

The Rights to Religious Freedom for Adherents Faith in Indonesia: Comparative Study of the Rights to Religious Freedom in Asia

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Abstract: Indeed, the dimension of rights that are basic is free to believe in trust; one of the beliefs in Indonesia that is still alive is Towani Tolotang. In connection with the study used a socio-legal study that focuses on descriptive-fundamental and comparative research methods, while the approach used is the historical approach, case approach, and comparison approach. Towani Tolotang's belief which is different from other faiths in Indonesia that are recognized by the state, should have the same right argued on the philosophical basis of the first principle of Pancasila "God Almighty", the constitutional basis of the 1945 Constitution Article 28 "Freedom of belief," and strengthened with Decision of the Constitution Court No. 97/PUU-XIV/2016. In the Japanese context, there are similarities with Indonesia related to traditional beliefs such as the Shinto that lives to this day, and their existence is protected by the state through the policy that the state does not deal with matters of religion through the Japanese constitution. It is different from Malaysia which does not recognize traditional beliefs, but in the context of the protection of trust, it is regulated in the Federal Constitution of Malaysia that unfortunately, besides being Sunni Islam, security is not essential or limited to administrative protection.

Keywords: Religion Rights, Human Rights, Law, Indonesia.

1. INTRODUCTION

From birth, every human being is attached to its rights which are inherited rights. Thomas Aquinas and Grotius referred to natural rights as rights that cannot be reduced because these rights are gifts from God. One of the logical reasons is the right to embrace a trusted belief or the right to guarantee freedom of religion, as Weber said there is no society without faith with this assertion so that the community lasts long through worship of the supernatural or by other names (God). In Indonesia, socio-culturally, the belief system existed long before Indonesia's independence. In 2006, it was identified that for centuries there were at least 400 (four hundred) streams of belief in God Almighty (Muhammad Dahlan dan Airin Liemanto: 2017). At the end of 2017, the Ministry of Education and Culture of the Republic of Indonesia released data that there were 187 beliefs in Indonesia (tirto.co.id). However, from various streams of the belief that lived in the community before and after Indonesia's independence, the state recognized only 5 (five) official religions, namely: Islam, Christianity, Protestantism, Hinduism, and Buddhism. Then during the reign of the 3rd President Gusdur, it was recognized that one school of

belief became a religion, namely Confucianism. From the description it shows that there is a dichotomy between recognized religion and un-recognized religion in Indonesia, this additionally triggers a crucial problem in the management of religious systems in Indonesia because it leads to uniformity. Therefore, that was born the classification of religion and cultural religions.

Unfortunately, in Indonesia as a result of the religious dichotomy of admitted and unacknowledged, human beings who are supposed to be guaranteed their freedom to choose and believe in a belief system are no longer obtained. For example, for one group of trust advocates, Towani Tolotang. Actually, besides Towani Tolotang there are many streams of belief in Indonesia, in West Java especially Buhun (a stream of faith that worships ancestral spirits) which is a native Sundanese religion, Parmalim belief in North Sumatra is a modern form of indigenous Batak religion, Musi custom in Talud, Sulawesi Utara, Marapu on Sumba, and other faiths. This is very different from the face of religious life in Japan, where Japan is additionally a country with residents of various faith followers, such as Shintoism, Buddhism, Confucius, Taoism, and Islam, and Christianity which are regarded as new religions given the same treatment. Not only Japanese, Germany likes too.

Towani Tolotang is a social group whose majority of residents live in Amparita Village, Sidenreng Rappang Regency, South Sulawesi Province. The social group in

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the historical record of his ancestors came from the village of Wari in Wajo Regency. The king of Sidenreng is first used Tolotang's call to the social group as a term for refugees who had recently settled in the area. In Bugis language, Tolotang consists of two syllables namely: *to* (*tau* is people), while *lotang* or *lautang* means south of Amparita which is a residential area for migrants. Therefore, it can be understood that Tolotang has the meaning as a person who lives in the south of the amparita, which is then attached as the name of the group's trust. Mourners of Towani Tolotang's trust sourced from Sawerigading, have a belief system different from other beliefs. First, it is marked by the main foundation (essential) which states that every faith is believing in supernatural power. For the Towani Tolotang advocates, it is called Dewata SeuwaE (The Almighty God) with the title *PatotoE*, Second, assuming on the Day of Resurrection, Third, believing that there is a recipient of revelations from the Goddess of SeuwaE, the Fourth has a holy book namely *Lontara*. Towani Tolotang who believes that her belief system is different from other beliefs, including the 6 (six) majority beliefs in Indonesia must be forced to accept the polarization carried out by the Indonesian state through a " policy merger towards one of the majority religions, videlicet Hinduism. This condition is undoubtedly complicated. On the other hand, they want to maintain the existence of their teachings, but another form of consequence is dealing with state policies that co-opt and even threaten their rights. As for the argument from the imposition of Tolotang, a merger with Hinduism is only based on the similarity of practicing diversity, namely that both Tolotang and Hindu position offerings in essential positions in every ritual activity. Even the worst conditions for Towani Tolotang in 1966, where the state through the Regent of Sidrap at that time *H. A Sapada Mappangile* issued a decision which in principle affirms that Towani Tolotang is not a religion. In the same year, the Ministry of Religion and the Prosecutor's Office through a letter from the Minister of Religion and the Prosecutors Office reaffirmed that Towani Tolotang was not a religion. In connection with the conditions experienced by the believers of Towani Tolotang belief, in line with research that describes these conditions, it shows a decline in moral standards and unfulfilled demands for social justice, as well as a lack of public service patterns and high moral standards, resulting in a decrease in the degree of social health in society (Pavel A. Kislyakov, *et al.* 2020)

As a result of the issuance of various state policies that position Towani Tolotang as illegal or forbidden beliefs, all forms of Towani Tolotang religious practices

should not be done; they are even forced to carry out religious activities in the way of death and marriage ceremonies per Islamic spiritual teachings. Based on the description in the section, it appears that the face of human rights, in this case, the freedom of religion for Tolotang town is very different from what humans should have obtained as Aquinas, Grotius, and Weber found as natural rights. Therefore, in the international community and the right to freedom of religion or belief is guaranteed in international human rights law.

2. LITERATURE REVIEW

2.1. Human Rights

The history of the struggle for Human Rights, which began in the 17-18th century was spearheaded by a British philosopher John Locke. In principle, Locke, in his effort, emphasized the importance of restrictions on state power. The word Locke is justified by Manan, on the basis that the community has natural rights (*natural rights*) where these natural rights cannot be deprived or reduced by the state (Bagir Manan dan Susi Dwi Harijanti: 2006). In connection with the history of the introduction of Human Rights, if it has been studied more comprehensively, it has been started by its predecessors Aquinas and Grotius through natural law theory (*natural law theory*) (Rhona K. M. Smith *et al.* 2008). Not much different from its supporters, Aquinas and Grotius, base their words with the statement that it is God who determines a person's life. Even explicitly affirmed that natural rights are rights that cannot be reduced, this view is more familiar with the statement "every individual is an autonomous being" (Retno Kusniati: 2011). Securing the words that have been stated by Locke, in which he wants a limitation on state power as an organization of ability to realize human rights guarantees. Then it is based on Jack Donnely who emphasizes that the achievement of human rights in a state perspective is a right that existed before the state was formed, and is not a right because of its existence because it was obtained by giving a positive law (Rhona K. M. Smith *et al.* 2008). In line with Donnely, human rights activists additionally justify that human rights are pre-positive, pre-state, or rights that existed long before we knew the modern state (Leonardus Kristianto Nugraha dan Shinta Laksmi). Furthermore, Ashiddiqie affirmed that human rights are rights inherent in humans before pre-state through clarification of the classification of community rights which include rights that are human rights and rights that are given by the state to citizens (citizen rights) (Jimly Ashiddiqie: 2006). What is essential to

understand from fundamental rights is not human life if not fulfilled these rights, thus to ensure human being is obliged to uphold the fulfilment of rights that are fundamental (Halili: 2015). Therefore, in the international community, one of the tokens of membership as country democratic governance is the protection and fulfilment of human rights (Kurniawan Kunto Yuliarso dan Nunung Prajarto: 2005).

2.2. Right to Religious Freedom

It will be challenging to find consensus on what is meant by religion. Even Jose Casanova stressed that there might never be any agreement about what is considered a religion (Alexandra Landmann: 2013). In line with Casanova's view, Mukti Ali gave an explanation why religion is challenging to be consensual, starting with the argument that religion is an inner and subjective dimension, is closely related to emotions, and is influenced by the goals of everyone who gives a definition (Muhammadi: 2013). As guides in understanding religion, we start with a pilgrimage through identifying how worship begins its existence in human life. In human life. Again, it is difficult to find consensus on what religion is. But academically, we will build a framework as a basis for identifying the protection of minority beliefs in maintaining their trust. Start this pilgrimage by understanding religion in terms of terms. All the perfumes that faith comes from the Sanskrit language consist of two words such as "a" which means no and "gama" means chaotic (Solehan Arif: 2015). Arguing with that view explains that the existence of a religion that is identical to a set of norms is intended to regulate human life therefore as not to be chaotic. Furthermore, in the socio-anthropological study, the term religion which in English is known as *religion* refers to the meaning of all religions which are often classified as a revelation, natural faith, and local religion (Amri Marzali: 2016). Whereas, in Arabic religion is known as "*ad-din*" which means teaching about absolute obedience to God (Solehan Arif: 2015).

Next, we will identify religion by definition. As a social reality religion by Durkheim is defined as a system of beliefs and rituals on something that is considered and is binding on individuals and groups (Siti Musdah Mulia: 2007), more specifically related to how a Durkheim religious person continues the building of his saying with the argument that to reach the stage of believing in something (religion) is not something given from heaven but is built through science and even affirmed not only obtained through thought alone (Muhammadin: 2013). Not much different from

Durkheim, Yinger and Radin define religion as cultural knowledge about the supernatural or supernatural bridged through a ritual when facing problems on earth (Amri Marzali: 2016). Unlike the previous experts, Ath-Thawfi as quoted by Mahmuddin that the essence of God is religion, emphasizing that in faith, intelligent people are given guidance and freedom to obtain the happiness of living in this world and the hereafter (Muhammadin: 2013). Argued in the description above which explains that religion is a belief in human beings to something sacred that is believed to be a helper in every problem, related to social assumptions that are supposed to help solve every issue and it is realized that all humans have ethical issues that are small or big. Thus, it is no exaggeration to place religion and belief as human rights, by Muliah to provide an understanding of faith as a human right which emphasizes that there should not be any restrictions and restrictions on fundamental human freedoms including human rights Religious (Siti Musdah Mulia: 20017).

3. METHODOLOGY

This research is a socio-legal study that focuses on descriptive-fundamental and comparative by linking the theory of human existence in the perspective of religious freedom for the Towani Tolotang minority in Indonesia to reveal the truth that is done through the assessment of the life of truth. The approach used in this research is the historical approach, case approach, and comparative approach. The data used in this study include primary data and secondary data. The stage of obtaining data begins with the review of literature relating to the study of religious freedom, especially the policies of several countries as a comparison. Then proceed with the interview stage using the interview method involving the informant who is the highest leader in trusting Towani Tolotang called Uwa'. After the data is collected, data analysis is done using qualitative methods.

4. RESEARCH RESULT

In the international community the guarantee of freedom of religion or belief is regulated in the International Covenant on Civil and Political Rights which came into force on March 23, 1976, then ratified by Indonesia through Law Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights). As in the consideration given that the law is emphasized that human rights are

fundamental rights that are inherently inherent in human beings, are universal and lasting and must, therefore, be protected, respected, maintained, and must not be ignored, reduced, or deprived by anyone. Theoretically, this consideration is in line with the view of John Locke where humans have rights that have been subordinated from birth, and even the rights are affirmed that it is given by God therefore that anyone including the state must not be violated. Until February 2017 169 countries had ratified including Indonesia and 6 (six) countries had not ratified the ICCPR.

A long time before the international community recognized natural rights, Indonesia had preceded the recognition of guaranteed natural rights, one of which was the freedom to choose religion and belief. This guarantee is contained in various aspects. *First*, philosophical perspectives; *Second*, constitutional issues; *Third*, the element of the legislation. As a theory of the hierarchy of laws and regulations formulated by Nawiasky, namely *stufenbau theory* or arguments about the norm hierarchy, Fundamental Norms (*staats fundamental norm*); Basic Rules of the State (*Staatsgrundgesetz*); Formal Law (*Formell Gesetz*); and Implementing Regulations and Autonomous *Satzung Regulations*. Corresponding to the norm hierarchy theory above, the pilgrimage of protecting the right to freedom of religion or belief in Indonesia begins with analyzing philosophical aspects. In the context of the Indonesian constitution as a country with a typology of a society full of plurality and heterogeneity. This diversity is fascinating because the variety of differences covers many aspects. Referring to data released by the Central Statistics Agency, there are at least 237,641. Three hundred twenty-six million people were living in Indonesia. Of the total population, if classified according to ethnic groups or ethnic groups, it was identified that in Indonesia, there are 1,340 ethnic groups. Furthermore, classification based on religion will be determined that the majority of Indonesia's population is Muslim, Christian, Buddhist, Hindu, and Kong Hu Chu. Besides, there are additionally religions or beliefs in which the quantity or number of their followers is not as much as the number of 6 (six) religion recognized by the state, one of which is Towani Tolotang belief, which is often classified as traditional religion based on local wisdom.

As a pluralistic Indonesian culture in terms of ethnicity, culture, and religion, this spirit was later crystallized into universal values in the Pancasila that became the basis of the nation and the nation's philosophy. Pancasila as a foundation and the view of

the nation's life is an objective statement that lives and flourishes in Indonesian society. In this sense, it is assumed that the Indonesian country is the *cause of the material of the fire*. In the theory of nationalism, Pancasila himself occupies the position of the *Philosophische Grondslag* or the *Staat fundamental norm* which is the philosophy or ideology of the State that forms the basis of the fundamental laws of the State and the laws under it.

The first precept in Pancasila (Indonesian basic foundation norm) on Godhead, emphasizes that the Indonesian nation has a religious, spiritual, and belief side to God as the main principle that underlies the other precepts. This Divine Principle has existed since time immemorial, which can be proven through historical facts. For example, in the megalithic era relics were found in the form of *Menhirs* (shrine), the shrine is called *punden* Palembang and Jambi, after that in Muntilan, there was the *Borobudur* temple, the *Prambanan* temple in Yogyakarta, the development of religious tolerance in *Tantrayana* in Majapahit, until the founding of Islamic empires such as Samudra Pasai, Demak, and so on. The reality of the community's view of life that cannot be separated from belief in God and religiosity cannot be separated from the life of the nation until it becomes an independent country. Therefore, since the beginning of the basic formulation of the state at BPUPKI sessions, the debate has been going on fiercely among religious people who demand that Islamic teachings be the primary basis of all state administration and nationalists who oppose it. Although in the end, the idea of the nationalists won. Concerning constitutional aspects, as a democratic rule of law, juridical guarantees of religious freedom do not lack in its existence in the 1945 Constitution of the Republic of Indonesia. Article number 28E paragraph (1) of the constitution of the Republic of Indonesia (UUD 1945) stipulates that every person is free to embrace religion and worship according to his religion. Article Number 28 E paragraph (2) additionally explains that everyone has the right to freedom of belief, to express his thoughts and attitudes, following his conscience. This article is per the spirit of the International Covenant on Civil and Political Rights, where the right to religion is regulated simultaneously with the right to have a conscience and express one's thoughts. This provision is reaffirmed in Article number 29 paragraph (2) which expressly recognizes freedom of religion and worship according to the manner in which each religion is the constitutional rights of every citizen that must be fulfilled and protected by the state.

From the description above, it states that the fourth amendment of the 1945 Constitution has complete legal rules regarding human rights, including the right to freedom of religion. The clause, particularly in terms of the state of the law on religious freedom, shows that the Indonesian government is paying special attention and reflects its attitude in this issue (Dahlan Thaib *et al.* 2013). Moreover, the amendment was carried out before the government ratified the International Covenant on Civil and Political Rights (Indonesian Law Number 12 of 2005 concerning Ratification *International Covenant on Civil and Political Rights*) That is, the government no longer needs to amend the state constitution because it is following the spirit of the Covenant. However, on the juridical aspect at the level of legislation, the federal law of the government which had been democratic began to be doubted and questioned. There are inconsistencies in the attitude of the law and government policies towards the right to freedom of religion which has cultural roots in the worldview and the constitution with the legislation below. Although the Indonesian People's Consultative Assembly (MPR) through its decision Number VII/MPR/1998 concerning the Charter of Human Rights Article 13 additionally stressed that everyone is free to embrace their respective religions and to worship according to their religion and beliefs, as well as Article 22 paragraph (1) from Law Number 39/1999 concerning Human Rights which repeats the editorial in the Articles of religious freedom in the 1945 Constitution, the Government issued Law Number 1/PNPS/1965 concerning Prevention of Abuse and Blasphemy of Religion (PNPS Law) whose substance contains restrictions on religious freedom.

On its journey, the PNPS Law became the country's foundation to make efforts for uniforming various religious groups in the archipelago. State recognition of the existence of religion is only limited to six official religions, creating crucial problems in the management of religion in Indonesia. One question that arises is the birth of a dichotomy between 'recognized' and 'unrecognized' religions, majority and minority, global and local, primitive and modern religions, and therefore on. A recognized religion appears in the spirit of superiority to oppress other religious groups for various reasons. The existence of (perceived) religions has been the 'opponent' of local beliefs. Recognized religions have facilities, while local religions are always positioned as oppressed, marginalized, and judged religions that do not have a proportional space for religious expression. Local beliefs are placed as targets

of 'enlightenment' through propaganda and other awareness movements (Hasse J: 2010). Furthermore, the unilateral recognition of the six official religions of the country had an impact on the efforts of the people to sink their rituals. The initiative was carried out given the many religions or beliefs held by local people spread in various places. To unite them, the state additionally made an effort to uniformity through efforts to 'merge' these local religions into one of the recognized religions (Hasse J: 2011).

The adherents of local religions such as Towani Tolotang were forced to accept and acknowledge one of the six religions that had received state legitimacy. The recognition of local beliefs to official religion is manifested in the form of their affiliation into one religion. That choice is difficult. On the one hand, local religion wants to maintain the existence of its teachings which have long been practised. On the other hand, local religion deals with state policies that co-opt even threaten their rights (PNPS Law where Article 156a). In these conditions, affiliation or choosing one of the religions is undoubtedly a dilemma choice. Local religions that existed long before the official doctrine had no opportunity but to join one of these religions for security and future sustainability (PNPS Law where Article 156a). Towani Tolotang itself is one of the many local religions chosen by the state as one of the official religions. In the Decree of the Director-General of Balinese Hindu/Buddhist Guidance Number 2/1966 mentioned that Towani Tolotang is a sect of Hinduism. Referring to the legal decision, Towani Tolotang automatically becomes part of Hinduism. Towani Tolotang's incorporation into Hinduism was based on the fact that it had many similarities in religious practice to Hinduism. Towani Tolotang's "Hindu-nation" policy has implications for its administrative rights which ultimately must be oriented towards Hinduism. It is interesting to study the legal politics behind the enactment of the PNPS Law. In this context, we can trace the historical and political background of its formation. In general, the validity of a legal product must be supported by factions of existing political forces. Experience on Political Applicability of Law Number 1/ PNPS/1965 can be seen in two stages, namely when PNPS Number 1/1965 was issued and when PNPS Number 1/1965 became Law by Law Number 6/1969. PNPS Formation Number 1/1965 was motivated by uncertain political problems. If previously several groups had arisen that wanted to establish a religious state (Indonesian Islamic Army (DI/TII) Rebellion, Kartosuwiryo Rebellion, for example), then

the historical background of PNPS No. 1/1965 showed a more significant threat to national unity and unity with religious issues. The general explanation of Law No. 1 /PNPS/1965 mentions:

“The first principle of the Divine Divinity is not only to lay the moral foundation of the State and the Government but also to ensure the existence of a religious-based National Union....Once it is clear that the streams or Organizations of Humility / Beliefs of the people abused and practiced Religion as a matter of fact, in recent times it has grown and grown in the dangerous direction of the existing religion. To prevent the preceding of these things which could endanger the unity of the nation and the State, then in the framework of National vigilance, and the Leading Democracy it is considered necessary to issue a Presidential Decree as a realization of the Presidential Decree of July 5, 1959...”

That explanation is a picture of the political policies of the government, which at that time imposed a guided democratic political system. Political validity must additionally be seen in the context of guided democracy which recognizes every president's actions as primary. As revealed by Mohammad T. Mansoer that at that time the power and influence of President Soekarno were still as immense as in the last days of the 1950 Constitution (Hwian Christianto: 2013).

5. DISCUSSIONS

Referring to the opinion of Mahfud MD (Chair of Indonesia's 2nd Constitutional Court), that Theoretically, analyzing the relationship between law and politics cannot be separated from two variables, namely law (legal product) as the dependent variable (the affected variable, effect) and politics as the independent variable (influence variable, cause). He further said the choice of the assumption that law is a political product would lead to the adoption of a hypothesis that a typical political configuration will produce responsive or autonomous legal products while an authoritarian (non-democratic) political arrangement will give birth to a conservative/orthodox or oppressive licensed product (Moh Mahfud MD: 1998; Moch Andry W W Mamonto: 2019). Associated with the political and historical situation at the time the government passed the PNPS Act, it can be said that

the PNPS Law was drafted in a less democratic era and political configuration. At that time, the President implemented a guided democracy policy. In Muhaimin's explanation, every decision-making process in guided democracy was based on deliberation and consensus and the spirit of cooperation under the leadership of President Sukarno (The first President of Indonesia and the founding father of Indonesia nation), who was presented as an authoritarian ruler. At the same time, two other forces had strengthened Sukarno's power, namely the Army and the Indonesian Communist Party (Yahya Muhaimin: 1991). With a political configuration that relies on the authority of one person (authoritarian), it is not surprising that the PNPS Law was born with a substance that was conservative or orthodox and tending to be oppressive. Because this law is more aimed at the interests of securing the revolution and stability of the government regime.

Based on the description above, it can be said that the political politics of the fulfilment, of the right to religious freedom for adherents of Towani Tolotang, applies fairly and democratically only at the stage of philosophy and state constitution that guarantees that freedom in full. But at the level of legislation, the existing political politics reflect policies that are not democratic and tend to be conservative. This inconsistency ultimately caused Towani Tolotang adherents to experience discrimination, because they could not enjoy the same freedom of rights as those of other major religions recognized by the State. State law politics additionally directs the incorporation or fusion of Towani Tolotang beliefs in one of the recognized religions (Hindu) with pragmatic reasons to make them easier to control by the State. This is a "coercion" moreover the State can use criminal legal means in the PNPS Act, to criminalize any conviction deemed to tarnish other religions recognized by the State.

Towani Tolotang is one of the many local religions chosen by the state as one of the official religions. In the Decree of the Balinese Hindu/Buddhist Director-General for Hinduism, Number 2/1966 mentioned that Towani Tolotang is a sect of Hinduism. Referring to the legal decision, Towani Tolotang automatically became part of Hinduism. Administratively, all forms of affairs are oriented towards Hinduism. Towani Tolotang's incorporation into Hinduism is based on the fact that it has many similarities in religious practice with Hinduism. For the followers of the Tolotang towani belief that they become happy from Hinduism, which is one of the official religions recognized by the state is the wrong policy. Even though it is under Hinduism as

a sect (a kind of school of thought), *de facto* the Towani Tolotang community is not satisfied with their status. It is additionally emphasized that the majority of Towani Tolotang believers feel alien to the concept of diversity in Hinduism. Based on the results of an interview with Uwa', it was stated that there are several propositions that can be used as a basis for proving that the Towani Tolotang belief system is different from the Hindu belief system. First, stated by Uwa', if the agreement of the community, in general, holds that one of the essential elements in a belief system or religion is the belief in supernatural or supernatural powers, which the Indonesian people call God. Therefore, in the theological aspect, the followers of the Tolotang faith also recognize the concept of God. They are more familiar with the name Dewata SeuwaE (God Almighty), whose title is PatotoE. This is, in principle, different from the concept of a Hindu God who believes in many gods. The PatotoE entity is recognized as having higher power than humans, both in the upper and lower worlds. He is the one who created the universe and all of its contents. Thus, Towani Tolotang essentially has its religious teachings and worship that is not similar to the parent religion. Second, besides the theological concepts that explain the assertion that Towani Tolotang and Hinduism are different beliefs. Reiterated by Uwa' by postulating on the belief in the scriptures, by believers who become scriptures is Lontara while for followers of the Hindu faith is the Vedas. Third, as we understand that in religion there is a 'holy place or shrine', explained by Uwa' regarding the holy place by the Ministry of Religion is recommended to make Pure which is a sacred place for the worshipers of Hindu beliefs, but by Uwa' the Department of Religion's offer was rejected by the proposition is that in the endorsement of the Towani Tolotang belief the house of the Uwa' was used as a holy place'.

In connection with the grant of protection of religious rights to trustees including the trustee of Towani Tolotang in 2017, through application judicial review to the Constitutional Court (MK) of the Public Administration Law as the applicant with Article No. 97/PUU-XIV/2016, The application for judicial review is aimed at the rule of clearing religious columns for believers in Family Card and Electronic Personal Identity Cards set out in Articles 61 paragraphs (1) and (2) and Article 64 paragraphs (1) and (5) of the Law-Invite the Population Administration (Hosted). In the end, the lawsuit was dismissed by the Assembly. In his decision, the Assembly held that the words "religion" in

Article 61 paragraph (1) and Article 64 paragraph (1) was contrary to the Constitution of the Republic of Indonesia (UUD 1945) and had no legally binding force throughout does not include followers of the flow of trust. Besides, the Constitutional Court of Justice additionally held that Article 61 paragraph (2) and Article 64 paragraph (5) are in conflict with the Constitution of the Republic of Indonesia 1945 and have no binding law. This constitution court decision is good news for all believers in Indonesia including for Towani Tolotang trustees. Thus, since the verdict read by the Constitutional Court judge, trustees in this context Towani Tolotang have the same legal position as the six religious denominations previously recognized by the government, in obtaining rights regarding the administration of the population. In this context, the steps of the Constitutional Court should be appreciated. The Constitutional Court primarily carried out its duties and duties, as brought the guardian of the constitution, which back the spirit of religious freedom guaranteed by the law into discriminatory legislation. According to the Constitutional Court's decision, the Towani Tolotang adherents should be able to separate themselves from the shadows of their parent religion immediately. Towani Tolotang no longer had to be a part of Hinduism but changed his status to a state-recognized religion under his religious beliefs and practices. Thus, the Towani Tolotang community can enjoy the freedom and rights of its faith, including the administration of the people. However, on this issue, it is still necessary for the politics of governmental law to make the substantive decision of the Constitutional Court to be ideally and conclusive. Although the formal judicial determination of the Constitutional Court is final and binding, it still needs a regulatory role in fulfilling these religious freedom rights in the lives of concrete people. In this regard, the government may make changes/revisions to the Public Administration Law.

On the move, the government through Home Minister Tjahjo Kumolo has announced that it is planning to propose a second amendment to the Public Administration Law. This step is considered necessary to accommodate the decision of the Constitutional Court. The government plans to change the Citizenship Administration Act following the norm in Law Number 12 of 2011 on Establishing Legislation. In Article 10 paragraph (1) of the letter d, it is regulated that one of the chargeable matters governed by the Law is a follow-up to the decision of the Constitutional Court which may be made by the House of Representatives of Indonesia or the President. Proposing amendments

to the Law would be the best option for pursuing a Constitutional Court decision. However, the substance of the accommodation to the adherents of the religious columns in the Family Card and the Electronic Resident Card is not too urgent to do because it is not so much that needs to be revised in the Public Administration Law, especially about the religion/belief column in the Family Card and the Electronic Personal Identity Card. Without making changes to the Citizenship Administration Law, the government can additionally act on this Constitutional Court decision by making adjustments to the rules relating to the administration of the population under various implementation rules.

The Face of Rights to Freedom of Religion in Japan

In interpreting the concept of diversity for Japanese society, there are two basic concepts of divinity: (1) God as a higher entity that nurtures, provides protection, and love, and (2) God as the basis of all that exists or is the deepest core of reality. There are various schools of belief in Japan, one of which is Shinto. Furthermore, it examines local beliefs in Japan, Shinto. Shinto is a language consisting of two words: *Shin* means deity and *Dao* mean road, in another literature, it is said that Shinto is the sound change of the word *Tien-Tao* implies the way of heaven, literally means the form of deity. The naming of Shinto was introduced in the sixth century to distinguish *Kami-no-michi* (the path of the Japanese gods) and *Butsудо* (the path of the Buddha or the way of the Confucius Gods) which is considered a migrant religion. Similar to other religions or beliefs, the Shinto believes in supernatural powers known as the Three We Creators, namely: We are the first Heavenly Gods, the gods gave birth to us, the Second Main Creator Gods, and the Creator Gods, who subsequently created the other Kami. It is by *Shinto* mourners believed that their god's number eight million as *Yaoyarozu*. Associated with belief in *us* (gods), the faith seekers also have certain rites or procedures approaching *us*. The belief that cults *us* as holy means that to inhabit *us* must be sacred or clean in all forms of filth (i.e., wounds, illnesses, and menstruation) (Hardacre, Helen: 2014). The way to confront people *our* known as *harae* or *harai*, this *harae* ceremony is believed to be a way to rid ourselves of dirt, mistakes, and misery, and a way back to the gods. It is also known as the ceremony *Matsuri*, to perform *Matsuri* by giving offerings, while the place of implementation varies depending on the intended god (i.e., Tenno *Matsuri* is carried out in the summer to prevent the arrival of disease). But in

principle, *Shinto* does not have the time and distinctive way to worship. The mention of Shinto religious leaders, known as Kanmushi. Kanmushi is in charge of matters of Shinto worship ceremonies in Jinja or temples, not only in charge of Kanmushi worship ceremonies also in charge of temple finances.

In 1868 in particular during World War-II, the Japanese government wanted to make Japan a theocracy with the principle of Saisei Ichi, the government's desire to establish Shinto as a state religion had given rise to reactions so that the state was in an unstable condition. As an embodiment of strengthening the relationship between the state and Shinto religion as reflected in the issuance of the Government Decree on Strengthening the Relationship of the State with Shinto Religion in 1870. But unfortunately, the policy was endorsed by Buddhists and other new religions. The turmoil continued until finally the country of 1882, the Japanese government gave birth to a new policy by establishing religious institutions for each of the existing religions, along with the delivery of the system ending the existence of institutions that were authorized to oversee the national religion. Additionally, in that year (1882), the Meiji government carried out a grouping of religions into three: Buddhism (entered in 1985), Christianity, and Shintoism with various sects which were then considered a new religion (for example Kyoha Shinto). In 1941 the Japanese government then waged war on every faith that worshipped other than the Emperor. This is based on the authority of the revised Law on the Preservation of Public Security. This period is one of the worst times for other faith followers (besides Shinto), where all subordinated beliefs are under Shinto belief with the doctrine that the Emperor is a divine sovereign. Recorded at this time several Christian teachers and students detained because of praise besides the Emperor until finally died in prison. In response to these conditions, Christian and Hindu believers made adjustments to state policies, and this was done as an effort to escape state persecution.

In response to the unstable state condition due to the regulation in the form of an effort to make Japan a theocracy state by establishing a country based on the principles of *Ichi*, the spirit of the law strengthens the relationship between the state and Shinto religion as reflected through the issuance of the Government Decree on Strengthening State Relations with Shinto Religion in 1870. But unfortunately, the policy by Buddhists and other new religions was rejected. The turmoil continued until finally the country of 1882, the

Japanese government gave birth to a new system by establishing religious institutions for each of the existing religions, along with the delivery of the policy ending the existence of institutions that were authorized to oversee the national religion. Additionally, in 1882, the Meiji government carried out a grouping of religions into three: Buddhism, Christianity, and Shintoism with various sects which were then considered to be a new religion *i.e.*, *Kyoha Shinto*. Furthermore, in November 1945 the state finally gave birth to a policy that explicitly mandated that the country was not authorized to take care of religious matters such as beliefs and worship, based on these laws it appeared that acceptance of the principles of religious freedom and separation of religion and state. In Japan, even the majority of Muslim and Christian religions in certain countries are categorized as new religions, because this religion is considered to have only emerged in 1945 after the Japanese government gave equal treatment to all existing religions and beliefs. In Japan, even the majority of Muslim and Christian religions in certain countries are categorized as new religions, because this religion is considered to have only emerged in 1945 after the Japanese government gave equal treatment to all existing religions and beliefs. The Daily Yomiuri was identified through a poll of opinion in 1994, showing astonishing data that Japan, which is famous for its million-state temple as a symbol of religiosity, was inhabited by 70% (seventy percent) people who did not believe in any religion. Even in Japan until now, religious freedom continues to erode gradually due to different political and social forces. The spiritual face that looks gloomy is motivated by a tradition of little civil liberties.

The Face of Rights to Freedom of Religion in Malaysia

Similar to Indonesia, Malaysia is a country that is inhabited by diverse populations, both ethnically, religiously, and culturally. Referring to data released by the Malaysian Statistics Department in 2010, that Malaysia based on religious classification consisted of 61.3% of Sunni Muslims; 19.8% Buddha; 9.2% Christian; 6.3% Hindu, 1.3% traditional Chinese religion (Confucianism and Taoism); and 0.4% other religions or no religion. Referring to the data illustrates the Malaysian religious face of minority religious groups or beliefs, including Shia Islam and Ahmadiyah. Like other constitutional states, Malaysia has a Federal Constitution which was drafted in post-colonial 1956 as the highest legal basis in the country as affirmed in Article 4. One of the things guaranteed in the Federal

Constitution of Malaysia in Article 11 is the guarantee of religious freedom, which is additionally regulated in Article 4 that the state protects the practice of other religions, the formulation of an article that states protect the method of 'other religions' in question is a religion other than Islam, this is because in Malaysia Islam is a religion that has the privilege reflected through the constitution of Article 3 that Islam is a national religion. This is what made some politicians in Malaysia in November 2018 refused to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

In line with the attitude of some Malaysian politicians who reject the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Based on the view, that the policy will make Islam no longer obtain exclusive constitutional rights. In the context of the rejection of the ratification of ICERD not only came from politicians but additionally responded by the people who were expressed through acts of denial. However, the attitude of rejection of some politicians and the public is different from the wishes of Malaysian Prime Minister Mohammad Mahathir, who wants the ratification of all instruments of human rights protection delivered in December 2018. The basic idea of rejecting the international customs of association for the protection of human rights is built on the argument that maintaining social harmony and prosperity is far more important than upholding the individualistic idea of the west (Human Rights). The exciting thing is the rejection of ratification due to the existence of a practical political dimension, which is the assumption that it can erode Malay identity and political power. Although in the Malaysian Federal Constitution, it is formulated in the narrative of the constitutional article that the state guarantees religious freedom, but to date, it still has administrative dimensions. Identifying that the Malaysian government only provides an organizational aspect, we will begin with the question of whether the dichotomy between state religion (Islam) and non-state religion will not result in discriminatory treatment.

When referring to Article 8 of the Malaysian federal constitution, it is clear that there should be no discriminatory treatment as it is mandated that all people are equal before the law, and are entitled to the same legal protection. It is even emphasized that it is not permissible to discriminate against citizens based on religion, race, ancestry, place of birth, or gender in terms of ownership of property, trade, business, profession, and occupation. Unfortunately, if this article

is reviewed comprehensively, it will show the face of protection of religious freedom or belief as stated earlier, namely the face of security which has only an administrative dimension, based on the argument that one of the fundamental things in religion is the practice of worship as an expression of faith that has not been guaranteed by the constitution. As a follow up to Sunni Islam's position as a state, religion is the existence of a sharia court. Interestingly, the framework of the Malaysian federal constitution, which guarantees every religion to obtain religious education for their children through the assurance of establishing an educational institution based on their religion or belief, is entrusted in Article 12 paragraph (2). Relevant to this article is a description of the condition of minority religious groups or beliefs in each country that is used as a comparison. Shia Islam is one part of Islam which in its concept of faith believes that leadership after the death of the Prophet Muhammad was Imam Ali. It is by Sunni Islam in Malaysia and other countries that this is then used as an argument for acts deemed harassing, then used as the basis for arrest and prosecution. Not much different from the treatment received by Shiite minority groups, Ahmadiyah is additionally in the same condition of pressure. For the Ahmadiyah community, it is believed that Mirza Ghulam Ahmad is a prophet.

Other citizens additionally feel this form of discrimination; for example, Lina Joy, who was born in a Muslim condition and then converted to Christianity in 1998, was marked by baptism. In 2004 when Joy wanted to change her identity card which still included her status as Islam because it was considered disturbing in training herself to embrace the religion that she believed as guaranteed by the constitution, but unfortunately this was unsuccessful (rejected). Another case was experienced by an Indian woman who was born in a Muslim condition, but after her marriage to a Hindu religious man wanted to change her beliefs to become Hindu, the state was then considered a criminal act, as a result then separated from her childhood through her childcare to her Muslim mother, while her mother was ordered to end 180 days of rehabilitation and counselling to stabilize his belief in Islam. Even the most dangerous condition is the existence of coercion by the state to wear the hijab as a Muslim women's symbol, pray in Islamic ways, and eat beef which is believed to be contrary to her belief at that time was Hindu (2004).

In 2016, there was another case of violation of the guarantee of the right to religious rights mandated by

the Federal Constitution of Malaysia in Article 11, and this occurred in the disappearance of Pastor Koh (November 2016) and Pastor Joshua Ilmy and his wife who worked as guides for someone who converted to Christianity. In the case it can be stated that it violated not only the right to freedom of religion or belief but also this case of disappearance violated other rights in the form of the right to guarantee and liberty; the right to the same treatment before the law; the right to humane treatment. In Malaysia, it also violates the joints of freedom of expression which should be guaranteed by the state as mandated by Article 10 of the constitution that the state guarantees freedom of speech and expression, the face of violations of freedom of expression appears in policies through government directives in 1986 which requires not to use the word 'Allah' for Non-Muslims. Not only in the non-Muslim religion, but in the case of the Muslims in the country then did not allow freedom of religion. This was experienced by a Muslim woman who wanted to use her sheets for work but was banned by the government for being non-essential (1994). It is additionally experienced by boys who want to use a school board (2006). As for the fate of the sect of believers other than Sunni Islam, the country explicitly imposed restrictions on the spread of sects or doctrines other than Sunni Islam with the emphasis of the Shaykh sect because it was considered between the true Islam of Article 11 paragraphs (4). As a consequence of these restrictions, in 2000 and 2001 the Federal Government law in six Shia followers, and then 2010 in a standoff of 200 Shia followers, resumed in 2016 on social activist Amri Vhe Mat accused of spreading Shia beliefs in the state of Perlis. The government unilaterally and unequivocally claims that the Shia doctrine harms national security where it says 'Shia will probably harm non-Shia Muslims.

The state does not allow a person to apostatize or leave Islam, even explicitly in the state of Perak it is regulated that if someone commits an apostasy it can be criminalized. Specifically, it is regulated if a Muslim who deliberately 'says he is no longer a Muslim, then can be given a sanction in the form of 2 (two) years in prison or a fine of RM 3,000. In addition to Perak, also Pahang, Malacca, Sabah, and Terengganu adopted the provision of sanctions for apostates. In connection with the case in 1989, the Ministry of Internal Affairs held detention to someone who held a seminar on Christianity, causing six Muslims to convert to Christianity, this was considered a threat to national

security. However, by the Supreme Court, the case is of the view that such detention is a form of violation because it violates the mandate of Article 11 (1) in the form of a guarantee of the right to freedom of religion. By Muhammad Hashim Kamali this kind of policy model is strongly opposed because these are personal responsibilities. If you look at practices in other countries, basically it is not only Malaysia that gives privileges to specific religions (Sunni Islam). We can see this in the Norwegian state of occupying Christianity as a religion that has the right of requiring the king and the majority of the cabinet to come from members of the state church. In Britain, the Anglican church remains a centre of public policymaking. But of course, it does not include discrimination against religious freedom or other beliefs, but basically, all countries must end all forms of violations of human rights.

6. CONCLUSIONS AND FURTHER RESEARCH

Aquinas and Grotius base their statements on the view that God determines the life of a person "every individual is an autonomous creature," one of the rights that must be guaranteed to be determined autonomously is to assess trust, including Towani Tolotang Mourners. Based on the Towani Tolotang belief system, which is different from other beliefs, besides that philosophically and constitutionally, the state additionally adopts the principle that trust is a human right. Coinciding with that argument in 2017 by the Indonesian Constitutional Court in Decree Letter Number 97/PUU-XIV/2016 again emphasized that the state must guarantee every trust believed by citizens. Shinto beliefs in Japan and Towani Tolotang have similarities are traditional ideas, but in the context of protecting religious freedom in Japan and Indonesia, there are differences, where Japan gives freedom to its citizens in determining their beliefs, while Indonesia imposes restrictions as experienced by Towani Tolotang without being recognized as beliefs as policies that force them to merge with Hinduism.

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