Analysis Protection of the Right to Freedom of Religion in Prohibition of Worship at Al Aqsa Mosque by Israeli Police to Palestinians

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ABSTRACT: Palestinian Muslims complied with the clerics’ call for a boycott by not entering the Aqsa Mosque compound on 2017 instead of protesting outside the compound of the shrine. The action comes after Israel tightened security by installing metal detectors into the compound after an attack that killed two policemen. As a result of this boycott, the aqsa mosque complex is very quiet. There are very few tourists and visiting Jewish visitors. Meanwhile, Muslims choose to perform the Prayers and rally outside the Haram al-Sharif Complex which includes the Dome of and the Aqsa Mosque. Hundreds of pilgrims perform Dzuhur prayers outside the main gate to the complex. Meanwhile a number of protesters held a similar demo in the same location. They shouted concerns over Israeli policy. But the authorities immediately drove them away. According to reports received by foreign media, a number of Palestinians were injured in the clash. In the local Israeli television station broadcast show, riot police beat and kicked the protesters who were mostly Palestinian Muslims. Once closed, the Israeli authority’s re-open access to the Aqsa Mosque in 2017. However, visitors must go through a series of security checks, including metal detection. A number of surveillance cameras and guard posts are positioned at several access points within the Aqsa Mosque complex. Before the closing of the Aqsa Mosque caused the
Palestinian Muslims to be forced to perform the Friday prayers on the streets outside Jerusalem’s walls. It was the first time in 50 years, the Aqsa Mosque and all road access leads to the mosque is closed to the public. This study is intended to analyze the prohibition of worship practices in Al Aqsa Mosque in the perspective of human rights and freedom of religion.

**KEYWORDS**: Freedom of Religion, Human Rights, Conflict, Violence

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**I. INTRODUCTION**

Human rights are the basic rights that human beings have since humans are related. Human rights can be defined as the inherent right of our nature as human beings who, if there is no such right, conceal us can live as human beings. Rights are owned by humans solely by humans, not because of them. So human rights are independent of other people, other people, or other countries. Human rights are also a set of rights inherent in the essence and rolling human beings as creatures of God Almighty and is a grace that is Mandatory Dimensions, upheld and protected by the state, law, Government and everyone, for the honor and also the frequency of

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human dignity and dignity (Article 1 Sub-Article 1 of Law No. 39 of 1999 on Human Rights and Law No. 26 of 2000 on Human Rights Court). Therefore, it is universal, meaning it applies anywhere and to anyone and can not be taken by. Right is a human being responsible for protecting himself and his human dignity as well as a moral foundation in associating or relating to fellow human beings.\(^2\)

On any right attached obligations. Therefore, in addition to human rights, there are also human rights obligations, namely obligations that must be implemented for the sake of implementation or enforcement of human rights. In the use of human rights, we are obliged to pay attention, respect, and respect the human rights that others also possess. Awareness of human rights, dignity and humanity, begins since humans exist on earth. It is due to the human rights that have existed since the man was born and is a natural right inherent in human beings. History records major events in the world as an attempt to uphold human rights.

In the opinion of Jan Materson (of the UN Human Rights Commission), in Teaching Human Rights, United Nations cited Baharuddin Lopa as asserting that human rights are the inherent rights of every human being, without which man is impossible to live as a human being. John Locke stated that human rights are rights given directly by God the Creator as a natural right.3

In article 1 of Law Number 39 Year 1999 on Human Rights stated that "Human Rights is a set of rights that adheres to the nature and existence of human beings as creatures of God Almighty and is a gift that must be respected, upheld and protected by the state, law, government and everyone, for the sake of honor and protection of human dignity and prestige". According to Prof. Dr. Dardji Darmodihrjo, S.H, human rights are the basic rights brought by human from birth as a gift of God Almighty. Pancasila Laboratory of IKIP Malang stated that human rights are the inherent rights to human dignity as human beings of God Almighty. Prof. Mr. Kuntjono Purbo pranoto, human rights are a right that belongs to man by his

3 John Locke, and James L. Axtell. The educational writings of John Locke. (CUP Archive, 1968). Furthermore, Locke wrote that all individuals are equal in the sense that they are born with certain "inalienable" natural rights. That is, rights that are God-given and can never be taken or even given away. Among these fundamental natural rights: "life, liberty, and property." Locke believed that the most basic human law of nature is the preservation of mankind. To serve that purpose, he reasoned, individuals have both a right and a duty to preserve their own lives. Murderers, however, forfeit their right to life since they act outside the law of reason. Locke also argued that individuals should be free to make choices about how to conduct their own lives as long as they do not interfere with the liberty of others. Locke therefore believed liberty should be far-reaching. Please see John Locke, "Natural rights." Moral Reasoning: A Philosphic Approach to Applied Ethics. (London: Dryden Press, 1990), pp. 133-135.
nature that is not separated essentially. Koentjoro Poerbpranoto (1976), Human Rights are the rights which man possesses according to his nature which can not be separated from the essence so that it is sacred.

Law No. 39 of 1999, Human Rights is a set of rights that are inherent in nature and the existence of human beings as creatures of God Almighty and is a gift that must be respected, upheld, and protected by the state, law, government and everyone for the honor and protection of the dignity and human dignity. So that we can conclude that Human Rights is a basic right that is owned by every human being who is given by God Almighty who can not be separated from human self then the rights must also be upheld and protected by the state, the law, Government, and everyone, for the sake of honor and dignity.

II. METHODS

In the case study used Methodology with a qualitative approach, which has a natural nature as direct data, descriptive, deeper process of results, analysis in qualitative research, and meaning as essential. There are various research methods that use qualitative approach, which are as follows: ethnographic, case studies, grounded theory, interactive, participatory, and classroom action research. Qualitative research can also be done by interview method and also observation. other than that, this research is also done subjectively so that can not be generalized.

In this case, the research used is case study that is: with the case that is happening by reading it or researching with maximal to get the result of this research. by studying the case of key words used for now,
III. WHETHER OR NOT THE PALESTINIANS BANNED FROM ENTERING THE AQSA MOSQUE INCLUDE VIOLATING HUMAN RIGHTS?

Since this world has been confronted and acquainted with a wide variety of cultures that spread almost all over the world, each of which has a striking difference. There will be different social and cultural standards. In connection with the right to freedom of religion and worship. The history of the relationship between state and religion is very influential on the concept of freedom of religion and worship in each country. Although there is a Human Rights regulated in the legislation but in fact there are still many problems that exist within it. In Indonesia, based on the protection of human rights, including religious freedom, is found in the first principle which reads the divine divinity.

Including human rights violations because it considers that religion or belief, for everyone who recognizes both religion and belief, is one of the basic elements in his conception of life and that freedom in the name of religion or belief must be fully respected and guaranteed. In Article 28E Paragraph (1) of the 1945 Constitution which says "Everyone has the right to freedom of thought, conscience and religion. This right should include the freedom to adopt any religion or belief of its choice, and freedom either individually or in society with others and in public or in isolation, to realize religion or belief in worship, practice, and instruction".4

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Such things not only violate human rights but also undermine the harmony of religious life. Worshiping beliefs is a constitutionally protected human right, anywhere in the world. In the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief adopted by the United Nations in 1981, Article 1 also states that: every person is free to choose and profess religion, and manifests it personally and in groups, whether in worship, practice, or teaching.\(^5\) The bans and attacks proved Israel had suppressed religion and human rights. Israel must respect religious freedom. Moreover, the city of Jerusalem until now its status under the international authority (United Nations).\(^6\) Therefore, the prohibition and attack on the Aqsa Mosque is not only a blasphemy, but it has also harassed humanity and the international community.

**IV. LEGAL REGULATIONS ON FREEDOM OF RELIGION AND BELIEF**

With regard to freedom of religion, the problem that gets attention is the number of legislative provisions that are problematic from the perspective of religious freedom. The regulation is problematic, either

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because it is judged to be contrary to the principle of religious freedom or because it contradicts one another. Therefore, anachronism of legislation is a matter that needs to be resolved immediately. However, harmonization as well as the synchronization of the rule of law in the field of religious freedom has not been handled optimally. In fact, the field of religious freedom, and relations among religious followers are very dependent on the harmonization.

Law No. 1/PNPS/1965 on the Prevention of the Abuse and Defamation of Religions, for example, is one of the most criticized. The rule essentially prohibits the interpretation and religious activities that deviate from the points of religious teachings. The provision clearly implies the state protecting Indonesian citizens through protection against the abuse and blasphemy of religions, while at the same time banning other religious schools from making interpretations outside of conventional teachings. The rule, in addition to being considered contrary to the spirit of religious freedom according to the constitution, is also considered to be an unnecessary form of state intervention. Many ideas have emerged that religion or defamation need not be governed by the state. Or in other words the state should not interfere in the confidence of its citizens.  


Government policies that only recognize the six religions make other religious adherents do not get their civil rights as citizens. Some even say religion life in Indonesia is better if no country. That is, the country does not need to interfere regulate the religious life because the state actually makes the religious life is not good. Adnan Buyung Nasution in a discussion once vigorously criticized the country that tried to intervene into religious life. State, said Buyung, has no right to interfere in religious affairs, let alone try to give recognition to a particular religion. The argument that supports the idea, the state must be neutral to all religions and should not prohibit the emergence of any flow of belief or religion. If there is a group that for example want to establish their own religion, it cannot be prohibited by the state. According to the supporters of this idea provisions that indicate state intervention against as Law No. 1/PNPS/1965 is no longer necessary. Freedom of thought and belief is an inherent right, should not be limited, can not be delayed, and should not be seized.

However, what needs to be considered whether the condition of the absence of regulation of the state more guarantee the freedom of religion it? Or is it going to have more implications? Because, without the rules of the country, the result is not impossible violence acts because sensitivity of a person to religion is very large, especially when his religion is criticized let alone 'spotted'. The absence of rules will open up opportunities for the interpretation of what is said to be

religious defamation. People will easily make rules that are based solely on subjectivity and according to the teachings of their respective religions, with different standards of conviction. It will easily happen to the phenomenon of 'punishing' those who are perceived to be heretical and/or not in accordance with the mainstream, under the pretext 'and ways of' commanded by religion.

V. THE APPLICATION OF RELIGIOUS FREEDOM: NATIONAL & INTERNATIONAL LAW PERSPECTIVE

The application of religious freedom which is supposed to be in accordance with the Article in article 28E paragraph (1) of the 1945 Constitution which says "Everyone has the right to freedom of thought, conscience and religion. This right shall include the freedom to adopt any religion or belief of its choice, and freedom either individually or in society with others and publicly or alone, to realize religion or belief in worship, practice, and teaching. Article 2 of the Universal Declaration states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration without any exceptions, such as race, color, gender, language, religion, politics or other opinion, national or community origin, property, birth, or other positions."

Religion and belief in international human rights documents are clearly mentioned in article 18: "Everyone shall have the right to freedom of thought, conscience and religion; this right shall include freedom to change religion or belief, and freedom to practice their religion or belief in the activities of teaching, worship, worship and obedience, either alone or together with others, public or private. The right to freedom of religion is expressed in more detail in the International Covenant on Civil and Political Rights of article 18. The present Covenant has been ratified by the Indonesian government..."
through Law No. 12 of 2005. The contents are as follows: (1) Everyone is entitled to freedom of thought, conscience and religion. This right includes freedom to embrace or accept a religion or belief in its own choice, and freedom, individually or collectively, in public or private, to practice its religion or belief in worship, obedience, practice and teaching; (2) No one shall be compelled to undermine his or her freedom to embrace or accept a religion or belief according to his or her choice. The right to freedom of religion is categorized in the basic human rights category, is absolute and is in the internal forum which is the form of inner freedom (freedom to be). This right belongs to a non-derogable right. That is, the rights specifically stated in the human rights treaty as a right which can not be deferred by the State in any circumstances, including during hazards such as civil war or military invasion.

This non-derogable right is seen as the ultimate right of human rights. These non derogable rights must be exercised and must be respected by the state under any circumstances and under any circumstances. This is believed that religious freedom and trust must also contribute to the achievement of the goals of world peace, social excellence, and friendship between nations, and on the abolition of deology-the ideology and practice of colonialism and racial discrimination. Upholding inter-religious tolerance and always respecting regardless of what religion they profess is one way to keep religious harmony,
if there is a problem that carries the name of religion, keep it with cold and peaceful heads, without having to point each other and blame.

VI. CONCLUSION

Everyone has the right to freedom of thought, conscience and religion. This right shall include freedom of religion and any beliefs of its choice, and the freedom of the individual both in society with

others and publicly or alone, to realize religion or belief in worship. With regard to freedom of religion, the issue of concern is on the everlasting provision that comes from the perspective of religious freedom. The rules are problematic, either because of problems with the principle of religious freedom or because they are contrary to others. Therefore, anachronism is a problem that needs to be resolved soon. However, the harmonization and refinement of the rules of law in the field of religious freedom has not been optimal, in fact, the field of freedom of religion, and relations between the rival highly dependent on the harmonization. Convinced that religious freedom and trust must also contribute to the achievement of world peace objectives, social stability, and friendship among nations, and to the abolition of the ideological and practice ideologies of colonialism and racial discrimination. Upholding the spirit of inter-religion and always respecting what they profess is one way of maintaining religious harmony, if there is a problem that carries the name of religion, keep completing the head cold and peaceful, without having to point and blame each other.

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COMPETING INTERESTS
The Authors declared that they have no competing interests.

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Religious liberty might be supposed to mean that everybody is free to discuss religion. In practice it means that hardly anybody is allowed to mention it.

Gilbert Keith Chesterton
An English Writer & Philosopher