

Measuring Religious Obligations from the Perspective of Values and Legislation

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Abstract

This study embarks on an exploration to address the complex issue of defining religious obligations within the framework of Indonesian society. It is particularly important to understand these obligations in the context of Indonesia's foundational ideology, Pancasila, the foremost principle of which affirms a belief in a Single, Supreme God. Given the legal and ethical complexities involved, a juridical-normative approach is employed as the analytical lens to scrutinize and understand policy-related aspects surrounding the religious obligations in Indonesia. The juridical-normative methodology is particularly useful for unearthing and interpreting governmental policies and societal norms that influence religious adherence in the country. Although the Indonesian government does not explicitly mandate its citizens to follow only the religions it formally recognizes namely Islam, Christianity, Buddhism, and Hinduism there exists an underlying tension between formal recognition and actual practice. The findings indicate that in practice, adherents of other local belief systems such as Sunda Wiwitan, Kaharingan, and Parmalim, which have been passed down from generation to generation, often face discriminatory treatment that belies the spirit of the Pancasila's first principle. The study reveals a nuanced picture where, on the one hand, there is an officially sanctioned list of recognized religions, and on the other, a ground reality where not all spiritual paths are treated equally. This divergence between policy and practice raises questions about the extent to which Indonesia's constitutional laws and its foundational Pancasila ideology are applied uniformly across its diverse religious landscape. The study serves as a steppingstone for further dialogue and research into the complexities of religious obligations and freedoms within Indonesia, particularly in the context of its legal and ethical framework.

Keywords

Religion; obligation; values; legislation; measure



I. Introduction

In the realm of human rights, the safeguarding of religious freedom is enshrined in Article 18 of the International Covenant on Civil and Political Rights (ICCPR), a treaty to which Indonesia is a signatory, ratified via its Law No. 12 of 2005. This foundational provision, which establishes the inalienable right of individuals to freely practice their chosen religion, reflects the broader human rights framework that obliges states to respect and uphold the dignity and freedoms of all individuals. These are not merely theoretical rights, but legal entitlements granted by states, premised on the idea that human beings are fundamentally deserving of respect and autonomy. Within this framework, states have roles defined strictly as duties, not as entities with rights of their own.

These duties can be categorized into two broad obligations: Positive and Negative. The Positive Obligations require the state to actively foster conditions that enable every individual to fully enjoy their rights and freedoms. This entails leveraging the collective resources and capabilities of various branches of government legislative, executive, and judicial to maximize the realization of these rights. On the other hand, Negative Obligations require the state to refrain from infringing upon individual liberties, essentially commanding respect for the exercise of personal freedoms.

In terms of religious freedom, this right extends beyond mere belief to include the freedom to engage in religious teaching, practice, and worship, both in public and private. This concept of religious freedom also incorporates the right to change one's religion or to abstain from following any religion at all, aligning closely with the principles of separation of church and state as outlined, for example, in the First Amendment of the United States Constitution.

Indonesia's own constitution, the 1945 Constitution of the Republic of Indonesia, in its Article 29 Section (2), similarly guarantees every citizen's right to freedom of religion, pledging to protect this freedom irrespective of whether the religion is followed by a majority or a minority of Indonesians. However, the application of this constitutional guarantee is not entirely straightforward. While the constitution doesn't explicitly outlaw atheism or non-adherence to a formal religion, those who identify as atheists or follow ancestral beliefs often face legal and societal challenges. Communities like the Baduy, who adhere to Sunda Wiwitan, and others following local belief systems like Kaharingan and Parmalim, frequently encounter legal discrimination, especially when they don't openly adhere to a government-recognized religion.

ICCPR further details that while religious freedoms are fundamental, they are not absolute. Article 18 Section 3 specifies that limitations may be imposed, but only to the extent necessary to protect the rights guaranteed by the Covenant itself, including the principles of equality and non-discrimination. Additional restrictions, identified as coercive prohibitions in Article 18 Section 2 of the ICCPR, are also in place to prevent both overt and covert coercion aimed at forcing individuals to adopt a particular religious belief.

Thus, while the legal frameworks exist both internationally and nationally to protect religious freedom, the actualization of these rights is fraught with complexities, particularly in Indonesia. The gap between constitutional principles and their practical application reveals a need for ongoing scrutiny and, likely, reform to fully realize the promise of religious freedom and human rights for all citizens.

II. Review of Literature

According to Article 29 Section (2) of the 1945 Constitution of the Republic of Indonesia, the state expressly guarantees the freedom of every citizen to follow their religion and worship in accordance with their chosen beliefs. In principle, this constitutional provision serves as a cornerstone for religious freedom, requiring that all religions practiced within the Indonesian territory be guaranteed protection and recognition by the state.

However, the practical implementation of this principle reveals some inconsistencies. For instance, Articles 61 and 64 of Law No. 23 of 2006 on Population Administration mandate the indication of religious affiliation on official documents such as ID Cards or Family Cards. This can create a subtle form of coercion or exclusion, particularly for those

whose religious or spiritual beliefs are not among those officially recognized by the Indonesian government.

Elaborating further, Article 29 Section 1 articulates the philosophical underpinning of the Indonesian state, emphasizing the "Belief in the one and only God" as the foundational ideology. While this appears to embed a form of religious pluralism within the constitution, the government has taken it upon itself to determine which religions are officially recognized and which are not. Unfortunately, this leads to a scenario where certain belief systems, despite being significant to their adherents, lack formal recognition and thus may not receive the same legal protections.

In academic discourse, religion has been understood in various ways. According to Ishomuddin, religion serves as a value system composed of norms that guide individuals in their attitudes and behaviors, ultimately influencing their social interactions. Betty R. Scharf defines religion as a belief and worship system adopted by various communities to grapple with the most profound issues of human existence. In this context, religion has two main functions. The first, referred to as the 'manifest function,' encompasses the embedding of belief patterns known as doctrines, the establishment of rituals that symbolize and reinforce these doctrines, and the development of behavioral norms consistent with said doctrines. The second, known as 'latent functions,' are the more covert roles that religion plays. These can sometimes sow discord, fostering feelings of ethnocentrism and superiority that can lead to religious fanaticism, as pointed out by Alo Liliweri.

From a human rights standpoint, religious freedom is a fundamental right that should be upheld by the state. These rights are legal entitlements designed to honor and respect the dignity of all individuals. According to the International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia, states bear solely obligations and have no 'rights' of their own. These obligations can be classified into 'Positive' and 'Negative.' Positive Obligations compel the state to create an environment where everyone can fully enjoy their rights and freedoms. Negative Obligations, on the other hand, require the state to refrain from any actions that would infringe upon these freedoms.

Therefore, while Indonesia's legal framework ostensibly supports religious freedom, there are ambiguities and restrictions that deserve closer scrutiny. The dissonance between the constitutional ideals and their real-world applications calls for a nuanced understanding and potentially, a reevaluation of the existing laws and practices to ensure that the right to religious freedom is unequivocally protected for all citizens.

The Indonesian state finds its philosophical and ideological roots in Pancasila, the foundational doctrine that outlines five principles integral to the country's identity. The foremost among these principles is the 'Belief in the One and Only God.' This principle serves a dual purpose: it underscores the inherently religious nature of the Indonesian people, and simultaneously acts as bedrock of unity across the diverse spectrum of religions and beliefs in the country. As the fundamental ethos of Indonesia, Pancasila functions as a unifying force, a symbol of national coherence and integrity, and plays a crucial role in national defense.

To further bolster the concept of religious freedom, the Indonesian legal framework enshrines several provisions that uphold the right to faith and worship. Notably, Article 28E Section (1) of the 1945 Constitution declares that every citizen has the right to follow a religion of their choice, among other freedoms. Section (2) of the same article extends this liberty to include the freedom to believe in a 'belief,' thus going beyond organized religion. Moreover, Article 28I Section (1) explicitly categorizes the right to follow a religion as a fundamental human right.

However, these liberties are not absolute. The same constitution that assures religious freedom also imposes limitations on it. Specifically, Article 28J Section (1) emphasizes the mutual respect citizens must have for each other's human rights, including religious beliefs. Section (2) of the same article specifies that the exercise of these rights must adhere to limitations set forth by law. This idea of 'restricted freedoms' was solidified further with the inclusion of 10 new articles focused on human rights in the second amendment to the 1945 Constitution, which specify that all the rights from Article 28A to 28I are subject to limitations described in Article 28J.

Practical implementation of these constitutional safeguards has stirred controversy. For instance, Presidential Decree Number 1/PnPs/1965 and Law Number 5 of 1969 were enacted to prevent the abuse and blasphemy of religion. Additional regulations, like the Joint Decree by the Ministry of Religious Affairs and other governmental departments, have inadvertently led to the marginalization of adherents of lesser-known faiths like Sunda Wiwitan, Kaharingan, Parmalim, and others. While religions like Islam, Christianity, Catholicism, Buddhism, Hinduism, and Confucianism enjoy official recognition, other belief systems face challenges due to various laws and decrees. Even some internationally recognized religions like Judaism, Zoroastrianism, Shinto, and Taoism exist in a legal grey area.

Further complicating matters are laws like the 2006 Law on Population Administration and the 1974 Law of Marriage. Both require citizens to adhere to a recognized religion, thus excluding those who follow non-recognized beliefs. This raises a critical question: Is religious freedom in Indonesia truly inclusive, or does it extend only to those faiths that have been formally recognized by the government? It prompts a reconsideration of whether the Indonesian concept of religious freedom is genuine or conditional, especially when specific laws seem to run counter to the Pancasila's foundational principle of a 'Belief in the One and Only God.'

III. Research Method

In the context of this research, a qualitative methodology serves as the backbone of the study, providing a nuanced understanding of the subject matter. The study specifically employs the lens of critical discourse analysis, an approach that not only dissects language and text but also seeks to uncover underlying power structures, societal norms, and ideological standpoints encapsulated within them. This rigorous analytical framework allows for an in-depth examination of both spoken and written forms of communication, offering insights into how language shapes and is shaped by social realities.

To bolster the qualitative analysis, the study incorporates a comprehensive literature review. This is not merely a survey of existing works but a critical evaluation of academic texts, scholarly articles, and other pertinent resources. The aim is to establish a robust theoretical grounding for the research and identify gaps in current knowledge that the study seeks to fill. By delving into the existing literature, the study seeks to situate itself within the broader academic conversation on the topic.

Additionally, the study aligns itself with social assessment theory, serving as the framework for gathering and interpreting both primary and secondary data. Social assessment theory typically encompasses various methods for evaluating the social impact and relevance of specific phenomena, making it an ideal companion perspective for a study rooted in critical discourse analysis. Within this paradigm, primary data first-hand information like interviews, surveys, or observations are collected, providing real-time insights into the issue at hand. Meanwhile, secondary data, which includes existing

datasets, prior research findings, and historical records, are analyzed to provide contextual background and validate or contrast the primary data.

By marrying critical discourse analysis with social assessment theory, the study aims to offer a multifaceted, interpretative exploration of the subject matter. This blended approach allows the research to achieve a higher degree of validity and reliability, as it takes into consideration multiple layers of social, linguistic, and cultural factors that might affect the phenomenon being studied.

IV. Result and Discussion

4.1 Foundational Legislation Concerning Religious Recognition in Indonesia

In Indonesia, the matter of religious freedom is enshrined in the nation's foundational legal document specifically, in Article 29 Section (2) of the 1945 Constitution. This article unequivocally states that individuals are free to practice their religion and to worship according to their personal beliefs. However, when one delves into the intricate legal framework governing religious practices, it becomes clear that the situation is somewhat more nuanced than a straightforward reading of the Constitution might suggest.

This added layer of complexity originates from a particular piece of legislation: Presidential Decree Number 1/PnPs/1965, which was later codified into law-by-Law No. 5/1969. This legal document enumerates six religions that are formally recognized by the Indonesian government. These religions are Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism often referred to as *Konghucu* or *Kong Hu Cu* in local parlance.

It is essential to clarify that the identification of these six religions in the Presidential Decree does not amount to a prohibition or exclusion of other faiths. Rather, it provides specific legal protections and status to the named religions, while also upholding the overarching principle of religious freedom that is foundational to the Indonesian Constitution. Article 29 Section (2) of the 1945 Constitution continues to serve as a safeguard for the freedom of religious expression, allowing adherents of faiths not explicitly named in the Decree to still practice their beliefs.

Thus, while the six religions specified in the Presidential Decree are granted a certain level of official recognition and protection, the legal environment in Indonesia is not exclusionary towards other faiths. Followers of religions not listed are still permitted to practice their faith openly and freely, if they do so within the constraints set by the broader legal framework of Indonesia. This represents a balancing act: on the one hand, giving special status and protection to six major religions, and on the other hand, preserving a measure of religious freedom for all, as guaranteed by the Constitution.

4.2 The Historical and Social Background of Unrecognized Beliefs

The intricate fabric of religious recognition in Indonesia is not merely a product of legal decrees but is deeply embedded within the country's tumultuous sociopolitical history. One pivotal episode that catalyzed significant shifts in Indonesia's religious dynamics was the decline of communism within the nation. This event initiated a chain reaction that complicated the relationships among different religious groups in the country.

Sukamto's 2015 research highlights the increased tensions and outright conflicts between Islamic and Christian communities, occurring in the wake of communism's downfall. The study suggests that these confrontations were not isolated incidents but were intricately linked to the larger socio-political landscape that was altered substantially post-communism. During this period, a specific Muslim subgroup known as 'Abangan Muslims

generally considered non-practicing Muslims and mainly affiliated with the Indonesian Communist Party found themselves in a precarious situation. To evade the stigma linked to communism, many converted to Christianity or Catholicism, thus contributing to an increasingly complex and fraught religious milieu.

Parallel to this trend was the surge of new religious movements across the nation. This proliferation raised alarm bells among authorities and religious scholars alike, who were concerned about the potential for heretical doctrines to infiltrate and destabilize the established religious landscape. In response to these societal and political pressures, the government felt compelled to establish a set of criteria to formalize what would be considered a "recognized" religion in Indonesia.

In 1952, the Department of Religion put forth a preliminary definition that specified three key components: a religion must possess a prophet, a holy book, and international recognition. However, this definition faced stiff resistance, notably from the Hindu community in Bali, leading to its eventual revocation. A decade later, in 1961, the Ministry of Religious Affairs revised the criteria to stem the potential fragmentation caused by the rise of new religious movements. The new set of parameters required a religion to have a holy book, a prophet, belief in a Supreme Being, and an institutionalized legal framework to guide its followers.

Given these stringent criteria, only six religions—Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism—successfully met the standards and were thus formalized in Presidential Decree No. 1/PnPs/1965. These religions enjoy official protection and recognition under Indonesian law.

However, this leaves indigenous belief systems deeply rooted in the cultural heritage of the Indonesian archipelago in a sort of legal and social limbo. They are not officially recognized as religions per se but are categorized more broadly as elements of cultural heritage. This raises important questions about the inclusivity and fairness of Indonesia's approach to religious recognition, as well as the ethical considerations involved in the state's role in defining what constitutes a valid religion.

4.3 The Complex Interplay of Politics, Religion, and Law in Indonesia: A Historical Analysis

Indonesia's legal stance on religious freedom has been a contentious and complicated issue, deeply rooted in the nation's volatile political history. During the 1950s, Indonesia experienced a turbulent period marked by the rise of right-wing extremists and separatists. Additionally, the era saw the emergence of novel belief systems that were perceived as being in direct contradiction to traditional religious doctrines. Tensions reached a peak in the mid-1960s, especially between the Indonesian Communist Party and Nahdlatul Ulama, a major Islamic organization.

Amidst this political maelstrom, Saifuddin Zuhri, the Minister of Religious Affairs at the time, felt compelled to recommend that President Soekarno issue Presidential Decree No. 1/PnPs/1965, which later became Law No. 5/1969. Known as the Law on the Prevention of Blasphemy of Religion (PPA Law), this legislation endowed the Indonesian government with far-reaching authority to intervene in the private religious lives of its citizens. It became a tool for targeting groups considered to hold 'deviant' beliefs by mainstream religious factions.

In 2008, the release of the Law on the Elimination of Racial and Ethnic Discrimination theoretically rendered the PPA Law ineffective. However, Suryadharma Ali, the Minister of Religious Affairs in 2010, insisted that the PPA Law should remain in effect to avert 'horizontal conflicts,' essentially conflicts among the populace. Around the

same time, Slamet Effendy Yusuf, Chairman of the MUI Interfaith Harmony Commission, warned that the Constitutional Court needed to tread cautiously, particularly as no alternative law had been proposed.

While the PPA Law is still technically in force, its existence presents a dilemma for followers of indigenous Indonesian belief systems, which are not among the six officially recognized religions. According to research by Tohari in 2015, these indigenous believers often face discriminatory legal and social treatment. They encounter obstacles in obtaining basic legal documents, such as national identity cards or marriage certificates. Other regulations, like the Circular Letter from the Ministry of Home Affairs No. 477/74054/1978, further exacerbate this discrimination by specifying that only the six recognized religions should be listed in the religion column of the National Identity Card.

The rigid categorization of 'official' versus 'unofficial' religions has severe implications, particularly for indigenous faiths and other minority religious communities like Confucianists. Musdah Mulia, in 2016, pointed out that the Law of Amendments from Law Number 23 of 2006 concerning Population Administration codified this discrimination by stating that the Indonesian state only acknowledges six official religions. Furthermore, decrees like that of the People's Consultative Assembly Number II/MPR/1998 perpetuate this imbalance, directing followers of indigenous faiths to adopt one of the state-recognized religions.

These legal frameworks have rendered indigenous communities like Sunda Wiwitan, Parmalim, Tolotang, Sapto Darmo, Marapu, and Kaharingan vulnerable to forced conversions, either to Islam or Christianity. Some communities, like Sunda Wiwitan, have resisted this by leaving the religion field blank on their National Identity Cards, while others, like Kaharingan and Tolotang, have reluctantly aligned themselves with Hinduism.

Sukarno, Indonesia's first President, had articulated the Pancasila (Five Principles) in 1945, emphasizing that every Indonesian must believe in God and that the country should be a place where everyone could worship freely. The current legal landscape, unfortunately, seems to diverge from this original vision, leading to a situation where religious freedom remains an elusive ideal rather than an enforceable right for all Indonesians.

4.4 Landmark Constitutional Court Ruling in Indonesia: Redefining the Scope of Religion and Belief

On November 7, 2017, under case number 97/PUU/XIV/2016, the Constitutional Court of Indonesia made a landmark judgment that would redefine how religious affiliations are recorded on identity documentation. This ruling directly benefited the followers of indigenous belief systems like Sunda Wiwitan, Kaharingan, Marapu, Sapto Darmo, and Parmalim. The Court's decision now allows Indonesian citizens to officially register as a "Believer" on their National Identity Cards (KTP), giving a new avenue for those who do not subscribe to any of the six previously recognized religions. Before this, they had to either align themselves with one of the state-sanctioned religions or leave the religion field on their ID cards blank. This shift corrects the imbalance created by Article 61 (1) and (2) alongside Article 64 (1) and (5) of Law no. 24 of 2013 concerning Amendments of Law Number 23 of 2006 on Population Administration.

However, not everyone welcomed the Constitutional Court's decision. Several influential Muslim leaders vehemently opposed the verdict. These included Ma'ruf Amin, the general chairman of the Indonesian Ulema Council (MUI) and supreme leader of Nahdlatul Ulama (NU); Yunahar Ilyas, a central board member of Muhammadiyah,

Indonesia's second-largest Islamic organization; and Din Syamsudin, a former chairman of both MUI and Muhammadiyah.

These leaders argue that indigenous belief systems should not be equated with religion under Indonesian law. According to them, the criteria that define a "religion" include a specific concept of God, a Holy Book, and religious figures like prophets. Since indigenous beliefs often lack at least one of these elements, they are considered not religions but cultural practices. These leaders seem to operate from a predominantly monotheistic paradigm when it comes to defining what constitutes a religion.

Against this backdrop, three primary counterarguments have emerged. The first revolves around the Constitutional Court's own interpretation of the law. The Court ruled that the requirement to identify one's religion in the ID cards, as stipulated by Articles 61 and 64 of the Population Administration Law, was unconstitutional. This judgment draws on Article 29 (2) of the 1945 Constitution of the Republic of Indonesia, which states, "The State guarantees everyone free to worship, according to his religion or belief."

The Court noted that the initial draft of Article 29(1) specified that the Indonesian state would be based on Islam. However, this was later revised to "based on Belief in the one and only God" just before the constitution was officially adopted on August 18, 1945. The Court's argument was that Article 29 was initially drafted with a focus on Muslims, but the revision aimed to extend the same freedoms to non-Muslims as well, thereby making "belief" synonymous with "religion."

This nuanced reading of the constitution was also influenced by historical figures like Wongsonegoro, a member of the constitution drafting committee. Wongsonegoro later served as Minister of Education and Culture, deputy prime minister, and founder of the Indonesian Spiritualism Congress. The term "spiritualism" was used interchangeably with "belief" in the 1965 decree on blasphemy of religion, which later morphed into the Blasphemy Law.

Understanding the Constitutional Court's interpretation leads us to the second primary facet of the decision: it acknowledged the unconstitutional discrimination between religious practices and indigenous beliefs. For instance, requiring followers of indigenous belief systems to leave the religion column blank on their identity cards was viewed as an infringement upon their constitutional rights.

In summary, the Constitutional Court's 2017 ruling represents a significant milestone in the ongoing discourse on religion and belief in Indonesia. It attempts to redress imbalances in legal recognition, even if it faces opposition from some religious leaders. The judgment stands as a testament to the country's evolving understanding of religious freedom and its commitment to ensuring equal rights for all citizens, irrespective of their belief systems.

V. Conclusion

Pancasila, often regarded as the ideological cornerstone of Indonesia, is built on five foundational principles. Prominently, the first of these principles is a "Belief in God Almighty," reflecting the spiritual significance that underpins the identity of the Indonesian state and its people. Due to this foundational importance given to spirituality, religion and belief are intrinsically woven into the fabric of Indonesian society. They serve as motivating forces that galvanize the population toward national unity, independence, and the establishment of a just society.

This emphasis on spirituality and religion is not just a philosophical abstraction but has practical implications in the form of laws and regulations. Enacted to align with both

the Constitution and the principles of Pancasila, these legal frameworks implicitly advocate for a religious citizenry. Echoing this sentiment, Indonesia's first President had even explicitly declared that the Indonesian people are inherently religious. Consequently, the legal and social environment tends to marginalize or ostracize those who don't conform to this national ethos.

Given this context, individuals who identify as non-religious or who follow belief systems not formally recognized by the state face considerable obstacles. These people risk being labeled as "non-Pancasilaists" for failing to uphold the first and foremost principle of Pancasila—Belief in God Almighty. In such a socio-legal climate, being an atheist or merely having an unorthodox belief system could have severe ramifications, including societal exclusion or legal scrutiny. Up until the 2017 Constitutional Court Decision (case number 97/PUU/XIV/2016), there was not a single regulation that accommodated the choice of not adhering to a recognized religion or belief.

It's worth noting that Pancasila not only promotes religiosity but also seeks to safeguard it. Given its centrality to the Indonesian way of life, there is a concerted effort to minimize harassment or blasphemy against religion in all forms. This vigilance underscores the deeply entrenched view that Indonesian citizens must either be religious or possess a deep faith or belief in God Almighty. Atheists find little to no room in this worldview and remain marginalized.

While the 2017 Constitutional Court decision did recognize 'Belief' as something citizens could list on their ID cards, it's crucial to note that this offers limited relief. It accommodated different belief systems but stopped short of acknowledging atheism or irreligiosity as acceptable options for Indonesian citizens.

In summary, Pancasila as the foundational philosophy of Indonesia has a profound and pervasive influence on the nation's approach to religion and spirituality. This ideological framework has both legal and social implications that essentially mandate a form of spirituality, creating challenges for those who don't align with these norms. Even with incremental legal changes, the overarching sentiment remains that belief in God Almighty is an irrevocable part of being Indonesian, thereby leaving minimal space for non-believers or atheists.

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