



Intolerance against the Right to Freedom of Religion and Belief in the Termination of the Piodalan Ritual in Bantul Regency

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Abstract

Every human being in the world has Human Rights. One of them is the right to freedom of religion and belief. This right has been included in the International Covenant on Political and Civil Right, and in the 1945 Constitution, considering that Indonesia is a religious state. Indonesian people are allowed to embrace their respective religions. However, in 2019, cases of intolerance towards certain religious groups still occurred. The Piodalan ritual that was followed by Hindus and Buddhists in Bantul Regency was dismissed by local residents because it was considered worrying. The ritual had to be carried out at the house of one of the residents, because the Hindu houses of worship in Bantul Regency were still very minimal. In this article, we will discuss the provisions for the establishment of places of worship in Indonesia as well as the conceptions of human rights arrangements in Indonesia and in the context of international law. Method used in this paper is library research. This research shows that Bantul Regency lacks house of worship and there have been several intolerance cases happened in the past. In Indonesia, the enforcement of the right to freedom of religion and belief is still weak, even though there are already several legal instruments, including the 1945 Constitution, the Human Rights Law, and even international instruments, such as the UDHR and ICCPR which has been ratified by Indonesia.

Keywords: Human Rights, Right to Freedom of Religion and Belief, Piodalan Ritual, House of Worship.

A. Introduction

Regardless of one's condition and background, whether they are tall or short, fat or thin, old or young, rich or poor—everyone in this world—they have human rights which have been inherent in themselves from birth. There are many kinds of human rights that a person has, such as *inter alia*: the right to live, the right to express an opinion, the right to vote and be elected, the right to work, the right to get equal treatment before the law, and the right to freedom of religion and belief. However, this paper will aim the discussion towards the right to freedom of religion and belief, specifically in Indonesia.

The right to freedom of religion and belief is very connected to The Medina Charter which existed in 622. The charter itself is an international agreement that was made and agreed upon by Prophet Muhammad and the residents of Medina. The agreement occurred between Prophet Muhammad, the Muhajirin, the Anshor, the Jews, and tribes like the Aus and Khazraj Tribe, which basically states that all humans who live in Medina are the same and have the same rights and obligations as mentioned in Article 25 of the charter.

In Indonesia, it can be said that the threat to the right to freedom of religion and belief often happens that there are lots of cases occurred regarding it. Based on data from Komnas HAM in 2015, there were 87 complaints about violations of the right to freedom of religion and belief, an increase compared to the previous year where there were 74 complaints. Even in 2016, there were almost 100 complaints.¹ The biggest form of violation is the prohibition and destruction of places of worship, prohibition, obstruction and disturbance of religious activities as well as the omission of violence. In fact, LBHI (Indonesian Legal Aid Institute) which is under the auspices of YLBHI (Indonesian Legal Aid Foundation) has handled 15 cases related to violations of the right to freedom of religion and belief throughout 2018, of which nine occurred in West Java.² It can be imagined, how many cases of violations of the right to freedom of religion and belief were handled by other institutions in other regions as well, when one institution alone could handle 15 cases.

In 2019, there was a case of intolerance to the right to freedom of religion and belief, in which Hindu residents in Bantul Regency, Yogyakarta Special Region (DIY Yogyakarta) who were carrying out the Piodalan ritual, were forcibly stopped by local residents. Piodalan ritual itself is a religious ritual in the context of commemorating Mahalingga Padma Bhuwana Manggir which is a heritage site of Ki Ageng Mangir. As a belief, this ritual has the meaning of bringing people into a better religious life.³ The prohibition of the ritual occurred on November 12, 2019 to be precise. The ritual was carried out in Mangir Lor Hamlet, Sendangsari Village, Pajangan District, Bantul Regency. The ritual itself were family prayers to what their ancestors had left from generation to generation and has been carried out since time immemorial and is passed on by its descendants,

This Piodalan ritual is performed by saying a prayer addressed to the ancestors for only one to one and a half hours. It was stated that the ritual was followed by around 40 people, across Buddha and Hindu religion, on the basis that all of them were siblings and respect for their ancestors. This ritual was planned to take place twice, at 13:00 and 18:00, and took place in one of the congregations' house, which is Utiék Suprapti's house, led by Padma Wiradharma, Pandita Budha Tantrayana Kasogatan, who is the leader of Buddha worship, and by Ida Begawan Manuaba who lead Hindu worship. At the time the event started, no problems had occurred. However, in the midst of Pandita Budha Tantrayana Kasogatan's activities, several Hindus who were about to come to pray, their vehicles were intercepted by residents, even ordered to return home.

At around 15:00, the Head of Pajangan Police came to complain about the residents and asked for the Piodalan ritual to be stopped, with the excuse of protecting the community because many residents did not agree. The residents felt that the prayer ceremony was odd because it was done inside the house and invited many people. The residents had concluded that the Hindus were carrying out "unclear" ritual activities or practicing "deviant sects". Because of that, there arose suspicions about what Utiék and other people were doing.

¹ Lutfy Mairizal Putra. (2017). *Catatan Komnas HAM, Kasus Intoleransi Meningkat Setiap Tahun*, Available online from: <https://nasional.kompas.com/read/2017/01/05/18280081/catatan.komnas.ham.kasus.intoleransi.meningkat.setiap.tahun> [Accessed October 29, 2019]

² Fathiyah Wardah, *Pelanggaran Kebebasan Beragama di Indonesia Meningkat*, Available online from: <https://www.voaindonesia.com/a/pelanggaran-kebebasan-beragama-meningkat-/3203566.html>, [Accessed November 16, 2019]

³ *Dipotes Upacara Piodalan Dibubarkan Warga di Yogya*, Available online from: <https://www.cnnindonesia.com/nasional/20191112202708-20-447785/dipotes-upacara-piodalan-dibubarkan-warga-di-yogya>

Made Astra, the leader of Parisada Hindu Dharma, stated that Hindus in Bantul Regency are forced to worship and pray, especially to perform the Piodalan ritual at home, because there is no place for worship. In fact, worship activities including prayers to the ancestors should be carried out at the temple that will certainly make it easier for them to pray because they do not need to ask permission or tell local people every time they want to perform worship, how many times they have to report this in a day. Contradictory, according to the Deputy Regent of Bantul, Abdul Halim Muslih, what happened to Utiék was just a matter of miscommunication. The residents' suspicions are normal because every village has different rules.⁴

Weak enforcement of intolerance to the right to freedom of religion and belief has resulted in similar cases still occurring, even though the enforcement instruments have been formed in such a way, even international instruments have become the basis for enforcing this kind of human right in Indonesia.

B. Research Method

The method used is library research, namely juridical normative or doctrinal research. This type of approach is carried out by examining theories, concepts, legal principles and legislation related to this research. The research basically uses a doctrinal research approach which means that the research is done by examining library materials or secondary data as the main research material, by conducting a search of the regulations and related literature. The research specification used in this thesis is descriptive analysis, which aims to systematically and accurately explain and analyze existing facts by paying attention to data and applicable regulations.

C. Results and Discussion

1. Freedom of Religion in Bantul Regency

Bantul Regency is one of the districts in D. I. Yogyakarta Province. Based on the data the author obtained, the religious demographics in Bantul Regency, were dominated by Muslims amounting to 95.77%, followed by Catholics and Protestant Christians, respectively 2.82% and 1.31%. Then, Hindus rank fourth with 0.08%, and Buddhists 0.02%. Based on population.jogjapro.go.id, the number of Hindus in Bantul per semester I 2015 is 748 people. It is clear from the percentage and total population of Hindus that it is very far from the total population of Bantul, which has 995,264 inhabitants per 2017. So, it is safe to say that Hindus in Bantul Regency are a minority.

Actually, in Bantul Regency, there are three temples and one Sanggar Pemuda, but the four of them are outside Pajangan District, namely in Banguntapan District, Kasihan District, Sewon District, and Kretek District. The Piodalan ritual hosted by Utiék Suprpti was carried out at his house in Pajangan District. Pajangan District itself does not have a temple, as explained earlier. Houses of worship are a necessity for all religious people. Every human being who has any religion, of course, has a desire to go

⁴ Rachmawati. (2019). *Fakta Upacara Piodalan di Bantul "Dibubarkan" Warga: Umat Hindu Butuh Rumah Ibadah*, Available online from: <https://regional.kompas.com/read/2019/11/15/06360041/fakta-upacara-piodalan-di-bantul-dibubarkan-warga--umat-hindu-butuh-rumah?page=all>. [Accessed October 29, 2020]

to their respective places of worship.⁵ Especially Indonesia is a country based on the One Godhead.

The establishment of a house of worship is something that Hindus in the Utiék Suprapti area need. Indeed, based on the Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 9 of 2006 and Number 8 of 2006 concerning Guidelines for Implementing the Duties of Regional Heads / Deputy Regional Heads in Maintaining Religious Harmony, Empowering Religious Harmony Forums, and Establishing Houses of Worship, it is stated that the establishment of Houses of worship are based on real and real needs based on the composition of the population for the services of the religious community concerned in the kelurahan / village area. However, in the event that the real need for services for religious communities in the kelurahan / village area is not fulfilled, the consideration of the composition of the population used shall be the boundaries of the sub-district or regency / city or provincial areas.⁶

So, basically, although the requirement of 90 people per village / sub-district in Sendangsari Village, Pajangan District, Bantul Regency is not fulfilled, the consideration of the composition of the population can use the sub-district boundaries, namely Pajangan District and even regencies / cities or provinces. In fact, the existence of this Joint Regulation of the Minister of Religion and the Minister of Home Affairs often raises many problems in elements of religious society.

Although the conditions for the establishment of places of worship are explicitly stated in the Joint Ministerial Decree, the practice in the field is different, the majority religious groups tend to always disagree and always use violent means for their disagreements. Coupled with the frequent politicization at the elite level of religious groups in the regions, the right to construct places of worship has become a problem. It is noteworthy that this feud occurs internally in the state's official religions: Islam, Christianity, Catholicism, Buddhism, Hinduism, and Confucianism, not to mention regarding the rights to worship and places of worship other than the official state religion, which is clearly not allowed. This Joint Regulation is particular and discriminatory.⁷

Furthermore, the authors believe that the cases described above are cases of intolerance. After all, Hindus worship by wearing typical Hindu clothes. Local residents should know what the clothes look like. Perhaps when compared with Protestant and Catholic Christians who do not have a special identification in dress, where usually they worship only in formal clothes. The clothes for the prayers or religious ceremonies of the Hindus are distinctive, wearing all-white clothes, belts and their typical udeng.⁸ The argument that local people do not know that Hindus perform Piodalan rituals and argue that they perform 'heretical' rituals is invalid, considering that Indonesia is a

⁵ Pasal 29 ayat (1) Undang-Undang Dasar 1945

⁶ Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri Nomor 9 Tahun 2006 dan Nomor 8 Tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Kerukunan Umat Beragama, dan Pendirian Rumah Ibadat.

⁷ Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri Nomor 9 Tahun 2006 dan Nomor 8 Tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Kerukunan Umat Beragama, dan Pendirian Rumah Ibadat.

⁸ M. Syafi'ie, "Ambiguitas Hak Kebebasan Beragama di Indonesia dan Posisinya Pasca Putusan Mahkamah Konstitusi", *Jurnal Konstitusi* Volume 8 Nomor 5, Oktober 2011, pp. 690.

country that recognizes six religions including Hinduism, and all people should know and educate themselves.

Each Hindu people wear their distinctive clothes every time they worship. In contrast to Muslims in Bantul Regency as the majority, they can even pray on the street during Eid al-Fitr, close the road during Friday prayers, perform takbir with loudspeakers, and so on. The minority who may also feel disturbed can do nothing but wait for it to finish. The phenomenon of intolerance in Bantul Regency which is carried out by the majority against the minority is a common thing among heterogeneous citizens. According to Sunyoto, a UGM sociologist, what happened above was no longer strange, because heterogeneous residents tend to be disturbed when there were events that looked unusual, especially when they were held in a private space.

Bantul Regency itself has a bad history in terms of intolerance. History has recorded many cases of intolerance that have occurred. In 2014, Front Jihad Islam or FJI disbanded the routine recitation of the Sunday Pahing Majelis Ta'lim Raudhatul Jannah in Sumberan Hamlet, Ngestiharjo Village, Kasihan District, Bantul Regency. In 2015, the burning of the Saman Indonesian Baptist Church occurred in Druwo Hamlet, Bangunharjo Village, Sewon District, Bantul Regency. In 2016, there was destruction of the Maria Semanggi Cave complex, in Semanggi Hamlet, Bangunjiwo Village, Kasihan District, Bantul Regency. 2017, there was rejection by the Head of Pajangan Sub-district, Yulius Suharto, in Bantul Regency for being Catholic. Whereas Yulius Suharto had already been appointed by the Regent of Bantul, Suharsono. In 2018, there was the dissolution and destruction of sea alms on Pandansimo Beach, Bantul Regency, and the rejection of the social service of the St. Paulus Pringgoyalan Church committee, Banguntapan District, Bantul Regency by the Islamic Jihad Front. Then, in 2019 alone, there have been three cases of intolerance, including a Catholic named Slamet Jumiarto who was refused a contract in Karet Hamlet, Pleret Village, Pleret District, Bantul Regency by local residents. Second, the case of rejection of the Immanuel Sedayu Bantul Pentecostal Church and the revocation of the church construction by the Regent of Bantul Suharsono, as well as the case of stopping the Piodalan ritual itself.⁹

In Bali, there are many temples that performed Piodalan rituals. There are several roads which in the interest of Piodalan must be closed considering the large number of vehicles used by Hindus, or at least the roads are quite congested due to the many people arriving. It is far from being compared to Bali, which is predominantly Hindu. However, that does not mean that minorities cannot carry out their worship. Cases of prohibition or violations of the right to freedom of religion and belief can be submitted to the National Commission on Human Rights (hereinafter referred to as Komnas HAM) as an independent institution that is at the same level as other institutions and functions to carry out human rights studies, research, counseling, monitoring and mediation.

2. Regulations Regarding Human Rights in Indonesia and in the Context of International Law

Komnas HAM aims to develop conditions that are conducive to the implementation of human rights in accordance with the Pancasila, the 1945 Constitution, and the UN Charter and the Universal Declaration of Human Rights

⁹ Fitra Moerat Ramadhan. (2019). *Intoleransi di Bantul dan DIY dalam 2014 hingga 2019*. Available online from <https://grafis.tempo.co/read/1887/intoleransi-di-bantul-dan-diy-yogyakarta-dalam-2014-hingga-2019>. [Accessed on October 31, 2020].

(DUHAM / UDHR), as well as to improve the protection and enforcement of human rights in order to develop the whole Indonesian human personality and ability to participate in various fields of life. Komnas HAM has complementary tools in the form of a Sub-Commission Plenary Session, as well as the Secretariat General as an element of service. In making complaints, complaints can be made in person or through online complaints, it begins with recording the complaint by the Complaints Administration Officer and then analyzing the complaint.

If the complaint file is a follow-up, then a complaint archivist will be held and a file merger. However, if the complaint file is new, then an archivist of the complaint is carried out and validated by the Head or Head of Subdivision and then the file is distributed for further monitoring, mediation, or the Formation Team or Ad Hoc.

Get into the discussion about the right to freedom of religion and belief, this right is guaranteed by all the instruments described in the previous section. The 1945 Constitution is the basis for enforcing the right to freedom of religion and belief. It is the state's obligation to protect its citizens to continue to worship according to their respective religions and beliefs. State institutions in charge of enforcing the law should also protect the rights of citizens in religion and belief. However, contradictory, some experts state that the conception of human rights regulation in the 1945 Constitution is unclear, whether it is universal or particular. The substance in it does explicitly guarantee the rights of freedom of religion and belief, which says cannot be reduced under any circumstances (non-derogable rights), but the 1945 Constitution also allows limiting human rights, one of which is based on religious reasons and public interests.

In Indonesia, although violations of freedom of religion and belief are still widespread, in fact there are legal instruments that are the basis for the enforcement of human rights, namely Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law), and especially the Constitution and the basis of all these regulations is the first principle of Pancasila, "God Almighty". This right is even regulated in three different paragraphs in the 1945 Constitution. First, Article 28E paragraph (2) states that everyone has the right to freedom of belief.¹⁰ Second, Article 28I paragraph (1) the right to religion is a human right that cannot be reduced under any circumstances.¹¹ Third, Article 29 paragraph (2) states that the State guarantees the freedom of each of its inhabitants to embrace their respective religions and to worship according to their religion and belief.¹² With the inclusion of regulations regarding the right to freedom of religion and belief in the 1945 Constitution, the founders of the Nation believe that this right is one of the fundamental rights and there is an urgency that causes this right to be regulated in the 1945 Constitution.

In the Human Rights Law, basically human rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law and government, and everyone for the sake of honor and protection of human dignity.¹³

In terms of international instruments, the right to freedom of religion and belief is regulated in several articles in the Universal Declaration of Human Rights

¹⁰ Undang-Undang Dasar 1945.

¹¹ Ibid

¹² Ibid

¹³ Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

(hereinafter referred to as UDHR), namely the first in article 2 which states: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”.¹⁴,

Then article 16 (1) UDHR states that “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution”.¹⁵

Article 18 specifically regulates the right to freedom of religion and belief, which reads “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 or belief in teaching, practice, worship and observance”.¹⁶

In the International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR), the right to freedom of religion and belief is a right which is a non-derogable right and is regulated in several articles, the first is in article 18 which reads “(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”.¹⁷

Apart from article 18, the right to freedom of religion and belief is also briefly regulated in article 20 (2) of the ICCPR which reads “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”¹⁸

In article 27, it is emphasized that “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”.¹⁹ This article is very relevant to the Piodalan ritual case, in which basically all minority citizens, especially in this case Hindus, may not be discriminated against and can perform worship and practice their own religion properly.

¹⁴ Universal Declaration of Human Rights.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ International Covenant on Civil and Political Rights.

¹⁸ International Covenant on Civil and Political Rights.

¹⁹ International Covenant on Civil and Political Rights.

D. Conclusion

Intolerance towards Hindus who are carrying out the Piodalan ritual in Mangir Lor Hamlet, Sendangsari Village, Pajangan District, Bantul Regency is not the first time this has occurred in Bantul Regency, especially in Indonesia. Many cases of intolerance that occur are more extreme in other areas and times. Law enforcement of the right to freedom of religion and belief is still weak in Indonesia, even though the national legal instruments are in line, including the 1945 Constitution, the Human Rights Law, the Law / PNPS Number 1 of 1965, the Joint Ministerial Decree and even international instruments, such as the UDHR and ICCPR which has been ratified by Indonesia. Komnas HAM as a human rights enforcement agency should also not be selective in dealing with similar cases. Criminal law is indeed an ultimum remedium, but what's the harm in being processed if it meets the requirements to be brought to a Human Rights Court, if the elements fulfill.

Regulations for the establishment of places of worship which are regulated in the Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 9 of 2006 and Number 8 of 2006 concerning Guidelines for Implementing the Duties of Regional Heads / Deputy Regional Heads in Maintaining Religious Harmony, Empowering Religious Harmony Forums, and Establishing Houses of Worship basically shows that there are still weaknesses in the arrangement for the construction of places of worship. Every person who has a religion should have access to a house of worship, regardless of the condition of the environment. It would be better if the limit on the number of residents who are used as the basis for building houses of worship is reduced, so that each community can have access to make calls for worship in their respective places of worship.

In this case, education is also very important. It seems as if the community does not know that the Hindus in Mangir Lor and its surroundings are performing the Piodalan ritual, even though it is clear that the Hindus are wearing clothes typical of Hindu religious ceremonies. Educating yourself is what may be difficult to do, however, it is important. It is hoped that everyone can be more open to access to the outside world and also open their eyes that Indonesia is a country that has six religions, not just one. People must leave their egocentric nature and be open to new things, even though Hinduism is not new in Indonesia. The community must also maintain religious harmony and not oppress the minority. The government at the sub-district, district, and provincial levels, especially the central government, must pay attention to people who are still lacking education on religious freedom.

For the government, the task that must be carried out by the government is to provide counseling on the importance of tolerance, respect for others especially to those of different religions, to remind them that by becoming the majority, it does not mean that they are immune to the law, justifiability of the right to freedom of religion and belief, and also the legal consequences if society can accept if they do the same at a later date.

To law enforcement officials, including lawyers, must as much as possible defend the weak and not defend the wrong. The rights of minorities must be protected, no exception. Other citizens who may not be involved in the case must also take part in

enforcing the law on the right to freedom of religion and belief, so that in the future similar cases do not occur.

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