



## The Scriptures, Religion and Compliance With Laws

Tomy Michael

Faculty of Law, Universitas 17 Agustus 1945, Surabaya, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v7i2.1508>

### **Abstract**

When referring to the Decree of the President of the Republic of Indonesia Number 1/PNPS of 1965 concerning Prevention of Abuse and/or Blasphemy of Religion, religion is calculated based on quantity. Explanation of article 1 that religious adopted by the population in Indonesia are Islam, Christianity, Catholicism, Hinduism, Buddhism, Confucianism. This can be proven in the history of the development of Religious in Indonesia. Because these 6 kinds of religions are religions which are practiced by almost the entire population of Indonesia. Based on the discussion, the results obtained, namely the inclusion of religious teachings in the formation of laws and regulations, are matters that must be separated. Separation of religion in the formation of laws and regulations must be done so that the legal justice achieved can go well<sup>1</sup>.

**Keywords:** *The Scriptures; Religion; Compliance; Laws*

### **Introduction**

#### **A. Preface**

Religion as an entity is often the main problem. These problems arise when religion is given the opportunity to emerge or not get a place in public space. In the perspective of lovers of human rights, religion is a concrete thing that must be protected by the state. Van Apeldoorn argued that the law is often said to be equal. However, it needs to be underlined that a norm of the rule of law which is the scope of the law must have sufficient definition in words, but it is easy to understand.<sup>2</sup> On that basis, when referring to the Decree of the President of the Republic of Indonesia Number 1/PNPS of 1965 concerning Prevention of Abuse and/or Blasphemy of Religion, religion is calculated based on quantity. Explanation of Article 1 that the religions embraced by the population in Indonesia are Islam, Christianity, Catholicism, Hinduism, Buddhism and Confucianism. This can be proven in the history of the development of Religions in Indonesia. Because these 6 types of religions are religions that are embraced

<sup>1</sup> Has presented in 65 Years after Bandung: What Rupture and What Continuity in Global Order? International and Multidisciplinary Conference, Le Havre, Université Le Havre Normandie, Paris, February 13-14, 2020.

<sup>2</sup> Umar Faruq dan Tomy Michael, Tanggung Gugat Masyarakat Apabila Terjadi Kecelakaan Sebab Polisi Tidur, *Volksgeist* Vol. 2 No. 2 Desember 2019 DOI 10.24090/volksgeist.v2i2.2894.

by almost the entire population of Indonesia. This means that religion in Indonesia is based on quantity and not based on history.<sup>3</sup>

On that basis, religion makes laws and regulations in Indonesia more varied. For example, researched by Astria Yuli Satyarini Sukendar that a new innovation is needed so that children can understand that early marriage is not the right way. The existence of making an audio clip called Preventing of Early Marriage Audio clip (PEMAC), in which this audio clip is formed in the form of sound recordings about early marriage prevention material and its effects are played during recess. Aims to educate girls in the boarding school environment not to engage in early marriage and be free to refuse early marriage. Because, what is heard will be more easily understood by what they have to read. Many of us are lazy to read, but very happy when listening to songs. In order to succeed with this audio clip, collaboration with the government is needed. By way of socializing and introducing the *Preventing of Early Marriage Audio Clip (PEMAC)* to the ministries of religion so that they can help realize this program and then realize and apply the *Preventing of Early Marriage Audio Clip (PEMAC)* in the open field at the boarding school during recess with the aim to be played by girls or so-called female students and kyai andinya so that they understand in order not to do early marriage, and kyai andinya can forbid their students not to do early marriage.<sup>4</sup> In addition, by coordinating with the Ministry of Religion at the district level, then holding workshops with resource persons from academics in several Islamic boarding schools with the target being administrators of pondok putri kyai and nyai, as well as educators to prevent and handle early marriages that occur at the pondok boarding school. This means that the ability of religious leaders also has limitations in conveying what is religion. With that background, a legal problem arises, namely the interrelation between religion and text in the legislation. Are the laws and regulations in Indonesia especially the laws that protect religion or negate religion and even eliminate faith. This research was conducted with a research method of juridical empirical approach, which is where the authors search, explore, and find facts and facts that exist in society by looking at the situation and conditions that occur. As well as integrating with the rules and legal norms in accordance with the issues raised by the author.<sup>5</sup>

## **B. Discussion**

In social life, justification plays an important role. Justification is a form of meaning of legal justice towards what someone sees. In many countries, legal justice is something that cannot be properly described. Legal justice can be examined in various scientific angles. Fair according to the science of law is not necessarily fair according to mathematics or agricultural science. John Rawls said that justice is justice itself. John Rawls explained that the main justice is in the original position so that raises two main principles of justice. First, everyone has the same rights to the most essential freedoms and the essential freedoms are compatible with the freedoms of others of the same type. The second thing is the dynamic social and economic status. The dynamic is that there is an arrangement or control so that every legal subject in terms of people can be benefited. Positions and positions must be opened to all people in situations where there is an equal opportunity. The first principle is known by the same principle of

---

<sup>3</sup> If humanity was declared independent since birth really satisfy humanity. Expressly, Augustine argues that human nature is social, in fact confirms that ni species sociality in such a natural like a human. Social nature of humans beings originated from Adam who was created of god in goodness. Therefore, in such a nature sociality of humans then humans living in groups requires rules and order, Tomy Michael, *Humanity In The Enforcement Of Anti-Corruption Laws*, Jurnal Hukum Bisnis Bonum Commune Volume 2 Nomor 2 Agustus 2019.

<sup>4</sup> Astria Yuli Satyarini Sukendar, Amanda Raissa, Tomy Michael, *Preventing Of Early Marriage Audio Clip (PEMAC) Untuk Mencegah Fenomena Perkawinan Usia Dini Pada Anak Perempuan Di Lingkungan Pondok Pesantren Di Madura*, p-ISSN 2337-6368 | e-ISSN 2615-4439 <http://jurnal.unswagati.ac.id/index.php/HERMENEUTIKA> Hermeneutika: Jurnal Ilmu Hukum Vol. 3, No. 2, August 2019.

<sup>5</sup> Astra Yuli Satyarini Sukendar, Amanda Raissa, Tomy Michael, *Pengurangan Pekerja Anak Perempuan Di Lingkungan Pondok Pesantren*, Mizan: Jurnal Ilmu Hukum, Volume 8 Nomor 2, Desember 2019 ISSN : 2301-7295 e-ISSN : 2657-2494.

freedom. This principle can be categorized as political independence (everyone is free to use himself in politics), freedom of opinion (everyone is free to give his opinion in various media) and express expression, and freedom of religion (religious entities are things that are separated from the state when they are given freedom). While the second principle is called the principle of difference and the principle of equality of opportunity. The principle of difference departs from the principle of inequality which can be justified through controlled policies as long as it benefits the weaker groups of society. When a weak society gains an advantage it is said to be fair. Meanwhile, the principle of equality of opportunity does not only require the principle of capability quality only, but also the existence of basic will and need of that quality. So in other words, inequality of opportunity due to differences in the quality of ability, willingness, and needs can be seen as a fair value based on the perspective of John Rawls.<sup>6</sup>

Marriage is a sacred thing in social life. Marriage is the main goal in a human life. As stated in Law Number 1 of 1974 concerning Marriage that :

#### Article 30

The husband and wife bear the noble obligation to uphold the household which is the basic joint of the community structure.

#### Article 31

1. The rights and positions of the wife are balanced with the rights and positions of the husband in domestic life and association in the community.
2. Each party has the right to take legal actions.
3. The husband is the head of the family and the wife of a housewife.

#### Article 32

1. Husband and wife must have a permanent residence.
2. The house of residence referred to in paragraph (1) of this article is determined by a joint husband and wife.

#### Article 33

Husband and wife must love one another – love respect – respect, faithful and give physical and spiritual assistance to one another.

#### Article 34

1. The husband is obliged to protect his wife and provide everything needed for married life according to his ability.
2. The wife is obliged to manage household affairs as well as possible.
3. If the husband or wife neglects their obligations, each can submit a law suit to the court.

Seeing the 5 (five) articles, marriage is a private right that is interfered with by the state. When the state interferes, the moral that is desired in a marriage is not a private domain but a public matter. Over time, marriage has developed to become more able. Normally, marriages that are male and female become male with male and female with female.<sup>7</sup> Marriage actually tends to be a Muslim couple because

<sup>6</sup> Tomy Michael, Nama Samaran Dalam Undang-Undang Republik Indonesia Nomor 3 Tahun 2017 Tentang Sistem Perbukuan, Jurnal AKRAB Juara Volume 3 Nomor 4 Edisi November 2018 (187-199), ISSN: 2528-5130, E ISSN: 2620-9861.

<sup>7</sup> Tomy Michael dan Kristoforus Laga Kleden, Menyoal Pemahaman Hak Dalam Prinsip-Prinsip Yogyakarta 2007, DiH Jurnal Ilmu Hukum Volume 14 Nomor 28 Agustus 2018 – Januari 2019.

there are also arrangements about polygamy. Although this law is national in nature, it still incorporates religious elements.

From the perspective of love : the answer to the problem of existence is the interpretation of the phrase “love” in Article 33 of Law Number. 1-1974 cannot be interpreted in full because the existence of this article requires conformity (conformity of attitude and behavior) between normative and empirical. Article 33 of Law No. 1-1974 emphasizes the existence of husband and wife who have been predestined as living creatures created by God. Conformity of husband and wife also negates the suitability of other legal subjects such as similar legal subjects.<sup>8</sup>

The next explanation is Law No. 13 of 2003 concerning Manpower in which the teaching of Islam, Christianity and Catholicism become a reference there in, namely :

#### Article 93

Wages paid to workers/laborers who do not come to work as referred to in paragraph (2) letter C are as follows :

- a. Married workers/laborers, paid for 3 (three) days;
- b. Married off his child, paid for 2 (two) days;
- c. Circumcised child, paid for 2 (two) days;
- d. Baptize their children, paid for 2 (two) days;
- e. Wife giving birth or miscarriage, paid for 2 (two) days;
- f. Husband/wife, parents/in laws or children or in-laws die, paid for 2 (two) days; and
- g. A family member in one house dies, is paid for 1 (one) day.

Of course the existence of circumcision arrangements, baptism is the right of every individual, but these rights do not need to be regulated in one law because every worker also has a Hindu and others. In fact, recognition of rights in a limitation is a bad thing.

In the fourth precept of Pancasila which reads “Democracy led by wisdom in consultation/representation. If examined, the meaning will be found that the people have an important role in a country’s life. This shows that the people are able to produce a change in a state life. To paraphrase the philosophers of Protagoras, that man is the measure of everything. The influence of christian teaching and Roman thought helped to provide broad insights related to humans. In Greek society accept that the ratio can free individual human beings until man is independent of himself. The influence of christian teachings which emphasizes that the “face” of man is an image of “face” with God, also influences that there is recognition of the existence of individual human beings. Likewise with the Romans who contributed to the vocabulary of “citizens” as a form of recognition that humans are personal images formed in their society. This veneration of individuals is also enriched by the influence of humanist thought and the values derived from respect for human dignity such as democracy and human rights.<sup>9</sup>

Then law enforcement that originates in Catholic teachings when traced has undergone various changes. When speaking of religion, the religious teachings can be interpreted freely, the interpretation

<sup>8</sup> Tomy Michael, Penafsiran Frasa “Cinta-Mencintai” Dalam Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan Forum Rembuk Nasional 2016 “Menata Indonesia Dalam Perspektif Nawa Cita” Himpunan Mahasiswa Pascasarjana Indonesia, Universitas Negeri Jakarta.

<sup>9</sup> Tomy Michael, Pengaruh Tuhan Dalam Undang-Undang Republik Indonesia Nomor 7 Tahun 2012 Tentang Penanganan Konflik Sosial, Mimbar Keadilan, Edisi: Mei - Nopember 2014, Hal. 103 - 110 ISSN: 0853, Fakultas Hukum Universitas 17 Agustus 1945 Surabaya.

also makes anyone have a different and diverse paradigm as well. Human life, both as individuals and communities, is closely related to the description, understanding or recognition of God. The religious moral teachings, values or virtues of a religion are strongly influenced by the understanding, the image of a God that is believed.<sup>10</sup> The final explanation is the existence of regulations rooted in the teachings of Hinduism, namely in Article 2 letter a of Law Number 11 Year 2009 concerning Social Welfare:

## Article 2

### Letter a

What is meant by "the principle of solidarity" is in the implementation of social welfare must be based on social care to help people who need help with empathy and compassion (Tat Twam Asi).

Tat Twam Asi is a moral teaching from Hinduism, which is identical with humanity in Pancasila. Tat Twam Asi means that you are me and I am you, which contains the principle: joy and sorrow, parasos, salunglung sabayantaka, mutual love, sharpening, and caring for one another. The philosophy contained in this teaching is how we can empathize, feel what is being felt by the poor who are near us. The importance of solidarity in community life so that a prosperous community life is formed. Tat Twam asi teachings implemented in daily life in society as a whole and truly, in the nature and behavior of community life, then this life will be very harmonious, mutually content and protect, which will ultimately be achieved prosperity of life in togetherness.<sup>11</sup>

Sourced from the teachings of Hinduism, social welfare that seems neutral is a form of legal justice that has universal goodness.

### *B. Closing*

Based on the discussion, the results obtained, namely the inclusion of religious teachings in the formation of laws and regulations, are things that must be separated. Separation of religion in the formation of statutory regulations must be done so that the legal justice achieved can go well. The next understanding is that when there is a lot of trust in Indonesia and has been recognized, the contents of an article must cover the whole. Thus, the meaning of religion and belief as a characteristic of Indonesia is absolute.

### *References*

Astria Yuli Satyarini Sukendar, Amanda Raissa, Tomy Michael, Preventing Of Early Marriage Audio Clip (PEMAC) Untuk Mencegah Fenomena Perkawinan Usia Dini Pada Anak Perempuan Di Lingkungan Pondok Pesantren Di Madura, p-ISSN 2337-6368 | e-ISSN 2615-4439 <http://jurnal.unswagati.ac.id/index.php/HERMENEUTIKA> Hermeneutika: Jurnal Ilmu Hukum Vol. 3, No. 2, August 2019.

Astra Yuli Satyarini Sukendar, Amanda Raissa, Tomy Michael, Pengurangan Pekerja Anak Perempuan Di Lingkungan Pondok Pesantren, Mizan: Jurnal Ilmu Hukum, Volume 8 Nomor 2, Desember 2019 ISSN : 2301-7295 e-ISSN : 2657-2494.

<sup>10</sup> Tomy Michael, Penegakan Hukum Dalam Otentisitas Katolik (Keniscayaan Yang Kekinian), Edutech Consultant Bandung, Jurnal Akasar Public, Volume 2 Nomor 3 Edisi Agustus 2018 (64-71).

<sup>11</sup> Made Kerta Adhi, Tat Twam Asi: Adaptasi Nilai Kearifan Lokal Dalam Pengentasan Kemiskinan Kultural, Seminar Nasional Riset Inovatif (SENARI) KE-4 Tahun 2016 ISBN 978-602-6428-04-2.

- Made Kerta Adhi, *Tat Twam Asi: Adaptasi Nilai Kearifan Lokal Dalam Pengentasan Kemiskinan Kultural*, Seminar Nasional Riset Inovatif (SENARI) KE-4 Tahun 2016 ISBN 978-602-6428-04-2.
- Tomy Michael, *Nama Samaran Dalam Undang-Undang Republik Indonesia Nomor 3 Tahun 2017 Tentang Sistem Perbukuan*, Jurnal AKRAB Juara Volume 3 Nomor 4 Edisi November 2018 (187-199), ISSN: 2528-5130, E ISSN: 2620-9861.
- Tomy Michael dan Kristoforus Laga Kleden, *Menyoal Pemahaman Hak Dalam Prinsip-Prinsip Yogyakarta 2007*, DiH Jurnal Ilmu Hukum Volume 14 Nomor 28 Agustus 2018 – Januari 2019.
- Tomy Michael, *Penafsiran Frasa “Cinta-Mencintai” Dalam Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan Forum Rembuk Nasional 2016 “Menata Indonesia Dalam Perspektif Nawa Cita” Himpunan Mahasiswa Pascasarjana Indonesia, Universitas Negeri Jakarta*.
- Tomy Michael, *Pengaruh Tuhan Dalam Undang-Undang Republik Indonesia Nomor 7 Tahun 2012 Tentang Penanganan Konflik Sosial*, Mimbar Keadilan, Edisi: Mei - Nopember 2014, Hal. 103 - 110 ISSN: 0853, Fakultas Hukum Universitas 17 Agustus 1945 Surabaya.
- Tomy Michael, *Penegakan Hukum Dalam Otentisitas Katolik (Keniscayaan Yang Kekinian)*, Edutech Consultant Bandung, Jurnal Akasar Public, Volume 2 Nomor 3 Edisi Agustus 2018 (64-71).
- Tomy Michael, *Humanity in the Enforcement of Anti-Corruption Laws*, Jurnal Hukum Bisnis Bonum Commune Volume 2 Nomor 2 Agustus 2019.
- Umar Faruq dan Tomy Michael, *Tanggung Gugat Masyarakat Apabila Terjadi Kecelakaan Sebab Polisi Tidur*, Volksgeist Vol. 2 No. 2 Desember 2019 DOI 10.24090/volksgeist.v2i2.2894.

## Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).