸ the Bill of Rights of USA (1791) and the ²⁴ International Bill of Rights (1966). Article 2 of the UDHR states: “Everyone has the right to all the rights and freedoms set forth in this Declaration without any exceptions, such as race, color, sex, language, religion, politics or opinions that differ, the origin of nationality or society, property rights, births, or other positions. “In general, the UDHR announced by the United Nations in 1948 contained four basic rights. First, individual rights or rights that each person has. Second, collective rights or ²² community rights that can only be enjoyed with others, such as the right to peace, the right to development and the right to a clean environment. Third, civil and political rights, that are, strengthen the rights that already exist; ³¹ Indonesian legislation such as: the right to self-determination, ³¹ the right to compensation for those whose freedom is violated; the right to life, the right to freedom of thought, belief and religion, the same right for women and men to enjoy civil and political rights, the right of a person to be informed of the reasons at the time of arrest, equality of rights and responsibilities between ³⁵ husband and wife, the right to freedom of expression. Fourth, ³⁵ economic, social and cultural rights, among others, strengthen the right to enjoy freedom from fear and poverty; prohibition of racial, skin color, gender, gender, and religious discrimination, equality between men and women to ³⁵ enjoy economic, social and cultural rights; the right to get a job; the right to fair ¹⁷ wages for male and female workers; the right to form trade unions; the right to strike; the right to education: the right to be free from hunger.

The principle of freedom of religion and belief in the international human rights ⁶ document is clearly mentioned in article 18: “Everyone has the right to freedom of thought, belief

and religion; this right includes freedom to change one's religion or belief, and freedom to practice his religion or belief in teaching, worship, and obedience, either alone or together with others, publicly or privately. "The right to freedom of religion is also expressed in more detail in the International Covenant on Civil and Political Rights article 18. This Covenant has been ratified by the Indonesian government through Law No. 12 of 2005. Its contents are as follows: (1) Everyone has the right to freedom of thought, belief and religion. This right includes freedom to adhere to or accept a religion or belief of his own choice, and freedom, both individually and together with others, in public or closed places, to practice his religion or belief in worship, observance, practice and teaching ; (2) No one may be forced to interfere with his freedom to adhere to or accept a religion or belief according to his choice.

DUHAM calls the term basic of human rights, (basic human rights) that the most basic of human right and is categorized as the most important right to be prioritized in various laws and policies, both at national and international levels. These basic human rights are a series of rights that ensure the primary material and non-material needs of humans in order to realize the existence of a whole human humanity, that is, a valuable and dignified human being. Although, no explicit provisions or explanations were found that detail what rights are included in these basic human rights, but in general it can be mentioned that these basic human rights include the right to life, the right to food, medical services, freedom from torture, and freedom of religion. These rights, and also human rights as a whole are based on one fundamental principle, namely respect and respect for human dignity.

The right freedom of religion is classified in the basic human rights category, is absolute and is in the internal forum which is an expression of inner freedom (freedom to be). This right is classified as a non-druggable right. That mean is, rights specifically stated in human rights treaties are rights that cannot be suspended by the

state under any circumstances and conditions, including during dangerous situations, such as civil war or military invasion. This non-druggable right is seen as the most important right of human rights. These non-druggable rights must be exercised and must be respected by the state party under any circumstances and under any circumstances.

However, religious freedom in the form of freedom to realize, implement, or manifest one's religion or beliefs, such as the act of preaching or spreading religion or belief and establishing a place of worship is classified as freedom to act. Religious freedom in this form is permitted to be restricted and can be regulated or suspended in its implementation. However, it should be noted, that the implementation, restriction or regulation may only be carried out according to the law. The justified reasons for delaying implementation, restriction, or regulation are merely protection of five things, namely: public safety; public order; public health; public morals; and protection of rights and freedom of others. Thus, the main purpose of the act of delaying implementation, regulation or restriction is to ward off threats to human safety or their property. The principle of religious freedom in human rights documents does not stand alone but is always associated with other freedoms, namely freedom of mind and conscience. In essence, freedom of religion or belief contains at least eight components, namely: internal freedom, external freedom, non-coercion, non-discrimination, parental and guardian rights, institutional freedom and legal status, limits allowed for external freedoms and are non-druggability.

Religious Freedom in Indonesia

Religious freedom in Indonesia has been regulated in a system of laws / regulations of legislation, that in the first principle of Pancasila is Belief in the one and only God. And Constitution Article 29 Paragraphs 1 and 2 of the Law reads "The State is based

on the Almighty God. ³ The state guarantees the independence of each population to embrace their religion and worship according to their religion and beliefs ". The Constitution above law actually clearly illustrates that in the Republic of Indonesia the freedom of religion has been guaranteed and constitutionally protected by the state. If the above law can be interpreted freely, then in my opinion that the above law has a principle of the right to freedom of religion. That is the right to believe in a belief he / she believes in, is free to embrace the religion he believes / is considered the truest religion without receiving coercion or threats from others.

Indonesia is a very heterogeneous country. Where there are various kinds of ethnicity, religion and culture. The many tribes, religions and cultures in Indonesia do not make Indonesia a country that has a level of vulnerability to the Sara conflict, that conflict between (Tribe, Race and Religion). But on the contrary these differences have made Indonesia a country rich in cultural and religious beauty. As what has ¹² been used as our Foreign Policy / Foreign Diplomacy policy of the Republic of Indonesia, the Indonesian state is a country consisting of various ethnic groups, religions and cultures where all of these can live together, in harmony with each other. This is a gift to be grateful for by the people of Indonesia. Where life is very plural / plural can run with tolerance and peace. We can see that the social life of the Indonesian people today reflects the noble cultural values of the nation and the values contained in Pancasila as stated in the Garuda Pancasila symbol. In Indonesia, there are currently six ³⁴ (6) religions, namely Islam, Christianity, Catholicism, Hinduism, Buddhism and Confucianism.

This is in accordance with the laws of our country which has recognized ¹² six religions. in accordance with (Keppres No. 6/2000 and SK ⁶⁵ of the Minister of Religion of the Republic of Indonesia Number MA / 12/2006.) In the Presidential Decree, ⁶⁵ President of Republic of Indonesia Abdurrahman Wahid at that time considered that the implementation of religious activities, beliefs

and customs was essentially an inseparable part of human rights. In this Presidential Decree, the President has reinstated Chinese customs, their religious activities, and their beliefs into a religion recognized by the Government of Indonesia. The ²³decree also decided to stipulate a Presidential Decree on the **revocation of Presidential Instruction No. 14 of 1967 concerning Religion, Belief and Customs of Chinese Customs.** ¹²Then the Presidential Decree was further strengthened by Decree **of the Minister of Religion of the Republic of Indonesia Number MA / 12/2006** stating that the government recognized the existence of Kong Hu Cu religion in Indonesia.

⁴ Religious freedom in Indonesia is regulated in the **Constitution of the Republic of Indonesia in article 28E article 28I in the Chapter on Human Rights.** “Everyone has the right to embrace religion and worship according to his religion, choose education and teaching, choose work, choose citizenship, choose a place to live in the territory of the country and leave it, and the right to return.” Then in paragraph 2 explained “Everyone has the right to freedom of belief, states their thoughts and attitudes, according to their conscience. “Article 28I Paragraph 1 reads” Right to life, right not to be tortured, right to freedom of thought and conscience, right to religion, right to not be enslaved, right to be recognized as a person before the law, and the right not to be prosecuted on a retroactive basis is a human right that cannot be reduced under any circumstances.”

Then in Article 29 Paragraphs 1 ³and 2 which read “The State is based on the Almighty God. **The state guarantees the independence of each population to embrace their respective religions and to worship according to their religion and beliefs.** “Pancasila as **the basis of the Republic of Indonesia is final.** It means to become a national agreement that is widely accepted ³⁰by the people of Indonesia. This was reinforced by MPR Decree No. XVIII / MPR / 1998 concerning Revocation of **the Decree of the People’s Consultative Assembly of the Republic of Indonesia**

No. II / MPR / 1978 concerning Guidelines³⁷ for the Implementation and Implementation of Pancasila (Ekaprasetya Pancakarsa) and Stipulation on the Confirmation¹¹ of Pancasila as the State Foundation, also MPR Decree No. I / MPR / 2003 concerning Review of Material and Legal Status of the Provisions of the Provisional People's Consultative Assembly and the Decree of the People's Consultative Assembly of the Republic of Indonesia 1960 to 2002.

Pancasila as the basis of the state was the result of an agreement with the Founders of the Nation which came to be known as⁵⁰ "Noble Agreement" of the Indonesian people. The definition⁵⁰ of Pancasila as the basis of the state is contained in the fourth paragraph of the Preamble of the 1945 Constitution and contained in the DPR-GR Memorandum on June 9, 1966, that the Pancasila as the nation's life outlook has been formulated by PPKI on behalf of the Indonesian people as the basis of the Republic of Indonesia. The DPR-GR Memorandum was endorsed by MPRS with Decree No. XX / MPRS / 1966 jo. MPR Decree No. V / MPR / 1973 and MPRN³⁶ IX / MPR / 1978 Decree which emphasizes the position of the³⁶ Pancasila as the source of all sources of law or sources³⁶ of the rule of law in Indonesia.

According to the Decree of the MPR⁵⁶ of the Republic of Indonesia Number I / MPR / 2003, Decree No. XX / MPRS / 1966. MPR Decree⁵⁵ No. V / MPR / 1973 and MPR Decree No. IX / MPR / 1978, no further legal action is needed, because it is *einmalig* (final) or has been implemented. Then Pancasila as a legal basis¹⁹ was strengthened during the 1998 reformation, through MPR Decree No. XVIII / MPR / 1998, in Article 1 it was stated that Pancasila as referred to in the Preamble to the 1945 Constitution was the state foundation of the Unitary State of the Republic of Indonesia. Pancasila as the state foundation (*philosophische grondslag*) was set on August 18, 1945 by PPKI, considered as the embodiment of the will of all the people of Indonesia who were independent. According to Ernest Renan, an important condition as a nation is:

the will to unite (*le desir d'être ensemble*). Judging from the historical process of the formation of the Pancasila it can be concluded that the Pancasila is a national compromise and consensus of all groups of Indonesian people, who agreed to form a nation on the basis of the Pancasila.

In addition to being explained in the ⁶² Constitution of the Republic of Indonesia, religious freedom in Indonesia is also explained in MPR Decree No. II / MPR / 1978 concerning Ekaprasetia Pancakarsa into 36 items. Among them; The Indonesian people expressed their trust and ³³ devotion to God Almighty. Indonesian people believe in and fear ³³ God Almighty, in accordance with their respective religions and beliefs on the basis of a fair and civilized humanity. Developing a respectful attitude of respecting and cooperating between ⁴³ followers of different religions with different beliefs towards ⁴³ God Almighty. Fostering harmony among fellow religious communities and belief in God Almighty. Religion and belief in God Almighty is a matter that concerns ²⁷ the personal relationship of humans with God Almighty. ²⁷ Develop mutual respect for freedom to practice worship in accordance with their respective religions and beliefs. Not to impose a religion and belief in God on others.

Religious freedom in Indonesia is ⁴⁷ also regulated in ⁴ Law Number 39 of 1999 concerning Human Rights Article 4. "Right to life, right not to be tortured, right to personal freedom, mind and conscience, right to religion, right to not be enslaved, right to recognition as a person and equality before the law, and the right not to be prosecuted on a retroactive basis is a human right that cannot be reduced under any circumstances and by anyone. Then Article 22 Paragraph (1). "Everyone is free to embrace their respective religions and to worship according to his religion and beliefs." and Article 22 Paragraph (2). "The state guarantees the freedom of everyone to embrace their respective religions and to ⁶⁶ worship according to their religion and beliefs." Furthermore, in ⁶⁶ Law Number 13 of 2003 concerning Manpower. Article 80. "The

entrepreneur is obliged to provide sufficient opportunities for the worker/laborer to carry out the worship required by his religion.” Criminal Code (KUHP) Article 175. “Anyone with violence or threat of violence impedes religious gatherings that are public and permissible, or permitted religious ceremonies, or burial ceremonies, are punishable by jail for a maximum of one year and four months.”

According to experts in law who are also former judges of the Constitutional Court (MK) Laica Marzuki stressed, in looking at the regulations regarding freedom of religion and belief must be based on article 28E of the 1945 Constitution. “ It is necessary to emphasize article 28E of the 1945 Constitution in regulating freedom of religion and belief in the constitution, not article 28J of the 1945 Constitution. So, in seeing religious rights, the two articles should not be mixed “, he said in the discussion and launching of the book” Religion, Belief, and Constitution “by the SETARA Institute in Jakarta on Tuesday. Article 28E concerns the constitutional guarantee regarding freedom of religion to worship, while article 28J regulates adherents who practice religion in an improper way, not their freedom to choose religion and beliefs. “In Article 28E it explains that religious rights are human rights that cannot be reduced in any circumstance. Whereas Article 28J of the 1945 Constitution, he said, stated that in using one’s freedom and independence someone is limited by law and law. Against the violations that occurred in freedom of religion and belief. He added, it was not the fault of religion but individuals who practice religion incorrectly. “Indonesia is a state of law. One must not burn a house of worship or prohibit other people from worshipping”. The Chairperson of the SETARA Institute Management Board, Hendaradi stated that Article 28E and 28J of the 1945 Constitution provided two different interpretations. In providing regulations, the constitution must be strong, not ambiguous or ambivalent. “If the community does not understand this regulation, do not blame the community, because there is a mistake in making regulations.

The Perspective of Islamic law on religious freedom in Indonesia

Islam always teaches its people to always be the *observant* that will make themselves tolerant in addressing all kinds of problems, including in addressing religious differences. Because people believe in what has been conveyed in the Koran that humans were created by Allah on this earth is to become a Caliph. The Caliph here certainly has a very broad and deep meaning. Not only limited to as a leader in a country, or a leader in the community but to be a leader for all of God's creatures and bring peace on earth.

In the Qur'an Freedom of Religion has been explained in several Surah or Ayat. Surat Al Kafirun, Surat Al Baqarah and Surat Al Kahf. AL Kafirun's is clear that this Surah was revealed in Mecca and the intended people are the polytheists who are infidels who do not want to accept the call for truth brought by the Prophet Muhammad to them. In the Tafsir of Ibn Katsir Tafsir of AL Azhar by Buya Hamka in this Surah, if I worship Allah, I will pray in the agreed terms. Whereas you worship statue is different from the way I worship God. Therefore, none of our holdings can be reconciled. For you are your religion, and for me, my religion. In this verse no one can force someone to convert to Islam (Al-Baqoroh: 256). In the above interpretation the writer can convey that the book is by calling on non-Muslims so that they want to follow our religion and beliefs. But humans can only be limited to this, whereas God will determine the way of life of every human being. In addition, we are not encouraged to force people who already have their own beliefs to be abandoned then they convert to our religion. Because the best direction is what comes from God.

We certainly know the stories ⁵⁸ of Islam in the time of the Prophet. That the truth comes from God. Where at that time the uncle of the Prophet Muhammad Abu Talib who in his lifetime had been dedicated to the Prophet but at the end of his life, he died still in a state of holding fast to his beliefs. Where in the story

the Messenger of Allah had invited his uncle to say the phrase Tawheed so that one day he died in Islam. But as the writer said above, it is God who wants everything that happens to humans. So in a history it is said that Abu Talib died in a Kafir state. So that the Apostle who felt that his uncle was a person who must be fought for, the Apostle also prayed and asked God for forgiveness. But Allah says in Surat At-Taubah Ayat 113. Which means

5 “It is not fitting for the Prophet and the believers to ask forgiveness (of Allah) for the polytheists, even though the polytheists are His (His) Relatives, after it is clear to them, that the polytheists are denizens of the Hellfire hell. “(Surah At-Taubah: 113). So, can be seen in Islam the freedom to determine and choose the religion that it believes is not prohibited, because all that is the will of God. But every deed and action that we do in this world will get an answer in the Hereafter later. Besides that, Islam does not force the will of others to follow and believe in Islam. Likewise, in Indonesia, society in Indonesia which consists of various religions and their beliefs is a value inherent in every individual. The community is given a guarantee of security, from a sense of threat from anyone in carrying out worship in accordance with the beliefs they hold. We can see that in Indonesian society can carry out their worship with the confidence they have without any threat. In addition, they can live in harmony side by side, socializing with other religions. Mutual help, mutual cooperation, and mutual respect for each other is a good tolerance in Indonesia.

Islam as the largest religion in Indonesia certainly has a very large role in the survival of life among religious communities in Indonesia. Where the values teach in Islam, especially in terms of religious freedom can be applied properly without any conflict with the rule of law in Indonesia or the laws of other religions. Islam also teaches people to respect and respect each other’s human dignity. Islam also teaches not to be hostile to one another. Even if there is a problem between you, it will be solved by 60 deliberation. These are all good teachings that can bring benefits to the life of the nation and state.

Religious Freedom in Indonesia: International Law Perspective

International law as ⁶¹ law protection for the international community has explained ¹⁸ the recognition of the right of everyone to ¹⁰ freedom of religion and universal belief for the first time stated in the Universal Declaration of Human Rights (UDHR). Article 18 of the universal declaration received and announced by the General Assembly of the United Nations (UN) on December 10, 1948 states:

“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 in public or private to manifest his religion in teaching, practice, worship and observance.”

As seen in the ⁶ formulation above, UDHR recognizes the right of everyone to have freedom of thought, belief and religion. This freedom includes freedom to change religion or belief and freedom, both individually and in community with others and publicly and privately to embody that religion in teaching, practice, ²⁵ worship and obedience. The UDHR where the recognition of the right to freedom of religion and universal belief is stated for the first time is a declaration, a statement. It is not a legal instrument under international law and by itself does not have a legally binding force that can be forced. Since its design, the UDHR has not been designed as an instrument law but rather as a common standard for the achievement of human rights for all countries. However, such broad acceptance when it was announced made this declaration very morally binding. According to Adnan Buyung Nasution, the UDHR is even binding on UN member states.

Recognition of religious freedom ³² instruments international law for the first time contained in the International Covenant on Civil and Political Rights (ICCPR). In different to the UDHR, ICCPR which was ratified by the UN General Assembly in 1966 is an international treaty and therefore has a legally binding force on

the participating countries. Regarding religious freedom, Article 18 of the ICCPR declared:

¹⁵ “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.

¹⁷ No one shall be subject to coercion which would impair his freedom to have or adopt religion or belief of his choice.

⁷ Freedom to manifest one’s religion or belief may be subject to 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.

¹⁴ The State 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.

The provisions of Article 18 of the ⁶⁴ICCPR which consists of four (4) paragraphs above affirm the freedom of thought, belief and religion as the rights of every human being. The formulation of the first paragraph of this article is similar to Article 18 of the UDHR which emphasizes the freedom of every person to follow a religion or belief in accordance with his choice and freedom to individually or together with the community, both openly and privately to embody his religion or belief in worship, obedience, practice, and teaching. The second verse emphasizes the right of every person to be free from coercion which can damage the freedom to embrace religion and belief. Meanwhile, the third verse emphasizes the freedom to embody one’s religion which is possible ⁷ to be limited as long as it is regulated by law and it is deemed necessary to protect the safety, order, health, and public morals or the fundamental rights and freedoms of others.

The fourth paragraph confirms the commitment of the participating countries of the ICCPR to respect the freedom of parents in providing religious and moral education in accordance with their beliefs. From this, it can be said that religious freedom in Indonesia which has been regulated in the Constitution of the Republic of Indonesia is a guaranteed and protected by the state in accordance with the provisions of international law. The state guarantees the rights of each individual. So that people have a sense of security in carrying out their worship. Including carrying out rituals in the religion it adheres to. So, it can be stated that the laws and regulations of Indonesia which regulate freedom of religion do not conflict with applicable international law.

Conclusion

Freedom of religion that was presented by experts of law at that time was a binding law foundation and provided legal certainty. So that in the times of the Universal Declaration of Human Rights can be used as a guide by every country in protecting, take care every right owned by each individual. One of them is the right to freedom of religion. These rights are guaranteed by the state and the world. so that actions are not justified, disturbing someone in carrying out worship in accordance with the religion they believe are not justified. It is also not justified to impose the will of others to follow our beliefs even though we believe that according to our beliefs it is the right one. In Islam itself it is very clear to say that in freedom of religion, one must not be forced by anyone to convert to Islam, because in fact Islam explains the truth of Islam is very clear, visible, visible, and very clear the evidence, so it does not need to force anyone to enter it. But people who get guidance from Allah to convert to Islam or whoever they want to convert to Islam, Allah expands their breasts, and Allah gives the light of their knowledge, then he will convert to Islam on the basis of getting an explanation. On the other hand, the person whose God is blind in heart, Allah is the key to hearing and vision loss, will not benefit

him when he enters Islam by force. Islam also strongly maintains tolerance between religious communities. Everything has been arranged so that humans can live in a harmonious and peaceful world. From the two perspectives that the author has stated, we have come to the final conclusion that the Universal Declaration of Human Rights with Islamic Law in viewing individuals, people in exercising, choosing religious freedom in accordance with their beliefs is equally forbidden for anyone to impose their will to follow religion. Because freedom of religion is a Human Rights / Individual guaranteed by the State and Islam.

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