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1 PERSOALAN)KEBEBASAN)BERAGAMA)DI) INDONESIA) Andreas)A.)Yewangoe) ""
JAMINAN)KONSTITUSIONAL)KEBEBASAN)BERAGAMA) " Kebebasan" beragama" dijamin" secara"
konstitusional" di" Indonesia." Pasal" 29" UUD" 1945" menegaskan" bahwa" setiap" orang" bebas" untuk"
menganut" agama" dan" kepercayaannya" masingBmasing" sesuai" dengan" pilihannya." Termasuk" di"
dalamnya," kebebasan" untuk" mengekspresikanB nya" di" muka" umum." Para" pendiri" bangsa" ini"
mempunyai" visi" yang" jelas," bahwa" kesatuan" bangsa" hanya" bisa" dipelihara" apabila" keberagaman"
agama" itu" dijamin." Memang" jelas" Islam" merupakan" agama" yang" dianut" mayoritas" bangsa" kami,"
setidakBtidaknya" kalau" Indonesia" dilihat" sebagai"
suatu"kesatuan."Tetapi"di"daerahBdaerah"tertentu"seperti"Sulawesi"Utara," Nusa" Tenggara" Timur"
(NTT)," Papua," Maluku," Tana" Toraja," agama" Kristen" merupakan" agama" yang" dianut" mayoritas"
bangsa" kami" di" wilayah" itu." Di"
beberapa"wilayah"seperti"Sumatera"Utara,"Kalimantan"Barat,"Kalimantan"
Tengah"komposisi"penduduk"secara"agama"(Islam"dan"Kristen)"seimbang." Di" pulau" Bali," agama"
Hindu" merupakan" agama" yang" dianut" mayoritas" penduduk." Di" banyak" tempat" agamaBagama"
suku" masih" eksis." Di" Kalimantan," agama" Kaharingan" mempunyai" pengaruh" yang" signifikan." Di"
Sumatera" Utara," agama" Parmalim" tetap" dipraktikkan." Di" NTT," agama"
Marapu"dan"Jingituu"masih"ada."Di"Jawa,"dikenal"Kejawen"yang"merupakan" ekspresi" dari" kepercayaan"
asli" Jawa," dan" seterusnya." Melihat" kenyataan"
ini,"tepatlah"apabila"para"pendiri"bangsa"kami"tidak"merumuskan"di"dalam" Konstitusi" adanya" sebuah"
agama" negara." Semua" agama" mempunyai" 1"" kesetaraan" dan" sama" kedudukannya" di" hadapan"
hukum." Bahkan" istilah" "kepercayaan"" dicantumkan" untuk" menghormati" eksistensi" agamaB agama"
suku" itu." Itulah" pula" ungkapan" dari" Pancasila" yang" merupakan" dasar" negara" kami." Negara" kami"
tidak" berdasarkan" Islam," melainkan" Pancasila"yang"diterima"oleh"semua"orang"dari"agama"apa"pun."
Itulah" yang" dipraktikkan" secara" konsisten" di" era" pemerintahan"
Sukarno."Sukarno"adalah"seorang"nasionalis"sejati."Di"era"dia,"belum"ada"
peraturan"memilah"upacara"agama"sebagai"ritual"dan"upacara". "Kalau" Sukarno" diundang" untuk"
merayakan" Natal" misalnya," beliau" menghadiri" seluruh" upacara" termasuk" kebaktiannya." Baru" di" era"
Suharto," ketika" Alamsyah"Ratu"Perwiranegara"menjadi"Menteri"Agama,"dibuat"pemilahan"itu." Ritual"
hanya" diikuti" oleh" penganut" agama" yang" bersangkutan," sedangkan" para" pejabat" negara" dan" yang"
beragama" lain" baru" datang" dalam"bagian"upacaranya."Di"dalam"praktiknya,"hal"itu"hanya"berlaku"bagi"
agamaBagama" di" luar" Islam." Di" dalam" Islam" terdapat" kesatuan" antara" ritual" dan" upacara."
Karena" itu" pejabat" negara," yang" sebagian" besar"
beragama"Islam"menghadiri"seluruh"acara"tersebut."" INTERAKSI)ANTARWARGA) " OrangBorang"
Indonesia" adalah" orangBorang" yang" toleran" di" dalam" kehidupan" beragama." Ini" disebut" toleransi"
autentik.1" Toleransi" autentik" ini" terlihat" di" dalam" kehidupan" masyarakat" pedesaan." HariBhari" raya"
Islam,"misalnya"Idul"Fitri,"dirayakan"secara"bersamaBsama."Demikian"juga" perayaanBperayaan" agama"
lain." Nahdlatul" Ulama" (NU)" dan" Muhammadiyah" sebagai" dua" organisasi" Islam" terbesar" di"
Indonesia" memperlihatkan"sikap"menghargai"para"penganut"agamaBagama"lain."NU" adalah" organisasi"
yang" mengakomodasi" budaya" Indonesia" (Jawa)." Ada"

1"" Sebenarnya" ada" istilah" yang" lebih" dalam" maknanya" dipakai" di" Indonesia," yaitu" "kerukunan".
Istilah" ini" berasal" dari" bahasa" Arab," "arkan"" (bentuk" tunggal" dari" "rukun")" yang" berarti" "pilar".
Maka" kerukunan" berarti" pilar"
yang" di" atasnya" Indonesia" didirikan." Sekali" pilar" ini" diruntuhkan," maka" akan"
runtuh" pula" bangunan" Indonesia." 2"" semacam" proses" inkulturasi" budaya" Indonesia" di" dalam" Islam."
Para" Walisongo" yang" menyiarkan" Islam" di" Indonesia" dalam" abad" ke-19" sangat" menghormati" budaya"
ini." Muhammadiyah" adalah" sebuah" gerakan" pembaruan" Islam" yang" didirikan" guna" memajukan"
anak" bangsa" menghadapi" kolonialisme" dan" imperialisme" (Belanda)" pada" waktu" itu."
Organisasi" ini" justru" menduplikasi" cara" penyelenggaraan" pendidikan" yang" dilakukan" oleh"
Zending" dan" Misi" Kristen" di" Indonesia." Kedua"
organisasi" ini" secara" tegas" menerima" Pancasila" sebagai" sesuatu" yang" final"
bagi" Indonesia." Artinya" perjuangan" lama" yang" pernah" mengemuka" ketika" Indonesia" diproklamasikan"
(1945)" agar" sebuah" negara" Islam" di" Indonesia"
didirikan," ditinggalkan." Indonesia" bukanlah" sebuah" negara" agama," tetapi"
pada" pihak" lain," juga" bukan" negara" sekuler." Maknanya," negara" tidak" ikut" campur" dalam" urusan"
intern" agama," tetapi" berkewajiban" melindungi" agama" Bagama." "" KENYATAAN) MASA) KINI) "
Kendati" sebagian" besar" orang" Indonesia" masih" sangat" setia" kepada" komitmen" bahwa" masyarakat"
Indonesia" menjunjung" tinggi" kemajemukan," dan" itu" juga" berarti" menghormati" kebebasan"
beragama," namun" di" dalam" kenyataannya" dewasa" ini" kecenderungan" intoleransi" terlihat" dengan"
jelas." Menurut" survei" The/ Wahid/ Institute," sikap" intoleransi" itu" makin" meningkat" dalam"
tahun" 2010" (58,2%).
Angka" tertinggi" diduduki" oleh" Jawa" Barat" dan" Banten." Ada" kemungkinan," karena"
Jawa" Barat" pernah" merupakan" basis" Kartosuwiryo" yang" mendirikan"
Negara" Islam" pada" tahun" 1950" Ban," maka" angka" intoleransi" itu" lebih" tinggi" dibandingkan" dengan"
wilayah" lain." Mengapa" sikap"
intoleransi" itu" meningkat?" Tidak" mudah" menjawabnya." Tetapi" beberapa" asumsi" bisa" dikemukakan."
Datangnya" aliran" Islam" transnasional"
dari" Timur" Tengah" yang" memperkenalkan" sikap" yang" lebih" radikal." Hal" ini"
dikemukakan" secara" jelas," misalnya" di" dalam" buku" Ilusi/ Negara/ Islam/ yang"
diedit" oleh" Gus" Dur." Gus" Dur" menyebut" organisasi" ini" "musuh"
dalam" selimut".
Gerakan" radikal" itu" terutama" berpaham" Wahabi" atau" Ikhwanul" Muslimin," atau"
gabungan" keduanya." Menurut" Gus" Dur," 3""
gerakan" ini" menyimpan" agenda" yang" berbeda" dari" ormas" Islam"
moderat" seperti" Muhammadiyah" dan" NU." 2" Kedua," kecenderungan" politisasi" agama" (Islam)"
dalam" rangka" pemilihan" kepala" daerah" (pemilu" Bkda)." Dalam" janji" kampanye" mereka,"
para" kandidat" menjanjikan" bahwa" kalau" terpilih" mereka" akan" menggiatkan" perda" syariat,"
3" atau" melarang" pembukaan" gedung" gereja" baru." Konon," Walikota" Bogor," Diani" menjanjikan"
hal" ini" kepada" para" konstituennya." Itulah" sebabnya" GKI" (Gereja" Kristen" Indonesia)" Yasmin"
sampai" sekarang" tidak" diizinkan" beribadah" di" gedung" mereka" sendiri," kendati" telah" ada"
keputusan" Mahkamah" Agung" yang" memerintahkan" Walikota" mencabut" larangannya." Protes" gereja"
dan" berbagai" organisasi" civil/ society" tetap"
dilancarkan." Intoleransi" terhadap" golongan" Ahmadiyah" juga" sangat" jelas." Ahmadiyah" yang" dicap" sesat"
oleh" Islam" arus" utama" (berdasarkan" Fatwa"
Majelis" Ulama" Indonesia)" ditafsirkan" oleh" masyarakat" bawah" sebagai" izin" untuk" mengusir" umat"
Ahmadiyah," dan" karena" itu" menuntut" Pemerintah" membubarkannya." Pemerintah" juga" bimbang"
dalam" pilihan" antara" taat" kepada" Konstitusi" atau" mengikuti" kehendak" golongan" mayoritas" Islam" ini."
Aneh" juga," Ahmadiyah" yang" telah" ada" di" Indonesia" sejak" era" kolonialisme"

2"" KH" Abdurrahman" Wahid." 2009. "Ilusi/ Negara/ Islam, / Ekspansi/ Gerakan/ Islam/ 3""
Transnasional/ di/ Indonesia" (Jakarta: "Maarif," The" Wahid" Institute), "hlm. 20." Minggu" TEMPO" 4"
September" 2011" memfokuskan" perhatiannya" kepada" perda" yang" dibuat" di" daerah" Bdaerah."
Menurut" Minggu" tersebut" adanya" perda" itu" karena" euforia" otonomi" daerah." Dimulai" di" Aceh"
pada" 2001," kini" terdapat" lebih" dari" 150" Peraturan" Syariah." Isinya" antara" lain" soal" kewajiban" berbusana"

6"" Irshad" Manji" adalah" penulis" The/ New/ York/ Times/ Bestselling," The/ Trouble/ with/ Islam/ Today." Ia baru" saja" menulis" sebuah" buku" baru" yang" juga" bestseller," Allah,/ Liberty/ and/ Love,/ The/ Courage/ to/ Reconcile/ Faith/ and/ 7"" Freedom./2011."London,"New"York:"Free"Press."

Irshad"Manji,/op.cit., "hlm."180." 6"" untuk" mengekspresikan" iman" islaminya" dalam" kebudayaan" mereka" sendiri.8"" KASUS) GEREJA) KRISTEN) INDONESIA) YASMIN,) UJIAN) BAGI) KONSTITUSI) " Kendati" sekian" banyak" gedung" gereja" ditutup," atau" setidaknya" tidaknya" diganggu" dalam" lima" tahun" terakhir" ini," namun" secara" khusus" kita"menyoroti"kasus"GKI"

(Gereja"Kristen"Indonesia)"Yasmin"dalam"diskusi" ini." Saya" menyebutnya," ujian" bagi" penegakan" Konstitusi" Republik" Indonesia." Mengapa?" Karena" pelanggaran" yang" dilakukan" oleh" Walikota" Bogor"bertentangan"secara"diametral"dengan"Konstitusi."Alasan"Walikota" melarangnya" sama" sekali" tidak" kuat." Berdasarkan" informasi" yang" ada," ketika" peletakan" batu" pertama" gedung" gereja" tersebut," Walikota" hadir" dan" menyampaikan" sambutan" dengan" menekankan" pentingnya" kebebasan"beragama"di"Indonesia."Tetapi"setelah"mendapat"tekanan"dari" massa" yang" tidak" menyetujui" pembangunan" gedung" tersebut," dengan" segera"Walikota"menyegelnya."GKI"Yasmin"menggugatnya"di"Pengadilan" Negeri."GKI"Yasmin"menang."Tetapi"Walikota"naik"banding"ke"Pengadilan" Tinggi."GKI"Yasmin"menang"lagi."Walikota"melakukan"kasasi"di"Mahkamah" Agung" (MA)." GKI" Yasmin" menang" lagi." Konsekuensinya," Walikota" harus" melaksanakan" keputusan" MA." Tetapi" alihBalih" melaksanakan" keputusan" tersebut," Walikota" justru" mencabut" IMB" (Izin" Mendirikan" Bangunan)" gedung" tersebut." GKI" Yasmin" memprotesnya" ke" manaBmana." Lembaga" Ombudsman" memperingatkan" Walikota" agar" menaati" keputusan"

MA." 8"" Harian" Kompas," 27" Agustus" 2011"

memberitakan" kritik" sejumlah" cendekiawan" Muslim" Indonesia" kepada" Universitas" Indonesia" yang" memberi" gelar" Doctor/ Honoris/ Causa" kepada" Raja" Arab" Saudi" yang" dinilai" tidak" berdasar." Bagaimana" mungkin" Negara" yang" baru" saja" memancung" seorang" Tenaga" Kerja" Wanita" (TKW)" tanpa" perhatian" Raja" diberi" gelar" macam" itu," kata" para" cendekiawan." Lebih" aneh" lagi," pemberian" gelar" itu" bukannya"dilaksanakan"dalam"sebuah"upacara"akademis"di"Kampus,"tetapi" diantar"ke"Saudi"Arabia." 7"" Walikota"tetap"tidak"mau."Malah"ia"memberikan"alasan"yang"sangat"naif:" "Tidak"boleh"ada"gedung"gereja"di"jalan"yang"punya"nama"tokoh"Islam."" GKI" Yasmin" memang" berada" di" Jalan" Abdullah" bin" Nuh," seorang" pemimpin" Islam" dari" Cianjur." Jelas" alasan" itu" tidak" masuk" akal." Banyak" orang" menertawakan" alasan" itu." Termasuk" putra" Nuh" bernama" Muhammad" Mustafa." Ia" mengatakan" tidak" keberatan" hidup" bersama" dengan" yang" berlainan" agama." Kalau" pendapat" Walikota" itu" diterima," berarti"semua"gedung"gereja"di"Indonesia"yang"terletak"di"jalanBjalan"yang" memakai" nama" tokohBtokoh" Islam" harus" dipindahkan." Demikian" juga" gedungBgedung" masjid" yang" terletak" di" namaBnama" jalan" tokoh" Kristen"

harus"digusur."Amburadul"bukan?"Bagaimana"kalau"nama"jalan"saja"yang" diubah?" Namun" Gamawan" Fauzi," Menteri" Dalam" Negeri" Republik" Indonesia," melihatannya" setuju" dengan" pendapat" Walikota." "Ini" tidak" sehat" untuk" masa" depan", kata" Mendagri," "kalau" pembangunannya" diteruskan" di" tempat" itu." Maka" mereka" harus" direlokasi."" Tetapi" persoalannya" adalah," apa" alasannya" untuk" melakukan" relokasi." GKI" Yasmin" berpendapat," hukum" harus" ditegakkan." Maka" inilah" ujian" bagi" Konstitusi."

Kalau" Pemerintah" Pusat" gagal" memaksa" Walikota" Bogor" meninjau"kembali"kebijakannya,"maka"runtuhlah"Konstitusi,"yang"berarti"

juga"runtuhnya"komitmen"bersama"menegakkan"Negara"Indonesia."Untuk" memperoleh" kembali" kepercayaan" itu," menjadi" sesuatu" yang" sangat" mahal.""

RUU)KERUKUNAN)BERAGAMA)VS)RUU)PERLINDUNGAN)KEBEBASAN) BERAGAMA) " Guna" menjamin" kerukunan" hidup" umat" beragama," pemerintah" hendak"menerbitkan"UndangBUndang" (UU)"Kerukunan"Hidup"Beragama." Sesungguhnya" ini" bukan" prakarsa" baru." Di" era" Suharto" dulu" Rancangan" UndangBUndang"(RUU)"semacam"itu"telah"dipikirkan."Tetapi"tidak"semua" orang" setuju" dengan" ide" itu." GerejaBgereja" termasuk" yang" tidak" setuju."

Alasan"utamanya"adalah,"hal"kerukunan"adalah"sikap"budaya"bangsa"yang" sudah"ada"jauh"sebelum"Negara"Indonesia"ada."Bahwa"saya"hidup"rukun"

dengan "tetangga" saya yang berlainan agama, tidak pernah diatur dengan 8 UU. Pergaulan itu berjalan begitu saja. Ia sesuatu yang otentik. Karena itu, kalau sekarang diatur, kelihatannya sangat berlebihan. Untuk sementara ide itu kendur. Tetapi dengan maraknya sikap intoleransi dewasa ini, pihak pemerintah berpendapat, hal itu disebabkan karena UU Kerukunan belum ada. Kami tetap tidak setuju dengan itu. Kami khawatir, dengan UU itu orang Borong Indonesia akan ditempatkan dalam suatu sistem apartheid yang jauh lebih buruk daripada di Afrika Selatan pada waktu lampau. Inilah apartheid agamawi, di mana masyarakat dipilah-pilah menurut agamanya. Saya tidak bisa membayangkan pada satu waktu, untuk berkunjung kepada tetangga yang berbeda agama guna merayakan Idul Fitri dan hari raya keagamaan lainnya, saya harus melihat UU dulu apakah tindakan saya itu melanggar atau tidak melanggar UU. Maka bisa terjadi, judulnya kerukunan, tetapi isinya tidak rukun. Pada pihak lain, kami lebih setuju dengan UU Perlindungan Kebebasan Beragama. Kebebasan beragama yang telah diatur di dalam Pasal 29 UUD 1945 perlu dijabarkan lebih jauh, dan ditegaskan perlingkungannya. Orang bebas menganut agama yang dipilihnya. Setiap orang juga bebas mengekspresikannya, tentu dengan cara yang berkeadaban. Tetapi memang tetap ada masalah, yaitu apakah kebebasan itu juga mencakupi kebebasan untuk berganti agama. Kelihatannya dalam persepsi Islam, hal berganti agama adalah tindakan murtad. Kendati Indonesia resminya bukan negara agama, tetapi di dalam praktiknya terbukti bahwa mengganti agama (dari Islam ke Kristen misalnya) sulit diterima. Persoalan kedua, bolehkah di Indonesia orang tidak menganut agama? Mestinya boleh, tetapi di dalam praktiknya, tidak semua orang menerimanya. Maka di dalam KTP, kolom agama harus diisi dengan salah satu agama yang diakui Negara. 9 HARUSKAH)AGAMA)DIAKUI)NEGARA?) Ini juga pertanyaan yang tidak mudah dijawab. Sampai sekarang hanya ada enam agama diakui Negara: Islam, Kristen, Katolik, 9 Hindu, Buddha dan Konghucu. 10 Tidak kurang dari Gus Dur yang mempersoalkan apakah benar hak hidup sebuah agama harus dimintakan dari Negara? Bukankah agama Bagama jauh lebih tua dari negara? Sampai sekarang terdapat sekian banyak agama Bagama suku di Indonesia. Kami setuju dengan pendirian, yaitu bahwa setiap agama berhak hidup, diakui atau tidak diakui oleh Negara. Yang disebut pengakuan itu mestinya dipahami sebagai perlindungan Negara terhadap warga negara yang menganut agama apapun, bahkan yang tidak beragama sekalipun. Tidak ada hak Negara memaksa warga negaranya untuk menganut satu agama yang diakui Negara. Demikian juga di dalam menafsirkan ajaran agama yang dianut. Negara tidak berhak dan tidak berkewajiban memaksakan sebuah penafsiran tunggal atas sebuah ajaran agama. 11 Itulah sebabnya kami ikut serta menggugat UU No.5/PNPS/1969 Tentang Pencegahan Penyalahgunaan dan/atau Penodaan Agama di Mahkamah Konstitusi Republik Indonesia beberapa waktu lalu. Kami menuntut agar UU itu dicabut. Sayang sekali kami kalah dalam Pengadilan itu. Dalam pandangan kami, perbedaan tafsiran atas sebuah ajaran agama adalah urusan internal agama sendiri yang harus diselesaikan ke dalam. 12 Di Indonesia Kristen dan Katolik dipilah sebagai dua agama yang berbeda. 10 Konghucu atau yang di belahan dunia lain dikenal sebagai Confucianisme untuk waktu yang lama tidak diakui. Baru di era pemerintahan Presiden Abdurrahman Wahid, Konghucu diakui sebagai agama. 11 Maka Operasi Sajadah yang dilakukan oleh Tentara Siliwangi di Bandung guna mengembalikan warga Ahmadiyah ke dalam Islam arus utama adalah 12 tindakan yang melampaui wewenang Negara. PGI (Persekutuan Gereja-Gereja di Indonesia) juga mendapat banyak permintaan dari warga jemaat, menuntut agar Saksi Yehovah dibubarkan oleh Pemerintah. Pendirian kami jelas. Kendati kami beranggapan bahwa 10 KERJASAMA)LINTASCAGAMA) Dalam uraian di atas terlihat kesan bahwa yang berhadapan hanyalah Kristen versus Islam. Kesannya memang begitu. Sebagai dua agama yang berasal dari nenek moyang yang sama (Abraham), dan yang

samaBsama"mempunyai"keajiban"menyiarkan"agama"yang"dianut,"maka"
potensiBpotensi"benturan"di"lapangan"tetap"ada."Kenyataan"ini"juga"sudah" sangat" berakar" di" dalam"
sejarah" dua" agama" tersebut." Dengan" agamaB agama" lain," kemungkinan" benturan" kecil" sekali."
Namun" demikian," kerjasama" lintas" agama" dilakukan" secara" intensif" dengan" semua" umat"
beragama."Berbagai"forum"lintas"agama"dibentuk,"semisal"InterGReligious/ Forum"
(IRF),"Badan"Kerjasama"Lintas"Agama,"dan"seterusnya."Di"kalangan"
civil/society"juga"dibentuk"berbagai"lembaga"seperti"Institute/for/Interfaith/ Dialogue/ (Interfidei)" di"
Yogyakarta," Masyarakat" Dialog" AntarBagama" (Madia)" di" Jakarta," Indonesian/ Council/ of/ Religion/
and/ Peace" (ICRP)" di" Jakarta,"Indonesian/Committee/of/Religion/and/Peace"(IComRP)"di"Jakarta,"
dan"sebagainya."Ada"kesadaran"bahwa"hak"dasar"warga"negara"di"dalam" beragama" harus" dibela."
Setiap" warga" negara" tidak" boleh" didiskriminasi" karena"agama"yang"dianutnya.""
LANGKAH)KE)DEPAN) " Bagaimanapun" kita" harus" terus" melangkah" ke" depan." Persoalan"
kebebasan"beragama"bukan"hanya"persoalan"spesifik"Indonesia."Di"manaB mana" dalam" dunia" ini,"
persoalan" ini" bisa" saja" muncul." Tetapi" Indonesia,"
yang"selama"ini"dikenal"sebagai"bangsa"yang"menjunjung"tinggi"kerukunan"
memang"menjadi"sorotan"dunia"karena"peningkatan"sikap"intoleransi"itu." Perserikatan" BangsaBBangsa"
(PBB)" juga" telah" memberi" perhatian"*****
Saksi"Yehovah"itu"sesat"(menurut"mata"gerejaBgereja"arus"utama),"tetapi"cap" itu" tidak" boleh"
digunakan" oleh" Pemerintah." Pemerintah" tidak" berwenang" menilai" apakah" sebuah" ajaran" agama"
sesat" atau" tidak" sesat." Pemerintah" bahkan" berkewajiban" melindungi" semua" warga" Negara" apapun"
keyakinan" mereka." 11"" terhadap"persoalan"kebebasan"beragama"di"Indonesia"itu."Dalam"sidang"
Komisi" Hak" Asasi" Manusia" PBB" di" Jenewa," Maret" 2011" lalu," Indonesia" disoroti." Navanethem"
Pillay," Komisioner" Tinggi" Hak" Asasi" Manusia" PBB"
telah" mempersoalkan"kecenderungan"intoleransi"di"Indonesia"itu."Ia"juga" telah" mengirim" surat" kepada"
Menteri" Luar" Negeri" Republik" Indonesia," Marty" Natalegawa" mempertanyakan" hal" itu." Semua"
langkah" ini" baik," tetapi"belum" cukup."
Kita"harus"terus"berjuang."Kami"di"Indonesia"akan"terus"melakukan"
advokasi"bersamaBsama"dengan"anggota"civil/society"yang"lain."Barangkali"
baik"untuk"ditegaskan"bahwa"pendidikan"kerukunan"bagi"generasi"muda" perlu" ditingkatkan." Komunitas"
internasional" juga" diminta" untuk"
memperjuangkan"dengan"tidak"hentiBhenti"kebebasan"beragama"dan" berekspresi" bagi" semua"
umat" beragama" ini." "Kerukunan" di" antara" umat" manusia" tidak" mungkin" terwujud," tanpa" ada"
kerukunan" di" antara" para" penganut" agamaBagama"," kata" Hans" Küng." Saya" kira" tepat" apa" yang"
dikatakannya."***** 12""***** 2)KEBEBASAN)BERAGAMA)DI)INDONESIA:)
SUMBANGSIH)PEMIKIRAN)TEOLOGI) REFORMED) Sutjipto)Subeno) ""* PENDAHULUAN) "
Kebebasan"Beragama"adalah"hak"asasi"yang"paling"mendasar"bagi"
seorang"manusia."Seseorang"akan"kesulitan"hidupnya,"ketika"ia"tidak"bisa" mengamalkan" imannya"
dengan" aman" dan" tenang." Di" lain" pihak," natur"
subyektif"manusia"dan"sifat"agama"yang"absolut"telah"membuat"kesulitan"
laten"yang"sulit"diatasi,"sehingga"menyebabkan"terjadinya"benturan"untuk" memperjuangkan" kebebasan"
agama" yang" tidak" mengganggu" kebebasan" beragama" insan" yang" beragama" lain." Tuntutan" dan"
pergumulan" ini" juga" terjadi" di" Indonesia," yang" mayoritas" berpenduduk" Muslim." Tulisan" ini"
memaparkan" sumbangsih" pemikiran" Teologi" Reformed" yang" dapat"
menjadi"pertimbangan"dalam"menggarap"kebebasan"beragama"di"negara" Bhinneka"Tunggal"Ika"ini.""
SaudaraBsaudara,"keinginan"hatiku"dan"doaku"kepada"Tuhan"ialah,"
supaya"mereka"diselamatkan."Sebab"aku"dapat"memberi"kesaksian"
tentang"mereka"bahwa"mereka"sungguhBsungguh"giat"untuk"Allah," tetapi" tanpa" pengertian" yang"
benar." Sebab," oleh" karena" mereka"
tidak"mengenal"kebenaran"Allah"dan"oleh"karena"mereka"berusaha" untuk" mendirikan" kebenaran"
mereka" sendiri," maka" mereka" tidak" takluk" kepada" kebenaran" Allah." Sebab" Kristus" adalah"
kegenapan" hukum"Taurat,"sehingga"kebenaran"diperoleh"tiapBtiap"orang"yang" percaya"

(Rasul"Paulus"di"dalam"Roma"10:1B4"ITB). " 13""

Problematika"kebebasan"beragama"adalah"salah"satu"isu"yang"terus" bergulir"dan"tidak"selesai"hingga"kini"(Setiawan, "2007;"Sayogie, "2013:"v)."

Ada"negara"negara"yang"memaksa"penduduknya"untuk"mengikuti"agama" atau" paham" tertentu" dan" tidak" memperkenankan" penduduknya" untuk" memiliki" kepercayaan" lain" selain" yang" dipegang" oleh" para" pemimpin" negara"atau"mayoritas"penduduknya."Ini"merupakan"penindasan"hak"asasi" mendasar" melalui" kekuasaan" (pemimpin" menindas" rakyat)," atau" penindasan" minoritas" oleh" mayoritas" (penduduk" mayoritas" menindas" penduduk" minoritas). " Dalam" pasal" 1" Undang"Undang" Nomor" 39" Tahun" 1999"Republik"Indonesia"tentang"HAM"disebutkan"bahwa:"" Hak" Asasi" Manusia" adalah" seperangkat" hak" yang" melekat" pada" hakikat" dan" keberadaan" manusia" sebagai" makhluk" Tuhan" Yang" Maha" Esa" dan" merupakan" anugerah"Nya" yang" wajib" dihormati," dijunjung" tinggi" dan" dilindungi" oleh" negara," hukum," Pemerintah,"

dan"setiap"orang"demi"kehormatan"serta"perlindungan"harkat"dan" martabat"manusia.""

Adalah"hak"setiap"orang"untuk"dapat"menganut"dan" mengamalkan" agamanya" masing"masing" dengan" bebas" dan" aman," tanpa" mengalami" intervensi" dari" pihak" manapun." Adalah" satu" kegagalan" kehidupan" masyarakat" yang" dewasa" apabila" hak" kebebasan" untuk" menganut" kepercayaan" ini" terganggu." Seluruh" bangsa" yang" besar" dan" agung"

akhlaknya"di"dunia"akan"dengan"serius"memikirkan"dan"memperjuangkan"

bagaimana"kebebasan"beragama"bisa"dipelihara"dengan"baik."Tidak"bisa" tidak," Indonesia" sebagai" bangsa" yang" terus" bertumbuh" membangun" dignitasnya," harus" secara" serius" memikirkan" bagaimana" menggarap" pengembangan" hak" asasi" manusia" dan" secara" khusus" kebebasan" beragama"setiap"rakyatnya." Ada" banyak" kendala" yang" perlu" disingkirkan" dan" pemikiran" yang" perlu" dikembangkan" di" dalam" membangun" kebebasan" beragama" di"

Indonesia."Dimulai"dari"sifat"agama"itu"sendiri,"fakta"pluralitas"agama"dan" kepercayaan" dimana" manusia" ternyata" tidak" seragam," berkeyakinan"

subyektif"dan"relatif,"serta"bagaimana"peranan"negara"di"dalam"masalah" kebebasan" beragama," merupakan" hal"yang" perlu" direnungkan." 14""

Ditambah"lagi,"agama"Islam"yang"merupakan"agama"mayoritas"penduduk"

Indonesia"secara"umum"cukup"sulit"menerima"prinsip"hak"asasi"manusia" dan" kebebasan" umat" beragama," meskipun" ada" pemimpin" dan" pemikir" Islam" yang" dengan" gigih" memperjuangkan" hal" tersebut" [March, " 2013;" Saeed, "2014].13"Di"sini"kita"melihat,"pertama,"pentingnya"peranan"sejarah" Indonesia,"khususnya"Pancasila"dan"UUD"1945,"serta"kedua,"sumbangsih" pemikiran" Kristen" (Teologi" Reformed/Calvinis)" menjadi" titik" berangkat" perjuangan" mendewasakan" dan" mempertumbuhkan" bangsa" Indonesia" menjadi"sebuah"bangsa"yang"agung"dan"besar"di"dalam"menggarap"hak" asasi" manusia" dan" praktik" kebebasan" umat" beragama." Tulisan" ini" mencoba"menyoroti"butir"yang"kedua."" KEBEBASAN)BERAGAMA:)MUSTAHIL?) " Pada" bagian" awal" ini" kita" dapat" melihat" bahwa" pesimisme" perjuangan" kebebasan" beragama" sebenarnya" memang" memiliki" alasan" yang" cukup" kuat."Ada"beberapa"hambatan"serius"perjuangan"kebebasan" umat"beragama"untuk"mengimani"dan"mempraktikkan"agamanya.""

Agama)Merupakan)Basis)Kepercayaan)dan)Kebenaran)Absolut)) " Sangatlah" tidak" sah" apabila" seseorang" mengatakan" menganut"

agama"tertentu"tetapi"tidak"meyakini"dengan"serius"bahwa"agamanya"itu" mutlak" benar." Agama" bukanlah" sekedar" sebuah" pengakuan." Seperti"

dikatakan"oleh"Dr."Halid"M.Ag., "penulis"buku"Quo/Vadis/Liberalisme/Islam/ Indonesia, " "Jika" ditarik" dalam" perspektif" simbolisme" dan" identitas"

keagamaan,"semua"agama"pada"dasarnya"bersifat"sektarian"dan"eksklusif." Sektarianitas" dan" eksklusivitas" ini" dapat" dilihat" dari" keyakinan" setiap".....

13"" Tentang"topik"ini"memang"masih"kontroversial,"karena"agama"Islam"diwakili"

oleh"banyak"golongan"dengan"berbagai"macam"paham,"seperti"juga"agama" pada" umumnya." Namun," fakta" intoleransi" di" kalangan" Islam" dan" negara"

Islam"sangat"menonjol,"dibanding"dengan"agama"lainnya." 15""

pemeluknya"bahwa"agama"yang"dianutnya"adalah"yang"paling"benar"dan" baik"(Sayogie,"2013:"v)"
Seorang"Kristen"sudah"seharusnya"dan"sewajarnya"meyakini"bahwa" agama" Kristen" itulah" yang" paling"
baik" dan" benar" (2" Timotius" 3:16" ITB;""

2"Petrus"1:20B21"ITB;"Wahyu"22:18B19"ITB);"demikian"pula"seorang"Muslim" sudah" seharusnya" dan"
sewajarnya" meyakini" bahwa" agama" Islam" itulah" yang" paling" baik" dan" benar" (Surah" Ali" Imran"
ayat" 19)." Keyakinan" sedemikian" juga" kita" akan" temui" pada" penganut" agama" Hindu," Buddha," atau"
aliran" kepercayaan" apapun," bahkan" Atheisme." Hal" ini" menjadi" kendala" utama" di" dalam"
menggarap" hak" asasi" manusia" dan" kebebasan" umat"beragama." Namun," keyakinan" bahwa" agama"
yang" dianut" adalah" kebenaran" mutlak," tidak" seharusnya" menjadi" dasar" untuk" menghina" dan"
mempersalahkan"penganut"agama"yang"lain."Seperti"kita"meyakini"secara" subyektif" apa" yang" kita"
anggap" benar," kitapun" harus" menghargai" orang" lain" yang" secara" subyektif" meyakini" apa" yang" ia"
anggap" benar." Oleh" karena" itu," merupakan" tuntutan" wajar" bagi" setiap" umat" manusia" untuk"
belajar"mengapresiasi"agama"lain."Agama"yang"besar"adalah"agama"yang" mampu" mendidik" umatnya"
untuk" bisa" menghargai" bahwa" ada" orangB orang"lain"yang"mempercayai"agama"yang"lain."""

Agama)Merupakan)Kepercayaan)Praksis" "

Kepercayaan"sejati"akan"menyatu"dengan"seluruh"gerak"dan"tindak" keseharian" seseorang." Agama"
yang" tidak" menyatu" dengan" kehidupan" seseorang" belumlah" menjadi" kepercayaan" orang" tersebut."
Iman" Kristen" menuntut"apa"yang"dipercayai"harus"dilakukan"bukan"dengan"sekedarnya," tetapi" dengan"
sempurna." Rasul" Paulus" mendoakan:" "Akhirnya," saudaraB saudaraku," bersukacitalah," usahakanlah"
dirimu" supaya" sempurna." Terimalah"segala"nasihatku!"Sehati"sepikirlah"kamu,"dan"hiduplah"dalam"
damai" sejahtera;" maka" Allah," sumber" kasih" dan" damai" sejahtera" akan" menyertai" kamu!"" (2"
Korintus" 13:11)." Rasul" Yakobus" juga" mengatakan:" "Dan" biarkanlah" ketekunan" itu" memperoleh"
buah" yang" matang," supaya" kamu" menjadi" sempurna" dan" utuh" dan" tak" kekurangan" suatu"
apapun"" (Yakobus" 1:4)." Itu" berarti" seluruh" kehidupan" iman" harus" nyata" dalam" 16""
kehidupan"sehariBhari"di"dalam"keluarga,"di"dalam"pekerjaan,"termasuk"di"
dalam"tatanan"ekonomi,"politik,"sosial,"dan"kehidupan"bernegara"lainnya."

OrangBorang"Kristen"dipanggil"untuk"menjadi"saksi"firman"Tuhan"di"tengah"
dunia."Demikian"pula"di"dalam"Islam."Upaya"formalisasi"syariah"ini"sering" menjadi" masalah" di" dalam"
hubungan" hukum," otoritas" negara," dan" kebebasan" umat" beragama" (Sayogie," 2011:" 75dst.)." Tidak"
terkecuali," meskipun" tidak" sekuat" Yahudi," Kristen" dan" Islam," maka" agama" Buddha," Hindu," dan"
agamaBagama" lainnya," juga" memiliki" pemikiran" yang" sama;" yaitu" bagaimana" kehidupan" iman"
mereka" harus" nyata" di" ranah" publik," dipraktikkan" di" dalam" kehidupan" sehariBhari" dan" tidak"
tersembunyi." Kehidupan"iman"bukan"hanya"di"ranah"privat."Iman"dan"kehidupan"nyata"
adalah"kesatuan"utuh"dari"pribadi"seseorang."""

Iman"yang"nyata"dalam"kehidupan"sosial,"ekonomi,"politik"dan"lainB lain," seringkali" mengakibatkan"
terjadinya" benturan" antara" implikasi" agama" yang" satu" dengan" yang" lain." Kejadian" memaksa"
semua" restoran" dan" warung" harus" tutup" di" bulan" puasa" menjadi" salah" satu" contoh" yang"
banyak" kita" temukan.""" Agama)Menuntut)Pengembangan)untuk)Kelanggengan") Setiap" agama" selalu"
memiliki" sifat" universal," sehingga" selalu" akan" berharap" orangBorang" lain" yang" belum" menganut"
iman" kepercayaan" tersebut" bisa" diyakinkan" dan" diajak" untuk" percaya." Di" dalam" aspek" ini"
seringkali" terjadi" ketegangan" karena" ketidaknyamanan" pihak" lain" yang" anggotanya" kemudian"
berpindah" agama." Namun," sifat" universal" agama"
tidak"bisa"dihilangkan,"karena"ini"merupakan"suatu"natur"pertahanan"diri" untuk" menjaga" kelanggengan"
keberadaan" agama" tersebut." Agama" yang"
terlalu"tertutup,"eksklusif,"tidak"bersifat"universal"dan"ekspansif,"perlahan" tapi" pasti," akan" punah."
Maka," tidak" bisa" tidak," pembicaraan" tentang" hak"

kebebasan"beragama"haruslah"di"dalamnya"juga"tercakup"hak"kebebasan" untuk" membicarakan" dan"
mengajak" orang" lain" untuk" mengenal" dan" berpindah"ke"kepercayaan"yang"baru." Sekalipun" ada"
upaya" untuk" menekankan" bahwa" iman" atau" agama" adalah" urusan" personal," dan" memang" ada"
elemen" tersebut" di" dalam" agama," tidak" bisa" dipungkiri" fakta" bahwa" agama" selalu" bersifat"
komunal" 17"" dan" publik."Agama"yang"hanya"dianut"oleh"satu"orang"tidak"bisa"disebut" agama." Seperti"

diungkap" di" atas," upaya" pengembangan" agama," penginjilan" dalam" konteks" Kristen," atau" dakwah" dalam" konteks" Islam," seringkali" menimbulkan" ketegangan," apalagi" dengan" adanya" orang" Borong" yang" berhasil" diyakinkan" dan" kemudian" memilih" berpindah" ke" agama" yang" lain."

Dalam" praktiknya," upaya" penyebaran" agama" terkadang" dilakukan" tanpa" memperhatikan" dignitas" manusia" dan" hakikat" agama," sehingga" terjadilah" tindak" non" Betis," seperti" menggunakan" tekanan" politik" atau" kekuasaan," menggunakan" intimidasi" ekonomis," iming" Biming" hadiah" atau" keuntungan," sampai" ancaman" dan" tindak" kekerasan." Hal" Bhal" seperti" ini" menyebabkan" pesimisme" dalam" upaya" menggarap" kebebasan" umat" beragama." TUNTUTAN)TOLERANSI)PLURALISME)AGAMA) " Namun," di" lain" pihak," kita" tidak" bisa" mundur," karena" kebebasan" umat" beragama" adalah" keharusan" mutlak" ada" di" dalam" sebuah" masyarakat" majemuk" demi" kesejahteraan" dan" kemajuan" masyarakat" itu" menjadi" bangsa" yang" agung" dan" besar." Ada" beberapa" hal" yang" harus" kita" pertimbangkan."

Fakta)Pluralisme)Kepercayaan) " Sekalipun" harus" mengakui" adanya" eksklusivitas" dan" absolutitas" agama," kita" tentu" tidak" mau" menutup" mata" terhadap" fakta" bahwa" agama" ternyata" tidak" satu." Sekalipun" kebenaran" dan" Allah" adalah" tunggal,"

namun" manusia" yang" relatif" dan" subyektif" tidak" mudah" menemukan" dan" mengenal" kebenaran" asasi" dan" Allah" yang" benar." Muncullah" berbagai"

konsep" tentang" Allah" yang" masing" Masing" diyakini" begitu" serius" oleh" para"

penganutnya." Demikian" pula" ada" berbagai" keyakinan" akan" apa" yang" benar" dan" apa" yang" salah." " Kalau" semua" agama" sama," tentu" tidak" akan" banyak" ragamnya," kalau" banyak" ragamnya," berarti" pasti" tidak" sama," tetapi" sama" sama" 18"

mengaku" mutlak" benar." Ketika" setiap" agama" mengakui" kemutlakannya," di"

dalamnya" sudah" tersirat" fakta" bahwa" di" dalamnya" ada" yang" salah." Maka" diperlukan" kerendahan" hati" untuk" mengakui" hanya" ada" satu" absolut" sejati."

Dr." Ambassador" Robert" A." Seiple," di" dalam" buku" Does/ Human/ Rights/ Need/ God? " (Bucar," 2005," p.271)," mengungkapkan" pluralisme" sebagai"

elemen" utama" kebebasan" beragama." Komponen" kebebasan" beragama" ini" mencakup:" pluralisme," kemerdekaan" hati" nurani," kebebasan" memeluk" imannya" sendiri," toleransi" dan" saling" menghormati," keamanan" pribadi," dan" kestabilan" institusional." Tanpa" kesadaran" fakta" pluralisme" agama," maka" akan" ada" kecenderungan" berkembangnya" fanatisme" sempit" yang" tidak" bisa" menghargai" bahwa" pikiran" kita" adalah" pikiran" yang" sangat"

subyektif" dan" bahkan" seringkali" perlu" dievaluasi" kembali." Belum" tentu" kita"

salah," tetapi" juga" belum" tentu" benar." " " Ketegangan) antara) Kebenaran) Obyektif) dan) Subyektif) "

Permasalahan" kedua" yang" sangat" pelik" adalah" penyamaan"

ketidaksamaan" antara" kebenaran" agama" yang" obyektif" dengan" kebenaran"

subyektif" penganutnya." Agama" pada" dirinya" mengandung" suatu" tuntutan"

kebenaran" yang" dianggap" obyektif," yang" harus" dianut" oleh" setiap" manusia."

Namun," pada" saat" yang" sama" semua" penganut" agama" menyadari" bahwa"

tidak" satupun" mereka" yang" menganut" agama" yang" sama" akan" mencapai"

keseragaman" absolut" akan" pengertian" agama" mereka" sendiri."

Setiap" penganut" agama" tertentu" selalu" terpecah" ke" dalam" berbagai"

macam" aliran," dimana" mereka" tidak" bisa" saling" menerima" satu" terhadap"

yang" lain." Tingkat" penolakan" dan" ketegangan" yang" timbul" berbeda" Bbeda," dari" yang" kecil" hingga" yang"

sangat" bermusuhan." Maka" kita" harus" menyadari" fakta" sifat" subyektif" penganut" agama," seharusnya" membuktikan" relativitas" dari" asumsi" absolut" agama" itu" sendiri."

Seharusnya" kesadaran" ini," sekalipun" tidak" perlu" menghilangkan" keyakinan" absolut" yang" dipegang" oleh" setiap" pribadi," tetapi" secara" paradoks" juga"

bisa" menghargai" bahwa" keyakinan" yang" dipegang" orang" lain" tidak" boleh" dihina" atau" dilecehkan"

karena" dianggap" mutlak" salah." Pemahaman" ini" 19" tentu" akan" membawa" kita" lebih" menghargai"

kebebasan" setiap" pribadi" menganut" agama" atau" keyakinannya" masing" Masing." " " "

PENGENALAN)TEOLOGI)REFORMED:)PEMIKIRAN)DASAR) " Kebebasan" Beragama" (Religious/

Freedom)," khususnya" di" Amerika" Serikat," digagas" oleh" Thomas" Jefferson" (1743B1826)," seringkali"

disalahmengerti" sebagai" dikotomi" antara" Negara" Kristen" atau" Negara" Sekuler" (Ragosta," 2013:3)." Amerika" Serikat" bukanlah" negara" Kristen."

Namun,"bukan"berarti"jika"Amerika"Serikat"tidak"menjadi"negara"Kristen," maka" otomatis" harus" menjadi" negara" sekuler." Pada" mata" uang" Amerika" Serikat" jelas" tertulis" "In/ God/ We/ Trust"" (Kami" percaya" kepada" Allah)." Jefferson" memaknai" Religious/ Freedom" sebagai" Religious/ Liberty," yaitu" kemerdekaan" setiap" orang" untuk" memiliki" pikirannya" (baca:" kepercayaannya)" masing-masing" tanpa" diganggu" atau" ditekan" oleh" negara" atau" tiran" tertentu" (Ragosta," 2013:" 1)." Inilah" yang" dipikirkan" di" dalam" Teologi" Kristen," khususnya" dalam" pemikiran" kaum" Puritan" yang" membawa"Teologi"Reformed"dari"Eropa"ke"Amerika."(Halls,"2011:"281)."

John)Calvin:Hukum,)Alkitab)dan)Kehidupan)"

Teologi"Reformed"atau"disebut"juga"Teologi"Calvinis"dibangun"oleh" John" Calvin" (1509B1564)" yang" berlatar" belakang" pendidikan" formal" di" bidang"hukum."Lulus"sebagai"Magister"Filasafat" (Master/of/Philosophy)"dari" sekolah" ternama" College/ de/ Montaigu" di" usia" 18" tahun" (th." 1527)," dan" selesai" studi" Doktor" Hukum" dari" University/ of/ Orleans" di" Paris" pada" usia" 23" tahun" (th." 1532)" dengan" disertai" "Commentary/ on/ the/ Seneca's/ De/ Clementia.""

(Holder,"2015)."Namun,"Calvin"juga"sangat"mendalami"bahasa" Latin," Yunani" dan" Ibrani," yang" merupakan" bahasa" Alkitab" saat" itu." Latar"

belakang"formal"hukum"dan"studi"informal"teologi"menjadikan"ia"mampu" membangun" integrasi" kuat" teologi" yang" berbasiskan" Alkitab" secara" mendalam." Konsep" hukum" mengharuskan" ahli" hukum" menghargai" kesetiaan"kepada"teks"dan"juga"kesatuan"seluruh"teks."Satu"naskah"hukum" haruslah" dimengerti" sebagai" satu" kesatuan" utuh" dan" menjadi" dasar" 20""

pengambilan"keputusan"hukum."Kesadaran"bahwa"Alkitab"adalah"wahyu"

Allah,"mengharuskan"kita"mengerti"hal"ini"lebih"serius"lagi."" Di" dalam" buku" utamanya," The/ Institutes/ of/ the/ Christian/ Religion/ (ICR)," John" Calvin" mengungkapkan" bagaimana" seharusnya" kehidupan" orang" Kristen" dimulai" dari" mengenal" Allah" dan" mengenal" diri." Inilah" bijaksana" dasar" yang" menuntun" kehidupan" keagamaan" yang" sejati" (ICR" I.i.1)." Kehidupan" iman" bukanlah" suatu" fanatisme" sempit," tetapi" suatu" kepercayaan" yang" didasarkan" pada" pengertian" yang" komprehensif" dimana" bijaksana" manusia" menjadi" landasan" pijaknya." Inilah" dasar" kita" mengerti" relasi" manusia" dengan" imannya." Maka" tidak" ada" artinya" seseorang" memeluk" suatu" agama," jika" itu" adalah" hasil" penindasan" ataupun" bukan" merupakan" seluruh" pengabdian"nya," melainkan" hanya" sekedar" sebuah" pengakuan" iman" secara" verbal" tanpa" integritas" antara"

pengenalan"terhadap"Allah"yang"ia"sembah,"pengenalan"terhadap"dirinya"

berikut"seluruh"sikap"dan"tindakannya."" Teologi)Reformed)dan)Mengerti)Anugerah") Salah" satu" prinsip" penting" yang" dipegang" oleh" gerakan" Reformasi" adalah" Sola/ Gratia" (Hanya" Anugerah" Saja)."

Mengutip" Efesus" 1:17," John" Calvin"dalam"InstitutesGnya"menyatakan:"""

Paulus"menolak"kemampuan"manusia,"dan"sebaliknya"menyatakan" itu" hanyalah" kemampuan" Tuhan" semata," ketika" ia" berdoa:" "Dan" meminta" kepada" Allah" Tuhan" kita" Yesus" Kristus," yaitu" Bapa" yang" mulia"itu,"supaya"la"memberikan"kepadamu"Roh" hikmat"dan"wahyu" untuk" mengenal" Dia" dengan" benar"" (Efesus" 1:17)." Engkau" mendengar" bahwa" semua" hikmat" dan" wahyu" adalah" anugerah" Allah."Semua"itu:""supaya"la"menjadikan"mata"hatimu"terang,""yang" berarti:" jika" dibutuhkan" suatu" pencerahan" baru," seharusnya" kondisi" mereka" buta." Dilanjutkan:" "agar" kamu" mengerti" pengharapan" apakah" yang" terkandung" dalam" panggilanBNya"" (Efesus" 1:18)." Dengan" kata" lain," pikiran" manusia" tidak" lagi" berkapasitas"untuk"bisa"mengenal"panggilannya."(ICR,"II.ii.21)""

Prinsip"anugerah"menjadi"prinsip"Kristen"yang"berbeda"dari"banyak" pemikiran" agama" pada" umumnya." Iman" Kristen" dimulai" dengan" 21"" kesadaran" manusia" berdosa" dan" Allah" beranugerah." Setiap" manusia" sudah" memberontak" kepada" Allah" yang" menyebabkan" mereka" mengalami" kebutaan" rohani." Inilah" esensi" dosa." Allah" murka" kepada"

mereka"yang"mempermainkan"Allah"dan"kebenaranBNya,"yang"tidak"mau" taat" dan" menghormatiBNya." Maka" Allah" menyerahkan" mereka" kepada" permainan" pikiran" mereka" sendiri" sehingga" menjadi" gelap," dan" mulai" menggantikan" Allah" yang" sejati" dengan" allahBallah" palsu," seperti" yang" Rasul" Paulus" katakan" di" dalam" surat" Roma" (Roma" 1:18B23)." Selanjutnya"

Paulus berkata kepada jemaat di Roma: "Karena semua orang telah berbuat dosa dan telah kehilangan kemuliaan Allah, dan oleh kasih karunia telah dibenarkan dengan cuma-cuma karena penebusan dalam Kristus Yesus (Roma 3:23-24 ITB) dan..."

Sebab upah dosa ialah maut; tetapi karunia Allah ialah hidup yang kekal dalam Kristus Yesus, Tuhan kita (Roma 6:23 ITB). "Disini kita melihat bahwa manusia sudah berdosa dan upahnya adalah kematian. Tetapi Allah juga adalah Allah yang maha kasih. Ia membuka jalur keselamatan agar manusia bisa bertobat dan kembali kepadaNya. Allah yang berinisiatif dan beranugerah, sehingga seseorang bisa mengenal Allah, bertobat dari dosa-dosanya, dan mau hidup mengasihi Allah dan sesamanya. Kapasitas seperti ini bukanlah kemampuan manusia. Semua ini merupakan pekerjaan Roh Kudus secara internal di dalam diri setiap umat yang Allah pilih. Inilah yang duraikan sepanjang satu jilid oleh John Calvin dan merupakan dasar dari berdirinya gereja yang sejati (ICR, buku III). Calvin mengatakan: "Alkitab menunjukkan bahwa semua pekerjaan kita anggap pantas tetap tidak memadai dalam pandangan Allah, karena penuh dengan kenajisan; Demikian pula, ketaatan sempurna kepada hukum Taurat (jikapun dapat dilakukan) hanya sampai pada pengakuan, Demikian jugalah kamu. Apabila kamu telah melakukan segala sesuatu yang ditugaskan kepadamu, hendaklah kamu berkata: Kami adalah hamba-hamba yang tidak berguna; kami hanya melakukan apa yang kami harus lakukan." (Lukas 17:10); karena kita tidak membawa apapun yang lebih dari apa yang Tuhan menuntut, melainkan hanya melakukan pelayanan yang pantas dan seharusnya dilakukan. Namun pekerjaan baik yang telah Tuhan berikan kepada kita, Ia perhitungkan sebagai perbuatan baik kita, dan mengakui bahwa semua itu bukan hanya Ia terima tetapi juga Ia beri upah. Sebaliknya, adalah tugas kita untuk dibangunkan oleh janji yang sedemikian besar untuk tetap berani tidak jemu-jemu berbuat baik (band. Galatia 6:9; 2 Tesalonika 3:13) dan menerima kebaikan Allah dengan penuh rasa syukur. Tidak bisa diragukan bahwa setiap perbuatan yang layak dipuji adalah berasal dari anugerah Allah; tidak ada satu partikelpun yang boleh kita anggap milik kita. Jika kita benar-benar serius dan mengakui hal ini, tidak hanya keyakinan kita, tetapi setiap ide tentang jasa akan hilang. Kita tidak memilah pekerjaan baik yang merupakan bagian Allah atau manusia, seperti dilakukan para Sofis, tetapi kita menyerahkan sepenuhnya, lengkap, dan tak terpotong untuk Tuhan (ICR III.xv.3). Pengertian dan kesadaran akan anugerah Allah menjadikan orang Kristen sangat menyadari bahwa kebebasan beragama adalah hal yang sangat perlu dihargai. Maka kita harus menghargai orang-orang yang memiliki kepercayaan berbeda dengan kita. Kita harus menghargai upaya setiap orang untuk memeluk agamanya, karena kita mengetahui tidak semua orang mendapatkan anugerah yang sama. Tetapi di lain pihak, sebagai orang Kristen kita juga harus mendoakan agar ada orang-orang yang bisa mengenal iman Kristen yang membenarkan dan menyelamatkan berdasarkan anugerah Allah ini. Kalau Allah itu Allah yang beranugerah, tentulah kapasitas dan tindakanNya tidak ditentukan oleh manusia, sebaliknya Dialah yang menentukan dan memberikan anugerah kepada siapa Dia mau beri. Kalau Allah bisa didikte oleh manusia, apalagi bergantung kepada keputusan dan keinginan manusia, maka ia bukan Allah. (23 Teologi) Reformed dan Dignitas Manusia)) Iman Kristen menghargai hak asasi manusia dan kebebasan beragama, karena iman Kristen sangat menekankan dignitas manusia, karena dicipta begitu mulia. Allah berkata: "Berfirmanlah Allah: Baiklah Kita menjadikan manusia menurut gambar dan rupa Kita, supaya mereka berkuasa atas ikan-ikan di laut dan burung-burung di udara dan atas ternak dan atas seluruh bumi dan atas segala binatang melata yang merayap di bumi. Maka Allah menciptakan manusia itu menurut gambarNya, menurut gambar Allah diciptakanNya dia; laki-laki dan perempuan diciptakanNya mereka (Kejadian 1:26-27 ITB). John Calvin menegaskan kembali pengajaran Alkitab bagaimana manusia dicipta begitu mulia. Dia mengatakan (ICR, I.xv.1): "Kini kita berbicara tentang penciptaan manusia, bukan hanya karena di antara semua karya Tuhan, manusia adalah ciptaan yang paling mulia, dan merupakan ciptaan yang paling mengagumkan dari keadilanNya, kebijaksanaanNya,"

dan" kebaikanBNya," namun" juga" seperti" diutarakan" sebelumnya," kita" tidak" dapat" mengenal" Allah"jika"pengenalan"tentang"diri"Kita"sendiri"belum"ditambahkan."

... "Allah"telah"menjadikan"manusia"bukan"sekedar"debu"tanah"yang" dihidupkan,"tetapi"menjadikan"tempat"tinggal"RohBNya"yang"kekal," sehingga" Adam" mungkin" memperoleh" kemuliaan" dalam" kemurahan"besar"Penciptanya."

Pengertian"ini"membawa"kesadaran"bahwa"setiap"manusia,"bahkan" mulai" dari" kanakBkanak" sekalipun" adalah" makhluk" yang" begitu" agung," dicipta"menurut"gambar"dan"rupa"Tuhan"Allah"sendiri,"sehingga"berhidup" kekal." Tuhan" Yesus" mengajarkan:" "Apa" gunanya" seorang" memperoleh" seluruh" dunia" tetapi" kehilangan" nyawanya?" Dan" apakah" yang" dapat" diberikannya" sebagai" ganti" nyawanya?" (Matius" 16:26)." Nyawa" manusia" begitu"bernilai." Manusia" tidak" seharusnya" menghina," apalagi" mencelakakan" sesamanya," walaupun" orang" itu" berbeda" keyakinan" dengan" dirinya." Diskriminasi" adalah" penghinaan" kepada" dignitas" manusia," dan" sekaligus" 24"" penghinaan"terhadap"Allah"penciptanya,"apalagi"ketika"berdampak"pada" upaya" mencelakakan" orang" lain" yang" berbeda" keyakinan." Kesadaran" dignitas"manusia"membangun"sikap"yang"toleran"terhadap"mereka"yang" berbeda" agama" dan" sangat" mendukung" kebebasan" beragama" setiap" orang." (Teologi)Reformed)dan)Kedaulatan)Allah) " John"Calvin,"mengikuti"Bapa"Gereja"Agustinus,"sangat"menekankan" Allah" yang" berdaulat." Hal" ini" adalah" konsekuensi" logis" dan" fakta" riil" tentang" siapa" Tuhan" Allah" itu" sendiri." Allah" sejati" adalah" Allah" yang" berdaulat." Namun," Allah" berdaulat" bukan" berarti" Allah" adalah" diktator." Banyak" ketegangan" jika" kita" percaya" bahwa" Allah" adalah" Allah" yang" diktator," sewenangBwenang," dan" kejam." Jika," sadar" atau" tidak" sadar," penganut" agama" percaya" Allahnya" diktator" dan" tidak" memberikan" hak" kebebasan" manusia" untuk" melakukan" pilihannya," maka" ia" juga" akan" cenderung"bersikap"diktator"dan"sangat"intoleran." Alkitab" dari" sejak" pertama" memberikan" kepada" manusia" pengertian" bahwa" Allah" yang" telah" dengan" sengaja" meletakkan" pohon" tentang" pengetahuan" yang" baik" dan" jahat" di" tengah" taman" Eden," dan" memberikan" perintah" untuk" tidak" memakan" buahnya." Disini" manusia" pertama" kali" memiliki" pilihan" yang" harus" dipertanggungjawabkan." Dia" makan"akan"mati,"jika"tidak"makan"dia"akan"hidup."Ada"tindakan"pilihan" dan" ada" konsekuensinya." Inilah" keinginan" manusia" yang" diimplementasikan"dalam"kebebasan"yang"Allah"berikan"kepada"manusia" untuk" memilih." Allah" ingin" manusia" memilih" dengan" benar," namun" manusia"memilih"untuk"melawan"Allah"dan"jatuh"ke"dalam"dosa." Calvin" membedakan" tiga" kebebasan" pilihan," yaitu:" kebebasan" kepekaan" (sensitif)," kebebasan" kebinatangan" (animal)," dan" kebebasan" rohani"(spiritual)."Kebebasan"kepekaan"dan"kebinatangan"bisa"dilakukan" oleh" manusia" dengan" sepenuhnya," sementara" kebebasan" rohani" tidak" (ICR, II.ii.5)." Kebebasan" rohani" atau" agama" tidak" lagi" bisa" diperoleh" manusia," karena" manusia" sudah" mengambil" sikap" melawan" Allah" dan" menjadikan" dirinya" pengganti" Allah." Kebebasan" rohani" manusia" telah" disalahgunakan"untuk"melawan"Allah"dan"kedaulatanBNya." 25"" Allah" berdaulat" karena" Allah" berkuasa" menjalankan" apa" yang" Ia" tegaskan" dan" menghukum" mereka" yang" melawan" kebenaranBNya." Allah" juga" berdaulat" karena" Allah" bisa" menjaga" agar" hukumnya" bisa" berjalan" konsisten," sehingga" manusia" yang" taat" akan" menikmati" kenyamanan" bersama" Allah." Di" dalam" kedaulatanBNya" Allah" memberikan" kepada" manusia" untuk" memilih" mentaati" atau" melawan" diriBNya." Disinilah" kebebasan"agama"terjadi"dan"dipahami"keberadaannya."

TEOLOGI)REFORMED)DAN)KEDEWASAAN)MASYARAKAT) " Di" dalam" menyikapi" upaya" problema" hak" asasi" manusia" dan" kebebasan" beragama," Teologi" Reformed" ingin" menyumbangkan" dua" pemikiran" dasar," yaitu:" 1)" mengajak" pentingnya" mendewasakan" pemikiran" dan" kehidupan" masyarakat" (the/ maturity/ of/ society)" dan" 2)" menyadari"signifikansi"dan"tanggung"jawab"pemerintah"dan"hukum." Dalam" aspek" kedewasaan" masyarakat," kita" bisa" melihat" beberapa" hal"yang"bisa"Kita"kerjakan."

Hakikat)Agama)dan)Penyembahan) " Pada" titik" awal" masyarakat" perlu" dibawa" mengerti" hakikat" agama." Abraham" Kuyper" (1837B1920)," seorang" teolog" besar," mantan" perdana" menteri" Belanda," mengungkapkan" bahwa" kekuatan" Teologi" Reformed" yang" dapat" memberikan" pengaruh" positif"

kepada "bangsaBbangsa" adalah karena:"pertama,"pengertian"agama"itu"sendiri,"lalu"bagaimana"agama"itu" dimanifestasikan" di" dalam" kehidupan" gereja," dan" kemudian" sampai" masuk"ke"dalam"kehidupan"praktis"(2005:"43)." Calvin" mengajak" seluruh" umat" Kristen" dan" bahkan" setiap" orang," untuk" kembali" menguji" pengertian" agama," setelah" terselewengkan" oleh" teologi" Katolik" pada" zamannya." Pada" umumnya," dan" juga" terjadi" pada" zaman" Calvin," agama" adalah" agama" yang" berpusat" pada" diri" dan" demi" kepentingan" manusia" (Kuyper," 2005:" 45)." Hal" ini" bukanlah" esensi" agama" sejati." Jika" Allah"adalah"Allah,"maka"la"harus"menjadi"pusat"penyembahan" 26"" manusia,"pusat"ketaatan"manusia,"dan"pusat"seluruh"kehidupan"manusia." Allah"ada"bukan"untuk"manusia,"tetapi"manusia"harus"hidup"untuk"Allah."" Teologi"Reformed"memberikan"kepada"manusia"reposisi"yang"tepat" akan"Allah"dan"manusia."Dalam"kecenderungan"sifat"keagamaan"manusia," terjadi" suatu" kerancuan" dan" kegagalan" religius" yang" fatal." Manusia" mengakui" Allah" berada" di" atas" manusia" dan" berhak" mengatur" manusia;" tetapi"di"lain"pihak,"manusia"ingin"mengatur"Allah"agar"bisa"mengikuti"apa" yang"ia"inginkan,"dan"akan"marah"besar"kepada"Allah,"jika"Allah"tidak"mau" tunduk" dan" menjalankan" apa" yang" manusia" inginkan." Ini" yang" merusak" seluruh" kehidupan" keagamaan," karena" manusia" ingin" menjadi" Allah." Secara"teori"kita"mengakui"Allah"di"atas"manusia;"tetapi"secara"praktis"kita" menerapkan"manusia"di"atas"Allah."" Dengan" pengenalan" yang" benar" akan" Allah" dan" manusia," barulah" manusia"bisa"berelasi"dengan"sesamanya"dan"dengan"alam"sekelilingnya." Di"sini"titik"berangkat"pengertian"agama"yang"menjadi"akar"permasalahan" dari"relasi"antaragama"dan"juga"kebebasan"beragama."" Ketika" kita" mengerti" bahwa" setiap" orang" bertanggung" jawab" kepada" Allah," manusia" tidak" perlu" sedemikian" agresif" terhadap" sesamanya" yang" berbeda" agama" dengan" dirinya." Allah" tidak" butuh" bantuan"manusia."Allah"hanya"ingin"agar"manusia"mau"taat"kepadaBNya." Biarlah"Tuhan"yang"akan"menguji"dan"menghakimi"siapa"yang"menenal" Allah" yang" benar," yang" lebih" taat" dan" mengakui" Dia" berdaulat" dalam" kehidupan"sehariBharinya."" (Agama)dan)Kasih) " Agama"juga"adalah"suatu"keyakinan"yang"membangun"satu"bentuk" dan"kualitas"kehidupan"tertentu."Esensi"agama"seyogyanya"menjadi"dasar" pembentukan" kualitas" hidup" pengikutnya," yang" nyata" dalam" kehidupan" keseharian" pengikutnya." Seorang" yang" mempercayai" bahwa" AllahBnya" adalah" Allah" yang" penuh" kasih" dan" maha" suci," akan" membentuk" satu" kehidupan"yang"juga"belajar"taat"dan"mengikuti"tuntutan"imannya."Calvin" menekankan"bahwa""di"dalam"semua"agama,"Allah"sendiri"harus"menjadi" kekuatan" yang" aktif." Dialah" yang" harus" menjadikan" kita" religius," Dialah" yang" memberikan" kepada" kita" disposisi" (kecenderungan)" religius," 27"" bukannya"dibiarkan"dengan"kekuatan"kita"sendiri"" (ibid:"49)."Untuk"itu"kita" harus" kembali" kepada" inti" keagamaan" sejati." Agama" sejati" adalah" upaya" menghidupkan"sifat"asasi"yang"Allah"ingin"manusia"kerjakan"seturut"sifat" ilahi" itu" sendiri." Jika" Allah" itu" penuh" kasih," kehidupan" umatBNya" juga" penuh" kasih." Jika" Allah" itu" penuh" kebencian," maka" kehidupan" umatnya" juga" penuh" kebencian." Tetapi" tentu" kita" tidak" percaya" Allah" yang" sejati" adalah" Allah" yang" penuh" kebencian." Agama" pada" umumnya" ingin" mengajarkan"Allah"yang"penuh"kasih." Inti" seluruh" Alkitab" dan" iman" kepercayaan" Kristen" adalah" kasih." Tuhan" Yesus" berkata" kepada" orangBorang" yang" bertanya" kepadaBNya" tentang"inti"dan"hakikat"hukum"agama"dan"Taurat:"" Kasihilah" Tuhan," Allahmu," dengan" segenap" hatimu" dan" dengan" segenap" jiwamu" dan" dengan" segenap" akal" budimu." Itulah" hukum" yang" terutama" dan" yang" pertama." Dan" hukum" yang" kedua," yang" sama" dengan" itu," ialah:" Kasihilah" sesamamu" manusia" seperti" dirimu"sendiri."Pada"kedua"hukum"inih"tergantung"seluruh"hukum" Taurat"dan"kitab"para"nabi."(Matius"22:37B40)." Bahkan" ditekankan" bahwa" Allah" adalah" Kasih." Alkitab" mencatat:" "Barangsiapa"tidak"mengasihi,"ia"tidak"menenal"Allah,"sebab"Allah"adalah" kasih"" (1"Yohanes"4:8)."Dengan"demikian"ada"penekanan"keras"bagaimana" orang" Kristen" Bbahkan" seharusnya" setiap" yang" menyebut" diri" manusiaB" mengasihi"sesamanya."" Dalam" firman" Tuhan" yang" tercatat" di" awal" tulisan" ini" (Roma" 10:1B 3)," Rasul" Paulus" mendoakan" mereka" yang" belum" sungguhBsungguh" memiliki"iman"yang"sama"seperti"yang"ia"mengerti."Mereka"adalah"orangB orang"

beragama" yang" kelihatannya" beribadah," namun" menurut" Paulus," tanpa" pengertian" yang" benar." Di" sini" kita" bukan" memusuhi" apalagi" mencelakakan" mereka" yang" berbeda" iman" atau" belum" mengerti," tetapi" mengasihi" mereka" dan" mendoakan" mereka. "" Prinsip" kepercayaan" sedemikian" sangatlah" sejalan" dengan" prinsip"

hak" asasi" manusia" dan" kebebasan" beragama;" hak" hidup" manusia," hak" manusia" memiliki" kepercayaannya" tanpa" perlu" orang" lain" menekannya"

atau" berbuat" hal" yang" merugikan" atau" bahkan" mencelakakannya." Kita" perlu" menekankan" untuk" setiap" umat" yang" mengenal" Allah" harus" 28""

mengasihi" Allah" dan" sesama." Inilah" ajaran" yang" agung" seturut" harkat" agung" manusia." Kita" akan" sampai" kepada" titik" ketidakmungkinan" atau" mustahil" terjadi" kebebasan" beragama" jika" sifat" cinta" kasih" yang" menjadi" natur" esensial" Allah," manusia" dan" keagamaan" disingkirkan." Tetapi"

sebaliknya," di" dalam" prinsip" iman" Kristen," inti" iman" ini" menjadi" dasar" toleransi," pengertian," dan" kebesaran" hati" melihat" orang" lain" yang" memiliki" iman" yang" tidak" sama" dengan" kita." Hal" ini" yang" perlu" diperhitungkan" dan" diteladani" di" dalam" kehidupan" beragama." (Dosa" dan" Pluralisme) Kepercayaan") Fakta" penting" yang" perlu" disadari" oleh" masyarakat" dewasa" adalah" dirinya" merupakan" manusia" berdosa." Tidak" ada" satupun" manusia" yang" tidak" pernah" berbuat" salah." Dan" terlebih," tidak" seorangpun" sempurna" benar" di" hadapan" Allah." Inilah" fakta" dosa" yang" tidak" bisa" dipungkiri," dan" ini" pula" yang" menyebabkan" kita" harus" menerima" fakta" tidak" seorangpun" bisa" memutlakkan" diri" dan" menganggap" kepercayaan" orang" lain" salah." Adalah" suatu" kemustahilan" untuk" memaksa" seluruh" manusia" seragam" dalam" kepercayaannya." Sekalipun" secara" hakekat" iman," seharusnya" Allah" itu" tunggal" dan" kepercayaan" yang" benar" juga" tunggal," namun" fakta" tidak" demikian." Setiap" orang" atau" agama" memiliki" konsep" Allah" masing" masing," yang" berbeda" satu" terhadap" yang" lain." Bahkan" di" dalam" satu" agama," tidak" bisa" dipungkiri" adanya" banyak" aliran" yang" tidak" seragam" bahkan" bertentangan" satu" terhadap" yang" lain." "

Teologi" Reformed" mengungkap" kebenaran" Alkitab" tentang" alasan" terjadinya" Pluralisme" Agama," yaitu" Total/Depravity" (Kerusakan" Total). " Rusak" total" bukan" berarti" tidak" berfungsi" atau" hilang" sama" sekali," melainkan" ketidakmampuan" berbuat" baik" dan" kembali" berseru" kepada" Allah" yang" benar" (Palmer," 1996:1B25). "" Rasul" Paulus" berkata" (Roma" 1:18B32" ITB): ""

Sebab" murka" Allah" nyata" dari" sorga" atas" segala" kefasikan" dan" kelaliman" manusia," yang" menindas" kebenaran" dengan" kelaliman." Karena" apa" yang" dapat" mereka" ketahui" tentang" Allah" nyata" bagi" mereka," sebab" Allah" telah" menyatakannya" kepada" mereka." Sebab" 29"" apa" yang" tidak" nampak" dari" pada" BNya," yaitu" kekuatan" BNya" yang" kekal" dan" keilahian" BNya," dapat" nampak" kepada" pikiran" dari" karya" BNya" sejak" dunia" diciptakan," sehingga" mereka" tidak" dapat" berdalih." "" Sebab" sekalipun" mereka" mengenal" Allah," mereka" tidak" memuliakan" Dia" sebagai" Allah" atau" mengucap" syukur" kepada" BNya." "

Sebaliknya" pikiran" mereka" menjadi" sia" sia" dan" hati" mereka" yang" bodoh" menjadi" gelap." Mereka" berbuat" seolah" seolah" mereka" penuh" hikmat," tetapi" mereka" telah" menjadi" bodoh." Mereka" menggantikan" kemuliaan" Allah" yang" tidak" fana" dengan" gambaran" yang" mirip" dengan" manusia" yang" fana," burung" burung," binatang" binatang" yang" berkaki" empat" atau" binatang" binatang" yang" menjalar." "" Karena" itu" Allah" menyerahkan" mereka" kepada" keinginan" hati" mereka" akan" kecemaran," sehingga" mereka" saling" mencemarkan" tubuh" mereka." Sebab" mereka" menggantikan" kebenaran" Allah" dengan" dusta" dan" memuja" dan" menyembah" makhluk" dengan" melupakan" Penciptanya" yang" harus" dipuji" selama" lamanya," amin." ""

Karena" itu" Allah" menyerahkan" mereka" kepada" hawa" nafsu" yang" memalukan," sebab" isteri" isteri" mereka" menggantikan" persetubuhan" yang" wajar" dengan" yang" tak" wajar." Demikian" juga" suami" suami" meninggalkan" persetubuhan" yang" wajar" dengan" isteri"

mereka" dan "menyalakan" dalam "berahi" mereka "seorang" terhadap " yang " lain, " sehingga " mereka " melakukan " kemesuman, " lakiBlaki" dengan " lakiBlaki, " dan " karena " itu " mereka " menerima " dalam " diri " mereka "balasan" yang "setimpal" untuk "kesesatan" mereka. "" Dan " karena " mereka " tidak " merasa " perlu " untuk " mengakui " Allah, " maka " Allah " menyerahkan " mereka " kepada " pikiranBipikiran " yang " terkutuk, " sehingga " mereka " melakukan " apa " yang " tidak " pantas: " penuh " dengan " rupaBrupa " kelaliman, " kejahatan, " keserakahan " dan " kebusukan, " penuh " dengan " dengki, " pembunuhan, " perselisihan, " tipu " muslihat " dan " kefasikan. " Mereka " adalah " pengumpat, " pemfitnah, " pembenci " Allah, " kurang " ajar, " congkak, " sombong, " pandai " dalam " kejahatan, " tidak " taat " kepada " orang " tua, " tidak " berakal, " tidak " setia, " tidak " penyayang, " tidak " mengenal " belas " kasihan. " Sebab " walaupun " mereka " mengetahui " tuntutanBtuntutan " hukum " Allah, " yaitu " bahwa " setiap " orang " yang " melakukan " halBhal " demikian, " patut " dihukum " mati, " mereka " bukan " saja " melakukannya " sendiri, " tetapi " mereka " juga " setuju " dengan " mereka " yang " melakukannya. "" 30 "" Dosa, " yaitu " pemberontakan " terhadap " Allah " dan " kebenaranBNya, " telah " menyebabkan " setiap " manusia, " sadar " atau " tidak " sadar, " menolak " Allah " yang " sejati " lalu " menciptakan " allahBnya " sendiri. " Manusia " mengalami " pemutusan " relasi " dengan " Allah, " sehingga " pola " pikir " dan " semua " pertimbangannya " tidak " lagi " bisa " berfungsi " secara " baik. " Kesombongan " manusia " menyebabkan " manusia " hanya " mengikuti " pikirannya " sendiri " yang " sudah " melawan " Allah " (ICR, II.i.2). " Manusia " membangun " "agama" " dengan " mencipta " "allah" " yang " pada " hakikatnya " bukan " Allah, " melainkan " refleksi " dari " pikirannya " sendiri. "" TEOLOGI) REFORMED) DAN) NEGARA) " Problema " Kebebasan " Beragama " sebenarnya " adalah " problema " pemerintah. " Situasi " dan " kebijaksanaan " politik " yang " sangat " menentukan " bagaimana " kebebasan " umat " beragama " bisa " berjalan " atau " tidak. " Disini " sumbangsih " pandangan " Teologi " Reformed " mengajak " kita " mengerti " bagaimana " tanggung " jawab " pemerintah " dalam " menyukseskan " kebebasan " umat " beragama. "" Peran) Negara) dan) Pemerintahan) " Hal " pertama " yang " menjadi " kesulitan " adalah " peran " negara " dan " pemerintah. " Harus " ada " komitmen " penuh " pemerintah " memperjuangkan " dan " menegakkan " kedaulatannya " di " dalam " menjaga " kebebasan " umat " beragama " secara " menyeluruh. " Dalam " Deklarasi " HAM " PBB " pasal " 2a " disebutkan: "" Setiap " orang " berhak " atas " semua " hak " dan " kebebasanBkebebasan " yang " tercantum " di " dalam " Deklarasi " ini " dengan " tidak " ada " pengecualian " apa " pun, " seperti " perbedaan " ras, " warna " kulit, " jenis " kelamin, " bahasa, " agama, " politik " atau " pandangan " lain, " asalBusul " kebangsaan " atau " kemasyarakatan, " hak " milik, " kelahiran " ataupun " kedudukan " lain. "" Kesulitannya, " pimpinan " pemerintah " bukan " orang " netral. " Mereka " menganut " salah " satu " agama " dan " terkadang " ingin " memaksakan " keyakinan " 31 "" ke " seluruh " jajaran " pemerintah " bahwa " agamanya " yang " paling " benar " dan " harus " dianut, " dan " juga " sekaligus " menggunakan " keuangan " negara " untuk " kepentingan " agamanya. " Hal " ini " akan " tercetus " dalam " ungkapan " hukum " dan " programBprogram " pemerintah, " khususnya " di " dalam " penggunaan " dana " pemerintah, " yang " sebenarnya " adalah " uang " rakyat. "" Ronald " S. " Wallace " (1990: " 51B68) " membahas " bagaimana " pergumulan " John " Calvin " di " dalam " relasi " antara " Pemerintah " dan " Gereja, " khususnya " diri " Calvin " sendiri " sebagai " pemimpin " Gereja " di " Jenewa " saat " itu. " Mengikuti " model " beberapa " negara " di " Eropa " maka " dewan " kota " berusaha " untuk " menguasai " Calvin. " Kekuatan " kekuasaan " dan " kekayaan " yang " mereka " miliki " digunakan " untuk " menguasai " Calvin. " Namun, " bagi " Calvin, " Allah " adalah " Raja " di " atas " segala " raja. " Maka " Calvin " menegakkan " posisinya " untuk " tidak " tunduk " di " bawah " tekanan " Dewan. " Sebaliknya, " Calvin " juga " tidak " berusaha " untuk " mengganggu " atau " menguasai " Dewan. " Disini " Jenewa " menjadi " satu " model " di " mana " ada " bagian " masingBmasing " antara " Dewan " Kota " dan " Gereja. " Pemerintah " bertanggung " jawab " menjaga " agar " setiap " rakyat " bisa " hidup " aman, " tenteram " dan " sejahtera, " tanpa " tekanan " dari " pihak " manapun. " Oleh " karena " itu, " pemerintah " dan " agama " betulBbetul " harus " tahu " menempatkan " diri " dan " tidak " bersikap " oportunist " demi " keutuhan " dan " kesejahteraan " bangsa. " Sebaliknya, " gereja " atau " agama " juga " tidak " oportunist " memakai " kekuasaan " negara " untuk " berkolusi " dan " menekan " atau " merugikan " agama " yang " lain. " Teologi " Reformed " melihat " bagaimana " Alkitab " memisahkan " tanggung " jawab " dan " otoritas " kehidupan " manusia " kepada " dua " wilayah, " yaitu: " "Berikanlah " kepada " Kaisar " apa "

yang" wajib" kamu" berikan" kepada" Kaisar" dan" kepada" Allah" apa" yang" wajib" kamu" berikan" kepada" Allah." (Matius" 22:21" ITB)." Dalam" hal" ini," negara" harus" tahu" sampai"di"mana"wilayah"otoritasnya,"sehingga"ia"tidak"melampaui"hak"dan" mengabaikan" tanggung" jawabnya." Harus" ada" hukum" yang" tegas" menggariskan" bagaimana" negara" diberi" hak" untuk" berkuasa," tetapi" juga" ada" tanggung" jawab" untuk" menjaga" seluruh" rakyatnya" bisa" hidup" aman" dan"tenteram"tanpa"ketakutan." 32" Tugas)Negara)dan)Agama) "

Dr."Frans"Sayogie"menegaskan"kegagalan"pemerintah"menjalankan" tugas" negara" melindungi" hak" rakyatnya" dengan" bersikap" netral" dan" obyektif," dan" atau" disebabkan" lemahnya" komitmen" aparat" dalam" menjamin," melindungi," dan" menciptakan" rasa" damai" antar" penghayat" agama,"telah"menjadi"penyebab"terjadi"dan"berkembangnya"radikalisme" di"Indonesia,"yang"pada"akhirnya"akan"mengancam"kebebasan"beragama" rakyat"Indonesia" (Sayogie,"2013:"10)." Seperti" dipaparkan" di" atas," maka" tugas" negara" sangat" penting" di" dalam"menjaga"kestabilan"negara"dan"ketenangan"rakyat."Sungguh"masuk" akal" jika" manusia" sangat" pesimis" dengan" kemungkinan" terjadinya" kebebasan" umat" beragama" di" dalam" sebuah" negara," karena" memang" sangat" sulit" bagi" negara" untuk" berposisi" netral." Bahkan" Amerika" Serikat," sebagai"negara"yang"menggagas"hak"asasi"manusia"dan"kebebasan"umat" beragama" di" dalam" praktiknya" sangat" keras" menindas" umat" beragama." Sullivan" mengangkat" kasus" riil" dimana" keputusan" pengadilan" negara" begitu" sekuler" dan" menindas" tiga" agama" sekaligus," yaitu" Yahudi," Katolik" dan" Kristen" di" dalam" kasus" hak" untuk" memberikan" ciri" di" batu" nisan" sebuah"pekuburan"umum"(Sullivan,"2005)." Kondisi)Negara)dan)Kesaksian)Iman) " Salah" satu" unsur" yang" paling" krusial" di" dalam" kebebasan" umat" beragama"adalah"adanya"tuntutan"dari"setiap"agama"untuk"menjalankan" dakwah"atau"penyebaran"agama."Agama"bukanlah"hal"yang"tertutup"dan" hanya" bisa" diikuti" oleh" seseorang" tanpa" dikembangkan" atau" ditularkan" kepada" orang" lain." Sifat" agama" yang" meyakini" bahwa" imannya" paling" benar" dan" menentukan" kehidupan" orang" itu," menyebabkan" adanya" keyakinan" juga" untuk" mengajak" semua" manusia" lainnya" yang" selama" ini" beragama"lain"untuk"berpindah"ke"agamanya." Untuk" ini," yang" paling" dimungkinkan" adalah" "memaksa" atau" "mengindoktrinasi" anak"Banak" kita" sendiri," dan" mengekangnya" supaya" tidak"berpindah"ke"agama"lain."Terjadi"ketegangan"hebat"ketika"suatu"saat" anak" itu" meyakini" bahwa" ada" agama" atau" iman" lain" yang" lebih" baik" dan" 33" lebih" benar" dalam" pandangannya," dan" berpindah" ke" agama" tersebut." Di" sini" biasanya" setiap" agama" mengandalkan" kekuatan" pemerintah" untuk" melakukan" tekanan" agar" tidak" terjadi" pemindahan" agama." Tetapi" pada" saat" yang" sama," ia" ingin" orang" lain" dari" agama" lain" berpindah" ke" agamanya." Kalau" tidak" ada" tekad" dan" perjuangan" ini," maka" agama" itu" kehilangan"salah"satu"esensi"agamanya." Negara" dan" pemerintahan" seringkali" terseret" ke" dalam" permasalahan" ini," karena" para" pejabat" pemerintah" juga" adalah" orang" beragama." Ada" kecenderungan" untuk" pejabat" pemerintah," khususnya" yang" berkuasa" di" bidang" ini," bersifat" tendensius." Netralitas" negara" tidak" lagi" dipertahankan." Kalau" pihak" agama" lain" bersalah," langsung" ditindak" tegas," tetapi" ketika" ada" umat" sendiri" bersalah," enggan" untuk" menindaknya."Di"sini"Calvin"menegaskan"perlunya"negara"bersifat"adil"dan" tegas."Memang"John"Calvin"akhirnya"membiarkan"eksekusi"hukuman"mati" Michael" Servetus," yang" tetap" tidak" mau" bertobat" dari" kesesatannya," tetapi" secara" pribadi" ia" tidak" setuju" dan" begitu" sedih," bahkan" beberapa" kali" ia" mengunjungi" Servetus" di" penjara" untuk" menyadarkan" dia" dan" memintanya" kembali" ke" jalan" yang" benar," agar" tidak" meracun" dan" merusak" ketenteraman" masyarakat" (Wallace," 2005:73B77).14" Calvin" mengedepankan" keadilan" dan" ketenteraman" seluruh" rakyat" untuk" bisa" yakin"bahwa"semua"yang"bersalah,"meskipun"sesama"Kristen,"jika"bersifat" radikal" dan" mengacau," harus" dihukum." Kekacauan" dan" rasa" tidak" aman" terjadi" ketika" pemerintah" bersifat" tidak" adil" dan" memihak." Hal" ini" yang" harus" dihindari" untuk" bisa" tercapainya" kebebasan" umat" beragama," kehidupan"bangsa"yang"aman,"tenteram"dan"agung." 14" Memang"ada"banyak"opini"berkenaan"dengan"hukuman"mati"yang"dialami" Michael"Servetus,"namun"paparan"dari"Ronald"Wallace"memberikan"kepada" kita" detail" kejadian" yang"

membuat" kita" bisa" melihat" peristiwa" tersebut" secara" tepat" di" dalam" konteks" situasi" Abad" Pertengahan." Pada" zaman" itu,"

hukuman" mati" terhadap" para" pemimpin" sekte" merupakan" hal" umum, "tidak" seperti" pandangan" kita" saat" ini. "Ratusan" orang" Protestan" dihukum" mati" dan" dibakar" hidup" oleh" pengadilan" Roma" Katolik" pada" zaman" itu." " 34" PENUTUP) " Persoalan" hak" asasi" manusia" dan" kebebasan" umat" beragama" bukanlah" isu" yang" mudah" diselesaikan." Namun," di" Indonesia" yang" berasaskan" Pancasila" dan" Undang-Undang" Dasar" 1945, "hal" ini" masih" bisa" diperjuangkan. "Dr. "Benyamin" Intan" (2006:18B19), "mengungkapkan" bahwa" Pancasila, "walaupun" tidak" membuat" Indonesia" menjadi" negara" teokratis, "namun" menjadi" negara" yang" tetap" menjunjung" tinggi" agama, "sehingga" bisa" disebut" sebagai" negara" agama." Hal" ini" memberikan" peluang" positif" bagi" penempatan" "agama" publik" di" dalam" kehidupan" berbangsa" di" negara" ini." "Perjuangan" penegakkan" kebebasan" beragama" merupakan" sinergi" penting" antara" pemerintah" (negara)" dan" setiap" agama" yang" ada" di" dalamnya. "Peranan" seluruh" stakeholder" ini" merupakan" proses" yang" harus" disadari" pentingnya" demi" dignitas" bangsa" Indonesia, "bukan" menjadikan" bangsa" dan" negara" Indonesia" dihina" di" dunia" Internasional" akibat" perilaku" rakyat" yang" tidak" dewasa." "Sumbangsih" prinsip-prinsip" iman" Kristen, "khususnya" Teologi" Reformed" yang" terbuka" dan" positif" bisa" menjadi" pertimbangan" bagi" semua" stakeholder" untuk" bersama-sama" menggarap" kebebasan" beragama" dan" lebih" luas" lagi" perjuangan" hak" asasi" manusia" yang" tepat" dengan" tidak" membiarkan" siapapun" merugikan" atau" merusak" orang" lain." Dignitas" umat" manusia" dihargai, "berarti" dignitas" bangsa" juga" akan" dihargai." "DAFTAR) PUSTAKA) " Ahmad, "Rafi." (2011). "Islam, /Deklarasi/ Universal/ Hak/ Asasi/ Manusia/ dan/ Deklarasi/ Kairo." Retrieved" March" 30, "2015, "from" <http://1artikelislam.blogspot.com/> 2011/05/islamBdeklarasiBuniversalBhakBasasi.html" Bucar, " Elizabeth" M. & Barnett, " Barbra, " ed." (2005). " Does/ Human/ Rights/ Need/ God?" Grand Rapids, " Mich.: " Wm. B. " Eerdmans. " Calvin, " John." (1960) " Institut/ of/ the/ Christian/ Religion/ 2/ vols. / (Ford) Lewis" Battles, " trans. " & John" T. " McNeill, " ed." Philadelphia: " The" Westminster" Press." 35" Darmaputra, " Eka." (1998). " Hubungan" Agama" Negara" dalam" Perspektif" Negara" Pancasila". " Jurnal/ Pelita/ Zaman, / 13(1)." Retrieved" March" 25, " 2015, " from" <http://alkitab.sabda.org/resource.php?topic=840&res=jpz.> Hall, " David" W." (2011). " Calvin/ di/ Ranah/ Publik: / Demokrasi/ Liberal, / Hak/ Asasi, / dan/ Kebebasan/ Sipil. / (Lanna) Wahyuni, " trans." Surabaya: " Momentum." Holder, " R." Ward." (1995). " John" Calvin" 1509B1564". " Internet/ Encyclopedia/ of/ Philosophy. / Retrieved" April" 04, " 2015, " from" <http://www.iep.utm.edu/calvin/> Intan, " Benyamin" Fleming." (2006, " January" 06). " Public/ Religion" / and/ Pancasila" Based/ State/ of/ Indonesia: / An/ Ethical/ and/ Sociological/ Analysis." New" York: " Peter" Lang" International" Academic" Publ." Januri, " Moh." Fauzan." (2013), " Pengantar/ Hukum/ Islam/ dan/ Pranata/ Sosial, " Bandung: " Pustaka" Setia." Kuyper, " Abraham." (2005). " Lecture/ on/ Calvinism/ (Ceramah" Mengenal/ Calvinisme)." (Peter" Suwandi" Wong, " trans.) " Surabaya: " Momentum." March, " Andrew" F." (2013). " The" Maqsad" of" Hizf" AIBDin: " Is" Liberal" Religious" Freedom" Sufficient" for" the" Shariah?" " Islam/ and/ Civilization/ Renewal/ Journal, / 2(2). / Retrieved" March" 14, " 2015, " from" <http://www.iais.org.my/icr/index.php/icr/article/view/176/170.> Palmer, " Edwin." (1996). " Lima/ Pokok/ Calvinisme. / (Elsye, " trans.) " Surabaya: " Momentum." Ragosta, " John." (2013). " Religious/ Freedom: / Jefferson's/ Legacy/ America's/ Creed." Charlottesville, " Virginia: " University" of" Virginia" Press." Saeed, " Abdullah." (2014, " May" 24). " Limitations" on" Religious" Freedom" in" Islam: " The" Witness" of" the" Qur'an" and" Prophetic" Tradition". " Australia/ Broadcasting/ Corp. / (ABC). " Retrieved" March" 14, " 2015, " from" <http://www.abc.net.au/religion/articles/2014/05/23/4010689.htm.> Sayogie, " Frans." (2013). " Perlindungan/ Negara/ terhadap/ Hak/ Kebebasan/ Beragama/ Islam/ dan/ HAM/ Universal." Jakarta: " Trans" Pustaka." Setiawan, " Muhamad" Budi." (2007, " September" 25). " Jalan" Tengah" Relasi" Agama" dan" Negara". " Cangkruk/ Bareng/ Cak/ Wawan. / Retrieved" March" 25, " 2015, " from" <https://cakwawan.wordpress.com/2007/09/25/jalanBtengahBrelasiBagamaBdanBnegara/> Sullivan, " Winnifred" Fallers." (2005). " The/ Impossibility/ of/ Religious/ Freedom. /

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DILARANG)MEMAKSA)DALAM)BERAGAMA:) ISLAM)TURUT)BICARA)KEBEBASAN)
BERAGAMA)UNTUK)PERDAMAIAN) Choirul)Mahfud) "" PENDAHULUAN) "
Pembahasan"kebebasan"beragama"dan"berkeyakinan"di"Indonesia"
rasanya"masih"dianggap"bukan"sesuatu"yang"sentral"dan"penting,"terbukti"
masih"banyak"kasus,"masalah"dan"pelanggaran"dari"waktu"ke"waktu"yang" belum" ditangani" secara"
serius." Padahal," tema" ini" perlu" direspons" setidaknya" ada" beberapa" alasan" utama" untuk"
mengawal" masa" depan" perdamaian"seluruh"umat"manusia,"termasuk"di"Indonesia."
Membahas"topik"Islam"dan"kebebasan"beragama"dan"berkeyakinan" sesungguhnya" juga" bukan"
benarBbenar" masalah" baru," tetapi" tema" ini" masih" penting" dibicarakan" untuk" membahas" sekaligus"
menegaskan" kembali" komitmen" Islam" dan" umatnya" dalam" mewujudkan" tatanan" masyarakat" yang"
rukun," damai," adil" dan" sejahtera" serta" pro" kebebasan"
beragama"dan"berkeyakinan"di"mana"pun"dan"sampai" kapan"pun."Disadari" atau" tidak," kebebasan"
beragama" turut" mendorong" terciptanya" kondisi"
perdamaian,"dan"perdamaian"itu"membawa"pada"kondisi"kemajuan"dan" kesejahteraan" bangsa."
Sebaliknya" bila" tidak" ada" kebebasan" beragama," rasanya" konflik" sosial" agama" ibarat" bom" waktu"
yang" tidak" lama" siap" meledak." Belum"lama"ini,"banyak"temuan"hasil"riset"dan"survei"yang"dilakukan"
oleh" berbagai" lembaga" penelitian" dan" pengkajian" menyatakan" bahwa" 39" secara" kuantitatif" hasil"
penelitian" tentang" kebebasan" beragama" dan" berkeyakinan" di" Indonesia" menunjukkan" data" yang"
negatif" atau" menunjukkan" trend" yang" tidak" diharapkan." Hasil" riset" the" Wahid" Institute" Jakarta" (2011),"
misalnya," melaporkan" bahwa" banyak" kasus" pelanggaran" kebebasan" beragama" di" Indonesia" hingga"
dalam" kondisi" "lampu" merah" yang" berarti" tanda" bahaya" tentu" saja" sangat" perlu" diwaspadai"
semua" pihak," termasuk" oleh" umat" Islam" di" negeri" ini" (Yenny" Wahid," 2011:3B8). " Yang" terbaru,"
hasil" riset" yang" sama" diterbitkan" pada" tahun" 2014" lalu" menyimpulkan" bahwa" masalah" kebebasan"
beragama" dan" berkeyakinan" seperti" utang" warisan" bagi" pemerintah" yang" harus" segera" dibayar" (Yenny"
Wahid,"2014:1B9). " Menurut" Yenny" Wahid," direktur" The" Wahid" Institute," meski" secara"
kuantitas" masalah" ada" penurunan" jumlah" kasus" yang" terjadi," tetapi" secara" kualitas" sesungguhnya"
problematika" kebebasan" beragama" dan" berkeyakinan" tetap" harus" ditangani" dengan" serius."
Pasalnya," berbagai" bentuk" pelanggaran" kebebasan" beragama" dan" berkeyakinan" telah" menjalar"
kemanaBmana" dan" dilakukan" oleh" banyak" pihak." Ironisnya," diidentifikasi" bahwa" tidak" sedikit" dari"
beberapa" pihak" yang" sering" melakukan" pelanggaran" prinsip" kebebasan" beragama" dan"
berkeyakinan" di"Indonesia" sebagian" besar" dilakukan" oleh" umat" Islam" di" tanah" air." Aksi,"
argumentasi" dan" motifnya" pun" bermacamBmacam." Hasil" penelitian" yang" berbeda" tetapi" sama" juga"
diungkap" CRCS" UGM" Yogyakarta" yang" rutin" menerbitkan" "Laporan" Kehidupan" Beragama"
di"Indonesia." Zainal" Abidin" Bagir," Direktur" Program" CRCS" UGM" Yogyakarta" menjelaskan" bahwa" salah"
satu" kesimpulan" utama" laporan" kehidupan"
beragama" beberapa" tahun" belakangan" ini" ada" banyak" kasus" yang" bersifat"
pengulangan" akibat" kebijakan" pembiaran" pada" tahun" sebelumnya," seperti"
isu" penodaan" agama" di" kasus" Ahmadiyah" dan" Syiah," serta" konflik" rumah"
ibadah" di" banyak" daerah" di" Indonesia" (Bagir:"2013:8B19). " Dalam" konteks" ini," disinyalir" bahwa" peran"
pemerintah" dan" kaum" agamawan" belum" bergerak" seratus" persen" sebagai" problem/solver." Tidak"
sedikit" yang" menjadi" part/ of/ problems" atau" mungkin" ada" yang" menjadi" problem/ maker/ dalam"
menegakkan" prinsip" kebebasan" beragama."

Kurangnya" lembaga" mediasi" sebagai" solusi" konflik" demi" perdamaian" juga" diidentifikasi" turut"

menyuburkan" benih" masalah." Rasanya" selama" 40"" beberapa" tahun" terakhir" sama" sekali" juga" kurang" ada" terobosan" yang" muncul"sebagai"solusi"sistemik"revolusioner"dalam"mitigasi"konflik.""
Ironisnya"lagi,"potret"pelanggaran"kebebasan"beragama"terungkap"
oleh"Komisi"Nasional"Hak"Asasi"Manusia"(Komnas"HAM)"yang"menyingkap" negara" ikut" terlibat" atau" setidaknaya" membiarkan" terjadinya" sikap"
intoleransi"yang"membungkam"kebebasan"beragama"dan"berkeyakinan." Sebagaimana" publikasinya," informasi" ini" didapat" dari" pemantauan" Pelapor" Khusus" Komnas" HAM" dalam" pemajuan," penghormatan" dan" pemenuhan" hak" atas" Kebebasan" Beragama" dan" Berkeyakinan" (KBB)" sepanjang" tahun" 2014." Menurut" Komisioner" Komnas" HAM" dan" Pelapor" Khusus" Kebebasan" Beragama" dan" Berkeyakinan" M" Imdadun" Rahmat," pelanggaran"itu"dalam"kategori"forum/internum" (kebebasan"internal)"dan" kategori" forum/ externum" (kebebasan" eksternal)." Menurutnya," pelaku" pelanggaran"tersebut"tidak"hanya"oleh"aktor"nonBnegara,"tetapi"juga"oleh" institusi" negara," baik" berupa" tindakan" aktif" (by/ commission)" maupun" tindakan"pembiaran"(by/omission)." Secara" detail," Rahmat" menyebutkan" adanya" peningkatan" pelanggaran" dari" kurun" waktu" 2013" sebesar" 39" kasus" sampai" 2014" meningkat"menjadi"67"kasus."Kemudian,"dari"kasusBkasus"yang"diadukan" pada"tahun"2014,"Komnas"HAM"menyimpulkan"tiga"kategori"pengaduan" KBB." Pertama," tindakan" penyegelan," perusakan" atau" penghalangan" rumah" ibadah" sebanyak" 30" berkas." Kedua," diskriminasi," pengancaman," dan"kekerasan"terhadap"pemuka"agama"dan"keyakinan"tertentu"sebanyak" 22"berkas."Ketiga,"penghalangan"ritual"pelaksanaan"ibadah"sebanyak"15" berkas"(Rahmat,"2014:"7B18)."
Data"dan"fakta"tersebut"di"atas"mengisyaratkan"bahwa"pelanggaran" pada" prinsip" kebebasan" beragama" dan" berkeyakinan" dimana" saja" dan" kapan" saja" bisa" memecah" belah" tali" persatuan" dan" kesatuan" demi" kemajuan" bangsa." Kita" mafhum" ada" pengulangan" isu" akibat" kebijakan" pembiaran." Misal" saja," isu" penegakan" hukum" Islam" dengan" mendirikan" negara"Islam"adalah"satu"dari"sekian"isu"yang"bisa"dikatakan"cukup"sensitif" yang" terus" terulang" atau" diulangBulang" dan" cukup" bisa" mengganggu"
prinsip"kebebasan"beragama"dan"berkeyakinan"di"negeri"ini."" Dalam" konteks" ini," Gus" Dur" pernah" mengungkapkan" dalam" buku" "Islamku,/Islam/Anda,/Islam/Kita""perlunya"menolak"wacana"negara"Islam" 41"" atau"menjadikan"Islam"sebagai"dasar"negara"Indonesia."Pandangan"Gus" Dur" ini" dipertegas" dalam" artikel" dalam" buku" tersebut" terkait" "Negara" Islam," Adakah" Konsepnya?"" (Wahid," 2006:" 81)," dengan" memberikan" beberapa"alasan."Pertama,"Islam"tidak"memiliki"pandangan"jelas"tentang" pergantian" pemimpin," karena" masingBmasing" dari" Khulafaur" Rasyidin" memiliki"karakteristik"berbeda."" Dalam" lintasan" sejarah" keislaman," Gus" Dur" mengungkapkan" bahwa" Abu" Bakar" dipilih" untuk" melanjutkan" kepemimpinan" Nabi" Muhammad" setelah" wafat" melalui" sumpah" setia" (baiat)" dari" perwakilan" suku." Hal" berbeda"saat"sebelum"meninggal,"Abu"Bakar"menunjuk"Umar"Bin"Khattab." Lalu," setelah" Umar" memimpin" sekian" lama" dan" berakhir" usianya," ia" membentuk" dewan"perwakilan"yang"terdiri"dari"sahabatBsahabat"mulia." Akhirnya," Utsman" Bin" Affan" dipilih" oleh" tujuh" orang" anggota" dewan" tersebut."Untuk"selanjutnya,"kepemimpinan"dilanjutkan"oleh"Ali"bin"Abi" Thalib" hingga" pergolakan" muncul" dan" berakhir" pula" istilah" kepemimpinan" khalifah" dalam" Islam" (Wahid," 2006:" 82)."
Kedua," ketidakjelasan" ukuran" negara" yang" diidamkan" dan" diidealkan" oleh" Islam." Apakah" model" negara" mendunia," atau" negara" bangsa," atau" hanya" negara" kota." Juga" sistem" politik" Islam" apakah" presidensial," parlementer," khalifah" atau" seperti" apa" yang" tidak" pernah" ditegaskan" dalam" Alquran" maupun" Hadits.""
Lebih" dari" itu," suatu" keprihatinan" melihat" maraknya" sejumlah" aksiB aksi" kekerasan" yang" dilakukan" oleh" kelompok" konservatif" Islam," terutama" sejak" keluarnya" fatwa" Majelis" Ulama" Indonesia" (MUI)," Juli" 2005," tentang" pengharaman" sekularisme," liberalisme" dan" pluralisme." Sejak" keluarnya" fatwa" tersebut," problem" kebebasan" beragama" dan" berkeyakinan" di" tanah" air" terus" menjalar." Oleh" karena" itu," secara" khusus" tulisan" ini" fokus" membahas" bagaimana" pandangan" Islam" terkait"

masalah" kebebasan" beragama" dan" berkeyakinan?" Bagaimana" peran" agama" dan" kaum" agamawan"dari"Islam"di"Indonesia?"Apa"saja"masalah"dan"tantangan"yang" dihadapi" terkait" upaya" menjaga" prinsip" kebebasan" beragama" dan" berkeyakinan" di" Indonesia?" Lalu" bagaimana" solusi" alternatif" untuk" menyelesaikan"masalah"kebebasan"beragama"tersebut?"

Pertanyaan"dan"pernyataan"tersebut"perlu"direnungkan"bersama" untuk" mengurai" kompleksitas" masalah" sistemik" terkait" kebebasan"

beragama"dan"berkeyakinan"dari"masa"ke"masa,"khususnya"di"Indonesia." 42"" PEMBAHASAN) " Praktik" kebebasan" beragama" dan" berkeyakinan" hingga" hari" ini" di" banyak" negara," termasuk" di" Indonesia," masih" menjumpai" kendala" dan" permasalahan" yang" belum" tuntas." Banyak" faktor" dan" paradoks" yang" mempengaruhi"fakta,"data"dan"realita"yang"bisa"dipahami"bersama."Frans" Sayogie" dalam" buku" "Perlindungan/ Negara/ terhadap/ Hak/ Kebebasan/ Beragama/ dalam/ Islam/ &/ HAM/ Universal", " menjelaskan" panjang" lebar" tentang"komitmen"Islam"ketika"berbicara"tentang"kebebasan"beragama" pada"Piagam"Madinah"(Sayogie,"2014:"18B39). "Dari"piagam"tersebut,"Islam" sesungguhnya" nampak" jelas" memberikan" pelajaran" penting" terkait" perlindungan" kebebasan" beragama" dan" berkeyakinan" sekaligus" memberikan"hakBhak"nonBMuslim.""

J."Suyuthi"Pulungan"dalam"ulasan"bukunya"berjudul""PrinsipGprinsip/ Pemerintahan/ dalam/ Piagam/ Madinah/ Ditinjau/ dari/ Pandangan/ alG Qur'an", " juga" menegaskan" bahwa" relasi" antarumat" beragama" telah" terjadi"sejak"zaman"Nabi"dulu,"di"mana"Nabi"sebagai"pemimpin"umat"dan" sekaligus" sebagai" pemimpin" negara" pada" saat" itu" sudah" meletakkan" dasarBdasar" pemerintahan" dan" menetapkan" regulasi" hubungan" antarumat"beragama"yang"dikenal"dengan""Piagam"Madinah". "Menurut" Pulungan," di" antara" isi" Piagam" Madinah" itu" antara" lain" menyangkut"

kerjasama"dan"saling"menolong"antara"kaum"Muslimin"dan"kaum"Yahudi"

dalam"menghadapi"pihakBpihak"yang"melakukan"penyerangan"terhadap" kedua" kelompok" pemegang" perjanjian" tersebut." Inti" perjanjian" yang" disepakati" dalam" Piagam" Madinah" di" antaranya" terkait" komitmen" bersama"antara"kaum"Muslimin"dan"Yahudi"dalam"mempertahankan"kota"

Yasrib/"Madinah"saat"itu"(Pulungan,"1994:2B18)."

Namun"kini"seolah"paradoks"tidak"bisa"dihindari."Berbeda"dengan"

dulu"dan"sekarang,"justru"di"beberapa"negara"Islam"dewasa"ini,"khususnya" di" Indonesia," tidak" sedikit" dijumpai" masalah" nyata" adanya" berbagai" penyimpangan" makna" dan" semangat" yang" dikandung" dalam" Piagam" Madinah" yang" pernah" dipelopori" pembawa" risalah" Islam," yakni" Nabi"

Muhammad"SAW."Dalam"perkembangannya,"kini"beberapa"negara"Islam"

masih"ada"yang"terjebak"pada"simbol"dan"formalisasi"penerapan"syariah" 43""

dalam"ruang"publik."Akibatnya,"negara"menjadi"tidak"bisa"bersikap"netral" terhadap" semua" doktrin"

keagamaan." Rasanya," kasus" semacam" ini" juga" mulai"tidak"bisa"dihindari"di"negeri"ini." Sejak" awal" hingga" kini" banyak" yang" mafhum" bahwa" konflik" kepentingan" itu" memang" selalu" ada" dan" perlu" ada" solusi" terbaiknya." Dalam" realitas" sosial," keragaman" juga" terasa" nyata." Kita" melihat" bahwa" warna"warni"bukan"melulu"soal"warna,"tetapi"juga"terkait"dengan"agama."

Dalam"hal"ini,"tentu"saja"Islam"bukanlah"satuBsatunya"agama"yang"ada"di" muka" bumi" ini." Tetapi" ada" lagi" banyak" ragam" agama" dan" aliran" kepercayaan" sebelum" hadirnya" Islam" atau" sesudahnya."

Inilah" yang" disadari" betul" oleh" para" nabi," termasuk" oleh" Nabi" Muhammad" SAW." Masalahnya" kenapa" kini" muncul" salah" paham" dan" seolah" menyebarkan" paham" salah" ke" pihak" lain" yang"

berakibat" fatal" dalam" ranah" sosial" keagamaan?" Di" sinilah," kembali" memahami" Islam" secara" kontekstual" menjadi" signifikan" yaitu" Islam" yang" merujuk" kepada" Alquran" dan" Hadits" untuk"

menjawab" problematika" dan" tantangan" zaman." Kontekstualisasi" Islam" yang" lebih" cinta" damai" dan" cinta" kebebasan" dalam" beragama" dan" berkeyakinan" tanpa" paksaan" sesungguhnya" menarik" dipahami" kembali" untuk" mengemban" misi" perdamaian" bagi" semua" umat" manusia"

sebagaimana"ditegaskan"di"dalam"ayatBayat"Alquran"yang"didukung"hadits" Nabi"Muhammad"SAW."" AYATCAYAT)KEBEBASAN)BERAGAMA) "

Islam"termasuk"salah"satu"agama"langit"yang"diturunkan"oleh"Allah" melalui" Nabi" Muhammad" SAW" untuk" disebarluaskan" ke" seluruh" umat"

manusia"demi"damai"dan"bebasnya"manusia"dari"segala"beban,"bebal"dan"

bencana"yang"menimpanya."Islam"lahir"bukan"hanya"diperuntukkan"bagi" umat" Islam" sendiri," tetapi" justru" Islam" lahir" diperuntukkan" bagi" seluruh" alam."Konsep"ini"lah"yang"belakangan"disebut"sebagai"Islam"rahmatan/lil/alamiin."Artinya"Islam"itu"untuk"semua."" Dalam" konteks" ini," Abd." Moqsih" Ghazali" pernah" mengulas" dalam" buku" Argumen/ Pluralisme/ Agama:/ Membangun/ Toleransi/ Berbasis/ 44"" Alquran," bahwa" Islam" dalam" ajarannya" yang" termaktub" dalam" Alquran" mengajarkan" perlunya" membangun" toleransi" beragama" untuk"kebaikan"dan"kemaslahatan"(Ghazali,"2009:"78B99). "Dari"sini," Islam" sering" dipahami" sebagai" agama" yang" pro" kebebasan" dan" pro" kebaikan."Bukti"dari"semua"itu,"Allah"menyampaikan"melalui"surat"surat" yang"berisi"ayat"ayat"yang"perlu"dibaca,"dipahami"dan"lalu"dipraktikkan" untuk" kesalehan," kerahmatan" dan" kemanfaatan" seluas"luasnya."

Menariknya,"dari"sekian"ayat"dalam"surat"Alquran"tersebut,"di"antaranya" ada" yang" berisi" bahasan" tentang" ayat"ayat" kebebasan" beragama" dan" berkeyakinan."

Pertama,"ayat"dilarang"memaksa"dalam"beragama."Dalam"surat"alBaqarah"ayat"256,"Allah"menegaskan"dengan"berfirman"bahwa:""" Tidak"ada"paksaan"untuk" (memasuki)"agama"(Islam);"sesungguhnya" telah"jelas"jalan"yang"benar"daripada"jalan"yang"sesat."Karena"itu" barangsiapa" yang" ingkar" kepada" Thaghut" dan" beriman" kepada" Allah,"maka"sesungguhnya"ia"telah"berpegang"kepada"buhul"tali" yang"amat"kuat"yang"tidak"akan"putus."Dan"Allah"Maha"Mendengar" lagi"Maha"Mengetahui.""

Secara"tekstual,"ayat"di"atas"yang"tercetak"tebal"merupakan"bukti" teks"dimana"Allah"memerintahkan"kepada"seluruh"umat"manusia"di"mana" saja,"kapan"saja"dan"untuk"siapa"saja"tidak"boleh"saling"memaksa"maupun" dipaksa" di" dalam" beragama" Islam." Secara" kontekstual," akar" sejarah" turunya"ayat"tersebut" (asbabun/nuzul)"sangat"menarik"dan"perlu"untuk" dipahami"dalam"konteks"kekinian"di"Indonesia."Ayat"ini""terkait"dengan" situasi"dan"kondisi"dimana"Nabi"Muhammad"dalam"posisi"telah"pindah" dari"Mekah"ke"Madinah."Potret"Islam"di"Mekah"pada"saat"itu"tergolong" sangat"minoritas"lalu"pindah" (hijrah)"ke"daerah"baru"di"Madinah"yang"saat" itu"Islam"menjadi"mayoritas"di"bawah"pengaruh"sosial,"ekonomi" hingga" politik"dalam"kepemimpinan"Nabi"Muhammad."Menariknya,"meski"Islam" menjadi"mayoritas,"Nabi"Muhammad"beserta"umat"Islam"lainnya"dilarang" oleh"Allah"sebagaimana"dijelaskan"dalam"surat"alBaqarah"tersebut"di"atas" untuk"memaksa"kepada"penduduk"yang"beragama"nonBMuslim"untuk" memeluk"agama"Islam." 45""

Dalam" konteks" ini," Syamsul" Arifin" dalam" buku" Studi/ Agama/ Perspektif/ Sosiologis/ dan/ Isu/Isu/ Kontemporer,/ menganjurkan" perlunya" memahami"teks"kitab"suci"dengan"memadukan"pendekatan"sosiologi"dan" isu"lain"yang"terkait"dengan"sejarah"teks"kitab"suci"tersebut"(Arifin,"2009:" 11B29). "Implikasi"dari"studi"komprehensif"atas"sejarah"Islam"yang"pernah" ada"tersebut"bisa"menjadi"pelajaran"menarik"bagi"umat"Islam"di"Indonesia" yang"tergolong"mayoritas"untuk"meniru"cara"menyebarkan"agama"Islam" ala" Nabi" Muhammad" tanpa" dengan" paksaan." Secara" keseluruhan," misalnya,"jumlah"ayat"dalam"surat"alBaqarah"berisi"286"ayat"seringkali" disebut" sebagai" surat" Madaniyyah," karena" sebagian" banyak" ayatnya" diturunkan"di"kota"Madinah.""

Inti"pesan"dari"surat"alBaqarah,"di"antaranya"terkait"erat"perkara" hukum"dan"ulasan"tentang"dakwah"Islamiyah"yang"ditujukan"kepada"umat" Islam,"ahli"kitab"dan"para"musyrikin,"hendaknya"tanpa"paksaan."Banyak" ahli"tafsir"menjelaskan"bahwa"argumentasi"dari"kenapa"surat"ini" dinamai" alBaqarah" karena" di" dalamnya" disebutkan" kisah" penyembelihan" sapi" betina" yang" diperintahkan" Allah" kepada" Bani" Israil" pada" saat" itu" sebagaimana"terungkap"dalam"ayat"67"sampai"dengan"74,"sebagai"simbol" semangat"berkurban"dengan"penuh"keikhlasan."

Lebih"dari"itu,"Islam"juga"mendorong"seluruh"umat"manusia"untuk" memeluk" agama" berdasarkan"

pengetahuan," bukan" karena" warisan" maupun" paksaan." Bahkan" Islam" terbuka" untuk" dikritik" dan" dianalisis" kebenaran"ajarannya."Allah"sendiri"pernah"menantang"orangBorang"yang" tidak"percaya"kepada"kebenaran"alBQuran"untuk"membuat"satu"ayat"saja" yang"mirip"atau"semisal"dengannya."Informasi"ini"bisa"dilacak"dalam"Qs." AlBBaqarah:"23B24:""" Dan"jika"kamu"(tetap)"dalam"keraguan"tentang"alBQuran"yang"Kami" wahyukan"kepada"hamba"Kami" (Muhammad),"buatlah"satu"surat" (saja)"yang"semisal"alBQuran"itu"dan"ajaklah"penolongBpenolongmu" selain"Allah,"jika"kamu"orangBorang"yang"benar."Maka"jika"kamu" tidak" dapat" membuat(nya)–dan" pasti" kamu" tidak" akan" dapat" membuat(nya)," peliharalah" dirimu" dari" neraka" yang" bahan" bakarnya" manusia" dan" batu," yang" disediakan" bagi" orangBorang" kafir."" 46""

Kedua,"ayat"bagimu"agamamu"dan"bagiku"agamaku."Ayat"ini"bisa" disebut" sebagai" ayat" toleransi" beragama." Secara" tekstual," ungkapan" "Bagimu" agamamu," bagiku" agamaku"" bisa" ditemukan" dalam" Alquran" Surat"alBKafirun,"ayat"keB6."Sayangnya,"ungkapan"ini"sering"kali"dimaknai" paradoks."

Pasalnya," sebagian" ada" yang" menafsirkan" bahwa" ayat" ini" sebagai"bentuk"penegasan"antiBtoleransi"beragama."Namun"juga"tidak" sedikit" yang" memahami" justru" ayat" ini" adalah" ayat" toleransi" yang" diungkap"awal"kali"Islam"hadir"di"muka"bumi"saat"itu."Ayat"ini"dianggap" sebagai" tanda" yang" menggambarkan" toleransi" ajaran" Islam" terhadap" ajaranBajaran"lain"yang"ada"pada"saat"diturunkannya"Alquran,"utamanya" Kristen/Nasrani" dan" Yahudi." Perbedaan" sudut" pandang" semacam" ini" merupakan" hal" wajar," namun" yang" lebih" penting" dari" itu" adalah" bagaimana"kita"belajar"dari"sikap"yang"ditunjukkan"oleh"Nabi"Muhammad" ketika"menerima"ayat"ini"untuk"merespons"masalah"yang"ada"saat"itu."

Sikap"Nabi"justru"lebih"nampak"untuk"memberikan"toleransi"dan"apresiasi" terhadap"perbedaan"agama,"kepercayaan"dan"keyakinan"orang"lain."Nabi" Muhammad"tetap"teguh"pendirian"namun"juga"menghormati"perbedaan" yang" ada." Sikap" semacam" inilah" yang" ditunjukkan" Nabi" hingga" mengundang"banyak"kekaguman"karakter"dan"kepribadiannya."Karena" itu," tidak" heran" bila" banyak" sekali" pengikut" Islam" karena" sosok" dan" kepribadian"Nabi"yang"memberikan"teladan"nyata"bagi"semua."Dalam" konteks"inihah,"cara"keberislaman"dan"keberagamaan"yang"santun"dan" toleran" nampaknya" perlu" direnungkan" bersama" demi" kebaikan" dan" perdamaian."

Ketiga,"ayat"tentang"pengakuan"terhadap"eksistensi"dan"kebenaran" kitabBkitab"sebelum"Islam."Taurat"dan"Injil,"misalnya,"disebut"Alquran" sebagai"petunjuk"dan"penerang."Hal"ini"ditegaskan"di"antaranya"dalam" surat"AlBMaidah:44."Artinya:""" Sungguh,"Kami"yang"menurunkan"Kitab"Taurat;"di"dalamnya"(ada)" petunjuk" dan" cahaya." Yang" dengan" Kitab" itu" para" nabi" yang" berserah"diri"kepada"Allah"memberi"putusan"atas"perkara"orang" Yahudi,"demikian"juga"para"ulama"dan"pendetaBpendeta"mereka," sebab" mereka" diperintahkan" memelihara" kitabBkitab" Allah" dan" mereka"menjadi"saksi"terhadapnya."Karena"itu"janganlah"kamu" takut"kepada"manusia,"(tetapi)"takutlah"kepadaBKu."Dan"janganlah" 47"" kamu" jual" ayatBayatBKu" dengan" harga" murah." Barangsiapa" tidak" memutuskan" dengan" apa" yang" diturunkan" Allah," maka" mereka" itulah"orangBorang"kafir."" Menurut"Kiki"Muhamad"Hakiki"dalam"artikelnnya"berjudul"“Jaminan/ Alquran/Terhadap/Kebebasan/Beragama/dan/Berkeyakinan”,/ dijelaskan" bahwa" melalui" ayatBayat" dalam" Alquran" ini" ditegaskan" bahwa" Islam" memberikan" pengakuan" terhadap" umat" Yahudi" dan" Nasrani;" mereka" cukup" menjadikan" kitab" suci" masingBmasing" sebagai" sandaran" moral" mereka."Ditegaskan"pula,"sekiranya"mereka"berpaling"dari"kitab"sucinya," mereka"adalah"kafir"dan"fasik" (Hakiki,"2013:1B9)."

Bahkan"melalui"Alquran," kata"Hakiki,"Islam"juga"memberikan"pengakuan"terhadap"para"pembawa" agama"sebelumnya"seperti"Musa"dan"Isa"alBMasih,"dan"para"nabi"lainnya."

Jumlah"nabi"dan"rasul"dalam"Islam"selama"ini"dikenal"minimal"25" rasul," karena" jumlah" nabi" dan" rasul" menurut" hadits" nabi" diperkirakan" mencapai" 124.000" orang" nabi" dan" 315" orang" rasul" (Hakiki," 2013:2B8)."

Lebih" lanjut," secara" eksplisit" Alquran" menegaskan" bahwa" siapa" saja" –" Yahudi,"Nashrani,"Shabi'in,"dll"–"yang"menyatakan"hanya"beriman"kepada" Allah," percaya" pada" Hari"

Akhir," dan" melakukan" amal" saleh," tak" akan pernah"disiaBsiakan"oleh"Allah."Mereka"akan"mendapatkan"balasan"yang" setimpal" atas" keimanan" dan" jerih" payahnya." Hal" ini" ditegaskan" dalam" Alquran"surat"alB Maidah:"69://" " Sesungguhnya" orangBorang" yang" beriman," orangBorang" Yahudi," Šābi'īn" dan" orangBorang" Nasrani," barangsiapa" beriman" kepada" Allah,"kepada"hari"kemudian,"dan"berbuat"kebajikan,"maka"tidak" ada"rasa"khawatir"padanya"dan"mereka"tidak"bersedih"hati."""

Ketiga"ayat"tersebut"di"atas,"hanyalah"beberapa"ayat"yang"perlu" saya" tegaskan" di" tulisan" ini" sebagai" teks" penjelas" dan" penegas" betapa"

Islam"itu"tidak"anti"kebebasan"beragama"dan"berkeyakinan."Islam"sangat" menghargai"setiap"individu"dalam"mencari"kebenaran"berkeyakinan"dan" beragama."Oleh"karena"itu,"pemaksaan"dalam"berkeyakinan"sebetulnya" ada" unsur" penyimpangan" dalam" praktik" beragama" yang" patut" diperhatikan"bersama." 48""

Justru"Islam"sangat"menganjurkan"untuk"terus"belajar,"belajar"dan" belajar." Tujuannya" tidak" lain" agar" semakin" yakin" dan" mantab" dalam" mempraktikkan"ajarannya.""

KEBEBASAN)BERAGAMA)DI)INDONESIA)) "

Indonesia"adalah"negara"multikultural."NilaiBnilai"multikulturalisme" yang" mengutamakan" pada" prinsip" mengakui," menghargai" dan" mengapresiasi" keragaman" sekaligus" berpedoman" pada" nilai" Bhinneka" Tunggal" Ika" menjadi" modal" sosial" penting" bagi" bangsa" ini" sejak" berdiri" hingga"kini"dan"nantinya" (Mahfud,"2014:3B19)."Secara"filosofis,"dasar"negara" Indonesia" dikenal" sebagai" negara" Pancasila." Praktik" demokrasi" yang" diterapkan" tetap" berlandas" pada" silaBsila" yang" ada." Semua" sila" dalam" Pancasila" tersebut" mencerminkan" bahwa" Indonesia" adalah" negara" yang" menjunjung" tinggi" nilai" agama," religiusitas," humanitas," moral" dan" spiritual." Lebih" dari" itu," Indonesia" juga" memiliki" komitmen" menjaga" dan" menjamin"kebebasan"beragama"dan"berkeyakinan"warga"negaranya."" Agung" Ali" Fahmi" dalam" buku" Implementasi/ Kebebasan/ Beragama/ menurut/ UUD/ Republik/ Indonesia/ tahun/ 1945,/ menjelaskan" bahwa" penegasan"pelaksanaan"prinsip"kebebasan"beragama"sesuai"dengan"tata" aturan" perundangan" di" Indonesia" yang" termaktub" dalam" UUD" 1945" (Fahmi,"2010:"19B38)."

Beberapa" hal" penting" terkait" dengan" jaminan" perlindungan" kebebasan"beragama"sesuai"UUD"1945"termaktub"dalam"pasal"29"ayat"2." Pasal" ini" menyatakan" bahwa" setiap" warga" diberi" kemerdekaan" atau" kebebasan" untuk" memeluk" agamanya" masingBmasing" dan" beribadat" menurut" agama" dan" kepercayaannya." Pada" pasal" 28e" ayat" 1" UUD" 1945" perubahan" kedua" mengakui" adanya" hak" setiap" warga" negara" atas" kebebasan" beragama" atau" kepercayaan," demikian" juga" Pasal" 28i" ayat" 1" UUD" 1945" perubahan" kedua," menjelaskan" hak" beragama" dan" berkepercayaan"adalah"HAM"yang"tidak"bisa"dikurangi"dan"dibatasi"dalam" kondisi"apapun."" Lebih" lanjut," pada" pasal" 28i" ayat" 4" UUD" 1945" perubahan" kedua," mempertegas" kewajiban" negara"terutama"pemerintah"untuk"melindungi," 49"" memajukan," menegakkan" dan" memenuhi" HAM." Kewajiban" negara" melindungi" dan" memenuhi" hak" atas" kebebasan" beragama" dan" kepercayaan" mengandung" pengertian" bahwa" negara" tidak" mempunyai" wewenang" mencampuri" urusan" agama" dan" kepercayaan" setiap" warga" negaranya."Sebaliknya,"negara"harus"memberikan"perlindungan"terhadap" setiap" warga" negaranya" untuk" melaksanakan" ibadah" keagamaan/kepercayaan."

Dalam"konteks"ini,"Ignatius"Basis"Susilo"dkk.,,dalam"buku"Kompilasi/ Instrumen/Internasional/Hak/Azasi/Manusia,/menjelaskan"bahwa"masalah" hak"asasi"manusia"meliputi"berbagai"tata"aturan"yang"menjamin"berbagai" kebebasan," di" antaranya" adalah" kebebasan" beragama" dan" berkeyakinan" (Susilo," tt:" 9B89). Bahkan," Al" Khanif" dalam" buku" "Hukum/ dan/ Kebebasan/ Beragama/ di/ Indonesia"/ juga" menegaskan" bahwa" relasi" hukum" dalam" penjaminan" pelaksanaan" prinsip" kebebasan" beragama" cukup" memiliki" peran" sentral" (Al" Khanif," 2010:" 99B98). Oleh" karena" itu," tidak" diragukan" lagi"bahwa"Indonesia"sebagai"negara"berdaulat"perlu"terus"berperan"dan" hadir"di"tengah"publik"untuk"terus"menegaskan"dan"menjamin"kebebasan" beragama" dan" berkeyakinan" sebagai" hak" setiap" warga" yang" harus" dihormati"dan"dijamin"sesuai"dengan"syarat"dan"ketentuan"berlaku.""

MASALAH(MASALAH)KEBEBASAN)BERAGAMA)DI)INDONESIA)) "

Meski"aturan"regulatif"telah"dibuat"negara,"bukan"berarti"masalah"kebebasan"beragama"dan"berkeyakinan"di"Indonesia"tidak"menjumpai"

masalah."Justru"sebelum"dengan"sesudah"adanya"tata"aturan"dan"undangB

undang"yang"ada,"masalahnya"hingga"kini"masih"perlu"dipahami"secara"lebih"komprehensif."Namun"begitu,"tulisan"ini"hanya"melihat"dari"sisi"masalah"kebebasan"beragama"perspektif"Islam."

Menurut"hemat"penulis,"setidaknya"ada"dua"masalah"yang"sangat"mendasar"dalam"memahami"kebebasan"prinsip"kebebasan"beragama"dalam"Islam,"yaitu:"pertama,"permasalahan"tekstual."

Artinya"masalah"salah"paham"dan"menyebarkan"paham"yang"salah"kerapkali"muncul"dari"

pemahaman"tentang"doktrin"Islam"yang"ada"dalam"Alquran"yang"melulu"

lebih"dipahami"secara"tekstual."AyatBayat"kebebasan"beragama"yang"telah"50""diulas"sebelumnya"menunjukkan"problem"tafsir"tekstual"vis/ a/ vis"

kontekstual"cukup"membuat"masalah"kebebasan"beragama"menjadi"lebih"rumit."Kedua,"permasalahan"fanatisme"buta."Indonesia"adalah"negara"

berkembang."Meski"kemajuan"teknologi"dan"informasi"sudah"merambah"ke"manaBmana,"namun"sifat"dan"sikap"tertutup,"eksklusif"dan"anti"perbedaan"mengakibatkan"fanatisme"masih"cukup"kental"

terasa."Hal"itu"ditambah"lagi"dengan"interaksi"sosial"yang"sangat"terbatas"semakin"membuat"mata"seolah"tertutup"hingga"berani"mati"ketimbang"berani"hidup."Ketiga,"permasalahan"sosial"

ekonomi."Masalah"kebebasan"beragama"dan"berkeyakinan"ternyata"tidak"melulu"soal"tafsir"

tekstual,"tetapi"juga"terkait"soal"masalah"sosial"ekonomi"masyarakat."Ketimpangan"dan"ketidakadilan"

hingga"kemiskinan"menjadi"problem"lanjutan"yang"berakibat"munculnya"kecemburuan"dan"anti"

kebebasan"beragama"dan"berkeyakinan."Keempat,"lemahnya"peran"pemerintah."Adanya"kebijakan"dan"berbagai"peraturan"memang"membuat"hati"pikiran"warga"negara"yang"

pro"kebebasan"beragama"dan"berkeyakinan"terasa"nyaman."Namun"tanpa"dibarengi"dengan"langkah"nyata"di"lapangan,"peran"pemerintah"dan"pemangku"kekuasaan"rasanya"masih"jauh"dari"harapan.""

PERAN)KOMUNITAS)DAN)ORGANISASI)ISLAM)DI)INDONESIA)) "Idealisme"tanpa"dukungan"rasanya"hampa."Demikian"pula"dalam"mewujudkan"prinsip"kebebasan"beragama"dan"berkeyakinan"di"negeri"ini"

tanpa"didukung"oleh"semua"pihak,"terutama"komunitas"dan"organisasi"berbasis"agama,"termasuk"dalam"Islam,"rasanya"seolah"tidak"akan"maksimal."Ibaratnya"usaha"sosialisasi"kampanye"KB"

(Keluarga"Berencana"dengan"dua"anak"cukup),"yang"pernah"diinisiasi"pemerintah."Awalnya"

kegagalan"dirasakan."Akar"penyebabnya"dicari"kemanaBmana."Ujungnya"

adalah"permasalahan"terletak"pada"lemahnya"dukungan"masyarakat"sipil,"utamanya"komunitas"umat"Islam"di"Indonesia."Setelah"berbagai"51""komunitas"umat"Islam"mendukung,"program"tersebut"

tidak"terlalu"menghadapi"masalah"berarti."Dalam"konteks"ini,"rasanya"komunitas"umat"Islam"belum"kompak"dan"satu"suara,"sehingga"prinsip"kebebasan"beragama"dan"berkeyakinan"seringkali"jalan"di"

tempat"dan"bahkan"mengalami"hambatan"yang"cukup"signifikan."Karenanya,"kunci"suksesnya"sesungguhnya"terletak"pada"kemauan"untuk"bersama"mengawal"prinsip"kebebasan"dalam"

beragama"dan"berkeyakinan"tanpa"paksaan."" PENUTUP)) "

Islam"sebagai"salah"satu"agama""resmi""di"Indonesia"ikut"memiliki"kontribusi"besar"dalam"menjalankan"prinsip"kebebasan"beragama"dan"berkeyakinan"sesuai"dengan"ayatBayat"yang"termaktub"dalam"

Alquran"dan"Hadits."Secara"tekstual,"Islam"menegaskan"prinsip"utama"kebebasan"

beragama"dan"berkeyakinan"adalah"dilarang"memaksa"dalam"beragama/"

berkeyakinan."Secara"praktis,"upaya"dan"usaha"semua"pihak,"khususnya"

umat"Islam"dan"berbagai"komunitasnya"terus"diperlukan"dalam"upaya"ikut"serta"bersama"dengan"

elemen"lain"dan"komunitas"agama"lain"untuk"menegakkan"prinsip"kebebasan"beragama"dan"

berkeyakinan"sesuai"dengan"tata"aturan"perundangan"yang"berlaku"di"Indonesia."Karena,"hal"ini"

bukanlah"proses"yang"telah"berakhir"dalam"catatan"hitam"putih"peraturan"perundangan,"melainkan"sebuah"proses"yang"tidak"akan"

pernah"berhenti."Harapannya"tentu"saja"selalu"terwujudnya"negara"yang"

damai,"adil,"makmur,"maju"dan"sejahtera"bagi"semua."Semoga."" DAFTAR)PUSTAKA) "Al"Khanif."

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freedom"of"association"according"to"one's"religion." 5!

The"freedom"to"run"institutions"according"to"one's"belief—schools," universities,"magazines,"newspapers,"books,"radio"and"TV"stations," orphanages,"hospitals"and"so"forth."

6.! To"be"free"from"discrimination"of"grounds"of"belief:"i.e."That"civil

and"political"law"and"others"rights"are"not"diminished"on"grounds" of"religion" 56"

PROBLEMS)OF)RELIGIOUS)FREEDOM) " Religious" freedom" presents" problems" because" religion" is" not" a" separate," isolated" segment" of" human" existence."" It" is" not" merely" what"

people"do"with"their"solitude.""It"is"not"only"acts"of"worship"on"a"Sunday,"

or"a"Sabbath,"or"a"Friday.""It"is"not"simply"adherence"to"creeds"or"doctrines."" Religion" is" one" of" the" fundamental" shapers" of" human" life," so" religious" freedom" can" allow" human" life" to" be" shaped" in"

ways" that" may" be" destructive,"at"least,"in"the"eyes"of"others."It"is"not"simply"a"good"thing:"it"

has"costs."" THE)BIBLE)ON)RELIGIOUS)FREEDOM) " Old)Testament) " The" core" of" God's" instruction" for" Israel's" life," the" Ten" Commandments," opens" with" the" words:""You" shall" have" no" other" gods"

before"me,"you"shall"not"make"for"yourself"an"idol,"you"shall"not"worship"

them"or"serve"them;"for"I"am"a"jealous"God""(Ex."20:1B3).""The"worship"of"

other"gods"was"expressly"forbidden.""This"was"not"only"a"moral"injunction,"

it"was"so"central"that"it"could"bring"capital"punishment"(Ex."22:20)."" Religion" —" whether" true" or" false"

—" is" not" only" a" matter" of" participating" in" religious" ceremonies" or" embracing" a" set" of" purely"

theological" beliefs," it" is" not" simply" the" formal" act" of" worshipping" God" or"

an"idol.""It"is"about"the"core"beliefs"that"shape"human"life.""Hence,"freedom" of" religion" is" far" more"

than" freedom" of" worship."" It" necessarily" includes" freedom" of" thought," freedom" of" assembly," and"

freedom" of" speech.[1]" Conversely," denying" religious" freedom" can" also" mean" denying" these"

things"as"well.""Religion"and"worship,"whether"true"or"false,"are"intimately"

tied"to"living"out"what"we"believe"in"our"lives.""" 57"" Israel's)Vocation)as)a)Nation) "

Israel"was"called"to"be"a"particular"nation"whose"political"and"social" order" rested" on" belief" and" trust" in" Yahweh," an" order" that" would" be" radically" disrupted" if" other" religious" ways" of" life" intruded.[2]"

However," the"surrounding"nations"were"left"free"to"follow"their"own"faiths."" If" their" experience" in"

Egypt" was" the" pattern," and" if" they" were" to"

refrain"from"doing"any"wrong"to"foreigners,"this"suggests"permission"for"a"

foreigner"to"practice"his"or"her"religion"in"Israel."" Exceptions) "

There"was"one"important"exception"which"would"seem"to"prove"the"

rule.""According"to"Leviticus"20:2,""Any"man"from"the"sons"of"Israel"or"from" the" aliens" sojourning" in"

Israel," who" gives" any" of" his" offspring" to" Molech,"

shall"surely"be"put"to"death.""Here"the"death"penalty"specifically"includes"

foreigners.""The"reason"is"that"Molech"worship"involved"child"sacrifice"and," while" other" forms" of"

worship" might" be" tolerated," this" could" never" be."" Particularly" hideous" forms" of" idolatry" apparently"

needed" to" be" singled" out."" New)Testament) " In" the" New" Testament," religious" freedom" is" not"

particularly" discussed" but" simply" seems" to" have" been" taken" for" granted."" The" crossB cultural"

nature" of" the" new" gentile" and" Jewish" Christianity," together" with" the" actual" task" of" missionary"

witness," apparently" rested" on" the" assumption"that"people"were"free"with"regards"to"their"faith.""

This"assumption"regarding"the"freedom"of"faith"was"manifest"in"the" vehicle" for" the" expansion" of" the"

early" Church:"" preaching." " The" sermons"

given"in"the"book"of"Acts"are"appeals"and"invitations"to"turn"to"God.""They"

are"spiritually"and"verbally"forceful"presentations,"but"there"is"never"a"hint"

that"they"are"or"will"be"accompanied"by"coercive"force.""" 58"" CONCLUSIONS) " Treating" different"

religious" bodies" equally" before" the" law" should" not" be" seen" as" a" compromise" of" a" Christian"

view" of" the" modern" state." " Rather"it"is"a"Christian"view"of"the"modern"state." ""

59"" 60"" 5 SELALU)DALAM)TEGANGAN:)

MEMBINCANG)KEBEBASAN)BERAGAMA) DALAM)PERSPEKTIF)AGAMA) Martinus)Joko)Lelono) ""

Membincang" kebebasan" beragama" berarti" membincang" tentang" permasalahan" besar" dalam"

agama"Bagama" sampai" dengan" hari" ini."

Persoalan ini sudah melahirkan para pewarta agama yang pergi dari ujung bumi yang satu menuju ujung bumi yang lain. Bahkan dalam perjalanannya untuk membela kebenaran dari agamanya, orang rela menyerahkan diri demi kesucian dunia ini dalam versi mereka. Para misionaris, para zending, para wali mencobaewartakan agama ke ujungBujung terpercil bumi ini untuk mengatakan bahwa, "Inilah agama yang membawa kepada keselamatan." Ada sebuah mimpi dalam angan bahwa dunia ini akan benarBbenar damai tatkala tiada lagi perbedaan dalam hal menyembah Allah dalam hidup seluruh lapisan masyarakat. Namun, nyatanya sampai dengan hari ini perbedaan agama tetap saja ada. Meski di suatu tempat perbedaan ini menjadi bahan pertengkaran dan perpisahan, tetapi kita tidak bisa lupa juga bahwa perbedaan yang sama juga melahirkan kedamaian. Indonesia sebagai sebuah bangsa disatukan oleh berbagai perbedaan dan salah satu yang mencolok adalah perbedaan agama.

Gambaran di atas menjelaskan judul dari artikel ini, "Selalu dalam tegangan". Menerima perbedaan beragama, apalagi bagi para pemimpin agama, bisa jadi merupakan sebuah ironi. Tegangannya adalah bahwa di satu pihak seorang pemimpin agamaewartakan bahwa agamanya membawa keselamatan bagi manusia, bahkan menjadi sumber keselamatan yang final, sementara di sisi lain ia mengatakan bahwa agama lain juga merupakan sarana untuk berjumpa dengan Allah. Maka, 61 pertanyaan besar dari tulisan ini adalah, "Bagaimana tegangan ini hendak dihadapi dalam perspektif Gereja Katolik?" Tulisan ini saya tulis dalam kapasitas saya sebagai seorang teolog yang melihat ajaran Gereja mengenai dialog. Latar belakang sejarah Gereja Katolik diharapkan bisa menjadi pintu masuk memahami bagaimana Gereja Katolik berkuat dalam tarik ulur pemikiran tentang menerima perbedaan dalam beragama. (PENERIMAAN KEPADA AGAMA) LAIN) DALAM) SEJARAH) GEREJA) KATOLIK)) Gereja lahir dari peristiwa Pentakosta yang disambung dengan khotbah Petrus (Kis 2:1B40). Sebelum peristiwa itu, kisah Yesus sepertinya akan terkubur dengan kematianNya di kayu salib. KebangkitanNya pun menjadi hak istimewa para Rasul dan beberapa saksi saja (1 Kor 5:6).

Namun peristiwa hari Pentakosta itu menandai lahirnya kawatan baru di antara orang Yahudi, para pengikut Yesus dari Nazaret yang pada hari itu bertambah kiraBkira tiga ribu jiwa (Kis 2:41). Sejarah mencatat bahwa kawatan ini menjadi semakin besar dan tersebar terutama setelah penganiayaan yang disebabkan sesudah stefanus dihukum mati (Kis 11:19). Mereka tidak hanya berkuat di antara orang Yahudi yang di Palestina saja melainkan juga kepada mereka yang berada di Fenisia, Siprus, dan Anthiokia. Bahkan di Antiokhialah muridBmurid ini untuk pertama kalinya disebut sebagai Kristen (Kis 11: 19B26). Kota ini berada jauh dari Yerusalem. Kota ini merupakan ibukota Syria di zaman RajaBRaja Yunani. Bagi para rasul kota ini menjadi kota yang relatif aman. Kota ini adalah kota dagang yang makmur di atas sungai Orontes, bagian utara Siria, provinsi Romawi, dengan penduduk Yahudi yang cukup besar dan toleran. OrangBorang Helenis dari Siprus dan Kirene menerima orangB orang bukan Yahudi ke dalam jemaat tanpa harus melakukan ritus sunat.

Suasana kebebasan beragama tampak jelas di kota ini. Orang Kristen bisaewartakan iman akan Yesus di sana. Penyebaran iman ini semakin berkembang dengan pertobatan Saulus menjadi Paulus, seorang yang dulunya menjadi penganiaya jemaat lalu kemudian menjadi seorang 62 pewarta iman. Kitab Suci Perjanjian Baru memberi porsi yang besar pada kisah perjalanan dan perjuangan Paulus terutama di dalam suratBsuratnya yang dikirim kepada jemaat perdana. Masa kedamaian bagi pewartaan Kekristenan tidak berlangsung lama. Kaisar Klaudius (bertahta 24 Januari 41, sampai tahun 54) menitahkan untuk mengusir orangBorang Yahudi dari kota Roma karena mereka terus menerus menciptakan ketegangan di antara mereka sendiri, suatu ketegangan yang disebabkan oleh diskusi tentang seorang yang disebut "Chresto" (Yesus). Lebih lanjut seorang sejarawan Romawi, Kornelius Tacitus (+120) bersaksi bahwa sebutan "Kristen" berasal dari nama Chrestos. Orang ini katanya dalam pemerintahan Tiberius disiksa oleh Prokurator Pontius Pilatus.

Dia" menulis" "pada" saat" itu" praktik"
takhayul"yang"ketertarikan"berkembang"marak"lagi"baik"di"Yudea"maupun" di" Roma". " Lalu" ditangkaplah"
mereka" yang" mengaku" Kristen." Kalau" pada"
masa"sebelumnya"mereka"dikejarBkejar"oleh"orang"Yahudi,"pada"masa"ini"
mereka"dikejar"oleh"pemerintahan"Roma."Pengejaran"itu"semakin"genjar" tatkala" mereka" dituduh" telah"
membakar" kota" Roma" (16" Juli" 64)." Kaisar" Nero" merestui" penganiayaan" terhadap" orang" Kristen"
yang" dianggapnya" penuh" takhayul." Dalam" perjalanan" berikutnya" motifBmotif" penganiayaan" itu"
semakin" berkembang" salah" satunya" mereka" ini" dianggap" sebagai"
kelompok"yang"anti"Roma"dan"hendak"makar"terhadap"otoritas"negara." " MasaBmasa" pengejaran" inilah"
yang" dikenal" sebagai" masa" kemartiran."Ada"banyak"orang"Kristen"yang"dianiaya"dan"bahkan"dibunuh"
karena" mereka" tidak" mau" meninggalkan" iman" mereka" kepada" Yesus." Namun" umat" Kristen" tidak"
terhenti" sampai" di" situ." Banyak" di" antara"
mereka"justru"merasa"bangga"karena"boleh"menderita"demi"Yesus"Kristus" yang" mereka" iman."
Sebagian" dari" mereka" menyembunyikan" diri" dalam" Katakombe" selain" untuk" menyelamatkan" diri"
dari" penganiayaan" dan" pengejaran"juga"untuk"merayakan"upacara"liturgis." "
MasaBmasa"penganiayaan"ini"berlangsung"sampai"pada"tahun"313,"
saat"Konstantinus"Agung,"seorang"Kaisar"Roma"mengeluarkan"edik/Milano"
(sebuah"pernyataan"yang"memberi"kebebasan"kepada"umat"Kristen"untuk" mewartakan" imannya)."
Semua" dimulai" dari" pertobatan" Konstantinus." Menjelang" pertempuran" melawan" Masensius" (27"
Oktober" 312)" Konstantinus" mendapat" pesan" dalam" mimpi" bahwa" ia" harus" menandai" 63"" perisai"
dengan" tanda" surgawi." Dia" melakukan" sesuai" dengan" pesan" tersebut:" Gambar" Kristus" (emblem"
kekristenan)" pada" perisai" para" serdadunya." Dalam" pertempuran" itu," ia" mengalami" kemenangan"
gilang" gemilang" hingga" akhirnya" pada" tahun" 313," ia" melindungi" Kristianisme." Pertobatan" ini"
adakalanya" dicap" sebagai" pintu" gerbang" pengkhianatan" Gereja" terhadap" Injil." Gereja" Kristen" yang"
pada" dasarnya" miskin," tanpa" dukungan" Negara" dan" bersandarkan" pada" kebenaran" dan" daya"
guna" rahmat"ilahi"semata,"siap"memberikan"hidup,"tak"pernah"menggunakan"
kekuasaan."Kemudian"berubah"menjadi"kaya,"didukung"sepenuhnya"dan" diperalat" oleh" Negara" dan"
cenderung" menggunakan" kekuasaan" untuk" mencapai" tujuan" tertentu." Konstantinus" Agung" dan"
para" penggantinya" memperhatikan"estetika"kekristenan."Di"Roma"dibangun"3"basilika:"Santo" Petrus,"
Yohanes" Lateran" dan" Sang" Penebus." Di" Yerusalem" dibangun"
Gereja"Makam"Suci."Di"Konstantinopel"dibangun"Hagia"Sophia."Ini"semua"
berarti"lebih"daripada"suatu"tindakan"kedermawanan"dan"perlindungan" semata." Tindakan" Kaisar"
merupakan" suatu" ungkapan" iman" Kristen" di" hadapan" dunia;" juga" merupakan" penghormatan"
terhadap" para" martir" yang"dibunuh"oleh"aparath"kekaisaran;"pengakuan"terhadap"kemenangan"
Uskup"Pertama"Roma"atas"negara"penganiaya."Kaisar"menghadiahi"Paus"
Istana"Lateran."Dengan"itu"Paus"mendapat"status"sosial"keduniaan"yang"
penting,"juga"harga"diri"eklesialnya." Masa"awal"sejarah"Gereja"ini"disebut"sebagai"masa"di"mana"Gereja"
Kristen" mengalami" menjadi" agama" yang" dianiaya" (abad" IBIV" M). " Masa"
berikutnya"terbentang"sejak"masa"itu"sampai"pada"abad"XX."Penerimaan"
oleh"negara"di"ranah"politik"yang"didukung"oleh"penerimaan"Kekristenan" sebagai" agama" Negara"
dengan" banyak" keistimewaan" didukung" oleh"
pemikiran"para"teolog."Salah"satu"teolog"yang"sangat"berpengaruh"adalah"
Agustinus."Pemikiran"Agustinus"berkembang"dari"seorang"yang"menerima"
hadirnya"agamaBagama"lain"menjadi"pribadi"yang"eksklusif"dan"menolak" hadirnya" agamaBagama" lain."
Agustinus" melihat" bahwa" seluruh" umat"
manusia"disatukan"sebagai"satu"tubuh", "dengan"Kristus"sebagai"kepala." "Kristus:" Dia" ada" dalam" diri"
semua" orang" dan" semua" orang" ada" dalam" diriNya," karena" semuanya" adalah" satu," sebab" Kristus"
adalah" satu". " Dia" memahami"Kristus"sebagai"penyelamat"dunia,"yang"telah"berkarya"di"hati"
semua"umat"manusia"dan"oleh"karenanya"juga"dalam"semua"agama"dan" 64"" kebudayaan." Dengan"
demikian," Gereja" juga" digambarkan" sebagai" komunitas"keselamatan"yang"universal." "
Tuhan"Kita"Yesus"Kristus,"sebagai"manusia"yang"sempurna,"adalah"

kepala"sekaligus"tubuh...."TubuhBNya"adalah"Gereja,"bukan"hanya" Gereja" dalam" wilayah" tertentu," tetapi" juga" gereja" yang" ada" di" tempat"ini"dan"di"mana"pun"di"muka"bumi"ini,"bukan"hanya"Gereja" yang"hidup"saat"ini,"tetapi"juga"semua"santo"yang"ada"sejak"Habel" hingga"semua"yang"akan"lahir"dan"percaya"dalam"diri"Jesus"sampai" dengan" mereka" akhir" dunia." Kita" semua" adalah" bagian" dari" satu" kota." Kota" ini" adalah" tubuh" Kristus." Kota" ini" adalah" keseluruhan" Yesus"sebab"Jesus"disatukan"dengan"Gereja." Dengan" demikian," secara" tidak" langsung" ia" menyatakan" bahwa" Gereja" telah" menjadi" tanda" kehadiran" secara" nyata" dari" komunitas" Kristen." Gereja" sebagai" realitis" keselamatan" selalu" hadir" secara" tersembunyi" di" berbagai" tempat" bahkan" sebelum" kedatangan" Kristus." Dengan" mengatakan" hal" ini," Agustinus" membuka" sudut" pandang" eklesiologis"yang"baru"yang"memandang"agamaBagama"sebagai"kesatuan" yang"sempurna"dari"rencana"keselamatan"Allah." Namun," dalam" perdebatan" dengan" Pelagius," Agustinus" mulai" menganjurkan" eklesiologi" yang" eksklusif." Pelagius" menekankan" pentingnya"praktik"asketis"yang"keras"agar"seseorang"bisa"mencapai"Allah." Agustinus," di" sisi" yang" lain," menegaskan" kekuatan" rahmat" Allah" yang" absolut" sebagai" satuBsatunya" jalan" untuk" menyelamatkan" manusia." Rahmat"Tuhan"itu"telah"diberikan"di"dalam"Kristus"melalui"sarana"Gereja" dan" sakramennya." Ia" akhirnya" mengatakan," "Memeluk" agama" Kristen" adalah"jalan"keselamatan"yang"paling"aman"dan"paling"pasti"."

Di"akhir"hidupnya,"Agustinus"semakin"menjauh"dari"agamaBagama" lain." Dia" semakin" mengidentifikasi" Kota" Allah" dengan" Gereja" yang" tampak." "Agama" yang" benar" tidak" ditemukan" dalam" paganisme" yang" membingungkan," juga" bukan" dalam" kegamangan" kaum" heretik," tentu" juga"tidak"ada"dalam"skisma"yang"hambar... "tetapi"hanya"dalam"mereka" yang"terpanggil"di"dalam"Gereja"Katolik"atau"Kristen"ortodok."Merekalah" penjaga" kebenaran" yang" mengikuti" sang" kebenaran." Oleh" karenanya," kita"dapat"melihat"bahwa"Agustinus"telah"mengubah"pemikirannya"dari" 65"" seorang"yang"bersikap"terbuka"dan"berpusat"pada"Logos"menjadi"seorang" yang" berpusat" pada" Gereja" yang" eksklusif" dalam" hal" keterbukaannya" dengan"agamaBagama"lain." Pemikiran"Agustinus"dikembangkan"oleh"muridnya,"Fulgentius."Dia" menyatakan"kategori"berikut:"Tidak"diragukan"lagi"bahwa"bukan"hanya" para"penyembah"berhala"melainkan"juga"kaum"yahudi"dan"semua"heretik" serta" skismatis" yang" mati" di" luar" Gereja" akan" dikirim" ke" api" yang" tanpa" akhir" yang" telah" disiapkan" Allah" untuk" setan" dan" semua" malaikatnya." Pemikiran"ini"perlahan"memberikan"gambaran"yang"jelas"tentang,""Extra" ecclesiam>nulla"salus""(di"luar"Gereja"tidak"ada"keselamatan). "Dengan"kata" lain,"Fulgentius"mengutuk"semua"bentuk"jalan"keselamatan"di"luar"Gereja." Meskipun" pada" awalnya" ungkapan" ini" hanya" untuk" mengutuk" dan" mencegah"tersebarnya"kaum"heresis,"tetapi"dengan"jelas"secara"perlahan" ungkapan" ini" dianggap" sebagai" sikap" negatif" umat" Kristen" terhadap" agamaBagama"lain." Dengan" demikian," masa" keemasan" dari" Bapa" Gereja" berakhir." Jendela" Gereja" yang" pada" masa" itu" terbuka" kepada" agamaBagama" lain," berakhir"sudah." JendelaBjendela"itu"terus"tertutup"dan"baru"akan"dibuka" lima" belas" abad" kemudian" kemudian," dalam" Konsili" Vatikan" II." Selama" lima" belas" abad" itu," Gereja" sendiri" akhirnya" pecah" menjadi" beberapa" kelompok:"perpecahan"dengan"Gereja"Ortodoks" (1054)"dan"perpecahan" dengan" kelompok" reformasi" yang" dimulai" oleh" Martin" Luther," seorang" Rahib" Ordo" St." Agustinus," dosen" Universitas" Wittenberg" (1520)" dengan" memasang" 95" dalil" di" pintu" Katedral" Wittenberg" yang" mengkritik" kehidupan" Gereja" pada" waktu" itu." Ada" cerita" yang" panjang" di" balik" penyelesaian" masalah" itu," tetapi" pada" akhirnya" Gereja" terpisah" dengan" Martin"Luther"dan"gerakan"reformasinya."Pada"masa"ini"mulai"sebutan" Gereja"Reformasi" (yang"di"Indonesia"lebih"dikenal"sebagai"Gereja"Kristen" Protestan)" dan" Gereja" Katolik" (Gereja" yang" mengakui" Paus" sebagai" pemimpinnya)." Dalam" relasi" dengan" agamaBagama" lain," Gereja" juga" mengalami"peristiwaBperistiwa"yang"tidak"menyenangkan."Salah"satunya" adalah" perang" salib." Tentu" dalam" kacamata" sejarah," kita" tidak" bisa" menyalahkan" peristiwa" masa" itu." Mungkin" memang" pada" masa" itu," perang" menjadi" penyelesaian" yang" terbaik" dan" akibat" perpecahan" pada" 66"" masa"itu,"kita"bisa"belajar"untuk"tidak"mengulangi"peristiwa"kelam"dalam" sejarah"beragama." Baru"

pada" abad" keB20," kesadaran" akan" pentingnya" menghargai" agamaBagama" lain," secara" resmi" mulai" dikembangkan" dalam" Gereja" Katolik." Namun," secara" akar" rumput" dan" tindakan" praktis," ada" banyak" tindakan"yang"sudah"dilakukan"pada"masaBmasa"sebelumnya."Periode"ini" berawal"dari"munculnya"pemimpinBpemimpin"Gereja,"teologBteolog,"dan" bahkan"misionaris,"mempertanyakan"asumsi"yang"selama"ini"berkembang" di" dalam" Gereja." Mereka" mulai" meragukan" bahwa" berkembangnya" jumlah"umat"berarti"kemenangan"kristianitas"di"dunia."Mereka"tidak"lagi" yakin" bahwa" rencana" keselamatan" Allah" berarti" agamaBagama" harus" digantikan"dengan"kekristenan."" Pada"1960Ban,"Gereja"mulai"menapaki"era"baru."Paus"Yohanes"XXIII" memperkenalkan" ungkapan" Aggiornamenta" dan" kemudian" Konsili" Vatikan"II"menjadi"konsili"yang"pertama"kali"menggagas"tentang"agamaB agama" nonBkristen" dan" mulai" mendefinisikan" posisi" Gereja" di" hadapan" mereka."Paus"Paulus"VI"membentuk"“Sekretariat"bagi"AgamaBagama"nonB Kristen”" pada" 1963." Setahun" kemudian" dia" mempublikasikan" ensiklik" Ecclesiam"Suam"yang"di"dalamnya"dibahas"secara"luas"temaBtema"dialog."" Pada"bagian"berikut"akan"dibahas"mengenai"tema"kebebasan"beragama" ini"dalam"pandangan"Gereja"Katolik"saat"ini."" KONSILI(VATIKAN)II(SEBUAH)MAGNA)CHARTA) " Paus"Yohanes"XXIII,"yang"nama"aslinya"Angelo"Giuseppe"Roncalli," adalah" paus" yang" membuka" secara" tegas" Gereja" Katolik" kepada" dunia." Sebelum" menjadi" Paus," dia" adalah" duta" besar" Vatikan" untuk" Bulgaria," Turki"dan"Yunani"serta"ke"Perancis."Dalam"tugasnya"sebagai"duta"besar,"ia" berjumpa"dengan"orang"dari"berbagai"Gereja"dan"juga"agama."Peristiwa" yang" sangat" terkenal" adalah" saat" ia" menolong" orang" Yahudi" dan" menyelamatkan" ribuan" pengungsi" di" Eropa." Maka" tidak" heran," ketika" menjadi" Paus," ia" menggagas" pentingnya" dialog" dengan" umat" Yahudi." Awalnya" memang" ia" hanya" ingin" agar" Konsili" berbicara" tentang" dialog" dengan"umat"Yahudi,"tetapi"melalui"Konsili"Vatikan"II"yang"diprakarsainya," 67"" Gereja" membuka" dialog" dan" keterbukaan" dengan" agamaBagama" lain." Sedikit" tidak" dinyana," keinginan" untuk" berbicara" dengan" kaum" Yahudi" meniup" keinginan" Gereja" untuk" berbicara" tentang" agamaBagama" nonB Kristiani"karena"jika"tidak"berbicara"tentang"agamaBagama"ini,"lebih"baik" mereka"tidak"berbicara"sama"sekali."Skema"yang"berbicara"tentang"umat" Yahudi" saja" dan" tidak" tentang" agama" lain" dianggap" tidak" memuaskan." Maka,"bagian"ini"lebih"baik"disingkirkan"saja,"atau"ditambahkan"ungkapan" yang"memperhatikan"umat"Islam,"Hindu"dan"semua"agama"lain,"yang"juga" memiliki"jutaan"pengikut."" Para" bapa" Konsili" merasa" bahwa" mereka" harus" menghadirkan" kesatuan"dalam"hal"rencana"keselamatan"bagi"semua"orang"dengan"jelas" dan" harus" mengungkapkan" dengan" jelas" bahwa" setiap" orang" memiliki" tempat"dalam"rencana"penyelamatan"Allah."BudayaBbudaya"lama"harus" dianggap"sebagai"jalan"menuju"kebenaran"lnjil"dan"agamaBagama"harus" dipandang"dengan"rasa"hormat"yang"besar."Jika"kita"tidak"ingin"menutup" pintu" terhadap" pemahaman" roh," maka" kita" harus" juga" menolak" segala" penolakan"terhadap"pengikut"agama"lain"dan" kita"tidak"boleh"lagi"bicara" tentang""ketidaktahuan"yang"gelap,"paganisme,"penyembahan"berhala," dan"sebagainya". "Para"uskup"yang"lain"juga"setuju"dan"dengan"demikian" skema"baru"tentang"umat"nonBKristen"disiapkan."" Dalam"hal"ini,"Gereja"Katolik"mendorong"umatnya"untuk"melihat" dan" mengenal" spiritualitas," moralitas," kehidupan" sosial" dan" nilaiBnilai" budaya" yang" ada" dalam" gerejaBgereja" yang" lain." Secara" konkret" dalam" tahap" ini" Gereja" Katolik" diundang" untuk" kembali" mengenal" dialog" dan" kerjasama"dengan"umat"agama"yang"lain."" Untuk"pertama"kalinya"dalam"sejarah"Gereja,"Gereja"memaparkan" prinsipBprinsip"untuk"menerima"dan"mengetahui"kebenaran"dan"kekudusan" yang"ada"dalam"agama"lain"termasuk"juga"kesalahan"yang"mereka"miliki." Deklarasi" ini" ditujukan" kepada" lebih" dari" tiga" milyar" orang," termasuk" mereka" yang" belum" mengenal" Kristus" dan" karya"

penyelamatanNya. "Namun," mereka" ini" tetap" bisa" diselamatkan" jika" mereka" menaati" hati" nurani" mereka. "" Naskah" resmi" dialog" ini" terdapat" dalam" Nostra" Aetate, "Pernyataan" tentang" Hubungan" Gereja" dengan" Agama" Bukan" Kristen." 68""

Pernyataan" ini" dimulai" dengan" pernyataan" tentang" kesamaan" pertanyaan" mendasar" tentang" kemanusiaan" di" antara" bangsa" bangsa: " Pada" zaman" kita" bangsa" manusia" semakin" erat" bersatu" dan" hubungan" hubungan" antara" pelbagai" bangsa" berkembang." Gereja" mempertimbangkan" dengan" lebih" cermat," manakah" hubungannya" dengan" agama" bukan" kristiani. " Dalam" tugasnya" mengembangkan" kesatuan" dan" cinta" kasih" antar" manusia," bahkan" antar" bangsa," gereja" disini" terutama" mempertimbangkan" manakah" hal" yang" pada" umumnya" terdapat" pada" bangsa" manusia," dan" yang" mendorong" semua" untuk" bersama" menghadapi" situasi" sekarang." Sebab" semua" bangsa" merupakan" satu" masyarakat," mempunyai" satu" asal," sebab" Allah" menghendaki" segenap" umat" manusia" mendiami" seluruh" muka" bumi. " Semua" juga" mempunyai" satu" tujuan" terakhir," yakni" Allah," yang" penyelenggaraan"Nya," bukti" bukti" kebaikan"Nya" dan" rencana" penyelamatan"Nya" meliputi" semua" orang," sampai" para" terpilih" dipersatukan" dalam" Kota" suci," yang" akan" diterangi" oleh" kemuliaan" Allah. "

Di" sana" bangsa" bangsa" akan" berjalan" dalam" cahaya"Nya. " Dari" pelbagai" agama" manusia" mengharapkan" jawaban" tentang" teka" teki" keadaan" manusiawi" yang" tersembunyi," yang" seperti" di" masa" silam," begitu" pula" sekarang" menyentuh" hati" manusia" secara" mendalam: " apakah" manusia" itu? " Manakah" makna" dan" tujuan" hidup" kita? " Manakah" yang" baik" dan" apakah" dosa" itu? " Dari" manakah" asal" penderitaan" dan" manakah" tujuannya? " Manakah" jalan" untuk" memperoleh" kebahagiaan" yang" sejati? " Apakah" arti" maut," pengadilan" dan" pembalasan" sesudah" mati? "

Akhirnya" apakah" misteri" terakhir" dan" tak" terperikan" itu," yang" merangkum" keberadaan" kita," dan" menjadi" asal" serta" tujuan" kita? "

Dalam" pernyataan" yang" lain," Konsili" Vatikan" II" mencoba" menjawab" tegangan" antara" kegiatan" misionaris" dalam" Agama" Katolik" dan" penerimaan" atas" hadirnya" agama" lain" di" dalam" sejarah" dunia. " Hal" ini" ditegaskan" dalam" dokumen" Dignitatis" Humanae" yang" menyatakan: "

Martabat" pribadi" manusia" semakin" disadari" oleh" manusia" zaman" sekarang. " Bertambahlah" juga" jumlah" mereka" yang" menuntut," supaya" dalam" bertindak" manusia" sepenuhnya" menggunakan" pertimbangannya" sendiri" serta" kebebasannya" yang" bertanggung" jawab," bukannya" terdorong" oleh" paksaan," melainkan" karena" menyadari" tugasnya. " Begitu" 69"" pula" mereka" menuntut" supaya" wewenang" pemerintah" dibatasi" secara" yuridis," supaya" batas" kebebasan" yang" sewajarnya" baik" pribadi" maupun" kelompok" jangan" dipersempit. " Dalam" masyarakat" manusia" tuntutan" kebebasan" itu" terutama" menyangkut" harta" nilai" rohani" manusia," dan" istimewa" berkenaan" dengan" pengalaman" agama" secara" bebas" dalam" masyarakat. " Dengan" saksama" Konsili" Vatikan" ini" mempertimbangkan" aspirasi" itu," dan" bermaksud" menyatakan" betapa" keinginan" itu" selaras" dengan" kebenaran" dan" keadilan. " Maka" Konsili" ini" meneliti" Tradisi" serta" ajaran" suci" Gereja," dan" dari" situ" menggali" harta" baru," yang" selalu" serasi" dengan" khazanah" yang" sudah" lama. " Oleh" karena" itu" Konsili" suci" pertama" menyatakan," bahwa" Allah" sendiri" telah" menunjukkan" jalan" kepada" umat" manusia" untuk" mengabdikan" kepada"Nya," dan" dengan" demikian" memperoleh" keselamatan" dan" kebahagiaan" dalam" Kristus. " Kita" percaya," bahwa" satu" Agama" yang" benar" itu" berada" dalam" Gereja" katolik" dan" apostolik," yang" oleh" Tuhan" Yesus" disertai" tugas" untuk" menyebarkan" kepada" semua" orang," ketika" bersabda" kepada" para" Rasul: " "Pergilah," jadikanlah" semua" bangsa" murid" dan" baptislah" mereka" dalam" nama" Bapa" dan" Putera" dan" Roh" Kudus," dan" ajarlah" mereka" melakukan" segala" sesuatu" yang" telah" kuperintahkan" kepadamu"" (Mat" 28:19-20). " Adapun" semua" orang" wajib" mencari" kebenaran," terutama" dalam" apa" yang" menyangkut" Allah" dan" Gereja"Nya. " Sesudah" mereka" mengenal" kebenaran" itu," mereka" wajib" memeluk" dan" mengamalkannya. " Begitu" pula" Konsili" suci" menyatakan," bahwa" tugas" itu" menyangkut" serta" mengikat" suara" hati," dan" bahwa" kebenaran" itu" sendiri," yang" merasuki" akal" budi"

secara "halus" dan "kuat." Adapun "kebebasan" beragama, "yang" termasuk "hak" manusia "dalam" "menunaikan" "tugas" "berbakti" kepada "Allah," "menyangkut" "kekebalan" terhadap "paksaan" dalam "masyarakat." "Kebebasan" itu "sama" sekali "tidak" "mengurangi" "ajaran" "katolik" "tradisional" tentang "kewajiban" "moral" "manusia" dan "masyarakat" terhadap "agama" yang "benar" dan "satu" "satunya" "Gereja" "Kristus." "Selain" itu "dalam" "menguraikan" "kebebasan" beragama "Konsili" "suci" bermaksud "mengembangkan" "ajaran" "para" "paus" "akhir" "Bakir" "ini" "tentang" "hak" "pribadi" "70" "manusia" yang "tidak" "dapat" "di" "ganggu" "B" "gugat," "pun" "juga" "tentang" "penataan" "yuridis" "masyarakat" (Art"1). "Selanjutnya" "secara" "tegas" "dikatakan:" "Konsili" "menganjurkan" "Umat" "katolik," "tetapi" "mengajukan" "permohonan" "mendesak" kepada "semua" orang, "supaya" mereka "penuh" "perhatian" "mempertimbangkan," "betapa" "perlulah" "kebebasan" beragama, "terutama" dalam "keadaan" "keluarga" "manusia" "zaman" "sekarang."

Sebab "jelaslah," "bahwa" "semua" "bangsa" "makin" "bersatu," "bahwa" "orang" "orang" "dari" "pelbagai" "kebudayaan" dan "agama" "saling" "terikat" secara "semakin" erat, "akhirnya" "bahwa" "bertambahlah" "kesadaran" akan "tanggung" "jawab" "masing" "masing." "Maka" "dari" "itu," "supaya" "hubungan" "hubungan" "damai" dan "kerukunan" pada "bangsa" "manusia" "diperbaharui" dan "diteguhkan," "perlulah" "bahwa" "dimana" "mana" "kebebasan" beragama "didukung" "dengan" "perlindungan" "hukum" yang "tepat" guna, "dan" "bahwa" "tugas" "tugas" "serta" "hak" "manusia" yang "tertinggi" untuk "secara" "bebas" "menghayati" "hidup" beragama "dalam" "masyarakat" "dipatuhi" (Art"15). "Dengan" "demikian" "menjadi" "jelas" "bagaimana" "Gereja" "menerima" "hadirnya" "agama" "lain" "sebagai" "bagian" "dari" "peziarahan" "umat" "manusia."

TETAP)DALAM)TEGANGAN,)SEBUAH)SIMPUL) "Gereja" "Katolik" mengakui "hadirnya" "agama" "Bagama" "lain" "sebagai" "bagian" "dari" "peziarahan" "umat" "manusia." "Namun," "tidak" "berarti" "bahwa" "Gereja" "Katolik" "kehilangan" "sifat" "misionernya" untuk "mewartakan" "pesan" "Kristus" yang "membawa" "keselamatan" bagi "dunia." "Agama" "Bagama" yang "lain" (terutama "agama" "samawi)" "memegang" "prinsip" yang "hampir" "sama" "mengingat" "hal" "ini" "pun" "menjadi" "pegangan" yang "amat" "penting" "sebab" "kalau" "tidak" "agama" "Bagama" akan "kehilangan" "nilainya" "sebagai" "sarana" "pembawa" "perdamaian." "Tentang" "hal" "ini," "Nostrae" "Aetate" "mengatakan:"

Gereja "Katolik" "tidak" "menolak" "apapun" yang "benar" dan "suci" "di" "dalam" "agama" "Bagama" "ini." "Dengan" "sikap" "hormat" yang "tulus" "Gereja" "merenungkan" "cara" "cara" "bertindak" dan "hidup," "kaidah" "kaidah" "serta" "71" "ajaran" "ajaran," yang "memang" "dalam" "banyak" "hal" "berbeda" "dari" "apa" yang "diyakini" dan "diajarkannya" "sendiri," "tetapi" "tidak" "jarang" "toh" "memantulkan" "sinar" "Kebenaran," yang "menerangi" "semua" orang. "Namun" "Gereja" "tiada" "hentinya" "mewartakan" dan "wajib" "mewartakan" "Kristus," "yakni" "jalan," "kebenaran" dan "hidup" (Yoh"14:6); "dalam" "Dia" "manusia" "menemukan" "kepenuhan" "hidup" "keagamaan," dalam "Dia" "pula" "Allah" "mendamaikan" "segala" "sesuatu" "dengan" "diri" "Nya" (Art"2). "Maka," "mengikuti" "judul" "artikel" "ini," "tegangan" "antara" "membawa" "pesan" "agama" dan "menerima" "hadirnya" "agama" "lain" akan "tetap" ada. "Hal" "ini" "mengikuti" "peribahasa" "lama" yang "mengatakan," "Biarkan" "dawai" "biola" "itu" "tegang" "sesuai" "dengan" "tegangan" yang "diperlukan." "Kalau" "dawainya" "terlalu" "kendor," "ia" akan "kehilangan" "bunyinya," "tetapi" "kalau" "ia" "terlalu" "kencang" "ia" akan "putus" dan "lagi" "lagi" "kita" akan "kehilangan" "bunyi" "biola" yang "syahdu."

Namun, "kalau" "ia" "ada" "dalam" "tegangan" yang "tepat," "kita" akan "menemukan" "bunyi" "biola" yang "menghibur" "kita" "semua". "Relasi" "semacam" "menjadi" "relasi" yang "paling" "mungkin" "untuk" "mendamaikan" "antara" "membawa" " warta" "agama" dan "menerima" "hadirnya" "agama" "Bagama" "lain," "tetap" "membawa" "nilai" "pribadi" "tanpa" "kehilangan" "respek" "atau" "penghormatan" akan "nilai" "nilai" yang "dibawa" "oleh" "saudara" "saudari" yang "lain." "DALAM)KONTEKS)INDONESIA) " " Dalam "konteks" "masyarakat" "di" "Indonesia," "tidak" "bisa" "dikatakan" "bahwa" "penghargaan" akan "kebebasan" beragama "sudah" "mendapat" "tempat" yang "sepadan." "Maraknya" "pelanggaran" akan "pendirian" "rumah" "ibadah," "tentu" "menciderai" "usaha" "membangun" "kebebasan" beragama. "Tentu" "amat" "diterima" "kalau" "aturan" yang "sama" "diterapkan" bagi "semua" "golongan." "Sayangnya" "golongan" "mayoritas" "sering" "lebih" "mudah" "membangun" "tempat" "ibadah" sementara "kelompok" "minoritas" "kesulitan" "membangun" "tempat" "ibadah." "Bagi" yang "minoritas" "pembangunan" "rumah" "ibadah" "membutuhkan" "Ijin" "Mendirikan" "Bangunan"

(IMB) yang pengurusannya berteleBtele sedangkan bagi kaum mayoritas IMB bisa saja diabaikan dan tidak ada yang mempermasalahkannya. Di Jawa dan sebagian besar Indonesia barat, umat Muslim mudah membangun Masjid dan pembangunan Gereja menjadi hal yang tidak begitu saja bisa dilakukan sementara di daerah 72 Indonesia timur yang mayoritasnya beragama Kristen pembangunan Gereja menjadi mudah sementara pembangunan Masjid akan dihalangB halangi. Ada banyak data yang menyebutkan mengenai tindak intoleran yang terjadi pada masyarakat kita saat ini. Peraturan Negara yang seharusnya steril dari pengaruh kepentingan agama (mengingat Negara kita bukan Negara berdasar agama), saat ini sudah sarat dengan intervensi agama dalam aturan Negara meski ada dalam basis lokal. Kalau di beberapa daerah kita mendengar ada Perda yang berbau Syariah, di Papua sempat muncul rencana Perda Injil. Di mana ada kelompok mayoritas dengan kekuasaan di dalam pemerintahan, lalu bisa menyusup di dalamnya perdaBperda yang berbau keagamaan yang meskipun diakui sebagai lahir dari demokrasi, tetapi tidak bisa dipungkiri melahirkan diskriminasi terhadap agamaBagama lain. Jika demikian yang terjadi, lalu bangsa kita bisa kembali ke hukum rimba, siapa yang kuat, dia yang menang.

Belajar dari sejarah Gereja Katolik, agama yang berjaln berkelindan dengan pemerintahan akan melahirkan kekacauan (kemudaratan) daripada membawa kebaikan. Meski tetap diakui adanya kebaikan yang terlahir pada zaman itu, tetapi harga yang harus dibayar oleh usaha mengklaim kebenaran agama tunggal terlalu besar. Persaudaraan yang hancur, keluarga yang terpecah belah, kemanusiaan yang diinjakBinjak dan bahkan nyawa yang dianggap tidak ada artinya menjadi sesuatu yang mengerikan dan jangan sampai terulang kembali. Gereja pernah menjadi kelompok minoritas yang dianiaya dan bahkan diserang oleh Negara dan kelompok mayoritas. Gereja yang sama pernah menjadi kelompok yang arogan menyalahkan dan mendiskriB minasi kelompok minoritas. Ini hanya soal waktu dan pilihan sikap. Setiap agama dan juga para pemimpinnya bisa terjerumus pada godaan yang sama. Maka, belajar dari sejarah, sikap semacam tidak boleh kembali terulang. Hukum rimba tak boleh kembali menjadi hukum di Negara Merdeka Indonesia Raya ini. Hukum persaudaraan yang sembari mempertahankan nilai pribadi tanpa kehilangan penghormatan kepada agama lain perlu dikembangkan. Paus Fransiskus, pemimpin Gereja Katolik pada hari ini pernah mengatakan, "Kita memang membenci dosa, tetapi kita mengasihi si 73 pendosa." Setiap tindak intoleran yang menyakiti persaudaraan dan kemanusiaan adalah bentuk kekuasaan dosa atas manusia. Kalau pembunuhan Habil oleh Kain (Kej 4:1B16) disebut sebagai awal permusuhan dan dosa, maka tindakan anak manusia yang saling "membunuh" (dalam arti sesungguhnya ataupun dalam arti luas seperti membunuh kebebasan beribadat, membunuh kesempatan untuk berjumpa dengan saudara seiman, dan sebagainya) juga merupakan dosa.

Namun, Allah tak langsung membenci Kain tetapi Ia menerima pribadi ini meski memintanya melakukan pertobatan. Rasanya bagi kita yang membela kebebasan beragama tidak juga harus membenci mereka yang membela sikap membela kebenaran tunggal dalam agama mereka masingBmasing. Dalam hal ini, usaha kita adalah menunjukkan bahwa jalan kebebasan beragama akan membawa perdamaian, alihBalih membawa permusuhan, pertengkaran dan kehancuran di Negara kita.

Bhinneka Tunggal Ika menjadi pegangan penting yang membuat kita bisa bersatu membangun kebersamaan yang sama. Menutup pembicaraan tentang tema ini, saya bersandar pada pemikiran Tom Jacob, SJ. Ia menulis bahwa Pluralisme agama (menerima perbedaan agama) menjadi masalah bagi agama monoteis. Kalau hanya ada satu Allah, dan suatu agama tertentu mengklaim bahwa mereka menyembah Allah itu, lalu agamaBagama yang lain menjadi soal. Dan ternyata dalam sejarah juga kelihatan bahwa agamaBagama yang lain atau dikutuk atau dianggap angin. Sebaliknya pada zaman sekarang banyak orang dari satu pihak mau berpegang pada agamanya sendiri sebagai agama yang 'benar', tetapi dari lain pihak tidak menyangkal bahwa agamaBagama yang lain juga sungguhBsungguh agama, berarti benarB benar menyembah

Allah" yang" esa." Dan" itu" tentu" menjadi" problem." Jawabannya" adalah" tiga:" 1)" Eksklusifisme:" pada dasarnya" agamaBagama" itu"tidak"diakui"tetapi"ditolehir"(atas"dasar"tuntutan"hidup"bersama"dalam" masyarakat);2)"Inklusifisme:"sesungguhnya"tidak"ada"perbedaan;"agamaB agama"lain"adalah"bentuk"kurang"sempurna"dari"satu"agama"yang"benar" (dan"yang"dianut"oleh"yang"bersangkutan);3)"Pluralisme:""agamaBagama" memang" berbeda," tetapi" semua" menyembah" Allah" yang" sama." Pada" umumnya" kecenderungan" orang" zaman" sekarang" adalah" ke" arah" "pluralism"" atau" minimal" kepada" "inklusifisme". Alasannya" menyangkal" 74"" atau"bahkan"mengutuk"agama"lain"bertentangan"dengan"perintah"Tuhan" mengenai"cinta"kasih"kepada"sesama15." Sebuah" ungkapan" mengenai" organisasi" mengatakan," "Keberhasilanmu"dalam"sebuah"organisasi"tampak"kalau"kamu"keluar"dari" organisasi" itu." Kalau" organisasi" itu" lebih" baik" kamu" mungkin" menjadi" bagian"dari"perbaikan"organisasimu."Kalau"organisasimu"itu"menjadi"lebih"buruk," kamu" pasti" menjadi" bagian" dari" penurunan" organisasimu," meski" kamu" hanya" diam" saat" selama" di" dalamnya."" Semoga" kedamaian" yang" kita"lahirkan"di"dunia"ini,"tempat"di"mana" kita" menerimanya." Kalau"dunia" ini"menjadi"lebih"baik"setelah"kita"meninggalkannya,"bisa"jadi"kita"adalah" bagian" dari" perbaikan" dari" dunia" ini." Namun," kalau" dunia" menjadi" lebih" buruk" saat" kita" meninggalkannya," kita" pasti" menjadi" bagian" dari" penurunan" kebaikan" dunia" ini." Berbahagialah" kita" yang" mewariskan" sesuatu"yang"positif"untuk"generasi"yang"lahir"setelah"kita."" DAFTAR)PUSTAKA) " Alkitab" Sabda." Retreived" August" 12," 2015" from" <http://alkitab.sabda.org/dictionary.php?word=Antiokhia>."" Buhmann,"Walbert."(1977).*The Search for God: An Encounter with the Peoples and Religions of Asia.* Maryknoll, N.Y.: Orbis Books." HinduBChristian"Dialogue" in"India."1982."Pro/Mundi/Vita/88." Jacob," Tom." (2002). "Paham/ Allah,/ dalam/ Filsafat,/ AgamaGAgama/ dan/ Teologi." Kanisius:"Yogyakarta." Kriengsak,"Kovithavanij,"&"Francis"X., "D.D."(2009). "Interreligious"Dialogue" in"the" Catholic"Church". "Interreligious/Dialogue/in/The/Teaching/of/The/Church,/ School/of/Dialogue/with/Oriental/Religions/(SOR)." Tagaytay"City," Philipines." Kristiyanto,"Eddy,"OFM." (2002). "Gagasan/yang/Menjadi/Peristiwa,/Sketsa/Sejarah/ Gereja/Abad/IGXV." Kanisius:"Yogyakarta." 15"" Tom" Jacob." Paham/ Allah,/ Dalam/ Filsafat,/ AgamaGAgama/ dan/ Teologi." (Yogyakarta:"Kanisius,"2002),"hlm."197." 75"" Laurentin," Rene" and" Joseph" Neuner," S.J." (1966). "Declaration/ on/ the/ Relation/ of/ the/ Church/ to/ nonGChristian/ Religion/ of/ Vatican/ Council/ II." New Jersey:" Paulist"Press." Magdalino," Paul," et" al." <http://www.oxfordartonline.com>. "Istanbul:" Buildings," Hagia" Sophia"" in/Grove/Art/Online."Oxford"Art"Online."" Painadath," Sebastian," S.J." "The" early" Christians"" in:/ Resource/ Manual/ For/ Catholics/in/Asia/(Office/of/Ecumenical/and/Interreligious/Affairs,/FABC)." Paul"VI." (1965). "Dokumen"Konsili)Vatikan"II,"Vatikan." Suara" Pembaruan." (2014," June" 09). "Banyak" Faktor" Terkait" Konflik" Soal" Rumah" Ibadah". "Suara/ Pembaruan." Retreived" August" 16," 2016" from" <http://sp.beritasatu.com/home/banyakBfaktorBterkaitBkonflikBsoalB rumahBibadah/57036>"" 76"" 6 KEBEBASAN)BERAGAMA)ATAU) BERKEYAKINAN)DI)INDONESIA)DAN) TANTANGAN)EKSEPSIONALISME)MUSLIM) Suhadi) "" Tanggal"21"Mei"1988,"pemerintahan"Order"Baru"jatuh,"ditandai"oleh" pengunduran" diri" Suharto" setelah" berkuasa" selama" lebih" dari" tiga" puluh" tahun." Akhirnya" Suharto" harus" menyerah" pada" tekanan" yang" berkepanjangan" dari" mahasiswa" dan" masyarakat" yang" terjadi" seiring" dengan" menurunnya" kohesi" sosial" dan" kebangkrutan" ekonomi." Pengunduran" diri" Suharto" menandai" "berakhirnya" sebuah" era."16" Menurut" para" aktivis" dan" pemikir" di" bidang" hak" asasi" manusia," pemerintahan" Orde" Baru" telah" menghasilkan" berbagai" kebijakan" agama" yang" mendukung" kepentingan" politis" Suharto,"bersifat" diskriminatif," dan" bertentangan" dengan" nilai-nilai"kebebasan"beragama"atau"berkeyakinan." Seperti" yang" dinyatakan" dalam" anekdot" sinis" di" Indonesia," akibat" dari" manipulasi" legal" demi" kepentingan" politis" yang" kerap" dilakukan" selama" pemerintahan"Orde" Baru,"ekspresi"law/of/the/ruler"" lebih" umum" didengar".....

16"" Adam"Schwartz. "A/Nation/in/Waiting,/Indonesian/Search/for/Stability/(New South"Wales:"Allen"and"Unwin,"1999),"hlm."308." 77"" dari "rule/ of/ law".17" Apakah berakhirnya rejim ini berarti berakhirnya diskriminasi agama dan lahirnya kebebasan?"" Indonesia merupakan kepulauan yang terdiri dari lebih 13.000 pulau dan memiliki lebih dari 200 kelompok etnis.18 Populasinya mencapai lebih dari 230 juta. Indonesia merupakan masyarakat majemuk yang religius, dengan Muslim sebagai mayoritas (87,18 persen), Protestan (6,96 persen), Katolik (2,91 persen), Hindu (1,69 persen), Budha (0,72 persen) dan Khonghucu (0,05 persen).19 Keenam agama ini umum disebut sebagai enam agama yang diakui oleh perundang-bundangan. Namun demikian, fakta keagamaan di Indonesia lebih kompleks dari sekedar keenam agama tersebut. Biro Pusat Statistik dan Kementerian Agama tidak memasukkan berbagai agama atau keyakinan lokal. Meskipun terdapat realitas yang kompleks di level akar rumput, terutama sejak awal 1990-an, sebagian tokoh Muslim telah secara mendalam terlibat di berbagai keputusan kebijakan agama di level negara. Contohnya di tahun 1990, Suharto mendukung terbentuknya Ikatan Cendekiawan Muslim Indonesia (ICMI). Melalui pembentukan asosiasi intelektual Muslim ini, kecenderungan untuk mendorong formalisasi Islam dalam politik mulai mengemuka di ruang publik.20

KEBIJAKAN) NEGARA) DAN) DAMPAKNYA) " Para pemimpin pergerakan nasional Indonesia mulai mengemukakan hak-hak orang Indonesia pada masa perjuangan kemerdekaan. Para pemimpin ini antara lain R.A. Kartini, H.O.S. Cokroaminoto, Agus Salim, Douwes Dekker, Soewardi Soeryaningrat, 17

Lihat Arif Budiman, "Foreword," dalam Donald K. Emerson (ed.), "Indonesia/ Beyond/ Suharto,/ Polity,/ Economy,/ Society,/ Transition" (New York: M.E. Sharpe, 1999), hlm. 3. 18

Robert Cribb, "Nation: Making Indonesia," dalam Donald K. Emerson (ed.), "Indonesia/ Beyond/ Suharto,/ Polity,/ Economy,/ Society,/ Transition" (New York: M.E. Sharpe, 1999), hlm. 3. Badan Pusat Statistik, "Sensus/ Penduduk/ 2010." 20 Schwartz, op.cit. (catatan 1), hlm. 162. 78 Hasyim Asyari, Sutardjo dan Sukarno, serta pemimpin Muslim lainnya. R.A. Kartini (1879-1904) adalah seorang wanita Jawa Muslim yang progresif. Ia menulis banyak surat dan manuskrip, namun tulisannya yang paling terkemuka berjudul "Habis Gelap Terbitlah Terang", yang diterjemahkan ke bahasa Belanda tahun 1920. Buku ini sangat mendukung emansipasi dan hak-hak perempuan, khususnya dalam bidang pendidikan. Sementara itu Sukarno (1901-1970), seorang Muslim yang diinspirasi oleh Atatürk dari Turki, menulis sebuah pembelaan berjudul "Indonesia Menggugat" yang merupakan gugatan terhadap kolonialisme Belanda. Ketika menulis draf konstitusi nasional tahun 1945, Sukarno dan Supomo tidak setuju mengenai pengikutsertaan hak-hak rakyat dalam konstitusi, hak-hak yang menurut mereka berlandaskan pada ide-ide mengenai individualisme dan liberalisme. Meskipun Muhammad Yamin dan Mohammad Hatta tidak mendukung konsep individualisme dan liberalisme, mereka dengan kuat menekankan tentang hak-hak warga negara di dalam konstitusi, antara lain kebebasan untuk bersekutu, berkumpul dan mengeluarkan pendapat baik secara verbal maupun tertulis. Yamin dan Hatta meyakini bahwa dimasukkannya hak-hak warga negara akan menjamin masa depan Indonesia untuk tidak menjadi negara yang otoriter. 21

Badan Konstituante sempat menetapkan Komisi Hak Asasi Manusia di parlemen. Namun sayang sekali, Sukarno membubarkan Badan Konstituante tahun 1959. Di tahun 1968, di awal masa Orde Baru pemerintahan Suharto isu untuk menyertakan hak asasi manusia dalam konstitusi kembali muncul dalam pertemuan umum di Majelis Permusyawaratan Rakyat Sementara (MPRS). MPRS lalu membentuk komite ad hoc yang tugasnya adalah membuat draf mengenai Rancangan UU Hak Asasi Manusia. Namun draf legal ini tidak pernah diserahkan ke Sidang Umum MPRS karena para pembuat draf memutuskan untuk 21

Eko Riyadi (ed.), "Hukum/ Hak/ Asasi/ Manusia" (Yogyakarta: Pusham UII, 2008), hlm. 237-240. 79

menanti dukungan politis yang lebih kuat setelah pemilihan umum yang baru. 22 Padahal pemerintahan Orde Baru tidak melakukan pemilihan

umum" hingga tahun 1971, "sehingga" sebelum itu "tidak" ada "kemajuan" sama sekali. "Selama" lebih dari dua puluh tahun selama pemerintahan Orde Baru, "tidak" ada pembahasan yang mendukung penetapan UU dalam bidang hak asasi manusia. Dalam bidang legislasi hak asasi manusia, satu-satunya kemajuan yang dibuat selama masa pemerintahan Suharto adalah ditetapkannya sebuah badan hak asasi manusia. Badan ini bersifat mandiri dimana suatu komisi khusus mengenai hak asasi manusia ditetapkan dengan keputusan presiden. Komisi Nasional Hak Asasi Manusia lahir pada bulan Juni 1993.

Komisi ini memiliki empat mandat, salah satunya adalah menguji berbagai instrumen hak asasi manusia PBB untuk kemudian memberi masukan kepada pemerintah Indonesia untuk memanfaatkan atau meratifikasinya.²³ Sebagian ahli meragukan kemampuan dan kemandirian komisi ini. Menurut mereka, pemerintah Indonesia tidak memiliki keinginan baik ataupun kesadaran mengenai berbagai pergumulan hak asasi manusia, khususnya dalam hubungannya dengan berbagai masalah domestik di Indonesia. Karena itu komisi ini dianggap memiliki motif pencitraan politik bagi Suharto. Banyak editorial surat kabar pada saat itu menulis tentang pencitraan tersebut, seperti pernyataan mengenai kuatnya kepentingan politis negara untuk mengangkat citra Indonesia lebih baik di mata dunia.²⁴ Berbagai kecurigaan ini masuk akal, khususnya dalam hubungannya dengan berbagai persiapan pemerintah dalam konferensi hak asasi manusia di Wina dan juga dalam Consultative/Group/on/Indonesia di Paris. Pencitraan politik internasional seperti itu sebenarnya sah saja, asalkan diikuti oleh tindakan kongkrit.

Meskipun sejak berdiri sampai beberapa tahun

kemudian Komnas HAM tidak mampu membawa para pelanggar HAM ke

22 Ibid., hlm. 241. 23 Keppres No. 50 tahun 1993 tentang Komnas HAM. 24

Suara Pembaharuan. "Terbentuknya Komisi Nasional HAM". 9 Juni 1993. 80 pengadilan, namun keberadaannya tetap menjadi fondasi penting bagi

kerja Bekerja hak asasi manusia di tahun-tahun berikutnya. Setelah kejatuhan Suharto dari kekuasaannya, atmosfer pun berubah. Banyak ahli menyebut era Reformasi sebagai suatu era yang lebih bersahabat terhadap hak asasi manusia. Dalam tiga tahun pertama sejak kejatuhan Suharto, negara telah menerbitkan tiga kebijakan dasar hak asasi manusia. Sebagai dampak dari tekanan publik dan politik, pemerintah tidak dapat lagi mengabaikan tuntutan publik. Majelis Permusyawaratan Rakyat mempromosikan keputusan MPR mengenai hak asasi manusia di bulan November 1998, yang isinya adalah memberikan mandat kepada Dewan Perwakilan Rakyat, Presiden, dan lembaga tinggi negara lainnya untuk menyusun RUU Hak Asasi Manusia.²⁵ Pada tahun pertama di era reformasi, DPR dan Presiden memproses legislasi yang kemudian disahkan pada bulan September 1999 sebagai UU Hak Asasi Manusia.²⁶ UU ini tidak hanya menjamin hak sipil, politik, ekonomi, sosial dan budaya, tapi juga hak anak, perempuan dan masyarakat pribumi, serta berbagai prosedur yang memungkinkan partisipasi berbagai individu, kelompok sosial, LSM, serta pusat studi hak asasi manusia untuk melaporkan berbagai masalah dalam bidang-bidang tersebut. Sementara itu kemajuan yang paling fundamental dalam bidang legislasi hak asasi manusia di era Reformasi adalah dimasukkannya bab khusus tentang hak asasi manusia dalam amandemen konstitusi 1945. Pada bulan Agustus 2000, DPR memasukkan klausul hak asasi manusia dalam amandemen konstitusi tahap kedua. Dalam amandemen ini, pasal 28A sampai 28J memberikan mandat kepada negara untuk menghormati, memproteksi, mempromosikan dan memenuhi hak-hak asasi manusia. Selain menerbitkan berbagai kebijakan domestik mengenai hak asasi

manusia, Indonesia juga sudah meratifikasi berbagai instrumen hak asasi

25 Tap MPR no XVIII/MPR tahun 1998 tentang HAM. Kebijakan ini ditanda B 26

tangani oleh Harmoko Ketua MPR. UU no. 39 tahun 1999 tentang HAM. UU ini disahkan oleh Presiden Bacharudin Jusuf Habibie. 81 manusia. Antara 1998 sampai akhir 2007, Indonesia sudah meratifikasi delapan dari dua puluh lima instrumen dasar hak asasi manusia internasional. Pada bulan Oktober 2005, Indonesia meratifikasi International/ Covenant/ on/ Civil/ and/ Political/ Rights (ICCPR) yang antara lain mengikat Indonesia untuk menjamin adanya kebebasan

beragama" atau"berkeyakinan."Pasal"29"UUD"1945"menjamin"hak"warga"negara"untuk" mempraktikkan" agama" mereka." Setelah" meratifikasi" ICCPR," maka" argumen"normatif"bagi"kebebasan"beragama"atau"berkeyakinan"menjadi" semakin"kuat"lagi"di"Indonesia." Berbagai"kebijakan"Indonesia"mengenai"kebebasan"beragama"atau" berkeyakinan" yang" telah" dibangun" pada" dekade" pertama" dari" era" Reformasi"termasuk"yang"berikut"ini:" 1.! Dimasukkannya" pasal" yang" menjamin" kebebasan" beragama" dan" berkeyakinan" ke" dalam" amandemen" UUD" 1945." Selain" itu," konstitusi" 1945" menyatakan" bahwa" setiap" orang" memiliki" hak" untuk"dapat"bebas"dari"segala"tindakan"diskriminasi." 2.! UU" No." 39" tahun" 1999"" tentang" Hak" Asasi" Manusia" berisikan" pernyataan" serupa" mengenai" hak" untuk" beribadah" sesuai" dengan" kepercayaan"atau"agama"masingBmasing." 3.! UU" No." 26" tahun" 2000" tentang" Pengadilan" Hak" Asasi" Manusia" mengakui"bahwa"berbagai"serangan"yang"dilakukan"secara"luas"dan" sistematis" terhadap" penduduk" merupakan" sebuah" kejahatan" terhadap" kemanusiaan." Kejahatan" ini" termasuk" diskriminasi" terhadap" sekelompok" orang" atau" lembaga" yang" didasarkan" pada" agama"atau"pun"bentukBbentuk"identitas"lainnya." 4.! Keputusan" Presiden" No." 6" tahun" 2000" mengakui" kembali" bahwa" Khonghucu" merupakan" salah" satu" agama" yang" diakui" perundangB undangan." Hal" ini" merevisi" pelarangan" yang" telah" ditetapkan" sebelumnya"di"era"awal"Orde"Baru." 5.! Sampai" batasan" tertentu," UU" No." 23" tahun" 2006"" tentang" Administrasi" Kependudukan" telah" mengakui" keberadaan" penghayat"kepercayaan"dalam"administrasi"hak"sipil."Sejak"awal"era" pemerintahan" Orde" Baru," mereka" harus" memilih" salah" satu" dari" lima" agama:" Islam," Kristen" Protestan," Katolik," Hindu" atau" Budha" untuk"dicantumkan"di"KTP"meskipun"mereka"bukan"penganut"dari" 82"" agamaBagama" tersebut." Kini" mereka" dapat" mengosongkan" identitas" agama" di" KTP" mereka," meskipun" hal" ini" masih" mengandung" unsur" diskriminasi," tetapi" setidaknya" mereka" tidak" lagi"dipaksa"untuk"memilih"agama"yang"tidak"mereka"yakini." Pada" masa" pemerintahan" Presiden" Abdurrahman" Wahid," dikeluarkan" Keputusan" Presiden" No." 6/2000" yang" merevisi" instruksi" Suharto" mengenai" pembatasan" pengikut" Khonghucu." Namun" ketika" di" tahun"2000"pemerintah"Reformasi"mengeluarkan"berbagai"regulasi"baru" untuk" mendukung" kebebasan" beragama" bagi" penganut" Khonghucu," selama" beberapa" tahun" kemudian" birokrasi" negara" belum" mengimplementasikan" ketentuan" tersebut"" secara" efisien." Dibutuhkan" waktu"sebelum"kebijakan"baru"ini"benarBbenar"dapat"diaplikasikan"di"level" birokrasi" tingkat" bawah." Sampai" dengan" 2004," beberapa" penganut" Khonghucu" mengeluh" bahwa" mereka" masih" tidak" dapat" mendaftarkan" agama"Khonghucu"di"KTP"mereka."Tjoa"Tjie"Sing,"anggota"dewan"dari"kuil" Khonghucu"di"Tangerang,"menjelaskan"bahwa"walaupun"mereka"saat"itu" dapat"mengadakan"berbagai"pertunjukan"seni"Tionghoa"di"ranah"publik," namun" masih" sulit" bagi" para" penganut" Khonghucu" untuk" mendaftarkan" identitas"mereka"di"KTP.27Lima"tahun"setelah"kebijakan"diskriminasi"antiB Tionghoa"ditarik,"Aan"Usmansyah"dan"para"penganut"Khonghucu"lainnya" mengeluh" kepada" DPRD" di" Bogor" karena" mereka" mengalami" berbagai" halangan"ketika"mendaftarkan"identitas"mereka"di"KTP."Administrator"di" kecamatan" mengatakan" bahwa" mereka" belum" mendapatkan" petunjuk" operasional" bagi" kebijakan" baru" tersebut.28" Situasi" ini" diperbaiki" secara" signifikan" ketika" pada" tanggal" 4" Februari" 2006," Susilo" Bambang" Yudhoyono,"presiden"RI"saat"itu,"mengeluarkan"pidato"yang"mendorong" 27"" Harian"Sinar"Harapan.""Hak"Sipil"Pemeluk"Khonghucu"Masih"Terabaikan"."21" 28"" Januari"2004." Harian" Kompas." "Pemeluk" Khonghucu" Kesulitan" Bikin" KTP"." 5" September" 2005." 83"" kebebasan" beragama" bagi" penganut" Khonghucu" saat" perayaan" Imlek.29" Lalu" pada" tanggal" 24" Februari" 2006," Kementerian" Dalam" Negeri" mengirimkan" Surat" Keputusan" Menteri" No." 470/336/SJ" kepada" seluruh" gubernur" dan" walikota" yang" berisi" instruksi" untuk" mengikutsertakan" identitas" Khonghucu" di" dalam" KTP.30" Sejak" saat" itu," kebijakan" ini" diimplementasikan" di" semua" level" dalam" administrasi" kependudukan" dengan"lebih"baik"dan"merata."Setelah"penerbitan"SK"Menteri"ini,"kantor" catatan" sipil" Yogyakarta," misalnya," membuka" jasa" layanan" bagi" warga" beragama"Khonghucu"yang"ingin"mengubah"identitas"di"KTP"maupun"akta" perkawinan" mereka" dengan"

identitas" Khonghucu.³¹ Secara umum pada tahun 2015 situasinya sudah jauh lebih baik. Para penghayat kepercayaan lokal telah mendapatkan sebagian hak kebebasan beragama atau berkeyakinan di era Reformasi, tetapi situasinya secara umum tidak memuaskan. Mereka tetap tidak dapat menyatakan keyakinan mereka dalam KTP, apakah itu Kaharingan, Parmalim, Sapta Darma, dsb. Namun sejak pemberlakuan UU Administrasi Kependudukan, berbagai upacara perkawinan dengan tata cara tradisi kepercayaan bagi penganut penghayat kepercayaan yang organisasinya telah didaftarkan kepada pemerintah diakui legal oleh negara. Kasus perkawinan Misman dan Dwi Rahayu, pengikut penghayat kepercayaan Sapta Darma yang berbasis di Jawa Timur, menggambarkan dampak positif dari kebijakan baru ini. Di bawah UU baru ini, pasangan ini diizinkan untuk menikah menurut ritual kepercayaan Sapta Darma. Meskipun pasangan ini harus pergi ke pengadilan, mereka akhirnya..... 29" Suhadi Cholil (ed.) / 2008."

Resonansi/ Dialog/ Agama/ dan/ Budaya:/ Dari/ Kebebasan/ Beragama,/ Pendidikan/ Multikultural/ sampai/ RUU/ Anti/ Pornografi." Yogyakarta: "CRCS." hlm. "77." 30" Website resmi Kementerian Dalam Negeri, SK/ Mendgari/ Soal/ Khonghucu/ Tak/ Perlu/ Petunjuk/ Teknis, www.depdagri.go.id/konten.php?nama=" 31" Berita&op=detail_berita&id=60, diakses 5 Juni 2008."

Harian Kompas. "Gencar, Sosialisasikan Revisi Akta Kawin dan KTP." 28 April 2004. 84" mendapatkan izin untuk mendaftarkan pernikahan Sapta Darma mereka di pertengahan 2007.³² Selama beberapa tahun terakhir, pada satu sisi berkembangnya perspektif kebebasan beragama telah mendorong meningkatnya penghargaan terhadap berbagai aspek hak asasi manusia di antara masyarakat Indonesia. Namun di sisi lain kita mulai menyaksikan tantangan yang mulai muncul dalam mengimplementasikan kebebasan beragama tersebut."

HARMONISASI (HUKUM) DAN (TANTANGAN) EKSEPSIONALISME "

Sejarah perkembangan kebijakan negara dalam bidang kebebasan beragama di Indonesia memunculkan konsep eksepsionalisme agama. Konsep eksepsionalisme lahir dari aturan hukum dan kebijakan negara yang merupakan warisan dari rezim kolonial di masa lalu dan telah merasuk dengan kuat ke dalam kebijakan publik kita. Oleh karena itu harmonisasi hukum yang sesuai kebebasan beragama dan berkeyakinan dibutuhkan untuk menjamin setiap warga bangsa Indonesia setara dihadapan hukum terlepas dari identitas agamanya. Masa depan kebebasan beragama dan berkeyakinan di negeri ini salah satunya tergantung pada keberhasilan mengatasi berbagai kontradiksi legal yang sampai sekarang masih ada. Aturan hukum yang hingga batasan tertentu menghalangi reformasi hukum agar bersesuaian dengan kebebasan beragama, yaitu KUHP Pasal 156a dan UU PNPS No. 1 tahun 1965 mengenai penodaan agama. Meskipun kedua kebijakan ini utamanya membahas tentang penodaan agama, namun seringkali diimplementasikan secara tidak tepat. Kebijakan anti penodaan ini telah memproteksi beberapa kelompok agama, namun di sisi lain mengeliminasi beberapa kelompok agama lain yang aktivitasnya dianggap menghina agama dari kelompok

lainnya. "Situasi ini diperkeruh dengan adanya peran dari Badan Koordinasi....."

32" Harian Jawa Pos. "Hakim Kabulkan Pernikahan Pengikut Aliran Sapta Darma." 12 Juli 2007.

85" Pengawas Aliran dan Kepercayaan (Bakorpakem) yang kadang-kadang memerankan diri sebagai "polisi iman". Di tingkat masyarakat, masalah penodaan agama terhadap umat Muslim, misalnya dalam kasus Ahmadiyah, merupakan contoh mengenai bagaimana konsep eksepsionalisme bekerja. Eksepsionalisme, sederhananya, adalah konsep yang menyatakan bahwa suatu negara, masyarakat, lembaga, atau kelompok dan lain-lain minta perlakuan khusus untuk dikecualikan karena pertimbangan tertentu. Michael Ignatieff menulis buku American / / Exceptionalism / / and / / Human Rights /

(2005) yang mengkritisi konsep dan praktik eksepsionalisme di Amerika.³³ Sebagian umat Muslim di Indonesia yang kurang lebih menyuarakan konsep eksepsionalisme

(meskipun tidak memakai istilah ini) menyatakan penerimaan umum mereka terhadap prinsip kebebasan beragama dan berkeyakinan. Namun prinsip tersebut tidak dapat diterapkan dalam kasus-kasus tertentu yang menyangkut kehidupan keagamaan umat Muslim. Dalam kasus

Ahmadiyah," sebagian" pemimpin" Muslim" tidak" jarang" mengeluarkan" seruan" bahwa" pengikut" Ahmadiyah" memiliki" kebebasan" beragama" dan" berkeyakinan" bila" mereka" tidak" mengidentifikasi" diri" mereka" sebagai" bagian" dari" Islam." Singkatnya," mereka" mengakui" keberadaan" kebebasan" beragama," tapi" ada" pengecualian"(eksepsi)"yaitu"tidak"di"dalam"bagaimana"berIslam."""

Pengaruh"dari"pandangan"tersebut"dalam"praktik"kehidupan"sosial" keagamaan" sangat" mendalam." Berbagai" tindakan" kekerasan" terhadap" kelompok" Ahmadiyah" meningkat" setelah" 2005." Tidak" lama" setelah" itu" paling" tidak" dua" pemerintah" lokal" di" Jawa" menyatakan" bahwa" kegiatanB kegiatan"Ahmadiyah"di"daerah"mereka"sebagai"ilegal."Serangan"terhadap" para"pengikut"Ahmadiya"terjadi"di"berbagai"tempat,"termasuk"di"Lombok" Timur" di" Nusa" Tenggara" Barat" dan" di" beberapa" tempat" di" Jawa" Barat.""" 33""

Penjelasan" lebih" detail" tentang" ini" dapat" dibaca" dalam" Suhadi" Cholil," "Freedom/ of/ Religion/ or/ Belief/ in/ Indonesia/ and/ the/ Challenge/ of/ Muslim/ Exceptionalism"" dalam" Sinn" dan" Sinaga," Freedom and/ Responsibility:/ Christian/and/Muslim/Exploration./(Minneapolis:"Lutheran"University"Press," 2010)." 86""

SeranganBserangan"ini"terus"berlanjut"selama"2006,"memaksa"187"orang" Ahmadiyah"untuk"mengungsi"ke"sebuah"tempat"pengungsian"di"Lombok" setelah" sejumlah" massa" menghancurkan" rumahBrumah" dan" masjid" mereka." Di" bulan" Desember" 2007," massa" menyerang" properti," rumahB rumah" dan" masjid" Ahmadiyah" di" Kuningan," Jawa" Barat." Pada" 20" April" 2008," para" demonstan" dari" kelompokBkelompok" radikal" menyerang" berbagai" properti" pribadi" dan" organisasi" Ahmadiyah.34" Majalah" Tempo" melaporkan" bahwa" dari" September" 2002" hingga" April" 2008" saja" Ahmadiyah"telah"mengalami"kekerasan"di"lima"belas"daerah"di"Sumatera," Jawa"Barat,"Nusa"Tenggara"Barat,"Sulawesi"dan"Kalimantan"Barat.35" Pada" tahun"2008,"berbagai"serangan"dan"ancaman"terhadap"keluargaBkeluarga" Ahmadiyah" di" Indonesia" telah" dilaporkan" kepada" Dewan" Hak" Asasi" Manusia" Perserikatan" BangsaBBangsa" di" Jenewa.36" Namun" yang" perlu" dicatat"juga"bahwa"konsep"eksepsionalisme"di"Indonesia"ini"tidak"hanya" khas" di" kalangan" umat" Muslim."" Pada" Desember" 1976," negara," melalui" Jaksa" Agung," telah" melarang" kelompok" Saksi" Yehova" di" kalangan" umat" Kristiani." Konsep" eksepsionalisme" agama" di" Indonesia" awalnya" berakar" di" dalam"kebijakan"segregasi"antar"agama"yang"awalnya"diimplementasikan" oleh"pemerintahan"kolonial."Segregasi"hukum"dan"administrasi"sipil"yang" didasarkan" pada" afiliasi" keagamaan" ini" dimulai" di" bawah" pemerintahan" kolonial"Belanda"yang"membagi"hukum"sipil"menurut"etnisitas"dan"agama" dalam"aturan"mengenai"Indische/Staatsregeling:"Eropa" (Saatsblad"1849),"" 34"" Human/ Rights/ Watch." "Indonesia:" Scrap" Proposed" Religion" Ban," Government" Should" Protect" Ahmadis," Not" Persectue" Them,"" di" <http://hrw.org/english/docs/2008/04/23indone18623.htm>,"diakses"22"Mei" 2008." 35// Majalah/Tempo,"5"-11"Mei"2008,"29B39." 36"" The/ Office/ of/ the/ High/ Commissioner/ for/ Human/ Rights." "Compilation" Prepared"by"the"High"Commissioner"for"Human"Rights"in"Accordance"with" Paragraph" 15(B)" of" the" Annex" to" Human" Rights" Council" Resolution" 5/1:" Indonesia,""Geneva,"7B18"April"2008." 87"" Tionghoa" (Staatblaad" 1917)," Pribumi" Kristen" (Staatsblad" 1933)," dan" Pribumi"nonBKristen"(Staatsblad"1920).37"Setelah"kemerdekaan"di"tahun" 1945," pemisahan" ini" diambil" alih" oleh" pemerintah" Indonesia" dan" mendapatkan"wajah"baru"menjadi"Muslim"dan"nonBMuslim."Empat"bulan" setelah" kemerdekaan," pada" Januari" 1946," pemerintah" Indonesia" mendirikan"Kementerian"Agama"yang"bertujuan"untuk"melayani"semua" agama"di"Indonesia."Namun"pada"realitasnya,"kementerian"ini"lebih"fokus" untuk" melayani" yang" Muslim" dengan" alasan" bahwa" Muslim" adalah" mayoritas." Pemisahan" agama" dalam" registrasi" kependudukan" pun" berlanjut"di"tengah"kontestasi"dan"negosiasi"religioBpolitis." Pada" tahun" 1989," pemerintah" Indonesia" menerbitkan" UU" No. 7" tahun" 1989" tentang" Peradilan" Agama." Meskipun" UU" ini" menggunakan" istilah" "agama,"" pengadilan" ini" hanya" berlaku" bagi" Muslim" dan" proses" legislasinya" dalam" sejarah" diiringi" oleh" polemik" ketakutan" kelompok" minoritas"agama"mengenai"adanya"proses"pengislaman"negara."Segregasi" ini"memperkuat"segregasi"yang"telah"berlangsung"sebelumnya,"misalnya" dalam" bidang" administrasi"

perkawinan." OrangBorang" Muslim" pergi" ke" Kantor"Urusan"Agama"
(KUA)"dan"Pengadilan"Agama,"sementara"mereka" yang" nonBMuslim" pergi" ke" kantor" catatan" sipil"
dan" Pengadilan" Negeri." Pemisahan"semacam"ini"merupakan"versi"yang"lebih"disederhanakan"dari"
pemisahan" sipil" di" bawah" administrasi" kolonial" Belanda." Pemisahan" ini" juga" tergambar" dalam"
hukum" mengenai" Muslim" yang" menikahi" nonB Muslim." Melindungi" kepentingan" komunal" suatu"
umat" beragama" merupakan"inti"dari"eksepsionalisme"agama."Reformasi"hukum"Indonesia"
perlu"memberi"perhatian"serius"dalam"harmonisasi"hukum"ini." Argumen" di" balik" eksepsionalisme"
Muslim" di" Indonesia" adalah" kombinasi" antara" status" mayoritas" dan" sejarah" politik" Islam"
menjelang" dan"di"awal"kemerdekaan."Dibentuknya"Kementerian"Agama"pada"tahun"
1946"merupakan"kompensasi"dari"kegagalan"politis"umat"Muslim"untuk" mengikutsertakan" syariah/
sebagai" prinsip" dan" dasar" negara" serta"
konstitusi."Dalam"praktiknya,"kementerian"ini"merupakan"wadah"negara".....
37"" Lihat" R." Soetojo" Prawirohamidjojo" dan" Marthalena" Pohan,/ Hukum/ Orang/ dan/Keluarga"
(Surabaya:"Universitas" Airlangga" Press,"2000),"hlm."1." 88""
untuk"mengatur"eksepsionalisme"Muslim"secara"politis"dan"administratif." Namun" demikian," merupakan"
hal" penting" untuk" dicatat" bahwa" Kementerian" Agama" dalam" sepanjang" sejarahnya" tidak" pernah"
terjebak" dalam" radikalisme" karena" posisinya" yang" ambigu." Pada" satu" sisi,"
kementerian"ini"menjadi"tempat"di"mana"sebagian"umat"Muslim"berjuang" menjaga" eksepsionalismenya."
Pada" sisi" lain," kementerian" ini" perlu" menyesuaikan" diri" dengan" identitas" politik" nasional" untuk"
menjaga" masyarakat"Indonesia"yang"plural." Dalam" beberapa" situasi" dan" dalam" sejarahnya,"
kementerian" ini" mendukung" berbagai" keputusan" yang" progresif" seperti" UU" Perkawinan" 1974" yang"
oleh" beberapa" kelompok" radikal" dianggap" menyimpang" dari" syariah,/ menyokong" keputusan" politik"
nasional" dalam" menerima" Pancasila" sebagai" ideologi" tunggal" bagi" partaiBpartai" politik" dan" Ormas"
sebagai" bagian" dari" usaha" "deIslamisasi"" di" tahun" 1980an." Selain" itu" kementerian" ini" pula" yang"
mendorong" liberalisasi" pendidikan" Islam" dengan" pengiriman" banyak" dosen" di" kalangan" perguruan"
tinggi" agama" Islam" untuk" studi" di" berbagai" universitas" maju" di" Barat" sejak" tahun" 1980B
an." Namun" kementerian" ini" pula" yang" mendorong" berbagai" aturan" yang" ketat" mengenai" rumah" ibadah"
yang" sering" menyulitkan" kelompok" minoritas"
(tahun"1969,"diperbaharui"tahun"2006),"mensponsori"pendirian" Majelis"Ulama"
(tahun"1975)"dan" mengeluarkan" aturan" pembatasan" aktivitas" kelompok"Ahmadiyah"
(tahun"2008).38"" ISLAM,(NEGARA,)DAN)KEBEBASAN)BERAGAMA)) " Penerimaan" parsial" prinsip"
kebebasan" beragama" pada" satu" sisi,"
sementara"menolak"prinsip"lain"yang"dianggap"kontradiktif"dengan"Islam" serta" kepentingan" komunal"
umat" Muslim" menjadi" karakteristik" dari" eksepsionalisme." Peninjauan" konsep" eksepsionalisme" ini"
dalam" kajian" 38"" Lihat" Ahmad" Syafi'i" Mufid,"
"Departemen" Agama" dan" Upaya" Menjaga" Equilibrium" Bangsa"" dalam" Suhadi" Cholil" (ed.),"
Diskriminasi/ di/ Sekeliling/ Kita:/ Negara,/ Politik/ Diskriminasi/ dan/ Multikulturalisme/ (Yogyakarta,"
Interfidei,"2008),"hlm."53B74." 89"" yang" sangat" sistematis" dilakukan" oleh" Abdullahi" Ahmed"
AnBNa'im," seorang" cendekiawan" Muslim" asal" Sudan" yang" saat" ini" menjadi" dosen" di" Amerika,"
dengan" mengambil" pintu" masuk" dari" kajian" syariah" dan" posisinya" dalam" negara" sekuler." Bagi"
umat" Muslim," termasuk" Muslim" Indonesia," syariah" memainkan" peranan" penting" dalam" menentukan"
dan" membangun" normaBnorma" etis" serta" nilaiBnilai" Islami." Berbagai" norma,"
prosedur,"dan"proses"esensial"dari"syari'ah"ini"harus"paling"tidak"konsisten" dengan" standar" hak" asasi"
manusia" universal" masa" kini.39" Senyatanya,"
tradisi"Islam"masih"memerlukan"transformasi"diri"ke"arah"itu." Dalam" hubungannya" dengan"
kebebasan" beragama," ketika" pemerintah" Indonesia" meratifikasi" Kovenan" Internasional" HakBHak"
Sipil" dan" Politik" (ICCPR)" pada" tahun" 2005," maka" rakyat" dan" pemerintah" Indonesia" terikat" pada"
nilaiBnilai" universal" dari" kebebasan" beragama." Namun" demikian," dalam" prakteknya" tidak"
sesederhana" itu." Sepanjang" sejarah" Islam,"para"pemikir"Muslim"atau"ulama"telah"merumuskan"suatu"
jalan" yang" mengarahkan" umat" Muslim" mencapai" keselamatan" di" dunia" dan" akhirat" melalui" apa"
yang" disebut" dengan" syari'ah." Namun" sampai" batasBbatas" tertentu," syari'ah" juga" telah" digunakan"

untuk mendukung berbagai kepentingan politis umat Muslim dan beberapa kelompok Muslim yang berkonflik dengan kelompok Muslim lainnya." Kolonialisasi Barat telah mendorong sebagian umat Muslim untuk menggunakan syaria'ah/ untuk melawan nilai-nilai dan kolonialisasi Barat." Karena itu, meskipun adalah fakta bahwa tradisi Islam telah memiliki berbagai pandangan dan institusi yang dapat dikembangkan ke dalam komitmen etis dan sosial yang sistematis mengenai hak asasi manusia, namun hak asasi manusia tetap menjadi tantangan tersendiri bagi tradisi Muslim karena dinamika historisnya yang kompleks.⁴⁰ Dalam usaha untuk mencari solusinya, merupakan hal yang tidak adil untuk menuduh sumber masalah ada dalam tradisi Islam tanpa melakukan usaha mengurangi ketegangan antara Islam dan Barat. Proses ini menjadi lebih sulit ketika

39 Abdullahi Ahmed An-Na'im, "Islam/ and/ the/ Secular/ State:/ Negotiating/ the/ 40 Future/of/Shari'a" (Cambridge: Harvard University Press, 2008), hlm. 131. El Fadl, op. cit. (catatan 39), hlm. 301. 90 umat Muslim melihat adanya standar ganda dan eksklusivisme terkait dengan hak asasi manusia oleh negara-negara Barat sendiri.

Menurut Khaled Abou El Fadl, masalah hak asasi merupakan yang paling penting dan menantang dari seluruh tantangan etis yang dihadapi Islam pada jaman modern ini. Hal ini bukan karena Islam cenderung mendukung perilaku yang mengabaikan atau melanggar hak-hak manusia, namun karena dinamika historis khusus yang harus dihadapi umat Muslim di jaman modern. Dalam tulisan beberapa ahli dogma seperti Sayyid Qutb, Abu A'la al-Mawdudi dan Jalal Kishk, wacana hak asasi manusia dianggap sebagai bagian dari invasi budaya Barat ke negara-negara Muslim dan sebagai alat untuk memunculkan rasa inferior kultural di kalangan orang Muslim.⁴¹ Farhad Haq menambahkan bahwa mereka tidak menentang prinsip-prinsip hak asasi manusia, namun mereka dengan keras menolak visi Barat akan hak asasi manusia. Al-Mawdudi (1903-1979) menyatakan beberapa pemikiran Islam yang menyatakan bahwa basis dari hak asasi manusia sekuler yang dihasilkan oleh dunia Barat di jaman modern ini kontradiktif dengan hak asasi manusia Islami. Perspektif Islam adalah bahwa hak asasi manusia diberikan oleh Allah dan kedaulatannya berada di tangan Allah, melalui Nabi dan para Khalifah. Sementara dalam demokrasi Barat, hal yang terjadi adalah sebaliknya, dimana manusia yang berdaulat.⁴² El Fadl merangkum respon intelektual Muslim mengenai hak asasi manusia memiliki dua orientasi utama: yang pertama pandangan apologetika, sementara yang kedua puritan. Orientasi apologetika terdiri dari usaha oleh sejumlah besar kalangan Islam untuk memproteksi dan memulihkan sistem Islam dari tradisi dan kepercayaan Westernisasi yang

41 Khaled Abou El Fadl, "The Human Rights Commitment in Modern Islam," dalam Joseph Runzo et al. (eds.), "Human Rights and Responsibilities in the World Religions" (Oxford: One World, 2003), hlm. 301 & 306. Farhat Haq, "Jihad over Human Rights, Human Rights as Jihad: Clash of Universal," dalam Lynda S. Bell, Andrew J. Nathan dan Ilan Peleg, "Negotiating Culture and Human Rights" (New York: Columbia University Press, 2001), hlm. 244. 91 ofensif dan dari modernitas. Mereka menghasilkan sejumlah besar teks yang mengklaim warisan Islam yang kompatibel dengan hak asasi manusia internasional, dan mengklaim bahwa kompatibilitas inheren Islam dengan hak asasi manusia. Bahkan mengklaim bahwa tradisi Islami memiliki ekspresi yang lebih penuh dan koheren mengenai hak asasi manusia. Namun sebaliknya, kalangan puritan meyakini bahwa kekhususan dan keunikan Islam menolak semua bentuk universalisme kecuali Islam yang universal. Di antara dua respon yang dominan antara kalangan apologetika dan puritanisme, wacana Islam mengenai hak-hak asasi manusia pada umumnya masih belum banyak dikembangkan.⁴³ An-Na'im menegaskan bahwa penting sekali untuk memisahkan syaria'ah dengan negara, bukan syaria'ah dengan masyarakat atau politik. Konsep sekularisme hanya merupakan alat berbicara untuk Muslim

bahwa "berdasarkan iman dan pilihan bebas," maka "Muslim" membutuhkan sekularisme. "Yang dimaksud dengan negara sekuler adalah suatu negara yang tidak bias terhadap doktrin Islam dan yang tidak mempertahankan atau berpura-pura untuk memaksakan / syariah/ karena ketundukan terhadap syariah tidak dapat dipaksakan oleh rasa takut atau oleh institusi negara." Ketika dihormati secara sukarela, / syariah/ memainkan peran mendasar dalam membentuk dan menciptakan norma-norma dan nilai-nilai moral yang dapat direpresentasikan dalam legislasi umum melalui demokrasi. "An-Na'im berargumentasi bahwa prinsip-prinsip syariah tidak dapat dipaksakan oleh negara sebagai aturan dan hukum publik hanya dengan dasar bahwa hal-hal tersebut dianggap sebagai bagian dari syariah.⁴⁴ Dalam kerangka ini, penting untuk mendiskusikan konstitusi, hak asasi manusia dan kewargaan dalam negara bangsa modern, termasuk dari negara-negara Muslim seperti Indonesia. "Semua Muslim hari ini hidup di dalam apa yang disebut sebagai negara bangsa, yang awalnya didasarkan pada model Eropa yang dibangun di seluruh dunia pada masa kolonialisasi, bahkan di negara-negara yang tidak secara resmi mengalami kolonialisasi." 43 "El Fadl, op. cit." (note 39), 306, 309, hlm. 311. 44 "An-Na'im, op. cit." (note 43), hlm. 1. 92 "PENUTUP) " Dalam lingkup politik seperti itu, negara harus menggunakan "alasan sipil" untuk menghasilkan norma-norma bagi konstitusi, hukum, dan berbagai kebijakannya, namun dengan cara-cara yang tidak menimbulkan risiko bagi otonomi negara. Bagian dari tugas negara adalah memberdayakan sebanyak mungkin penduduknya baik sebagai individu-individu maupun sebagai kelompok-kelompok untuk mewakili dan mendiskusikan berbagai isu kebijakan publik melalui domain kewargaan. Banyak Muslim berargumentasi bahwa syariah merupakan hukum yang dengan sendirinya bersifat otoritatif.⁴⁵ Sampai di sini semakin penting menimbang pendapat An-Na'im yang menyerukan kepada umat Muslim untuk bersikap realistis ketika melihat hubungan antara syariah dengan konstitusi nasional, yang pada praktiknya harus mempertimbangkan perkembangan hak asasi manusia di dunia modern. Dengan mengafirmasi normal-normal moral dari hak asasi manusia universal dan menggunakan konstitusi sebagai instrumen resmi dari tatanan sosial, maka berbagai diskusi mengenai syariah akan menjadi realistis dan tidak sekadar idealis. Kalau ini tercapai, hal ini akan berkontribusi besar bagi perbaikan kondisi kebebasan beragama dan keyakinan di Indonesia dari aras bawah atau masyarakat. Meskipun tentu tetap dibutuhkan transformasi dari aras negara dalam hal penegakan hukum yang sesuai dengan prinsip hak asasi manusia. 45 "Ibid., hlm. 85B111." 93 " 94 " 7

BUDDHIST)PERSPECTIVE)ON)RELIGIOUS) FREEDOM) Kim)Leung)Darga) " INTRODUCTION) "

In the last decades there have been many interfaith talks going on around the world, however, they appear to have had little effect. "Daily wars, conflicts, unethical conversion issues around religions, and religious terrorism are growing. " Even Buddhism which is best known for its teachings on peace, and which have not had a history of religious intolerance, seems to have been affected by what is happening in the religious world.⁴⁶ " When the subject of Buddhism and religious freedom is discussed, it is mainly from the individual point of view. " Having observed the increasing number of religious related crises, this issue will be viewed from a different angle, that of policy, leadership and state and show that real religious freedom can only be achieved if citizens and the state work in collaboration. This paper on a Buddhist perspective of religious freedom will begin by giving the definition of religious freedom which is accepted internationally. " Many scholars have looked at the issue of religious freedom on an individual point of view. " Understanding the roles and " 46 " Mahinda Deegalle & Mahinda Deegalle, ed. " Introduction " in Buddhism, / Conflict and Violence in Modern Sri Lanka. / London: "Routledge." 95 "

BUDDHISM)AND)HAPPINESS)IN)LIFE) "

The"world"is"rife"with"problems"causing"people"to"feel"dissatisfied," and" search" for" "happiness"."
Buddhism" does" not" only" teach" how" individuals" can" achieve" happiness," but" have" other" doctrines"
for" policy" makers,"leaders,"kings"and"the"state"on"how"to"work"together"with"other"
components"of"society"for"a"happier"world."It"important"to"understand"
these"doctrines,"so"that"effective"and"successful"policies"and"actions"can"
be"set"in"place."These"doctrines"are"found"in"his"teachings"regarding"four" pillars" of" society:" People,"
State," Economics," and" Religion" (or" moral" spiritual"philosophy)."
Since" the" advent" of" "scientific"
knowledge" many" people" believe"
that"religion"should"be"separate"from"the"economic"and"political"and"focus"
on"doctrines"or"scriptures,"applying"them"in"social"work"to"help"those"who"
are"suffering."However"many"scholars"and"other"social"reformers"think" that" this" should" be" changed"
to" fit" in" today's" context.⁵²" This" is" in"

conformity"with"one"of"the"fundamental"doctrines"of"Buddhism,"which"is"
anatta,"no"individuality,"but"interdependence"of"all"that"exists.⁵³"

PEOPLE,)ECONOMICS)AND)RELIGION) "

People"in"this"context"means"human"beings,"people"in"the"world,"
society,"citizens"of"a"country."When"the"people"of"Vyagghapajja"asked"the"
52" B.A." Wallace." "Buddhism" and" Science:" Confrontation" and" Collaboration".
Presentation/at/International/Conference/on/"Buddhism/and/Science"./(India:" 53"
Central"Institute"of"Higher"Tibetan"Studies,"2009)." SN"21.59"Anattalakkhana"Sutta" 98"
Buddha"for"the"solution"to"happiness"in"the"present"and"in"the"future,"the" Buddha" taught" about" the"
four" conditions" of" "worldly" progress" for"
present"happiness"and"the"four"conditions"of"spiritual"progress"which"
will"lead"to"happiness"in"the"future.⁵⁴ The"four"conditions"of"worldly"progress"are"The"accomplishment"
of" persistent" effort" (utthanaGsampada)," the" accomplishment" of" watchfulness"
(arakkhaGsampada),"good"friendship"(kalyanamittata)"and" balanced"livelihood"
(samaGjivikata)."
Thereafter,"care"is"to"be"taken"that" the"wealth"amassed"is"not"wasted."
Happiness"in"the"future"is"achieved"through"spiritual"development" in" the" present." The" four" practices"
are"The" accomplishment" of" faith" (saddhaGsampada)," the" accomplishment" of" virtue"
(silaGsampada)," the" accomplishment"of"charity"(cagaGsampada)"and"the"accomplishment"of" wisdom"
(paññaGsampada).⁵⁵ The"wish"of"the"Vyagghapajja"has"not"changed"much"with"time,"for"
the"citizens"of"all"countries"have"the"same"desire:"the"desire"for"eternal"
happiness"in"a"peaceful"prosperous"country."The"Buddha's"solution"is" twoBpronged:" one" is" economic,"
with" a" clear" consideration" for" other"
members"of"society;"whereas"the"other"is"of"a"religious"or"spiritual"and"
philosophical"nature."This"means"that"without"economic"prosperity,"and"
without"religious"freedom,"there"is"no"wellBbeing"in"a"country."

CONDITIONS)OF)WORLDLY)PROGRESS)AND)PRESENT)WELLCBEING) " Employment," being" able"
to" earn" a" livelihood" is" important" for"

present"wellBbeing."It"the"responsibility"of"the"individuals"and"citizens"
of"a"country,"to"be"industrious,"to"have"good"risk"management"practices," and" to" live" within" one's"
means," and" not" to" squander" the" hardBearn"

wealth."However,"all"these"economic"activities"should"be"carried"out" in"
54" AN"8.54"Vyagghapajja"Sutta" 55" AN"8.54"Vyagghapajja"Sutta" 99"
good"friendship"and"relationship"with"other"members"of"society,"who"are"
generous"to"others"and"of"good"moral"standing,"whilst"adjusting"one's"
attitude"and"behavior"according"to"the"level"of"faith,"virtue,"generosity"
and"wisdom"of"the"other"people"whom"one"is"engaging"with."

Ven"Narada⁵⁶ translates"the"related"verse"as"follows:" Herein," Vyagghapajja," in" whatsoever" village" or"
market" town" a" householder" dwells," he" associates," converses," engages" in" discussions" with"

householders" or" householders'" sons," whether" young"and"highly"cultured"or"old"and"highly"cultured,"full"of"faith" (saddha),"full"of"virtue" (sila),"full"of"charity"(caga),"full"of"wisdom" (pañña)."He"acts"in"accordance"with"the"faith"of"the"faithful,"with" the"virtue"of"the"virtuous,"with"the"charity"of"the"charitable,"with" the"wisdom"of"the"wise."This"is"called"good"friendship."

This"small"section"in"the"Vyaggapajja"Sutta"is"of"crucial"importance," as"it"shows"policy"makers"and"leaders"the"way"to"religious"tolerance"and" freedom." Although" saddha," sila," caga," and" pañña" form" part" of" the" Buddhist"practice"to"attain"liberation"and"happiness,"the"above"would"not" have"been"restricted"to"Buddhists"only;"as"the"Buddha"was"known"for"his" tolerance,"and"open"mindedness"in"an"Indian"society"which"was"already"a" plural" society" with" many" competing" religions.⁵⁷ Buddhism" therefore" clearly"teaches"that"the"citizens"of"a"country"or"the"world"need"to"act"with" discernment"and"be"more"open"to"others,"and"allow"religious"freedom." Having" looked" at" how" economic" security" brings" present" term" prosperity,"happiness"and"peace"to"a"country"and"how"religious"tolerance" is"an"essential"part"of"it,"we"shall"now"examine"how"a"country"can"sustain" its"growth"into"the"future." 56" Ven" Narada," <http://www.accesstosight.org/tipitaka/an/an08/an08.054>." 57" nara.html"

Somseen"Chanawangsa." "A" Buddhist" Perspective" on" Freedom" of" Religion" . The/ Journal/ of/ the/ Royal/ Institute/ of/ Thailand/ ,/ Vol/ 111. "2011." 100" (CONDITIONS)OF)SPIRITUAL)PROGRESS)AND)FUTURE)HAPPINESS) " Buddhism"teaches"that"future"welfare"is"an"investment"made"today" by"developing"morality"of"a"society"through"religion"(spiritual"belief"or" philosophy)."The"four"practices""the"accomplishment"of"faith/(saddhaG sampada),/ the" accomplishment" of" virtue/ (silaGsampada),/ the" accomplishment" of" charity/(cagaGsampada)/and"the"accomplishment"of" wisdom/(paññaGsampada)"are"key"aspects"of"Buddhist"teachings"on"the" removal"of"suffering"to"achieve"happiness.⁵⁸In"Anguttara"Nikaya,"the" Growth"sutta,"there"is"a"fifth"factor,"which"is"learning,"which"means"that" there"must"be"access"to"the"teachings,"or"religious"freedom"to"receive" these" teachings." These" practices" support" the" wholesome" growth" of" individual"followers,"who"benefit"from"the"best"of"this"life,"but"benefit"the" country"in"sum"total." Faith"here"means"believing"that"the"Buddha"is"an"enlightened"one," whereas,"being"virtuous"refers"to"the"5"precepts"of"abstention"from"killing," stealing,"sexual"misconduct,"lying"and"intoxicants."The"third"is"to"practice" generosity"towards"others"and"finally"the"fourth"is"the"understanding"of" the"arising"and"cessation"of"the"five"aggregates"of"existence,"which"causes" suffering"in"this"world."The"resulting"future"wellbeing"comes"from"the" practice"of"morality,"and"mind"training." According"to"Buddhism,"acquiring"this"knowledge"and"putting"it" into" practice," is" the" way" to" ensure" happiness" and" future" welfare." Therefore,"in"places"and"countries"where"this"knowledge"and"practice"is" forbidden"or"hindered,"morality"will"go"down,"the"cause"of"an"ailing"and" poor" country." For" as" US" President" Thomas" Jefferson" said" "Peace," prosperity," liberty" and" morals" have" an" intimate" connection."⁵⁹ A" population"with"poor"morality,"with"it"the"result"of"little"control"over"the" mind" and" the" senses," can" hardly" drive" a" country" to" proper" and" be" 58" AN"111"80"Growth"sutta" 59" Thomas" Jefferson." Politics/ and/ Government:/ Moral/ Principles." To" George" Logan."1813." 101" peaceful."Instead"there"will"be"many"social"crises"and"conflicts,"which"as" predicted,"are"signs"of"failure." The" crux" of" the" Buddha's" concept" of" liberation" is" found" in" the" theory"of"the"arising"and"cessation"of"the"five"aggregates"of"existence." This"is"a"higher"teaching"for"more"advanced"level"practitioners,"such"as"

monastics"and"those"intent"on"being"fully"liberated"from"this"world"of" suffering."Buddhist"society"is"built"on"an"equilibrium"between"laypeople" and" monastics." Laypeople," through" their" generosity," give" monastics" economic"freedom,"allowing"the"latter"to"pursue"their"path"to"wisdom"and" final"emancipation"without"having"to"worry"about"their"livelihood.""In" exchange,"monastics"give"their"benefactors"the"opportunity"to"practice" generosity"and"as"teachers,60"share"their"wisdom,"and"knowledge"so"that" as"a"result"of"their"practice,"these"laypeople"can"have"future"wellBbeing."" Barriers"to"this"religious"practice,"whether"through"economic"crimes,"or" through"deprivation"of"religious"freedom,"would"mean"that"the"future" welfare"of"this"community"is"threatened."It"is"natural"that"these"people" would"seek"to"protect"their"rights"to"happiness.""In"the"Aggañña"Sutta,61" the"people"elected"a"king"to"protect"them,"leading"us"to"examine"the" concept"of"religious"freedom"within"the"role"of"a"king,"a"leader,"a"state"in" fostering"happiness"and"wellbeing"for"the"society."" STATE,)ECONOMICS)AND)RELIGION) " To"understand"the"relationship"between"the"state"and"religious" freedom," it" is" important" to" know" the" Buddhist" concept" of" great" leadership,"kingship"or"statesmanship.""The"CakavattiBSihanada"Sutta62" describes"great"leadership"as"including"the"practice"and"spreading"of"the" Dhamma,"which"is"the"teaching"and"religion"of"the"Buddha;"practice"of" righteousness"according"to"the"law;"expansion"of"territory;"and"ensuring" security"and"protection"of"the"domain"without"violence""without"stick"or" 60"" DN"III"180,"Sigalovada"Sutta" 61"" DN"III"80"Aggañña"Sutta" 62"" DN"III"61"CakavattiBSihanada"Sutta" 102"" sword,"by"law". "A"great"leader"is"known"as"a"wheelBturning"monarch", " or"a"leader,"king"or"state"possessing"one"great"resource""the"Wheel" Treasure", "which"is,"the"Dhamma.""The"king"keeps"it"turning"by"spreading" the"word"as"he"goes"on"expanding"his"territory,"and"ensures"its"protection" as"he"does"his"kingdom"or"assets,"without"violence"but"through"giving" knowledge"and"understanding"of"what"is"right."" Therefore," if" the" people," the" society," through" their" religious" leaders," claim" justice" for" the" practice" of" their" religions," the" "Wheel" Turning"Monarch""has"to"protect"them,"as"part"of"his"duty,"and"with" discernment,"by"using"the"Dhamma"to"make"people"understand"what"is" right.""Secondly,"after"proper"examination,"he"tells"them"and"ensures"how" they"can"continue"their"practice"because"he"is"himself"a"practitioner"and" knows"the"teachings"of"Buddhism,"which"proclaims"good"relationship"in" society,"and"religious"tolerance.""For"whatever"ascetics"and"Brahmins"in" your"kingdom"have"renounced"the"life"of"sensual"infatuation...."If"from" time"to"time"they"should"come"to"you"and"consult"you"as"to"what"is" wholesome"and"what"is"unwholesome,"what"is"blame"worthy"and"what"is" blameless,"what"is"to"be"followed"and"what"is"not"to"be"followed,"and" what"action"will"in"the"long"run"lead"to"harm"and"sorrow,"and"what"to" welfare"and"happiness,"you"should"listen,"and"tell"them"to"avoid"evil"and" do"what"is"good.63" However,"Buddhism"believes"that"spiritual"development"of"man" must"go"with"material"development.""Therefore,"the"Cakkavatti"Sihanada" sutta" also" discusses" how" the" leader," head" of" state," or" King" has" an" important"role"in"the"development"of"the"economy,"and"not"only"maintain" law"and"order."Two"of"the"most"important"resources"which"a"successful" state"possesses"to"develop"the"economy"is"the"Jewel"Treasure""and"the" "Householder"Treasure", "that"is"a"full"treasury"and"financial"means,"and"a" 63"" DN"III"61"CakavattiBSihanada"Sutta" 103"" successful"ethical"business"community"with"many"setthis"or"millionaires.64""

Such a "setthi" is valued because he is a person who possesses the capacity to acquire wealth that he could not acquire before and also to increase it and at the same time possesses that insight which makes it possible for him to distinguish good and evil.⁶⁵ An institution, or a state which has and can increase its economic wealth and distributes it fairly among the people, will avoid social uprisings, conflicts and religious intolerance. If there are few resources, and people have to struggle to survive, they defend their group against the others. The Kutadanta Sutta⁶⁶ is another very important sutta which supports the Buddhist theory on the creation of welfare in a country for many days through economics and religion. The Buddha explains how a king or state can transform a land pillaged by robbers and with many social conflicts into a prosperous peaceful society. The State must start by the creation of wealth by providing support such as animal food and seeds to farmers, capital to business people to the economic sectors of his country, as well as gave proper salaries to those working in government service. Violence such as punishment, and other types of repression cannot be used to achieve peace, as it would only backfire. He understood the psychological needs of the people: if the population can have a proper livelihood, and earn enough to support their families, the country will prosper and be at peace. However, for social welfare to continue, the king must obtain the free contribution of all social groups of the country, the khattiya vassals, and the ministers and officials, and the Brahmins of position, and the householders of substance, whether of the country or of the towns. For enduring welfare, the State must ensure

64 Uma Chakravarti. The Social Dimensions of Early Buddhism. (UK: Oxford University Press, 1987). Abhidhammattha Sangaha, Puggalapaññatti 66 DN 5 Kutadanta Sutta 104 morality through religious practice for the spiritual development of the country, as discussed earlier in the Vyagghapajja Sutta

The Kutadanta sutta is also a Buddhist contribution to the ideal of religious tolerance and freedom,⁶⁷ as it was told to Kutadanta, the Brahman, the highly respected Vedic teacher of the teachers of many, with three hundred Brahman students from various directions and various countries. On that occasion, a great company of Brahmins had joined him to listen to the Buddha. At the end of the sutta, although Kutadanta realised the truth of the Buddha's doctrine, there was no conversion of any Brahman. Instead, Kutadanta, the Brahman, invited the Buddha for a meal at his sacrificial pit, and the Buddha accepted.

The above discussion clearly indicates that the foremost authority in establishing religious freedom in a country is the State. The same applies today, for it is the legal and policy framework of the State on religious freedom which serves as the main guideline in practice in any country. It is therefore important to know how Buddhism sees its relationship with the state and its leaders. BUDDHIST) MONASTICS) AND) THE) STATE) According to Buddhist doctrine, monks and nuns are to let go of their worldly interests, enter in seclusion, focus on the dhamma and practice to attain enlightenment.⁶⁸ The only contact between them and the laypeople is when almsfood, or donations are being offered, and when teachings and offering prayers on behalf of those people are being given. As the State is responsible for the creation and preservation of a right economic environment, and for the protection of and freedom of all religions and beliefs, it is important to discuss the role of monastics in the absence of economic and religious protection and freedom.

67 DN 5 Kutadanta Sutta, 68 DN III 61 CakavattiBSihanada Sutta 105 In the Vinaya Pitaka, the Code of Monastic Rules governing Buddhist monks and nuns, the Suttavibhanga section covers monastic rules against stealing. It is clear here that the Buddha takes the law of the country in consideration before passing his judgement and attributing a sanction.⁶⁹ This has become the guideline for the sangha, that a problem which arises within the community should be evaluated in accordance

with "the vinaya" and "the laws" of "the land." "In whichever country monastics are, they have to abide by all the laws of the state." "In the same way, a bhikkhu is obliged to follow all the rules of the monastery where he lives." Buddhist history shows that at different times, and in different countries, the state made it clear to Buddhist monastics that it is the laws of the country which come first, before the Vinaya. "During the Song dynasty in China, many aspects of life in Buddhist monasteries... were under close governmental supervision, especially the ordination process, the election of abbots, and the mobility of travelers." "... In addition to the rigorous rules prescribed by the Vinaya and the monastic codes, monks in Song China were subject to the same state laws that bound all lay citizens.⁷⁰ Buddhist Thailand is a modern example where monastics have to abide to state laws first, as written in the preface of the Sangha Act of 1902, which is still applicable. Although monks are already subject to the law contained in the Vinaya, they must also subject themselves to the authority which derives from the specific and general law of the State... In sum, monks must obey three types of law: the law of the land, the Vinaya, and custom." "This Act is the law of the land; thus it should be known, understood, and followed correctly."⁷¹ 69

Patriarch Prince Vajiranavararasa. "The Five Precepts: The Buddhist Golden Rule." Retrieved from www.abuddhistlibrary.com/Ethics/ 70 Yifa. "The Origins of Buddhist Monastic Codes in China: An Annotated Translation and Study of the Chanyuan Qinggui." (Hawaii: University of Hawaii Press, 2002). Michael Jerryson. "Buddhist Fury: Religion and Violence in Thailand." (UK: Oxford University Press, 2012). 106

From the time of the Buddha up to our present day, there are many dissensions among Buddhist monastics and scholars, regarding the extent to which monastics should remain aloof from secular matters.⁷² Monastics and laypeople live in symbiosis, depending on each other to achieve happiness. Should a monastic get involved when he sees the economic suffering of his benefactors? And should he remain aloof, if there is religious intolerance in the country, either because of a particular policy, or because the state cannot or does not protect their rights? The answer lies in understanding some basic doctrinal concepts related to religious freedom.

DOCTRINAL CONCEPTS OF RELIGIOUS FREEDOM IN BUDDHISM) "From its very inception in India 2500 years ago, Buddhism has always believed in non-dogmatism, as it evolved in a society with a plurality of competing religions." According to the Brahmajāla Sutta⁷³ there were sixty-five contemporary teachers with different philosophies. Whereas Buddhism recognizes that other religions each does teach some degree of truth, there were other religions which completely denied that others could also help people, claiming that they alone have the truth, and only in their religion can one find salvation. Buddhism's perspective is totally in the opposite direction, if the Buddha's answer to the Kālāmas is analysed. The latter wanted to know how to discern which of the many religions and philosophies held the truth.⁷⁴ Buddhism teaches its followers not to accept anything on face value, or after superficial assessment of the facts. It demands that one experiences whether a doctrine if followed, brings good or evil results.

When you, Kālāmas, realise for yourselves that these doctrines are evil and unjustified, that they are condemned by the wise, and that when
72 Walpola Rahula. "The Heritage of the Bhikkhu: The Buddhist Tradition of Service." (New York: Grove Atlantic, 2007). DN.I. 46, Brahmajāla Sutta 74 AN.I. 189 Kālāma Sutta, 107 they are accepted and lived by they conduce to ill and sorrow, then you should reject them... The Buddha demanded that the same critical approach be exercised when approaching Buddhist

teachings" because" he" strongly" believed" in" the" freedom" of" thought." However, "the" Buddha" conceded" that" not" all" would" benefit" from" his" Dhamma, "according" to" their" dispositions" and" personalities. "" This" means" that" he" accepted" the" possibility" of" spiritual" growth" outside" his" own" dispensation, "although" he" did" not" believe" that" all" religions" have" the" same" value" and" degree" of" truth. 75"" The" above" doctrinal" approach" was" not" only" applied" towards" the" others, "or" the" outside" world; "it" was" also" enforced" in" the" Buddha's" sangha, "where" established" rules" were" sometimes" reexamined" according" to" the" specificity" of" the" problem." Monks" differed" on" issues" such" as" the" use" of" Sanskrit" as" the" language" of" teaching, "or" living" in" urban" areas" compared" to" living" in" the" forest. "" In" Buddhism, "just" as" in" other" religions, "there" are" several" schools" of" belief, "each" with" some" differences" in" the" interpretations" of" the" scriptures" and" in" their" practice. 76. "" The" Theravada" school" which" is" mainly" found" in" Thailand, "Sri" Lanka, "Myanmar" and" Cambodia, "is" known" to" follow" the" more" orthodox" teachings" of" the" Buddha. "" Whereas, "the" Mahayana" school, "found" in" East" Asia, "such" as" China, "Korea, "Japan, "and" in" Tibet, "and" Mongolia, "have" developed" their" own" interpretation" in" the" light" of" their" own" religions" as" Buddhism" reached" their" lands. "" However, "different" schools" when" faced" with" the" problematic" of" economic" issues" and/ or" religious" freedom, "react" differently, "and" yet" would" still" be" in" accord" with"

75"" K.N. Jayatileke. "The/ Buddhist/ Attitude/ to/ Other/ Religions." (Sri Lanka: "Wheel" Publication" no" 216, "Buddhist" Publication" Society, "Sri" Lanka, "1975, "reprint" 76"" 1991)." Toru" Shiotsu, "Mahayana" Buddhist" Contributions" to" the" Issue" of" Human" Rights"" in" Annals/ of/ the/ European/ Academy/ of/ Sciences/ and/ Arts, "Vol" 31." (Germany: "Georg" Olms" Verlag, "2001)." 108""

the" teachings" of" the" Buddha. "" For" in" the" Canon, "there" is" the" mention" of" "upaya", "or" skilful" means. "" The" Jātakas, "or" birth" stories" of" the" Buddha, "show" how" the" Bodhisatta, "in" his" past" lives" before" becoming" the" Buddha, "makes" use" of" skilful" means, "which" are" strategies" for" attaining" enlightenment. "" In" Mahayana" traditions, "this" concept" of" "upāya" kosalla"" found" in" the" Lotus" Sutra 77" is" more" frequently" used. "Although" an" action" may" not" be" permitted" in" the" rules" of" Buddhism, "yet" if" it" is" for" the" better" good" and" happiness" of" all, "including" the" enemy" or" the" perpetrator" of" harm, "an" advanced" practitioner" may" break" the" rules" out" of" compassion. 78"" For" example" it" is" better" to" lie" to" save" someone" from" being" killed" or" harmed. "Buddhism" in" its" original" tenets" teaches" that" violence" in" whatever" form" is" unacceptable. "" However, "for" some" schools" of" Buddhism" as" mentioned" above" "violence, in/ extreme/ cases, is/ permissible, /but/ hatred/ is/ never/ justified." 79""

A) BUDDHIST) LEGACY) ON) RELIGIOUS) FREEDOM) "

Buddhism" does" not" condone" violence, "and" certainly" no" "justified"" violence. 80"" However, "it" recognizes" reality" as" it" is, "and" therefore" knows" that" there" are" Buddhists" who" can" resort" to" violence, "whether" out" of" wrong" view, "or" through" use" of" 'skilful" means'. "" Economic" issues" and" religious" freedom" repression" have" caused" much" harm" to" the" Buddhists" of" Tibet, "to"

77"" Michael" Pye. "Skilful/ means:/ A/ Concept/ in/ Mahayana/ Buddhism." (London: "78"" Routledge, "1978, "reprint" 2004)." Paul" Williams, "ed." Buddhism/ Critical/ Concepts/ in/ Religious/ Studies, / Vol/ VI." (London: "Routledge, "2005)." 79"" "Ethics" in" Indian" and" Tibetan" Buddhism"" in" Stanford/ Encyclopedia/ of/ Philosophy. "Retrieved" 2012, "from" <http://plato.stanford.edu/entries/ethicsB> 80""

indian Buddhism/" Mahinda" Deegalle. "Is" Violence" Justified" in" Theravada" Buddhism?" In" Buddhism/ Conflict/ and/ Violence/ in/ Modern/ Sri/ Lanka." (London: "Routledge, "2006)." 109""

the" Tamils" of" Sri" Lanka" and" to" religious" others" in" the" world. "" As" a" result, "this" religious" intolerance" backlashes" on" Buddhists" in" other" parts" of" the" world, "such" as" in" the" bombings" of" Buddhist" temples" in" Indonesia 81. "The" global" power" shifts" and" religious" crises" and" uprisings" is" indicative" of" the" change" in" the" relationship" of"

religions" with" policy" making," as"
"transnationalism"has"become"the"name"of"the"game"for"the"religions"of"
the"world."82""To"break"this"vicious"circle"requires"enlightened"leaders,"and"one" of" the" role" models"
is" Emperor" Asoka" of" India" who" lived" in" the" third"
century.""Although"a"converted"Buddhist,"he"was"revered"by"all"religions.""
This"passage"from"the"12th"Edict"of"Asoka"summarises"well"the"Buddhist"
view"on"the"consequences"of"religious"intolerance"and"the"strategy"to" promote"religious"freedom:83"
One"should"not"honour"only"one's"own"religion"and"condemn"the"
religions"of"others,"but"one"should"honour"others" religions"for"this"or"that"
reason."In"so"doing,"one"helps"one's"own"religion"to"grow"and"renders"
service"to"the"religions"of"others"too."In"acting"otherwise"one"digs"the" grave" of" one's" own" religion" and"
also" does" harm" to" other" religions."

Whosoever"honours"his"own"religion,"and"condemns"other"religions,"does"
so"indeed"through"devotion"to"his"own"religion,"thinking,"I"will"glorify"my"
own"religion."But"on"the"contrary,"in"so"doing"he"injures"his"own"religion"
more"gravely."So"concord"is"good:"Let"all"listen,"and"be"willing"to"listen"to"
the"doctrines"professed"by"others./ "" 81 ""

<http://www.pharosobservatory.com/c/asia/INDONESIA/indonesiaBradicalB>

muslimBgroupsBtargetBbuddhistsBinBretaliationBforBrohingyaBmassacreBen" 82 ""

Dicky" Sofjan. ""Introduction:"Managing"Religious"Diversity"in"a"Muticultural" Southeast" Asia"" in" Religion,
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Walpola"Rahula,"What/the/Buddha/Taught./(London:"Oneworld"Publications," 1959,"2008)." 110 ""

CONCLUSION) " The"ideal"Religious"Freedom"charter"signed"by"most"countries"in"the" world" does" not"
fit" with" what" most" people" are" living" in" reality" in" their"

religious"life"around"the"world"up"to"now. ""The"discussion"in"this"paper"has" taken" a" leadership" and"
state" policy" perspective" on" religious" freedom" in"

order"to"find"solutions"to"come"closer"to"this"ideal. ""Buddhist"doctrine"on"

religious"freedom"indicates"that"for"enduring"welfare,"a"country"will"first" resolve" its" economic" security"
before" attending" to" religious" and" spiritual" issues" such" as" religious" tolerance. "" However," religious"
freedom" can" only" arise" if" all" components" of" society" understand" their" roles" and" responsibilities,"

and" work" together" towards" it. "" Buddhism," being" a" nonB dogmatic" religion," teaches" the"

understanding" what" is" right" through" self" experience," and" seeing" reality" as" it" is. "" It" therefore" not"
only" applies" this" doctrine" on" an" individual" and" a" state" levels;" but" also" towards" other"

religions,"and"within"its"own"Buddhist"milieu. ""This"has"resulted"in"different" levels" and" schools" of"

thought" in" Buddhism," and" therefore" not" one" but" different" Buddhist" perspectives" on" religious"

freedom. "" The" final" conclusion" is" that" the" world" requires" enlightened" leaders" to" be" able" to" listen"

to," to" evaluate" and" to" criticise" all" religious" philosophies" without" hatred," to" dictate" the" right"

policies," and" follow" up" with" right" actions"" in" order"to"establish"real"religious"freedom."))

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KEBEBASAN)BERAGAMA)MENUJU)TOLERANSI)DAN)DAMAI)DUNIA:)) KAJIAN)KHONGHUCU) Ws.)Ongky)Setio)Kuncono) "" PEMBUKAAN)) " Agama" Khonghucu" yang" sering" disebut" dengan" Ru# Jiao" yang" memiliki"garis"tarekat84"dari""Nabi"Fu"Xi"(2.953B2.838"SM), "Nabi"Shennung" (2.838B2.698"SM)"Maharaja"Kuning, "Nabi"Yao, "Nabi"Shun, "Nabi"Yu, "Nabi" TangB"Nabi"Wen"dan"Nabi"WuB"Pangeran"ChouB"Nabi"Khongcu/KongZi" (551B479" SM)" hingga" Rosul" Mengzi" dikembangkan" secara" damai" dan" harmonis" tanpa" ada" konflik." Hal" tersebut" terjadi" karena" dalam" perkembangannya" agama" Khonghucu" secara" horizontal" melakukan" sosialisasi"dengan"masyarakat"melalui"kebudayan"dan"tradisi"dan"secara" vertikal" menjalin" hubungan" dengan" para" Raja" (Pemerintahan)" secara" harmonis."Baik"secara"Pemerintahan" (melalui"para"RajaBRaja)"maupun" secara" sosial" kultural" agama" Khonghucu" dapat" tumbuh" berkembang" secara"damai"tanpa"ada"konflik"maupun"peperangan. "" Khususnya" di" Indonesia" agama" Khonghucu" menunjukkan" eksistensinya"beratus"ratus"tahun"dan"pengaruh"ajaran"agama"Khonghucu" di"bumi"Nusantara"ini"sudah"sejak"jaman"akhir"prasejarah."Kedatangan" "84"" Prof.DR.DR.DR."Lee"T"Oei."Chu/Hsi/dan/Penyempurna/Agama/Konfucianinya" (Solo:"Matakin,"2011),"hlm.20." "115"" orangBorang" Tionghoa" pada" jaman" Hindu" tentu" saja" membawa" serta" unsurBunsur" Khonghucu." Adanya" uang" keping" logam" Cina" yang" sampai"

saat"sekarang"digunakan"untuk"upacara"ritual"umat"Hindu"Bali"merupakan"
contoh"nyata"interaksi"umat"Khonghucu"dengan"Hindu"waktu"itu."Hal"ini"ditegaskan"oleh"Djohan"
Effendi"yang"menyatakan"bahwa"berbarengan"dengan"kedatangan"bangsa"China"yang"
kebanyakan"beragama"Khonghucu,"maka"agama"tersebut"pun"ikut"memperkaya"dunia"
keagamaan"di"Indonesia".⁸⁵Perkembangan"agama"Khonghucu"di"Indonesia"dengan"didirikan"
tempat"ibadah"di"seluruh"pelosok"Indonesia"seperti"pada"tahun"1688,"
kelenteng"Thian/Ho/Kiong"di"Makasar"dan"tahun"1819"kelenteng"Ban/Hin/
Kiong"didirikan"di"Manado."Sedangkan"Rumah"Abu,"Kong/Tek/Su,/didirikan"
di"Manado"pada"tahun"1839."Kelenteng"tua"lainnya"antara"lain"terdapat"di" Ancol" Jakarta," Tuban,"
Rembang," dan" Lasem." Pada" tahun" 1883" di" Jl." Kapasan," Surabaya" didirikan" rumah" ibadah" tertua"
1886" dengan" nama" Boen/ Thjian/ Soe" yang" kemudian" dipugar" kembali" dan" disebut" sebagai"
Boen/Bio"atau"Geredja/Khonghoetjoe"(De/Kerk/van/Confucius)."Tahun"1729"
sebenarnya"terdapat"pula"sebuah"lembaga"agama"Khonghucu"semacam" Pesatren" di" Jakarta" yang"
bernama" Ming/ Chen/ Shu/ Yuan," artinya" Taman" Kitab" (akademi)" Pendidikan" Menggemilangkan"
Iman⁸⁶." Sekarang" hampir" di" setiap" provinsi" ada" aktivitas" dan" lembaga" Khonghucu" yang" eksis,"
ikut" andil"dalam"membangun"Indonesia"menuju"masa"depan"ceria."""Perkembangan"agama"
Khonghucu"di"Indonesia"menunjukkan"kepada"kita"bahwa"di"samping"terjalin"hubungan"harmonis"
di"antara"penganut"Khonghucu"dengan"masyarakat"setempat"juga"adanya"penerimaan"dari"
penduduk"setempat"terhadap"masyarakat"Khonghucu."Hal"ini"merupakan"kenyataan"adanya"hidup"
berdampingan"yang"baik"di"antara"pemeluk"agama"yang"sudah"berjalan"relatif"lama."Hubungan"
harmonis"tersebut"terjalin"dikarenakan"adanya"jalinan"yang"
baik"85""Chandra,"Setiawan."Kehadiran/Agama/
Khonghucu/di/Indonesia."(Solo:"86""Matakin,"1998)."hlm."48."Ibid,"hlm."51"116""berdasarkan"pada"
keyakinan"agama"bahwa"di"seluruh"penjuru"lautan"adalah"saudara."""
KONSEP)AJARAN)KHONGHUCU))"Anugrah)Tian)berupa)Xing))"Tian/Tuhan"YME"dengan"
FirmanNya"(Tian" Ming)⁸⁷"menjadikan"manusia"yang"memiliki"Xing"(Watak"Sejati)."Xing"sebagai"
Roh"Kebajikan/Roh"Asli"dari"Tian/Tuhan"YME"menjadikan"manusia"itu"sempurna"dibandingkan"
dengan"makhluk"lainnya."Xing"yang"merupakan"
nilaiBnilai"Kebajikan,"yakni"Ren=Cinta"Kasih,"Yi=Kebenaran,"Li=Kesusilaan,"Ti=Kebijaksanaan,"harus"
dikembangkan"agar"manusia"menjadi"suci/bersih."Upaya"manusia"untuk"mengendalikan"nafsu"dan"
membangkitkan"Xing"itulah"tujuan"dari"agama."Sebab"dengan"mengembangkan"nilaiB"nilai"luhur"
dari"Tuhan/Tian" Ming"itulah,"manusia"
akan"menjadi"Jun"Zi"yang"bisa"diterima"oleh"Tuhan/Tian"YME."Oleh"karena"
itulah"salam"dalam"agama"Khonghucu" Wei/De/Dong/Tian"(Hanya"dengan"Kebajikan"saja,"Tian/Tuhan"
berkenan)"(Kitab"Shu"Jing"II.II.III.21)."Artinya,"tidak"ada"jalan"lain"yang"bisa"menyelamatkan"
manusia"kecuali"dengan"berbuat"baik/kebaikan."Bagi"agama"Khonghucu"jalan"menuju"hakikat"
Tuhan"atau"pemahaman"akan"Tuhan"diawali"dengan"perbuatan"baik"kepada"sesama"manusia."""
Maka"seorang"Jun"Zi"tidak"boleh"tidak"membina"diri;"bila"berhasrat"membina"diri,"tidak"boleh"tidak"
mengabdikan"kepada"orang"tua;"bila"berhasrat"mengabdikan"kepada"orang"tua,"tidak"boleh"tidak"tidak"
mengenal"manusia,"dan"bila"berhasrat"mengenal"manusia,"tidak"boleh"tidak"mengenal"kepada"
Tian"(Tuhan"Yang"Maha" Esa)"(Kitab"
Zhong"Yong"Bab"XIX:"7)."87""
Firman" Tian" Tuhan" Yang" Maha" Esa" (Tian/ Ming)" itulah" dinamai" Watak" sejati" (Xing)." Hidup" mengikuti"
watak" Sejati" itulah" dinamai" menempuh" Jalan" Suci" (Dao)." Bimbingan" menempuh" Jalan" Suci"
(Dao)" itulah" dinamai" Agama" (Jiao)" (Kitab" Tengah" Sempuran/ Zhong/ Yong" Bab" Utama)" "" 117""
Jarang" di" dalam" kehidupan" ini" bisa" menghormati" Tuhannya" dengan" benar" apabila" manusia" itu" sendiri"
tidak" bisa" menghormati" sesamanya."
Maka" ajaran" agama" Khonghucu" mengharuskan" manusia" hidup" didunia" ini" menjadi" Jun" Zi"
(seorang" yang" berbudi" luhur), "seorang" yang" bermoralitas" baik, " yang" hidup" dalam" lingkungan"
masyarakat" dengan" menerapkan"
kebijakannya" sehingga" hidupnya" bisa" memberi" manfaat" bagi" masyarakat" banyak." Hanya" dengan"

menyempurnakan" dirinya" setiap" hari" melalui"
pembinaan"diri"yang"tiada"pernah"berhenti,"maka"dia"akan"memahami" Xing"
(Roh"Kebajikan)"sehingga"bisa"mengabdikan"kepada"Tuhan"dengan"suci" dan"bersih."""
Yang"benarBenar"dapat"menyelami"Hati,"akan"mengetahui"Watak" Sejati"nya"
(Xing);"yang"mengetahui"Watak"Sejati"nya"akan"mengetahui" Tian," Tuhan" YME." Menjaga" Hati," merawat"
Watak" Sejati" (Xing)," demikianlah"mengabdikan"kepada"Tian"YME"(Kitab"Meng"Zi"Jilid"VIIA:" 1:"1B2).""""
Inilah" yang" dikatakan" bahwa" untuk" mencapai" transedental" itu"
melalui"perbuatan"yang"baik"di"dunia"ini."Mereka"yang"telah"mencapai" puncak" kebaikan" tentunya"
akan" mencapai" puncak" Iman" sekaligus" mencapai"puncak"Jalan"Suci"
(Dao)88."Maka"yang"telah"mencapai"Puncak"Iman" itulah" akan" menjadi" manusia" Jun" Zi" yang"
diharapkan" agama." Dia" akan" hidup"damai,"tentram"dan"bahagia"dalam"Tuhan/Tian"yakni"akan"menuju"
ke"atas"(heaven)89." Dalam"Kitab"Da"Xue"Bab"Utama:"1,"Adapun"Jalan"Suci"(Dao)"yang"
dibawakan"Ajaran"Besar"
(Da/Xue)"ini,"ialah:"menggemilangkan"Kebajikan"..... 88"
"Kalau"bukan"yang"telah"mencapai"Puncak"Kebajikan,"tidak"akan"dapat"Dia" 89"
mencapai"puncak" Jalan"Suci"(Dao)"(Kitab"Zhong"Yong"Bab"XXVI:"5). "Nabi" Bersabda," "Majunya"
seorang" Jun" Zi" itu" menuju" keatas," dan" majunya" seorang"rendah"budi"
(Xiao/Ren)"itu"menuju"ke"bawah"(Kitab"Lun"Yu"Jilid"XIV:" 23)."" 118"" Yang"Bercahaya"
(Ming/De)," mengasih"rakyat"(Qin/Min),"dan"berhenti"pada" puncak"Kebajikan"(Zhi/Shan)."
Berpijak"dari"ayatBayat"di"atas,"maka"ajaran"agama"Khonghucu"itu" mementingkan" hubungan" baik"
termasuk" moralitas" yakni" hubungan"
antara"manusia"dengan"manusia,"hubungan"manusia"dengan"lingkungan" hidupnya" dan" hubungan"
manusia" dengan" Tian" sebagai" Khalik" pencipta" alam." Khususnya" hubungan" manusia" dengan"
sesama" manusia" dibahas" dalam" lima" hubungan" Khonghucu/wulun/Ngolun" (Five/ Relationships/ of/
Confucius)90"yakni"menyangkut"bagaimana"hubungan"antara"raja"dengan"
menteri,"ayah"dengan"anak,"suami"dengan"isteri,"kakak"dengan"adik"dan" kawan" dengan" sahabat."
Kelima" hubungan" kemasyarakatan" itulah" yang"
dilandasi"dengan"etika"moral"Khonghucu"yakni"Kebajikan91." (DIMENSI)RITUAL)) "
Tiang/Ming"berupa"Xing"(Watak"Sejati)"di"samping"memiliki"dimensi" etika" moral" (kebaikan)," juga"
memiliki" dimensi" religi" (ritual). "Artinya" bahwa" dalam" memahami" Xing" tidak" bisa" dengan" konsep"
filosofi" saja," melainkan"dengan"keyakinan"dan"iman"yang"mendalam."Pemahaman"ini"
bisa"dilihat"dari"Kitab"Lun"Yu"V":12"yakni:"
Zi"Gong"berkata,""Ajaran/Guru/tentang/kitabGkitab,/dapat/diperoleh/
dengan/mendengar,/tapi/Ajaran/Guru/tentang/Xing/(Watak/Sejati)/ dan/ Jalan/ Suci/ Tian/ (Dao)/ tidak/
dapat/ kuperoleh/ hanya/ dengan/ mendengar/". "" Pemahaman" ayat" di" atas" menjelaskan" bahwa" untuk"
memahami" Xing/tidak"bisa"dengan"hanya"akal"dan"pikiran"melalui"pendengaran"saja,"
melainkan"dibutuhkan"perasaan,"keyakinan,"kepercayaan"dan"iman."Oleh"
karena"itulah"di"samping"etika"moral"dan"perbuatan"baik"manusia,"maka".....
90"" Charles" A." Rarick." "Confucius" on" Management:" Understanding" Chinese" Culture" and"
Managerial" Practice"/. / Journal/ of/ International/ Manajement/ 91"" Studies,/Vol/2."
(August,"2007), "hlm."22B28." Kitab"Zhong"Yong"Bab"XIX":8,"hal"36"" 119"" ada" unsur" kepercayaan"
dan" Iman" kepada" Tian" sebagai" Khalik" pencipta" alam,"ada"Li"(peribadatan)"kepada"Tian."
Peribadatan" dan" persembahyangan" kepada" Tian" akan" mendorong" bangkitnya" Xing" (watak" Sejati)"
meraga" keluar" sehingga" manusia" terdorong" kembali" menjadi" suci/kembali" fitrah," kembali" seperti"
awal" awalnya" Tuhan" berikan" Xing" kepada" manusia." Karena" perjalanan" hidup" manusia" dengan"
pengaruh" lingkungan" sehingga" Xing" itu" menjadi" buram" dan" tertutup" oleh" nafsuBnafsu." Upaya"
manusia" mengembalikan" Xing" seperti" sediakala" itulah" melalui" Kebajikan" dan" Peribadatan" kepada"
Tian" Yang"Maha"Esa." (Tian)sebagai)obyek)Iman) " Maha" Besar" Khian" /Tian," Khalik" Yang" Maha"
Sempurna," berlaksana" benda"bermula"dari"padaNya;"semuanya"kepada"Tian,"Tuhan"Yang" Maha"Esa"
(Kitab"Yak"King,"Tuan"Zhuan,"Sabda"1:1,4). "" Semua" makhluk" di" dunia" ini" dari" Tian," Tuhan" Yang"
Maha" Esa" akan" kembali" kepada" Tian," maka" manusia" memiliki" tugas" mulia" di" dunia" membantu"

pekerjaan" Tuhan" dengan" menata" kehidupan" didunia" ini"
dengan" baik," tertib," damai" sejahtera." "Manusia" juga" memiliki" tugas" untuk" memuliakan" Tian" melalui"
persembahyangan" (Li)," sebab" anugrah" Tian"
kepada" manusia" yang" tidak" terbatas" itu" harus" disikapi" dengan" rasa" syukur" melalui" doa." Nabi" Kong" Zi"
(Nabi" Khongcu)" mengajarkan" segala" yang"
diterima" meski" hal" yang" paling" sederhana," harus" diawali" dengan" doa." "Meskipun" makan" nasi" dengan"
sayur" yang" sangat" sederhana," niscaya" disembahyangkan." Sembahyang" dilakukan" dengan"
sungguhB" sungguh" (Kitab" Lun" Yu" X":11)." Nabi" Khonghucu/Kong" Zi" bersabda," "Kalau"
Aku" tidak" ikut" sembahyang" sendiri," Aku" tidak" merasa" sudah" sembahyang" (Kitab" Lun" Yu" III:"12,"2)."
Sembahyang" dan" sujud" kepada" Tian" adalah" merupakan" kodrat" manusia" sebagai" makhluk"
ciptaanNya." Hidup" di" dunia" ini" berkewajiban"
bersujud," hal" ini" tertera" dalam" Kitab" Zhong" Yong" XV;"1,2,3)" "120" "Sungguh" Maha" Besarlah" Kebajikan"
Gui/ Shen" (Tian" Yang" Maha" Rokh)." Dilihat" tidak" nampak," didengar" tidak" terdengar," namun" tiap"
wujud" tiada" tanpa" Dia." Demikianlah" menjadikan" umat" manusia" di" dunia" berpuasa," membersihkan" hati"
dan" mengenakan" pakaian" lengkap" sujud" bersembahyang" kepadaNya." Sungguh" Maha" Besar"
Dia," terasakan" di" atas" dan" di" kanan" kiri" kita." Nabi" Kong" Zi" bersabda," "...
siapa" berbuat" dosa" kepada" Tian," tiada" tempat" lain" ia" meminta" do'a" kecuali" kepada" Tian" itu" sendiri"
(Kitab" Lun" Yu" Jilid" III:"13,"2). "MEMBINA) DIRI) " Pada" tahun" 1988," 74" pemenang" Hadiah"
Nobel" Dunia" membuat" pernyataan" di" Paris" "If" human" beings" want" to" live" in" peace" and" prosperity"
in" the" 21" st" century," the" must" look" 2,500" years" and" seek" the" wisdom" of" Confucius"
(Zhang" Youmin" and" Li" Tianchen)." Pernyataan" tersebut" di" atas" bukan" semata-mata" hanya" etika"
Khonghucu" saja" yang" bisa" digali" dalam" memberi" kontribusi" terhadap" kedamaian" dunia," melainkan"
semua" agama" yang" ada" di" dunia" bisa" menggali" nilai-nilai" agama" menuju" pada" etika" global"
dalam" mencapai" kedamaian" dunia." Seperti" juga" yang" sedang" digodok" oleh" FKUB" Provinsi" Jawa" Timur"
tentang" "etika" beragama", " maka" etika" Khonghucu" selalu" bersesuaian" dengan" nilai-nilai" global"
dalam" menata" kehidupan" yang" harmonis" menuju" masyarakat" yang" adil" dan" beradab." Seperti" juga"
tercantum" dalam" Deklarasi" Awal" Menuju" Etika" Global" pada" bagian" butir"
ketujuh" dikatakan" bahwa" "Bumi" tidak" bisa" merubah" menjadi" lebih" baik" jika" kesadaran" individual"
(diri" sendiri)" kita" tidak" berubah" terlebih" dahulu." "
Maka" berdasarkan" pernyataan" di" atas" bagaimana" pandangan" Khonghucu" terhadap" kedamaian" dikaji"
dari" diri" individu" terlebih" dahulu" untuk" kemudian" diterapkan" di" dalam" hubungan" keluarga" dan"
lingkungan" masyarakat." Menurut" Khonghucu" kedamaian" berawal" dari" diri" sendiri" sebagai"
anggota" keluarga." Apabila" tiap-tiap" individu" dalam" keluarga" itu" mampu"
membina" diri" dan" mawas" diri," maka" akan" terciptalah" tatanan" harmonis" dalam" keluarga," masyarakat"
bahkan" dunia." Dalam" hal" ini" Khonghucu" mengajarkan" perlunya" pembinaan" diri" bagi" semua" orang"
tanpa" perkecualian." 121" "Karena" itu" dari" Raja" sampai" rakyat" jelata" mempunyai" satu" kewajiban"
yang" sama," yaitu" mengutamakan" pembinaan" diri" sebagai" pokok" (Kitab" Da" Xue" BAB" Utama:" 6)."
"Tiap" hari" aku" memeriksa" diri" dalam" tiga" hal": "sebagai" manusia" apakah" aku" sampai"
tidak" satya." Bergaul" dengan" kawan" dan" sahabat" apakah" aku" sampai" berlaku" tidak" dapat" dipercaya?"
Dan" apakah" ajaran" Guru" sampai" tidak" ku" latih"
(Kitab" Lun" Yu" I":4). "Bila" bersalah" janganlah" takut" untuk" memperbaiki" diri" (Lun" Yu" I":8.4)."
Apabila" tiap-tiap" individu" sebagai" anggota" keluarga" telah" mampu" membina" diri" dengan" benar" akan"
terciptalah" keluarga" yang" harmonis,"
saling" kasih" mengasihi" satu" sama" lain." Seperti" tersurat" dalam" Kitab" Ajaran" Besar/Da" Xue" IX:"3"
Bila" dalam" keluarga" saling" mengasihi" niscaya" seluruh" negara" akan" di" dalam" cinta" kasih." Bila" dalam"
tiap" keluarga" saling" mengalah," niscaya" seluruh" negara" akan" di" dalam" suasana" saling" mengalah."
Tetapi" bila" mana" orang" tamak" dan" curang," niscaya" seluruh" negara" akan" terjerumus" ke" dalam"
kekalutan," demikianlah" semuanya" itu" berperan." Maka" dikatakan," sepatah" kata" dapat" merusak"
perkara" dan" satu" orang" dapat" berperan" menenteramkan" negara."
Dalam" ayat" lain" Kitab" Ajaran" Besar/Da" Xue" X:9" dikatakan:" "Adapun" yang" dikatakan" "damai" di" dunia"
itu" berpangkal" pada" teraturnya" negara", "ialah" bila" para" pemimpin" dapat" hormat" kepada" yang" lanjut"

usia," niscaya" rakyat" bangun" rasa" baktinya;" bila" para" pemimpin" dapat" bersikap" rendah" hati" kepada" atasannya," niscaya" bangun" rasa" rendah" hatinya;" bila" para" pemimpin" dapat" berlaku" kasih" dan" memperhatikan" anak" yatim" piatu," niscaya" rakyat" tidak" mau"ketinggalan."

Pembinaan"diri"merupakan"suatu"proses"pembelajaran"secara"terus" menerus" untuk" menjadi" manusia" yang" ideal" yakni" Jun" Zi" (insan" Kamil)."

Proses"learning/to/be/human92""semacam"ini"disebut"dengan""Nei/sheng/
..... 92""

Ongky"Setio"Kuncono."Bisnis/Yang/Beriman/dan/Beretika."(Jakarta:/Gerbang"Kebajikan"Ru,"2013),"Hlm."97."" 122""

Wai/wang""yakni"membina"diri"ke"dalam""berwatak"Nabi,"ke"luar"menjadi" pemimpin"rakyat" (mencapai"kedamaian"dunia)."Ajaran"tersebut"tentunya" membentuk" kepribadian" umat" manusia" seperti" sifat" sifat" kenabian" (sesuai" dengan"Kebajikan)"di"dunia"ini."Di"sisi"lain"kepribadian"yang"dililiki" akan"meraga"keluar"sebagai"tingkah"laku"dan"perbuatan"yang"baik"dalam" hubungannya" dengan" sesama" manusia," lingkungan" hidupnya" sekaligus" rasa"sujud"dan"bakti"kepada"Khalik"Penciptanya.""

Dalam" hal" ini" ada" hubungan" yang" erat" antara" "pembinaan" diri"" dengan" "kedamaian"dunia""seperti"kita"lihat""dalam"Kitab"Da"Xue/Thai"

Hak"Bab"Utama:"4"sebagai"berikut":// "Orang" Jaman" dahulu" yang" hendak" menggemilangkan" Kebajikan" Yang" Bercahaya" itu" pada" tiap" umat" di" dunia," ia" lebih" dahulu"

berusaha"mengatur"negerinya;"untuk"mengatur"negerinya,"ia"lebih" dahulu" membereskan" rumah" tangganya;" untuk" membereskan" rumah" tangganya," ia" lebih" dahulu" membina" dirinya;" untuk" membina" dirinya," ia" lebih" dahulu" meluruskan" hatinya;" untuk"

meluruskan"hatinya,"ia"lebih"dahulu"mengimankan"tekadnya;"untuk" mengimankan" tekadnya" ia" lebih" dahulu" mencukupkan" pengetahuannya;" dan" untuk" mencukupkan" pengetahuannya," ia" meniti" hakikat" tiap" perkara".

Selanjutnya" dikatakan" "Dengan" meniti" hakikat" tiap" perkara" dapat" cukuplah" pengetahuannya;" dengan" cukup" pengetahuannya" akan" dapatlah" mengimankan"

tekadnya;"dengan"tekad"yang"beriman"akan"dapatlah"meluruskan" hatinya;" dengan" hati" yang" lurus" akan" dapat" membina" dirinya;" dengan" diri" yang" terbina" akan" dapatlah" membereskan" rumah"

tangganya;" dengan" rumah" tangga" yang" beres" akan" dapatlah"

mengatur"negerinya;"dan"dengan"negeri"yang"teratur"akan"dapat" mencapai"damai"di"dunia""

(Kitab"Da"Xue/Thai"Hak"Bab"Utama:"5)."" 123"" Gambar:"NeiBsheng"WaiBwang" Sumber:."Xs.Indarto""

Oleh" sebab" itulah" dalam" kaitan" pembinaan" diri," Nabi" Kong" Zi" bersabda:." Seorang" muda," di" rumah" hendaknya" berlaku" bakti,93" di" luar" hendaknya" bersikap" rendah" hati," hatiBhati" sehingga"

dapat" dipercaya," menaruh" cinta" kepada" masyarakat" dan" berhubungan"

erat"dengan"orang"yang"berBPeri"Cinta"Kasih."Bila"telah"melakukan" halBhal" ini" dan" masih"

mempunyai" kelebihan" tenaga," gunakanlah" untuk"mempelajari"kitabBkitab"(Kitab"Lun"Gi"Jilid"1:"6).""

Di"sisi"lain"dikatakan"bahwa"seorang"yang"berbakti"telah"membantu" pemerintah" ikut" mencapai"

ketertiban," kedamaian" masyarakat." Di" dalam" Shu" Jing" tertulis" :/ Berbaktilah!" Berbakti" dan"

mengasahi" saudara" maupun" teman," ini" sudah" berarti" membantu" pemerintah!" (Kitab" Lun" Yu" Jilid" II:"

21,2). / 93"" Istilah" Bakti" tercantum" dalam" Kitab"

Zhong" Yong" XVIII:" 2" "" Adapun" yang" dinamai" bakti" ialah" dapat" baik" baik" meneruskan" pekerjaan"

mulia" manusia" atau"orang"tuanya". "Dalam"hal"ini"melakukan"kebajikan"yang"beretika"moral"

dan"sujud"sembahyang"kepada"Tian/Tuhan"YME." 124"" NILAI)REN)

(KEMANUSIAAN)SEBAGAI)LANDASAN) # Ren" (Cinta" Kasih)" dipraktikkan" dalam" lingkungan" terkecil"

rumah" tangga" maka" akan" terjadi" hubungan" harmonis" yang" tumbuh" dan" berkembang," terciptanya"

suasana" hormat" menghormati" antara" suamiB isteri," adanya" kasih" sayang" antara" orang" tua" dengan"

anakBanaknya" dan" ada" saling" tolong" menolong" antara" kakakBadik"" (disebut" dengan" Lima"

Hubungan)."" Jadilah" keluarga" sebagai" tempat" belajar" pertama" untuk" belajar" toleransi," belajar"

menghargai" orang" lain," belajar" untuk" hidup"

bermasyarakat,"di"sinilah"terjadi"proses"akomodasi"dan"penyesuaian"yang" dibuat" orang" lain." Maka"

diharapkan" keharmonisan" yang" tumbuh" dari" lingkungan" kecil" keluarga" ini" memancar" keluar"

sehingga" terbina" sikap" saling" dapat" dipercaya" antara" kawan" dan" sahabat" tanpa" memandang"

bangsa," jenis" kelamin," paham," keyakinan" dan" keimanan." Menyadari" sepenuhnya"sebagai"mandataris"Tuhan/Tian"di"dunia"ini"setiap"manusia" berkewajiban" taatBsetia" kepada" Tian" (Tuhan)" dan" mencintai" sesama" manusia" (Ren)" . " Seorang" yang" Ren" tentunya" "Apa" yang" diri" sendiri" tiada" inginkan," janganlah" diberikan" kepada" orang" lain" (Kitab" Lun" Yu" XI:" 2")." "Seorang" yang" berBperi" Cinta" Kasih" ingin" dapat" tegak," maka" ia" berusaha" agar"orang"lain"pun"tegak;"ia"ingin"maju,"maka"ia"berusaha"agar"orang"lain" pun" maju"" (Kitab" Lun" Yu" VI:" 20)." "Seorang" Jun" Zi" (Kuncu)" menjadikan" kebaikan"orang,"tidak"menjadikan"keburukan"orang."Seorang"rendah"budi" berbuat"sebaliknya."" (Kitab"Lun"Yu"XII:16)." Konsep"Ren"di"atas"diharapkan"mampu"menjadikan"umat"manusia" untuk mempraktikkan" sekaligus" membangkitkan" kecintaan" kita" kepada" sesama"manusia"tanpa"pandang"bulu"baik"agama,"golongan,"suku"bangsa" bahkan"darimana"asalnya."Mereka"yang"Ren,"akan"menghargai"nilaiB"nilai" kemanusiaan"bahkan"lebih"dari"itu"akan"selalu"hidup"di"atas"kepentingan" umum"bukan"kepentingan"pribadinya."Hal"ini"disabdakan"oleh"Nabi"Kong" Zi,/"Seorang" Jun" Zi" mengutamakan" kepentingan" umum," bukan" kepentingan" kelompok;" seorang" rendah" budi" (Xiao/ Ren)" mengutamakan" kelompok,"bukan"kepentingan"umum""(Kitab"Lun"Yu"Jilid"II:"14)." "" 125"" NILAI))LI)YI (KESUSILAN)DAN)KEBENARAN))DALAM)BERGAUL)) " Nabi"Kong"Zi""bersabda"bahwa":."Yang"tidak"Li"jangan"dilihat,"yang" tidak"Li"jangan"didengar,""yang"tidak"Li"jangan"dibicarakan,""dan"yang"tidak" Li"jangan"dilakukan" (Kitab"Lun"Yu"Jilid"XII"1"ayat"2)." Dari"penjabaran"tersebut"menjadikan"umat"manusia"untuk"berhatiB"hati" dalam" berucap" dan" bertindak" sehingga" jauh" dari" kesalahan" yang" berakibat" menyinggung" perasaan" orang" lain." Dalam" berkaitan" dengan" dialog"khususnya"hubungan"dengan"agama"lain,"Nabi"Kong"Zi"memberikan" kiat"sebagai"berikut,""Kalau"berlainan"Jalan"Suci"(Tao),"tidak"usah"saling" berdebat"" (Kitab"Lun"Yu"XV:"40)."Perbedaan"adalah"khazanah"sekaligus" keanekaragaman""yang"harus"dijunjung"tinggi"dan"dihormati"seperti"kita" melihat"dan"memandang"para"Nabi"yang"ada"diturunkan"ke"dunia"ini"dari" berbagai" bangsa" yang" ada." Dalam" konteks" ini" Agama" Khonghucu" mengajarkan"umatnya"untuk"menghormati"para"Nabi"yang"ada"termasuk" Nabi"agama"lain"sebagai"Shen/Ming"(orangBorang"besar)"karena"jasa"dan" peranannya"dalam"peradaban"manusia". " Tersurat"dalam"Kitab"Lun"Yu"XVI:"8"bahwa":." Seorang" Jun" Zi" memuliakan" tiga" hal:" memuliakan" Firman" Tuhan" YME,"memuliakan"orangBorang"besar"dan"memuliakan"sabda"para" Nabi" (dalam"hal"ini"ada"beberapa"Nabi)."Seorang"rendah"budi"tidak" mengenal" dan" tidak" memuliakan" Firman" Tuhan," meremehkan" orangBorang"besar"dan"mempermainkan"sabda"para"Nabi."" Ajaran"agama"Khonghucu""menghargai"para"Nabi"(termasuk"Nabi" agama"lain)"merupakan"cerminan"dari"upaya"menghargai"iman""keyakinan" di"luar"Khonghucu."Terhadap"agama"lain"Khonghucu"melarang"melakukan" kekerasan"fisik"bahkan"melarang"menyebarkan"agama"atau"menjadikan" orang" lain" untuk" ikut" dalam" agama" kita" dengan" melakukan" tindakan" kekerasan"meskipun""mereka"menyimpang"dari"ajaran"Tuhan."Kenyataan" tersebut"bisa"kita"lihat"ketika"salah"satu"murid"berkeinginan""menyerang" mereka" yang" telah" menyimpang" dari" ajaran" agama," Nabi" Kong" Zi" melarangnya."Pelarangan"ini"didapatkan"pada"Kitab"Lun"Yu"XII:"19""sebagai" berikut":// 126"" Kwi" bertanya" kepada" Nabi" Kongcu," bagaimanakah" bila" dibunuh"orangB"orang"yang"ingkar"dari" Jalan"Suci" (ingkar"dari" Agama)," untuk" mengembangkan" Jalan" Suci" (Tao)?" Nabi" Khongcu" menjawab," "Kamu" memangku" jabatan" pemerintahan" mengapa" harus" membunuh?" Bila" kamu" berbuat" baik," niscaya" rakyat" (umat)" akan" mengikuti" baik." Kebajikan" seorang" pembesar" laksana" angin," dan" kebajikan" rakyat" laksana" rumput;" ke" mana" angin" bertiup," ke" situ" rumput"mengarah!". "" Bagi"Khonghucu"bahwa"kejahatan"harus"dibalas"dengan"kelurusan" dan"kebajikan"harus"dibalas"dengan"kebajikan"(Kitab"Lun"Yu"Jilid"XIV:"35)." Seorang" Jun" Zi" (Luhur"

Budi)" memegang "Kebenaran" (Yi)" sebagai" pokok" pendiriannya,"Kesusilaan"
(Li)"sebagai"pedoman"perbuatannya,"mengalah"
dalam"pergaulan,"dan"menyempurnakan"diri"dengan"laku"dapat"dipercaya" (Kitab""Lun"Gi"XV:"18).""
Mereka" yang" mengenal" kebenaran" (Yi)" tidak" sepadan" dengan"
mereka"yang"mencintai"kebenaran,"dan"mereka"yang"mencintainya"tidak"
sepadan"dengan"mereka"yang"berbahagia"dalam"kebenaran"(Yi). "Dengan"
demikian"rasanya"adalah"bijaksana,"kalau"dalam"membina"persahabatan" orang" tidak" melihat" latar"
belakang" apa" keyakinannya." Biarlah" agamaB agama" itu" berkembang" semuanya," biarkan" mereka"
hidup" subur" dan" disukai"oleh"manusia"untuk"mengagumkan"Tian"(Tuhan)". ""SEMUA)SAUDARA) "
Dalam" hubungan" dengan" persaudaraan" harus" dilandasi" oleh" jiwa"
saling"percaya"sehingga"jauh"dari"kecurigaan." Dengan"kepercayaan"akan"
menjadikan"hubungan"yang"dekat"dan"saling"Cinta"Kasih." Hubungan"yang" baik" antarsesama" wajib"
dilakukan" mengingat" umat" manusia" di" dunia" berasal"dari"Tian"dan"kembali"kepada"Tian"
(Kitab"Yak"King,"Tuan"Zhuan," Sabda1:"1,4). "Kita"semua"berasal"dari"satu"Tuhan"yang"Esa"itu." 127""
Dalam" Kitab" Lun" Yu:" XII" : " 5" disebutkan" bahwa," "Di" Empat" Penjuru" Lautan," semuanya" saudara". "
Keyakinan" bahwa" semua" manusia" di" dunia" ini" diciptakan" oleh" Tian" (Tuhan" Yang" Maha" Esa)" di"
dunia" ini" sebagai" satu" keluarga" besar" (saudara)" yang" harus" saling" sayang" menyayangi," saling"
berhubungan" berdasarkan" pada" kesamaan" derajat" untuk" saling" tolongB" menolong." Sebagai"
saudara" besar" tentu" saja" tidak" akan" menyakiti" dan" mencelakai." ""DIALOG)DENGAN)IMAN)LAIN) "
Dalam" kaitan" dengan" hubungan" dengan" antarumat" beragama" khususnya" dialog" untuk" mencapai"
kekeluargaan" dan" persahabatan," Ajaran" agama" Khonghucu" tidak" membatasi" diri" pada"
kelompoknya" saja," melainkan"bergaul""kepada"semua"orang"termasuk"kepada"para"penganut" agama"
yang" berbeda." Dalam" Kitab" Lun" Yu" XIX" 3" ayat" 2" dengan" jelas" dikatakan" bahwa" seorang" Jun" Zi"
itu" bergaul" kepada" siapa" saja" tidak" pandang" bulu." Tauladan" di" atas" telah" dipraktikkan" sendiri"
oleh" Nabi" Kongcu" dimana" pada" suatu" hari" Beliau" bertemu" dengan" Nabi" Lao" She" di"
suatu"tempat"untuk"berdiskusi"masalah"agama."Pertemuan"dan"dialog"dua" Nabi" besar" tersebut"
hendaknya" menjadikan" tauladan" bagi" kita" semua"
untuk"selalu"berdialog"dalam"memecahkan"permasalahan." "Yang"terpenting"
dalam"dialog"adalah"harus"diukur"tingkat"kemampuan"dan"wawasannya." " Ada" petunjuk" dari" Nabi"
Kongcu" dalam" dialog" di" antara" sebagai" berikut:" "Seorang" yang" pengetahuannya" sudah" melampaui"
tingkat" pertengahan," boleh" diajak" membicarakan" halBhal" yang" tinggi," seorang" yang"
pengetahuannya" masih" di" bawah" tingkat" pertengahan," tidak" boleh" diajak" membicarakan" hal" hal"
yang" tinggi"" (Kitab" Lun" Yu" Jilid" VI" : " 21)."
"Seorang" Jun" Zi" di" dalam" berkataBkata"selalu"ingat"akan"perbuatan,"dan"di"
dalam"berbuat"selalu"ingat"akan"kataBkata""(Zhong"Yong"Bab"XII:"4)."
Petunjuk"di"atas"tentunya"harus"kita"renungi"bersama"bahwa"perlu" kiranya" para" tokoh" agama"
meningkatkan" pemahaman" dan" kedewasan"
umat"dengan"memperbanyak"para"pemikir"yang"berjiwa"pluralis." Melalui" dialog" dan" belajar" secara"
terus" menerus" akan" menambah" wawasan" dan" 128""
pandangan"lebih"dewasa." Hanya"dengan" cara" inilah" kedamaian" dunia" akan" terwujud." " KESIMPULAN) "
Nilai"nilai"Xing"(Ren,/Yi,/Li,/Ti)"yang"kemudian"berkembang"menjadi/ Xin" (dapat" dipercaya)" merupakan"
modal" dasar" sebagai" etika" moral" yang" dapat" digunakan" sebagai" etika" global" dalam" hidup"
berbangsa" dan" bernegara" menuju" masyarakat" yang" damai" dan" sejahtera." Xing" merupakan" unsur"
ritual" sekaligus" etika" sosial" yang" harus" dikembangkan" bagi" umat" Khonghucu" khususnya" untuk"
menjadi" manusia" Jun" Zi" yang" dikehendaki"Tian,"Tuhan"Yang"Maha"Esa." Melalui" pembinaan" diri"
dengan" mengoreksi" diri" disertai" dengan"
kemauan"belajar"untuk"menjadi"manusia""learning/to/be/human","berlaku"
bijaksana"dan"berbuat"kebajikan"serta"menghadap"dan"sujud"kepada"Tian" dengan" sungguh" sungguh,"
maka" akan" menjadi" insan" kamil" (Jun" Zi)" yang" dikehendaki" oleh" Tian," Tuhan" YME." Hanya"
dengan" demikian" akan" terciptanya"pergaulan"yang"harmonis"secara"ritual"maupun"sosial"menuju"
masyarakat" Madani," masyarakat" yang" damai" dan" bahagia," jauh" dari"

konflik."Pasti"berhasil!"Shanzay." DAFTAR)PUSTAKA) " Indarto,"Xs."

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(1999B2000)."Economic"Lessons"from"Confucius" for" the" New" Century". " The/ Centre/ for/ EastGWest/ Cultural/ and/ Economic/ Studies./ Queensland," Australia:" The" School" of" Humanities" and" Social Sciences." 130" 9 KEBEBASAN)BERAGAMA)DALAM) PERSPEKTIF)FILSAFAT)PANCASILA) Agus)Satmoko)Adi) "Suatu" kepercayaan" adalah" hak" untuk" mengekspresikan" pikiran" serta" sikap" sesuai" dengan" hati" nurani." Namun" demikian," melihat" fenomena" yang" tampak" terus" terjadi" hingga" kini," agaknya" jaminan" konstitusi" tidak" berdaya" terhadap" hak" tersebut" hingga" belum" terimplementasi" dengan" baik." Jika" saja" undang"Undang" terimplementasi" dengan" baik," barangkali" tidak" akan" ada" kelompok" yang" diklaim" sebagai" agama" atau" aliran" sesat," dan" atau" jikapun" ada," setidaknya" mereka" yang" dinilai" sesat" masih" bebas" menikmati" haknya" untuk" tetap" hidup" dan" tumbuh" di" negeri" ini." Bukan" sebaliknya," perlakuan" terhadap" mereka" yang" dinilai" sesat" justru" mencerminkan" penghakiman" terhadap" keyakinan" yang" bersumber" dari" hati" nurani" mereka." Inilah" fakta" yang" paling" menggelitik," yaitu" jaminan" konstitusi" terhadap" kebebasan."

Di"Indonesia,"pergeseran"rezim"otoritarian"menuju"demokrasi"jelas" menjadi" kabar" sedap" bagi" kebebasan" beragama," berekspresi" dan" berasosiasi." Namun," sejauh" ini" selalu" saja" bermasalah" dalam" implementasinya." Bahkan," ketika" pemerintahan" sudah" terbentuk" melalui" mekanisme" demokratis," ternyata" belum" berdaya" mengurangi" intensitas" problem" kebebasan" beragama." Malah," Indonesia" divonis" sebagai" pelaku" diskriminasi" dalam" beragama," khususnya" terhadap" agama" minoritas." Secara" kasat" mata," diskriminasi" itu" tampak" misalnya" dalam" kebijakan" yang" 131" mengakui" hanya" enam" agama" resmi.94" Orang" atau" komunitas" di" luar" agama" resmi" selalu" menjadi" pihak" yang" dirugikan," termasuk" kelompok" adat" yang" masuk" kategori" tidak" beragama.95" Dalam" kenyataan" bahwa" tanpa" menyandang" label" agama" resmi," seseorang" akan" sulit" menerima" atau" memperoleh" pelayanan" publik" dan" hak" sipil.96" Demikianlah," tampaknya" beragama" di" Indonesia" seolah" hanya" merupakan" "macam" kertas" yang" tidak" memiliki" power" sedikitpun." Terbukti," tindakan" kurang" adil" yang" dilakukan" pemerintah" (juga" mayoritas" masyarakat)" terhadap" kelompok" yang" dinilai" sesat" bukan" didasarkan" pada" konstitusi" yang" berlaku" secara" legal" universal," malah" tindakan" tersebut" dipicu" oleh" keputusan" yang" masih" bisa" diperdebatkan" (fatwa" MUI" misalnya)," tentu" keputusan" yang" dikeluarkan" lembaga" semacam" ini" tidak" dapat" diberlakukan" secara" universal." Pada" akhirnya," konstitusi" yang" semestinya" bersifat" legal" universal" menyangkut" kebebasan" beragama" di" negeri" ini" mengalami" kerapuhan" dengan" 94"

Tidak" ada" keputusan" resmi" pemerintah" terkait" pemberlakuan" agama" resmi" kecuali" hanya" Surat" Edaran" Menteri" Dalam" Negeri" No." 477/74054/1978" tentang" petunjuk" pengisian" kolom" agama" pada" KTP," yang" antara" lain" disebutkan" agama" yang" diakui" pemerintah" ialah" Islam," Kristen," Katolik," Hindu" dan" Budha." Surat" Edaran" Mendagri" itu" seharusnya" hanya" berisi" petunjuk" teknis" meliputi" cara" pengisian," bentuk" penulisan" huruf," kode" blangko," penjelasan" kolom" dan" jumlah" rangkapan" dan" petunjuk" tindakan" untuk" instansi" tertentu," maka" tidak" boleh" mengandung" kebijakan" baru" yang" bukan" wewenang" Mendagri."

95"" Misalnya"Dayak"Kaharingan"di"Kalimantan,"komunitas"Parmalim"di"Medan," komunitas"Tototang"di"Sulawesi"Selatan,"Komunitas"Sunda"Wiwitan"di"Jawa Barat,"dan"lainBlain,"hanya"karena"keyakinan"adat"mereka"berbeda"dengan" mainstream" mayoritas," banyak" mengalami" tekanan" sosial" maupun" hambatanBhambatan"dalam"menjalankan"aktivitas"kehariannya." 96"" Seperti" misalnya" setiap" anak" yang" lahir" tidak" bisa" memperoleh" akta" kelahiran,"pernikahan"tidak"bisa"dicatatkan,"KTP"tidak"diberikan."Semua"itu" disebabkan" karena" mereka" memegang" adat" yang" telah" turunBtemurun" di" kalangan"mereka."Di"kalangan"penghayat"kepercayaan"diskriminasi"dialami" sejak" proses" pengurusan" akta" kelahiran" sampai" akta" kematian," bahkan" sampai"pemakaman." 132"" sendirinya,"jika"tidak"dikatakan"kurang"berguna,"atau"malah"tidak"berguna" sama"sekali." Jika" dicermati" lebih" jauh," rapuhnya" jaminan" konstitusi" kebebasan" beragama" tidak" saja" diakibatkan" oleh" kurang" terimplementasinya" undangBundang" atau" konstitusi" lebih" dari" itu" kerapuhan" tersebut" disebabkan" pula" oleh" penafsiran" yang" kerap" kali" dipersempit" pada" undangBundang" turunannya." Pada" gilirannya," kondisi" ini" melahirkan" hukum" yang" saling" tumpang" tindih," bahkan" kontradiktif" antara" hukum" yang"satu"dengan"hukum"yang"lainnya." Hal" ini" menguatkan" incompatibilitas" jaminan" konstitusi" atas" kebebasan" beragama" terhadap" implementasi" dalam" kehidupan" bernegara." Bagaimana" ini" terjadi?" Fenomena" paling" mengusik" adalah" jaminan" konstitusi" terhadap" kebebasan" beragama" di" Indonesia" menjadi" tidak" lebih" dari""teks"mati""yang"lemah"dan"sulit"ditegakkan."Problematika" itu"ditengarai"terkait"erat"dengan"bias"tafsir"atas"pasalBpasal"terkait"dalam" konstitusi." Tafsir" yang" bias" menyaru" menjadi" justifikasi" bagi" hampir" seluruh"peristiwa"pelanggaran"kebebasan"beragama.97""Kondisi"demikian" pada" gilirannya" akan" membuat" konstitusi" yang" mestinya" bersifat" legalB universal" menyangkut" kebebasan" beragama," kian" kentara" rapuhnya." Konstitusi" sebagai" hukum" tertinggi" berisi" kewajibanBkewajiban" untuk" dipatuhi"dan"dilaksanakan,"jika"tidak"ia"tidak"akan"berarti"apapun."Kondisi" konstitusi" tanpa" konstitusionalitas," akan" dijumpai" dengan" segenap" ekksesnya." Secara" normatifBinstitusional," kebijakan" toleransi" beragama" sebenarnya"telah"dirumuskan"dalam"perundangBundangan,"namun"dalam" level" praksis," rumusan" yang" ideal" tersebut" belum" bisa" diterjemahkan" secara" sempurna" oleh" sebagian" masyarakat" kita" ke" dalam" kehidupan" sehariBhari" dengan" indikasi" masih" adanya" konflik" dan" gejolak" di" masyarakat" yang" mengusung" isuBisu" agama." Di" sinilah" pertanyaan" terus"" 97"" Pada" 2008," SETARA" Institute" mencatat" 367" tindakan" pelanggaran" kebebasan"beragama"dan"berkeyakinan"dalam"265"peristiwa,"lihat"Laporan" Kondisi" Kebebasan" Beragama" dan" Berkeyakinan" di" Indonesia" 2008" yang" dipublikasikan"oleh"SETARA"Institute" 133"" berulang," yaitu" bagaimana" sesungguhnya" yang" terjadi" dalam" konteks" religious/freedom"di"Indonesia?" Tak"ayal,"secara"empirik,"kebebasan"beragama"di"Indonesia"terlihat" kasat" mata" belum" berjalan" dengan" baik." Masih" saja" terjadi" tindak" kekerasan"oleh"satu"agama"atau"aliran"terhadap"agama"atau"aliran"yang" lain."Kasus"pelarangan"terhadap"aliran"agama"yang"dianggap"sesat,"seperti" Islam" mazhab" Syiah"" dan" aliran" keagamaan" yang" lain" oleh" pemerintah" menunjukkan" hal" ini," demikian" pula" sekelompok" umat" yang" melakukan" tindak"kekerasan"dan"perusakan"tempatBtempat"ibadah"terhadap"agama" atau"aliran"lain"juga"merupakan"bukti"empirik"akan"adanya"pelanggaran" konstitusi"dan"tentu"saja"bertabrakan"dengan"nilaiBnilai"filosof" Pancasila." PLURALISME)SEBAGAI)FILSAFAT)BANGSA) " Filsafat" pada" awalnya" sudah" menunjukkan" model" berpikir" sinkretisme"dan"pluralisme."Kesadaran"akan"realitas"pun"terbentang"luas" dan"jelas"antara"kesadaran"akan""yang"satu""dan""yang"banyak". "Misalkan" saja," apa" yang" dipikirkan" oleh" seorang" filsuf" praBSokrates," Empedokles," yang" menekankan" dasar" realitas" adalah" banyak" (plural)" terdiri" dari" air," udara," api," dan" sebagainya." Pluralisme" dalam" filsafat" sesungguhnya" bukanlah""barang""baru." Filsafat" muncul" dari" pertanyaan" dan" percakapan" dengan" realitas,"

peristiwa "ke seharian, "ritual, "mitologi, "sastra, "dan "lain Blain. "Setiap "negara " dan " bangsa " memiliki " latar " belakang " atau " infrastruktur " seperti " itu. " Para " bapak " dan " ibu " pendiri " Republik " Indonesia, " bahkan " para " pujangga " Nusantara, " sudah " berpikir " filosofis " dengan " caranya " masing masing. " Terutama " sejak " dilaksanakannya " "politik" etis " oleh " Belanda " mereka " berkenalan " dan " akrab " dengan " filsafat " Barat " utamanya. " Mohammad " Yamin, " Hatta, " Sukarno, " Sjahrir, " Soepomo, " Tan " Malaka, " Kartini, " Sam " Ratulangi, " Soenaryo, " S " Takdir " Alisjahbana, " Driyarkara, " Soedjatmoko, " merupakan " sedikit " saja " nama " dari " banyaknya " pemikir " kita " yang " dari " tulisan " mereka " jelas " bergelut " dengan " filsafat. " Sampai " sejauh " mana " keterpengaruhan " filsafat " dalam " membangun " "keindonesiaan " itu " 134 " memang " menarik " untuk " melanjutkan " interpretasi " interpretasi " intertekstual " secara " intens. " Konsep " republik, " revolusi, " batang " tubuh " UUD " 1945, " Pancasila, " Bhinneka " Tunggal " Ika, " dan " lain Blain " tentu " tak " jatuh " langsung " dari " langit. " Semua " itu " merupakan " pengumpulan " pemikiran " filosofis " dalam " kurun " waktu " cukup " lama " dan " sinkretik, " dari " berbagai " fragmen " kebijakan " suku " suku, " agama, " ras, " dan " filsafat. " Tak " terelakkan, " negara " dan " bangsa " Indonesia " berdiri " di " atas " semangat " pluralisme. " Bhinneka " Tunggal " Ika " merupakan " rumusan " filosofis " yang " begitu " terbuka " untuk " didalami, " menyimpan " benih " yang " sangat " mungkin " menjelma " sebagai " filsafat " sistematis, " akademis, " dan " tentu " ideologis. " Namun, " sekaligus " banalitas " akan " begitu " saja " muncul " dari " sana " jika " kita " hanya " membaca " atau " memaknainya " sekadar " slogan " politik " dan " 'artefak " dengan " perspektif " budaya " yang " sempit. " Indonesia " sebagai " negara " kesatuan " dari " dasar " bangunan " sinkretik B pluralisme " adalah " sebuah " kata " kerja. " Kesadaran " historik " kenusantaraan " hingga " kini " senantiasa " ditandai " oleh " konsep " "menjadi". " Pluralisme " menunjukkan " sebuah " kesadaran " kosmologis " bangsa " sebagai " ketersediaan " ruang " untuk " bebas " bergerak, " berekspresi, " berkarya, " dalam " merawat " konsep " "menjadi" itu. " Berpikir " dan " bertindak " secara " filosofis " sangat " dibutuhkan " dalam " merawat " pluralisme, " karena " dari " disiplin " ini " kita " diajak " untuk " mengkritisi " keberagaman " kesadaran " kosmologis " yang " historik " itu. " Membangun " filsafat " secara " sistematis " bernapaskan " pluralisme " dan " kemudian " menjadi " semacam " filsafat " Indonesia " bukanlah " harapan " kosong " atau " mengada bada. " Dari " bapak " dan " ibu " bangsa, " tradisi " itu " sebenarnya " sudah " ditebar, " disemai, " dan " dipetik, " bahkan " memanennya " sebagai " negara " bangsa " yang " berdaulat. " Filsafat " pluralisme " bagi " sebuah " negara " di " sini " bukanlah " identik " dengan " negara " sebagai " lembaga " formal " pemaksa " yang " memegang " otoritas " penuh " bagi " keberlangsungan " hidupnya. " Filsafat " yang " bernapaskan " pluralisme " beroperasi " dan " hidup " dalam " masing masing " pemikiran " personal " maupun " komunitas, " sebagai " fragmen " fragmen " kewilayahan. " Kesadarannya " hadir " dalam " kebersamaan " yang " terus " saling " menyapa " dan " memberdayakan. " 135 " Memang " merawat " filsafat " pluralisme " bagi " Indonesia, " sama " halnya " dengan " kesadaran " negara " dan " bangsa " lain, " bukanlah " bentangan " jalan " yang " mulus. " Tepatnya, " konsep " pluralisme " adalah " sebuah " taruhan " menghadapi " kemungkinan " konflik " yang " tak " terhindarkan. " Namun " dengan " pluralisme " itulah " kita " tertantang " menjadikannya " potensi " kreatif, " bukan " serta merta " menghindar, " apalagi " melenyapkannya " dengan " alasan " ancaman " bagi " kesatuan. " Dalam " tataran " yang " lebih " 'membumi', " pluralisme " memiliki " beberapa " perspektif, " sosial, " budaya " maupun " politik. " Dalam " perspektif " sosial, " pluralisme " menangkal " dominasi " dan " hegemoni " kelompok " atau " aliran " keagamaan, " serta " menegaskan " pemusatan " kekuatan " sosial " pada " satu " kelompok " atau " aliran. " Sedangkan " perspektif " pluralisme " budaya " mencegah " hilangnya " satu " aliran " karena " dilenyapkan " oleh " aliran " keagamaan " arus " utama " yang " hegemonis, " dan " di " sisi " lain " menangkal " arogansi " aliran " keagamaan " arus " utama " yang " seringkali " tergoda " atau " secara " historis " melakukan " pelecehan " dan " penindasan " aliran " atau " agama " lain. " Sementara, " pluralisme " politik " dapat " menjadi " dasar " bagi " jaminan " kebebasan " untuk " berekspresi " dan " tanpa " rasa " takut " akan " ancaman " kekerasan, " karena " adanya " lembaga " pengelola " konflik " kepentingan " antar " aliran " keagamaan. " 98 " Dalam " konteks " pluralisme " agama " sesungguhnya " memiliki " afinitas "

yang"kuat"bagi"kehidupan"demokrasi"di"masa"depan,"dan"oleh"karenanya" dapat"dijadikan"dasar"untuk"memahami"dan"bersikap"terhadap"pluralitas" agama" dan" keberadaan" aliran" keagamaan" yang" ada," serta" menjadi" landasan" bagi" pemberdayaan" masyarakat" sipil" yang" demokratis" dan" menjunjung"tinggi"martabat"manusia99"..... 98" Haryatmoko."Pluralisme/Agama/dalam/Perspektif/Filsafat."(Yogyakarta:"IAIN" 99" Sunan"Kalijaga,"1999),"hlm."98."

Billah."M.M."Pluralitas/Agama/di/Indonesia:/Memilih/Kerangka/Pemahaman/ atas/ Keberadaan/ Aliran/ Keagamaan/ dari/ Perspektif/ Teologi/ dan/ HAM." (Malang:"UIN"Malang,"2007),"hlm."8B9." 136" Suatu"negara"yang"memaksakan"agama"tertentu"kepada"rakyatnya" akan" membahayakan" terhadap" stabilitas" politik." Menyitir" pandangan" seorang"filosof,"yaitu"Spinoza,"bahwa"pemaksaan"keyakinan"kepada"rakyat" akan" mengakibatkan" pemberontakan" sipil," politik" dan" agama." Oleh" karena" itu," menurutnya," negara" harus" mendukung" toleransi" dengan" menjamin" keamanan" warga" negara" dalam" mengeluarkan" pendapatnya" secara"bebas,"asalkan"pendapat"tersebut"tidak"berisi"hasutan.100" JAMINAN)DAN)MANIFESTASI)KONSTITUSI) " Hukum,"termasuk"juga"konstitusi,"merupakan"jalinan"nilai-nilai"atau" konsepsi"konsepsi"abstrak"tentang"apa"yang"dianggap"baik"dan"buruk"oleh" manusia" sebagai" zoon/ politicon." Hukum" sebagai" jalinan" nilai" dikelompokkan"ke"dalam"nilai-nilai"dasar"yang"sangat"abstrak"serta"nilai-nilai" yang" lebih" konkrit" sebagai" pedoman" bertingkah" laku" dalam" kehidupan" masyarakat" manusia." Nilai" dasar" adalah" asas" yang" diterima" sebagai"dalil"yang"bersifat"mutlak"sekaligus"diterima"sebagai"sesuatu"yang" tidak" perlu" dipertanyakan" lagi." Indonesia" sebagai" negara" memiliki" keberagaman"luar"biasa,"namun"di"balik"keberagaman"itu"terdapat"nilai-nilai" universal"yang"berlaku"pada"semua"golongan"atau"kelompok."Saling" menghormati," tolong" menolong," sopan" santun" adalah" contoh" nilai-nilai" yang" dianggap" baik" oleh" semua" kalangan." Sebaliknya" membunuh," mencaci," menganiaya," mencuri," memaksakan"kehendak"adalah"nilai-nilai" yang" diakui"di"mana"pun"sebagai"sesuatu"yang"buruk"dan"salah."Nilai-nilai" dasar"umumnya"dijumpai"dalam"kehidupan"masyarakat"berupa"nilai-nilai" agama" (ketuhanan)" dan" nilai-nilai" hubungan" antarmanusia" dalam" bermasyarakat"dan"bernegara." Di" Indonesia," nilai-nilai" yang" demikian" telah" menjadi" konsensus" nasional" dalam" bentuk" lima" dasar" yaitu" Pancasila." Secara" historis," Pancasila" yang" ada" dan" berlaku" merupakan" hasil" kompromi" (modus/ vivendi)" golongan" nasionalis" sekuler" dan" nasionalis" Islam" pada" 22" Juni"..... 100" Reese,"Oliver."Dictionary/of/Philosophy/and/Religion."(New"York:"Humanities" Books,"1999),"hlm."51." 137" 1945." Pancasila" itu" sesungguhnya" hasil" karya" Panitia" Sembilan" yang" berintikan" ide" dan" dimotori" Sukarno" dengan" hanya" mengganti" Sila" Ketuhanan" dengan" kewajiban" menjalankan" syariat" Islam" bagi" pemeluk-pemeluknya" menjadi" Ketuhanan" Yang" Maha" Esa." Andai" saja" pada" 18" Agustus"1945,"PPKI"tidak"mengubah"Mukadimah"UUD"yang"telah"disahkan" pada" Sidang" BPUPKI" pada" 10B16" Juli" 1945," maka" pemberlakuan" syariat" Islam"sebagai"sumber"hukum"formal"akan"dilakukan"tanpa"kesulitan." Mukadimah" UUD" yang" disahkan" BPUPKI" memuat" Piagam" Jakarta" sebagai"dasar"negara"yang"sila"pertamanya"berbunyi"Ketuhanan"dengan" kewajiban" menjalankan" syariat" Islam" bagi" pemeluk-pemeluknya". Namun,"khusus"menyangkut"tujuh"kata"dan" kewajiban"menjalankan" syariat" Islam" bagi" pemeluk-pemeluknya" dibatalkan" dan" diubah" oleh" Sidang" PPKI" pada" 18" Agustus" 1945," sehingga" sila" pertama" dasar" negara" berbunyi" Ketuhanan" yang" Maha" Esa." Pencoretan" tujuh" kata" itu" meski" kontroversial" tetapi" diterima" sebagai" blessing/ in/ disguised" (berkah" terselubung)" dalam" merajut" persatuan" bangsa.101" Kompromi" ini" jelas" menunjukkan" kesadaran" bahwa" Indonesia" merupakan" negara" kebangsaan"yang"religius"dengan"menjadikan"ajaran"agama"(tidak"hanya" Islam)" sebagai" dasar" moral" dan" sumber" hukum" materiil" dalam" penyelenggaraan"negara." Pancasila"bukan"lain"merupakan"jalinan"nilai-nilai"dasar" kristalisasi" berbagai" nilai" yang"hidup"

(volkgeist)"dalam"masyarakat"bangsa"Indonesia." Jalinan" nilai"dasar" yang" tertuang" dalam" Alenia" IV" Pembukaan" UUD" 1945" dijabarkan" ke" dalam" aturan" dasar" (hukum" dasar)" dalam" bentuk" pasal"pasal" UUD" yang" mencakup" berbagai" segi" kehidupan" bangsa" dan" negara" Indonesia." Artinya," aturan," norma," hukum" dasar" dalam" UUD" merupakan" manifestasi" yang" secara" substansi" memuat" dan" mencerminkan" nilai"dasar" tersebut." Dengan" kata" lain," pasal"pasal" 101"

Ketika"menjadi"Menteri"Agama"pada"1980Ban,"Alamsyah"Ratuprawiranegara" sering" mengatakan" bahwa" Pancasila" merupakan" hadiah" dari" umat" Islam" karena"dilahirkan"dari"pengorbanan"umat"Islam"untuk"menghapus"Piagam" Jakarta," dan" kerelaan" untuk" tidak" memaksakan" berdirinya" negara" Islam" meskipun"umat"Islam"adalah"mayoritas." 138"

UUD"semataBmata"berisi"nilai"dasar"sebagai"perincian"atas"nilai"dasar" yang"terkandung"dalam"Pancasila." Nilai" dasar" Ketuhanan" Yang" Maha" Esa" sebagai" sila" pertama" Pancasila,"dirinci"ke"dalam"norma,"aturan,"hukum"dasar"yang"tercermin"ke" dalam" banyak" pasal" di" UUD" 1945." Nilai" dasar" itu" tidak" semataBmata"

berdimensi"teologis"yang"mengisyaratkan"bangsa"Indonesia"menyatakan" kepercayaan"kepada"Tuhan"Yang"Maha"Esa,"sesuai"dengan"kepercayaan" dan" agamanya" masingBmasing," melainkan" juga" berdimensi" politik."

Implikasinya,"nilai"dasar"itu"menuntut"orang"untuk"mengembangkan"sikap" hormatBmenghormati" dan" bekerja" sama" antara" pemeluk" agama" dan"

kepercayaan"yang"berbedaBbeda"terhadap"Tuhan"Yang"Maha"Esa,"tidak" memaksakan"sesuatu"agama"dan"kepercayaan"kepada"orang"lain,"sebab" agama"dan"kepercayaan"adalah"hal"yang"menyangkut"hubungan"pribadi" manusia"dengan"Tuhan"sebagai"KhaliqBnya." Terkait" kebebasan" beragama," Pasal" 28E" ayat" (1)" dan" (2)" UUD" 1945" mencerminkan" nilai" dasar" Ketuhanan" Yang" Maha" Esa" dalam" bentuk" nilai" yang" lebih" rinci" yaitu" kebebasan" memeluk" agama" dan" menjalankan" ibadah" menurut" agamanya" dan" kepercayaannya" masingB masing." Di" sini," beragama" dan" segenap" kemerdekaannya" adalah" hak" setiap" manusia." Hak" itu" merupakan" anugerah" pemberian" Tuhan" dan" melekat"pada"diri"manusia"semataBmata"karena"dirinya"sebagai"manusia" wajib" menyembah" Tuhannya." Hak" kebebasan" beragama" dan"

berkepercayaan" merupakan" hak" asasi" manusia" yang" tidak" boleh" dikurangi" sedikit" pun" (non/derogable)." Namun" dalam" implementasinya" tentu" tidak" bisa" seperti" di" Barat"

yang"sekuler."Implementasi"hak"asasi"manusia"di"Indonesia"harus"selaras" 102"

Pasal" 28E" ayat" (1)" UUD" 1945" menyatakan," setiap" orang" bebas" memeluk" agama" dan" beribadat" menurut" agamanya," memilih" pendidikan" dan" pengajaran," memilih" pekerjaan," memilih" kewarganegaraan," memilih" tempat" tinggal" di" wilayah" negara" dan" meninggalkannya," serta" berhak" kembali."Ayat"(2)"menyatakan"setiap"orang"berhak"atas"kebebasan"meyakini"

kepercayaan,"menyatakan"pikiran"dan"sikap,"sesuai"dengan"hati"nuraninya." 139" dengan" filosofi," budaya" serta" struktur" kemasyarakatan" Indonesia" yang" notabene" religius.103" Dalam" konteks" filsafati," pemenuhan" hak" asasi" itu" harus" selalu" berdasarkan" kepada" asas" keseimbangan" dengan" kewajiban" asasi"manusia."Hak"asasi"manusia"akan"terpenuhi"manakala"manusia"juga" menunaikan" kewajiban" asasinya." Dengan" kata" lain," tegaknya" hak" asasi"

manusia"ditentukan"oleh"tegaknya"asas"keseimbangan"hak"asasi"dengan" kewajiban"asasi,"sekaligus"sebagai"penunjuk"derajat"moral"dan"martabat" manusia.104"

Nilai"dasar"itu"diulang"kembali"dalam"bentuk"lebih"rinci"pada"Pasal"

29"UUD"1945."Pasal"itu"menegaskan"soal"tugas"negara"untuk"memberikan" perlindungan" terhadap" kebebasan" beragama" dan" menjalankan" ibadah" dan" kepercayaannya" masingBmasing" warga" negara" dan" penduduk" Indonesia."Dalam"konteks"negara"Indonesia"yang"mengakui"posisi"penting" agama," perlindungan" terhadap" kebebasan" beragama" harus" dipadukan" dengan" perlindungan" terhadap" kemurnian" ajaran" agama." Hal" ini" berarti" bahwa" kebebasan" beragama" memang" dijamin," tetapi" kebebasan" beragama"secara"menyimpang"tidak"dapat"dibenarkan."Tanggung"jawab" negara" terhadap" agama" tidak" hanya" sebatas" memberi" perlindungan" kebebasan" beragama" kepada" para" pemeluk"

agama," tetapi" juga" 103" Penyesuaian" konsep" dan"
praktik" hak" asasi" manusia" ini" sebenarnya" sudah" tertuang" dalam" Pasal" 23" ayat"
(2)" UU" No." 39" Tahun" 1999" tentang" Hak" Asasi" Manusia" yakni" setiap" orang" bebas" mempunyai,"
mengeluarkan" dan" menyebarluaskan" pendapat" sesuai" hati" nuraninya," secara" lisan" dan" atau"
tulisan" melalui" media" cetak" maupun" elektronik" dengan" memperhatikan"
nilai" agama," kesusilaan," ketertiban," kepentingan" umum," dan" keutuhan" bangsa." 104" Mohammad"
Noor" Syam." "Sistem" Filsafat" Pancasila:" Tegak" sebagai" Sistem" Kenegaraan" Pancasila" BUUD"
Proklamasi" 1945". Makalah" untuk" Kongres/ Pancasila" yang" diselenggarakan" oleh" Universitas"
Gadjah" Mada" Yogyakarta" dan" Mahkamah" Konstitusi" Republik" Indonesia," di" Yogyakarta," 30" Mei" 1" Juni"
2009." 140" memberikan" pelayanan" terhadap" pemeluk" agama" dan" melindungi"
kemurnian" ajaran" agama" dari" penyelewengan" atau" penyimpangan."
Setiap" warga" negara" harus" patuh" pada" ketentuan" peribadatan" yang" berlaku" pada" agamanya"
masing-masing." Ritual" keagamaan" yang" dijalankan" institusi" agama" bersama" segenap" elemen"
penganutnya" harus" turut" mempertegas" pelaksanaan" prinsip" Ketuhanan" Yang" Maha" Esa" dalam"
segala" aspeknya," selain" harus" memperteguh" persatuan" dan" persaudaraan"
dan" bukan" malah" memicu" konflik. 105" Lebih" lanjut," nilai" dasar" dalam" pasal" di" atas" harus" dimaknai" bahwa"
negara" menjamin" dan" mengatur" hubungan" antar" umat" beragama" agar" tidak" mengganggu"
kehidupan" bernegara." Negara" mengakui" dan" melindungi" kemajemukan" agama" di" Indonesia" tetapi"
yang" lebih" pasti," negara" berhak" pula" untuk" mewajibkan" penganut" agama" apapun" itu," untuk" bersatu"
membangun" negara" dan" bangsa. 106" Oleh" karenanya," kebebasan"
beragama" dalam" nilai" dasar" dalam" konstitusi," tidak" sekedar" berkuat" pada"
persoalan" apakah" agama" itu" benar" atau" salah," melainkan" termaktub" juga" kesediaan" untuk" menghargai"
dan" menerima" keberadaan" orang" lain" yang" berbeda" keyakinan." ! TATA)KELOLA)KONSTITUSIONAL)
" Terkait" kebebasan" beragama" di" Indonesia," problem" yang" mendapat" perhatian" adalah" pada"
banyaknya" ketentuan" perundang-undangan" yang" 105"
Lukman" Hakim" Saefuddin." Indonesia" adalah" Negara" Agamis:" Merumuskan" Relasi" Agama" dan" Negara"
dalam" Perspektif" Pancasila". Makalah" untuk" Kongres/ Pancasila" yang" diselenggarakan" oleh"
Universitas" Gadjah" Mada" Yogyakarta" dan" Mahkamah" Konstitusi" Republik" Indonesia," di" Yogyakarta," 30"
Mei" 1" Juni" 2009." 106" Jika" dicermati," hal" ini" pernah" ditegaskan" Sukarno" saat" menyampaikan"
pidatonya" di" hadapan" anggota" BPUPKI" pada" 1" Juni" 1945" tentang" dasar" Indonesia" Merdeka" atau"
ideologi" bangsa" Indonesia," terutama" saat"
mengemukakan" dasar" mufakat," dasar" perwakilan," dasar" permusyawaratan." 141" bermasalah" dilihat"
dari" perspektif" kebebasan" beragama." Peraturan" itu"
bermasalah," baik" karena" dinilai" bertentangan" dengan" prinsip" kebebasan" beragama" maupun" karena"
bertentangan" antara" dengan" yang" lain." Karenanya," anakronisme" perundang-undangan" adalah"
masalah" yang" perlu" segera" diselesaikan." Akan" tetapi," harmonisasi" maupun" sinkronisasi"
aturan" hukum" di" bidang" kebebasan" beragama" belum" ditangani" optimal," Padahal," bidang" kebebasan"
beragama," dan" hubungan" antarumat" beragama" sangat" tergantung" pada" harmonisasi" tersebut." UU"
No." 1/PNPS/1965" tentang" Pencegahan" Penyalahgunaan" dan" Penodaan" Agama" 107" misalnya,"
adalah" salah" satu" yang" banyak" dikritisi."
Aturan" itu" pada" pokoknya" melarang" melakukan" penafsiran" dan" kegiatan" keagamaan" yang" menyimpang"
dari" pokok-pokok" ajaran" agama." Ketentuan" itu" jelas" mengisyaratkan" negara" melindungi" warga"
negara" Indonesia" melalui" perlindungan" atas" penyalahgunaan" dan" penodaan"
agama," dan" pada" saat" bersamaan" melarang" aliran" agama" lain" itu" untuk"
tidak" membuat" penafsiran" di" luar" ajaran" yang" konvensional." Aturan" itu" selain" dianggap" bertentangan"
dengan" semangat" kebebasan" beragama" menurut" konstitusi," juga" dinilai" sebagai" bentuk" intervensi"
negara" yang" sebenarnya" tidak" perlu." Telah" banyak" gagasan" yang" muncul" bahwa" perihal" agama"
atau" penodaan" agama" tidak" perlu" diatur" oleh" negara." Atau" dengan" kata" lain" negara" tidak" semestinya"
mencampuri" urusan" keyakinan" warga" negaranya." Kebijakan" pemerintah" yang" hanya" mengakui"
enam" agama" membuat" para" penganut" agama" lain" tidak" mendapatkan" hak" sipil"
mereka" sebagai" warga" negara." Malah" ada" yang" berkata" kehidupan" agama"

di"Indonesia"lebih"baik"bila"tanpa"negara."Artinya,"negara"tidak"perlu"ikut"107"" UU" Nomor" 1/PNPS/1965" berpangkal" dari" penetapan" presiden" (penpres).
Penpres"bukanlah"bentuk"perundangBundangan"sebagaimana""diakui"UUD"
1945,"melainkan"suatu"bentuk"hukum""jadiBjadian""yang"pembentukannya" diklaim" Sukarno" menjadi"
wewangnya." Lewat" Surat" Presiden" Nomor"
2262/Hk/59,"20"Agustus"1959,"kepada"DPR,"disusul"dengan"Surat"Nomor"
3639/Hk/59,"26"November"1959,"Sukarno"mendalilkan"klaimnya"itu"sebagai"
buah"dari"kewenangan"luar"biasa"yang"ia"tuai"berkat"Dekret"Presiden"5"Juli" 1959." 142"
campur"mengatur"kehidupan"beragama"sebab"negara"justru"membuat"
kehidupan"agama"menjadi"tidak"baik."Negara,"dalam"pandangan"seperti" ini" sudah" seharusnya" tidak"
mencoba" melakukan" intervensi" ke" dalam" kehidupan" agama." Negara" tidak" berhak" mencampuri"
urusan" agama," apalagi" mencoba" memberikan" pengakuan" terhadap" agama" tertentu." Argumen" yang"
mendukung" gagasan" itu," negara" harus" bersikap" netral"
terhadap"semua"agama"dan"tak"boleh"melarang"timbulnya"suatu"aliran"kepercayaan"atau"agama"
apapun." Kalau" ada" suatu" kelompok" yang" misalnya" ingin" mendirikan" agama" sendiri," hal" itu"
tentunya" tidak" bisa" sertamerta"dilarang"oleh"negara."Sejauh"argumentasi"gagasan"ini"bahwa"
ketentuan"yang"menunjukkan"intervensi"negara"terhadap"sebagaimana" UU" No." 1/PNPS/1965" tidak"
lagi" diperlukan." Kebebasan" berpikir" dan"
berkeyakinan"adalah"hak"yang"melekat,"tidak"boleh"dibatasi,"tidak"dapat"
ditunda,"dan"tidak"patut"dirampas." Namun" demikian," yang" perlu" dipikirkan" apakah" kondisi" tidak"
adanya"pengaturan"dari"negara"lebih"menjamin"kebebasan"beragama"itu?"
Atau"bukan"malah"akan"berimplikasi"lebih"parah?"Sebab,"tanpa"aturan" dari" negara," akibatnya" bukan"
tidak" mungkin" tindakBtindak" kekerasan" justru" meruak." Sebab," sensitifitas" seseorang" terhadap"
agama" sangat" besar," terutama"ketika"agamanya"dikritik"apalagi""dinodai". "Tidak"adanya"
aturan"justru"akan"membuka"peluang"lenturnya"penafsiran"tentang"apa" yang" dikatakan" sebagai"
penodaan" agama." Orang" akan" dengan" mudah"
membuat"aturan"yang"semataBmata"disandarkan"pada"subyektifitas"dan"
menurut"ajaran"agama"masingBmasing,"dengan"standar"keyakinan"yang" tentu" berbeda." Akan" dengan"
mudah" terjadi" fenomena" 'menghukum'"
mereka"yang"dianggap"sesat"dan"atau"tidak"sesuai"mainstream,"dengan"
dalih""dan"carabcara"yang"diperintahkan"agama."
Mengingat"kondisi"itu,"alternatif"apa"yang"musti"dipilih?"Sepakat" agar" negara" tetap" berperan" mengatur"
dalam" hal" beragama" dan" keyakinan,"termasuk"melakukan"intervensi"seperti"selama"ini"atau"setuju"
dengan"pendapat"yang"mengecamnya?"
Indonesia"adalah"negara"yang"tidak"perlu"lagi"diragukan"menerima"
dan"mengakui"kebebasan"beragama,"bahkan"menempatkannya"sebagai"
sesuatu"yang"konstitutif"dan"mengikat."Agar"semangat"dalam"konstitusi" itu" tetap" terjaga," pengaturan"
negara" dalam" hal" kehidupan" beragama" 143"" tetap" diperlukan." Hanya" saja," dalam" membuat"
aturan" hukum" termasuk" aturan" soal" agama," perlu" konsisten" mengacu" pada" Pancasila" yang" telah"
menggariskan"empat"kaidah"penuntun"hukum"nasional."KaidahBkaidah"ini" tidak" terlepas" dari"
kedudukan" Pancasila" yang" menjadi" cita" hukum" (rechtside)" dan" harus" dijadikan" dasar" dan" tujuan"
setiap" hukum" di" Indonesia."KaidahBkaidah"penuntun"itu"antara"lain:" Pertama," hukum" Indonesia"
harus" bertujuan" dan" menjamin" integrasi" bangsa" baik" secara" teritorial" maupun" ideologis."
HukumBhukum" di" Indonesia" tidak" boleh" memuat" isi" yang" berpotensi" menyebabkan" terjadinya"
disintegrasi" wilayah" maupun" ideologi." Kedua," hukum" harus" bersamaan" membangun" demokrasi" dan"
nomokrasi." Hukum" di" Indonesia" tidak" dapat" dibuat" berdasar" menangBmenangan" jumlah"
pendukung" semata" tetapi" juga" harus" mengalir" dari" filosofi" Pancasila" dan" prosedur" yang" benar."
Ketiga," membangun" keadilan" sosial." Tidak" dibenarkan"
munculnya"hukumBhukum"yang"mendorong"atau"membiarkan"terjadinya" jurang" sosialBekonomi" karena"
eksploitasi" oleh" yang" kuat" terhadap" yang" lemah" tanpa" perlindungan" negara." Hukum" harus"
mampu" menjaga" agar" yang" lemah" tidak" dibiarkan" menghadapi" sendiri" pihak" yang" kuat" yang"

sudah pasti akan selalu dimenangkan oleh yang kuat. Keempat, membangun toleransi beragama dan berkeadaban. Hukum tidak boleh mengistimewakan atau mendiskriminasi kelompok tertentu berdasar besar atau kecilnya pemeluk agama. Indonesia bukan negara agama (yang mendasarkan pada satu agama tertentu) dan bukan negara sekuler (yang tak peduli atau hampa spirit keagamaan). Hukum negara tidak dapat mewajibkan berlakunya hukum agama, tetapi negara harus memfasilitasi, melindungi, dan menjamin keamanannya jika warganya akan melaksanakan ajaran agama karena keyakinan dan kesadarannya sendiri.¹⁰⁸

108 Mahfudz MD. "Kebebasan Agama Dalam Perspektif Konstitusi". Makalah untuk Konferensi/ Tokoh/ Agama/ ICRP:/ Meneguhkan/ / Kebebasan/ Beragama/ di/ Indonesia,/ Menuntut/ Komitmen/ Presiden/ dan/ Wakil/ Presiden/ Terpilih, yang diselenggarakan oleh Indonesian/ Conference/ on/ Religion/ and/ Peace (ICRP) pada Senin, 5 Oktober 2009, di Ruang Vanda II Wisma Serbaguna, Jakarta. 144

Secara konstitusi, hukum Indonesia harus bertujuan dan menjamin integrasi bangsa dan pada saat bersamaan membangun toleransi beragama dan berkeadaban. Harus disadari, agama dalam arti keyakinan merupakan wilayah privat sehingga negara tidak memiliki kewenangan untuk mengaturnya. Sehingga, pengaturan terbatas pada bagaimana masing-masing orang mengekspresikan keyakinannya supaya tidak merugikan atau melanggar hak orang lain. Aturan hukum sebaiknya hanya mengatur kehidupan bersama, interaksi dan interelasi antar warga negara yang berbeda agama dalam kehidupan bermasyarakat, berbangsa dan bernegara. Artinya, aturan hukum agama bukan dalam rangka mengatur kegiatan dan kehidupan keagamaan secara individual dan internal komunitas pemeluk agama, apalagi mengatur kegiatan keagamaan yang terkait dengan pengalaman, sakralitas dan ritualitas menurut keyakinan masing-masing agama. Tidak boleh misalnya negara membuat aturan hukum yang mewajibkan sesuatu yang sudah diwajibkan oleh agama, atau sebaliknya, melarang sesuatu yang sudah jelas-jelas dilarang agama.

Agar lebih menjamin terbentuknya hukum soal agama yang sesuai dengan kaidah-kaidah Pancasila, maka prinsipnya negara boleh membuat pengaturan maupun pembatasan sekalipun terkait dengan kebebasan bertindak atau freedom to/ act, tetapi tidak dalam soal hak kebebasan beragama dan berkeyakinan dalam pengertian freedom to/ be. Pengaturan negara dalam hal kehidupan beragama semata-mata dalam rangka memberikan perlindungan kepada warga negara, bukan bentuk intervensi terhadap kebebasan berpikir dan berkeyakinan.

Selain itu, yang juga penting, elaborasi terhadap makna kebebasan, sebagaimana termuat dalam konstitusi perlu dilakukan. Tujuannya agar pemahaman terhadap kebebasan beragama tidak sempit atau keliru.

Mencapai pemahaman yang benar akan menghindarkan diri dari peluang membuat aturan hukum yang justru tidak sejalan dengan nilai-nilai fundamental dari filsafat Pancasila yang telah menjasad sebagai basis filosofis sekaligus elan vital bagi negara Indonesia. Mencuplik Nathan Lerner yang merinci kebebasan beragama mencakup hak untuk beribadah dan berkumpul sehubungan dengan agama atau keyakinannya, termasuk mendirikan dan memelihara tempat-tempat beribadah, untuk mendirikan dan memelihara lembaga donor untuk kemanusiaan, untuk membuat atau menggunakan tanda-tanda, yaitu material yang dikaitkan dengan upacara keagamaan, untuk menulis dan mempublikasikan dan melakukan deseminasi dengan publikasi relevan di wilayahnya masing-masing, memberikan pendidikan dan pengajaran atas anak-anak dan penganut, mengumpulkan atau menerima derma sebagai bantuan keuangan, melatih atau memilih menjadi para penyebar agamanya masing-masing dan memberlakukan hari libur untuk istirahat, dan hak untuk mendirikan dan memelihara harmonisasi individu dan masyarakat, dalam kaitannya dengan persoalan keagamaan dan kepercayaan, baik dalam level nasional dan juga internasional.¹⁰⁹ Pada prinsipnya, kebebasan beragama memiliki batasan-batasan yang perlu diperhatikan meliputi keselamatan publik, ketertiban umum, kesehatan, moral dan

susila." Dan" terpenting," kebebasan" beragama"tidak"boleh"mengganggu"hak"orang"lain."" Nah," walhasil" dengan" capaian" pemahaman" yang" elaboratif" demikian," maka" implementasi" kebebasan" beragama" sebagaimana" amanat" konstitusi" tidak" bergerak" menjadi" liar," unproporsional," dan" mengukuhkan" politik" identitas" melainkan" sesuai" dengan" prinsip-prinsip" demokrasi" konstitusional." Sebab," jangan" sampai" pemaknaan" yang" tidak" tepat" terhadap" kebebasan" beragama" justru" menjadi" rongrongan" bagi" demokrasi" khususnya" demokrasi" konstitusional" dan" lebih" mendasarnya" lagi"bertabrakan"dengan"kaidah-kaidah"Pancasila,"yang"dengan"berpeluhB peluh"terus"diikhtiarkan,"dilestarikan"dan"ditegakkan"di"Indonesia.".....

109" "Sebagaimana" dikutip" Jawahir" Thontowi" dalam" "Hak" Konstitusional" Perda" Syariat" Islam"/. Makalah" untuk" Diskusi/ Panel/ "Pro/ dan/ Kontra/ PERDA/ Syariah"," yang" diselenggarakan" oleh" Fakultas" Ilmu" Agama" Islam"Magister"

Studi"Islam,"UII,"Sabtu,"20"Agustus"2006"di"Kampus"FAI"UII,"Yogyakarta." 146" DAFTAR)PUSTAKA) " Haryatmoko." (1999). "Pluralisme/ Agama/ dalam/ Perspektif/ Filsafat," Yogyakarta:" IAIN"Sunan"Kalijaga." M.D., "Mahfudz." (2009). "Kebebasan" Agama" Dalam" perspektif" Konstitusi". Konferensi/ Tokoh/ Agama/ ICRP:/ "Meneguhkan/ / Kebebasan/ Beragama/ di/ Indonesia,/ Menuntut/ Komitmen/ Presiden/ dan/ Wakil/ Presiden/ Terpilih". Indonesian" Conference" on" Religion" and" Peace" (ICRP)," Ruang" Vanda" II," Wisma"Serbaguna,"Jakarta,"Senin,"5"Oktober"2009." M.M., "Billah." (2007). "Pluralitas" Agama" di" Indonesia:" Memilih" Kerangka" Pemahaman" atas" Keberadaan" Aliran" Keagamaan" dari" Perspektif" Teologi" dan" HAM". Kongres/ Pancasila/ UGMGMKRI." Kampus" Universitas" Gadjah" Mada,"Yogyakarta,"30"Mei"1"Juni"2009"(Malang:"UIN"Malang)." Reese," Oliver." (1999)." Dictionary/ of/ Philosophy/ and/ Religion." New" York:" Humanities"Books." Saefuddin," Lukman" Hakim." (2009). Indonesia/ adalah/ Negara/ Agamis:/ Merumuskan/ Relasi/ Agama/ dan/ Negara/ dalam/ Perspektif/ Pancasila." Kongres/ Pancasila/ UGMGMKRI." Kampus" Universitas" Gadjah" Mada," Yogyakarta,"30"Mei"1"Juni"2009" Setara"Institute."(2008)."Laporan./" Syam,"Mohammad"Noor." (2009)."Sistem/Filsafat/Pancasila:/Tegak/sebagai/Sistem/ Kenegaraan/Pancasila/GUUD/Proklamasi/1945." Thontowi," Jawahir." (2006). "Hak" Konstitusional" Perda" Syariat" Islam". Diskusi/ Panel:"Pro/dan/Kontra/PERDA/Syariah"/ 147..... 148..... 10

KEBEBASAN)TIDAK)BERAGAMA)DAN)SILA) PERTAMA)PANCASILA) Johan)Hasan) "" Tulisan"ini"membahas"silasila"Ketuhanan"Yang"Maha"Esa"dalam"konteks" kebebasan" untuk" tidak" beragama" di" Indonesia," walau" dalam" interpretasinya"tidak"lepas"dari"konteks"sejarah"dan"tentu"tidak"lepas"dari" silasila" lainnya." Implikasi," ini" bukan" saja" akan" berlaku" bagi" penganut" ateisme," tetapi" juga" kepada" mereka" yang" menganut" agama" lain" atau" kepercayaan" lain" yang" belum" diakui" di" Indonesia." Tulisan" ini" diharapkan" menjadi"suatu"diskursus"terbuka,"sama"seperti"yang"sudah"dilakukan"para" pendahulu" kita," dengan" keyakinan" Pancasila" sebagai" ideologi" terbuka" ditantang"dapat"menjawab"pelbagai"persoalan"di"lapangan,"dalam"hal"ini" bagaimana" sila" pertama" menjawab" kenyataan" mereka" yang" tidak" beragama" karena" pilihan" tidak" beragama" adalah" juga" suatu" keyakinan," bahkan"ketika"ia"memilih"percaya"Tuhan"tidak"ada."" PANCASILA)SEBUAH)KOMPROMI)DAN)NILAI)BERSAMA) "

Kita"sadar,"sila"pertama"ini"merupakan"sebuah"kompromi"bersama" seluruh" golongan" agama" dan" kepercayaan" di" Indonesia." Dari" golongan" Islam,"mereka"harus"merelakan"hilangnya"tujuh"kata"dalam"sila"pertama" ini" "dengan" kewajiban" menjalankan" syariat" Islam" bagi" pemeluk" 149" pemeluknya."110"Dari"agama"Kristen"dan"Katolik"tentu"menerima"prinsip" keesaan" Ketuhanan" walau" umumnya," mereka" memahami" keesaan" ini" dalam"ketritunggalan"Allah"Bapa,"Allah"Putra"dan"Allah"Roh"Kudus,"yang" sesungguhnya" adalah" Esa" hakikat"NYa." Kompromi" ini" tentu" juga" merupakan" kompromi" oleh" semua" beraneka" ragam" agama" dan" kepercayaan" di" Indonesia" untuk" kesatuan." Sebagai" contoh" golongan" Budhisme,"Sukarno"sendiri"tahun"1958"pernah"menyatakan:"" Budhisme" tidak" kenal" ketuhanan." Coba" tanya" kepada" Prof." Muh." Yamin," tanya" kepada" Prof." Hazairin," tanya" kepada" sarjana" sarjana" yang" duduk" di" sini."Budhisme"tidak"mengenal"apa"yang"dinamakan" Tuhan." Budhisme" adalah" satu"

levensbeshouwing," satu" pandangan" hidup,"cara"hidup"agar"supaya"nanti"bisa"mencapai"kesempurnaan" nirwana."Budhisme"tidak"mengenal"Allah."Budhisme"tidak"mengenal" God."Budhisme"tidak"mengenal"Jehovah."Budhisme"tidak"mengenal" apa" yang" seperti" kita" artikan" sebagai" Tuhan." Jikalau" engkau" ingin" hidup" di" kemudian" hari," sempurna," jikalau" engkau" ingin" masuk" nirwana," lakukanlah" ini," lakukanlah" ini." Delapan" marga" daripada" Budha," jalan" delapan" macam," SaudaraBaudara." Jadi," Budhisme" adalah" satu" pandangan" hidup," satu" cara" hidup," satu" levensbeschouwing,"bukan"sebenarnya"satu"godsdienst."" ... [Pancasila] Jangan" ditaruh" secara" antagonis" kepada" Agama" Islam." Jangan"ditaruh"secara"congruent"terhadap"kepada"Agama" Budha." Jangan." Sebab" Pancasila" adalah" falsafah" bagi" Negara" Republik" Indonesia," sebab" Pancasila" adalah" satu" dasar" daripada" negara"Republik"Indonesia"ini"111" 110 " Perubahan" tersebut" menghilangkan" "tujuh" kata" dalam" sila" pertama," sekaligus"juga"menghilangkan"tiga"kata"dan"yang"beragama"Islam"setelah" kalimat"Presiden"ialah"orang"Indonesia"asli"(pasal"6"alinea"1"UUD)"dan"juga" Pasal"29"ayat"1"menjadi"Negara"berdasar"atas"KeBTuhanan"Yang"Maha"Es" tanpa" kata" kewajiban" dan" seterusnya." Perubahan" ini" kemudian" disahkan" oleh" Panitia" Persiapan" Kemerdekaan" Indonesia" pada" sidang" pertama," 18" Agustus" 1945." Lihat" RM." A.B." Kusuma." Lahirnya/ UndangGUndang/ Dasar/ 1945./ Memuat/ Salinan/ Dokumen/ Otentik/ Badan/ Oentoek/ Menyelidiki/ OesahaGOesaha/ Persiapan/ Kemerdekaan./ Edisi/ Revisi" (Jakarta:" Badan" 111" Penerbit"FH"UI,"2009),"hlm."470B471."" Floriberta"Aning,"ed."Pada"peringatan"lahirnya"Pancasila"pada"tanggal"5"Juli" 1958"di" Istana"Negara," Jakarta."(2006),"hlm."93B94." 150" Seperti" yang" dinyatakan" Sukarno," Budhisme" tidak" memahami" Tuhan" sebagai" suatu" personal" dan" merupakan" suatu" pandangan" hidup" untuk" mencapai" kesempurnaan." Dengan" demikian," sebenarnya" terbuka" peluang" bagi" ateisme" sebagai" pandangan" hidup" yang" mendahulukan" rasionalitasnya" mengakui" Pancasila" dan" tetap" mendapatkan" kebebasan" dan" hak" hidup" dalam" kepercayaannya" itu." Ada" usaha" dari" tokohBtokoh" PKI" dalam" Sidang" Konstituante" untuk" mengusulkan" diubahnya" sila" Pertama" ini" dengan" "Kemerdekaan" Beragama" dan" Berkeyakinan" Hidup," namun" akhirnya" mereka" sepakat" kembali" pada" rumusan" sila" pertama" dengan" menyatakan" mereka" bisa" menerima" selama" itu" bukan" paksaanBpaksaan" terhadap" agama" dan" kepercayaan" lain," dan" sebaliknya" bentuk" penghormatan" bagi" yang" berkepercayaan"lain"dengan"mereka."" Jika"dengan"sila"keBTuhanan"Yang"Maha"Es,"memang"benarBbenar" tidak" terkandung" maksud" paksaanBpaksaan" dan" pemerkosaanB pemerkosaan" terhadap" agamaBagama" dan" keyakinan" lain," jadi" praktiknya," pada" pokoknya" seperti" dua" belas" tahun" Republik" Indonesia," maka" demi" penghormatan" kami" kepada" kaum" monotheis" dan" politheis" yang" mengakui" adanya" kekuasaan" tunggal" yang" meliputi" seluruh" kekuasaan" bagian" dan" demi" kelancaran" sidangBsidang" Konstituante," maka" PKI" dalam" Sidang" Pleno" ini" menyatakan" bersedia" menerima" Pancasila" tanpa" perubahan" atau" perbaikan.112" Di" depan" Sidang" Umum" PBB" keBXV" tanggal" 30" September" 1960," Sukarno" menawarkan" Pancasila" sebagai" jalan" keluar" bagi" dua" golongan" besar" saat" itu" yang" disitirnya" dari" filsuf" Betrand" Russell," yakni" mereka" yang" menerima" Declaration/ of" American/ Independence" dan" golongan" yang" 112" Yudi" Latif." (2011)," hlm.93," yang" merupakan" kutipan" dari" buku" Kusuma," E." dan" Khairul" (eds). " Pancasila/ dan/ Islam:/ Perdebatan/ antar/ Parpol/ dalam/ Penyusunan/Dasar/Negara/di/Dewan/Konstituante." (Jakarta:" Baur" Publishing," 2008),"hlm."269B342." Sidang" Konstituante" sendiri" mulai" sejak" pelantikannya" 10" November" 1956" hingga" 18" Februari" 1959." 151" menerima" Manifesto/ Komunis," dan" sekaligus" Sukarno" menyatakan" penerimaan" sila" pertama" dari" Partai" Komunis" Indonesia:" Pertama:" Ketuhanan" Yang" Maha" Esa." Tidak" seorang" pun" yang" menerima" Declaration/ of/ American/ Independence" sebagai" pedoman" untuk" hidup" dan" bertindak" akan" menyangkalnya." Begitu" pula" tidak" ada" seorang" pengikut" pun" dari" Manifesto/ Komunis," dalam" forum" Internasional" in" akan" menyangkal" hak" dan" untuk" percaya" kepada" Yang" Maha" Kuasa." Untuk" penjelasan" lebih" lanjut" mengenai" hal" ini," saya" persilakan" TuanBtuan" yang" terhormat" bertanya" kepada" Tuan" Aidit," Ketua" Partai" Komunis" Indonesia," yang" duduk" dalam" delegasi" saya" yang"

menerima" sepenuhnya" baik" Manifesto/Komunis"maupun"Pancasila.113"" Demikian" pula," dalam" pidato" yang" sama," Sukarno" menyatakan" kehadiran" mereka" yang" tidak" percaya" kepada" Tuhan" di" Indonesia," dan" bukan"itu"saja,"mereka"yang"ateis"ini"pun"menerima"sila"pertama"Pancasila" karena"tabiat"toleransi"bangsa"Indonesia:""

Ketuhanan"yang"Maha" Esa." Bangsa"saya"meliputi"orangBorang"yang" menganut"berbagai"macam"agama." Ada"yang" Islam," ada"yang" Kristen," ada" yang" Budha" dan" ada" yang" tidak" menganut" sesuatu" agama...." Bahkan" mereka" yang" tidak" percaya" kepada" Tuhan" pun," karena" toleransinya" yang" menjadi" pembawaan," mengakui" bahwa" kepercayaan"kepada"Yang"Maha"Kuasa"merupakan"karakteristik"dari" bangsanya"sehingga"mereka"menerima"Sila"pertama"ini.114 "" Apakah" dengan" demikian," "Pancasila" hanyalah" kumpulan" pahamB paham" yang" berbedaBbeda" untuk" menentramkan" semua" golongan" pada" rapatBrapat.", "seperti"yang"dikatakan"Sutan" Takdir" Alisjahbana" tanggal"27"

Desember"1950,"dalam"pertemuan"Perhimpunan"Pendidikan"di"Bandung, "....."

113 " Pidato" Presiden" Republik" Indonesia" di" muka" Sidang" Umum" PBB" keBXV" tanggal" 30" September" 1960," berjudul" "Membangun" Dunia" Kembali"" (To/ 114 Build/The/World/A/New)."" Ibid." 152"" dalam" acara" "MasalahBmasalah" Sosial" Pedagogis" di" Indonesia?"115"" Menjawab" itu," tampaknya" kita" bisa" melihat" apa" sudah" ditolak" oleh" sila"

Ketuhanan"Yang"Maha" Esa116,"tetapi"juga"kerangka"apa"yang"ditawarkan." Yang" ditolak" oleh" Ketuhanan" Yang" Maha" Esa" adalah" Indonesia" bukan"

negara"sekular,"dimana"agama"dianggap"tidak"berperanan"dalam"negara" tetapi" juga" bukan" negara" agama," dimana" agama" tertentu" mendapatkan"

hak"husus"oleh"negara"dan"dalam"hal"ini,"kategori"agama"resmi"dan"tidak" resmi" tidak" ada" dalam" negara" Indonesia." Dalam" bahasa" lain," Latif" memformulasikan"sebagai"berikut:"" Proposisi" bahwa" 'Indonesia" bukan" negara" sekuler" dan" bukan" negara" agama" ini" memperoleh" kontekstualisasinya" dalam" konsepsi" 'diferensiasi'." Sebagai" jalan" tengah" antara" 'fusi'" dan"

'separasi', "para"pendiri"bangsa"menawarkan"konsepsi""diferensiasi"

yang" maju." Dalam"kehadiran" Islam"sebagai"mayoritas," setiap"agama"

secara"prinsip"diperlakukan"setara"dengan"tidak"menjadikan" Islam" sebagai"agama"negara.117"" Sila" pertama" jelaslah" bukan" pengganti" agama" sehingga" harus" berlawanan/" berhadapan" dengan" agama" tetapi" juga" bukan" berasal" dari"

satu"agama"sehingga"bisa"disamakan"dengan"satu"agama." Itu"sebabnya"di" dalam" sila" pertama," jelas" bukan" dimaksudkan" untuk" memberikan" hak" khusus" pada" satu" agama" semata." Sukarno" pernah" menjelaskan" bagaimana"ia" menggali"sila"pertama"demikian:""

Tetapi"saya"menolak"perkataan"bahwa"pada"waktu"saya"menggali" di" dalam" jiwa" dan" kepribadian" bangsa" Indonesia" kurang" dalam" menggalnya."Sebab"dari"pihak" Islam"dikatakan,"jikalau"Bung"Karno" menggali"dalam"sekali,"ia"akan"mendapat"dari" galiannya"itu" Islam. "....."

115" H."Roeslan"Abdulgani."(1964),"hlm."42." 116"

Dalam"bahasa"Eka"Darmaputera,"Pancasila"menampilkan"diri"sebagai"jalan"

keluar"yang"cerdik"dan"bijaksana"yaitu"melalui"pendekatannya"yang"bersifat"

"bukanBiniBbukanBitu", "lihat"Eka"Darmaputera"(1992),"hlm."146." 117" Yudi"Latif."(2011),"hlm."111." 153""

Kenapa" kok" Pancasila?" Kalau" ia" menggali" dalam" sekali," ia" akan" mendapat" hasil" dari"

penggaliannya" itu," Islam." Saya" ulangi," saya" adalah" orang"" yang" cinta" kepada" agama" Islam." Saya" beragama" Islam." Saya" tidak" berkata" saya" ini" orang" Islam" sempurna." Tidak."

Tetapi"saya" Islam." Dan"saya"menolak" tuduhan" bahwa"saya"menggali" ini" kurang" dalam." Sebaliknya" saya" berkata" penggalian" saya" itu" sampai" zaman" sebelum" ada" agama" Islam." Saya" gali" sampai" zaman" Hindu" dan" praB Hindu.118"" Saya" melihat" bahwa" bangsa" Indonesia" percaya" pada" adanya" satu" zat" yang" baik," yaitu" Tuhan." Ada" juga" orang" yang" tidak" percaya" kepada" Tuhan," tetapi" sebagai" grootste/ gemene/ deler,/ kleinste/ gemene/veelvould,"(kesamaan" umum" terbesar" –" terjemahan" Pen),""

bangsa" Indonesia" percaya" kepada" Tuhan.119 "" Apa" yang" ditawarkan" Pancasila" kalau" demikian?"

Darmaputera" menyatakan" demikian:"" Ia" memberikan" ruang" kepada" semua," bukan" saja" untuk" mempertahankan" identitas" masingB masing," tetapi" juga" memungkinkan" masingB masing"

menyumbangkan" sebaikBbaiknya" dan" sebanyakBbanyaknya" bagi" kepentingan" seluruh" masyarakat" dan" bangsa," sesuai" dengan" identitas" masingBmasing.120"

Kata" ruang" yang" dinyatakan" oleh" Darmaputera" memberikan" setiap"

agama" dan" kepercayaan" bisa" menyumbangkan" pikiran" terbaiknya" dalam" negara" Pancasila." Di" awal"

kelahiran" Pancasila," pada" pidato" 1" Juni" 1945," Sukarno" menjelaskan" Sila" Ketuhanan" demikian:"

Prinsip" Ketuhanan!" Bukan" saja" bangsa" Indonesia" berBTuhan," tetapi" masingBmasing" orang" Indonesia"

hendaknya" berBTuhan." Tuhannya" sendiri." Yang" Kristen" menyembah" Tuhan" menurut" petunjuk" Isa"

al" Masih," yang" Islam" menurut" petunjuk" Nabi" Muhammad"

s.a.w." 118 " Floriberta" Aning," ed." (2006)," hlm."

118B119." Pada/ kursus/ Pancasila/ oleh/ Ir./

Sukarno/di/depan/kaderGkader/Pancasila," pada" tanggal" 26" Mei" 1958" di" Istana" 119" Negara," Jakarta." 120

" Ibid." hlm." 140." Eka" Darmaputera." (1992)," hlm." 146." 154" Orang" Buddha" menjalankan" ibadatnya"

menurut" kitabBkitab" yang" ada" padanya." Tetapi" marilah" kita" semuanya" berBTuhan." Hendaknya" Negara"

Indonesia" ialah" negara" yang" tiapBtiap" orangnya" dapat" menyembah" Tuhannya" dengan" cara" yang"

leluasa." Segenap" rakyat" hendaknya" berBTuhan" secara" kebudayaan," yakni" dengan" tiada"

"egoismeBagama". Dan" hendaknya" Negara" Indonesia" satu" Negara" yang" bertuhan!"

Marilah" kita" amalkan," jalankan" agama," baik" Islam" maupun" Kristen,"

dengan" cara" yang" berkeadaban." Apakah" cara" yang" berkeadaban" itu?" ialah" hormatBmenghormati" satu"

sama" lain./ Nabi" Muhammad" S.A.W" telah" memberi" bukti" yang" cukup" tentang" verdraagzaamheid,"

tentang" menghormati" agamaBagama" lain." Nabi" Isapun" telah" menunjukkan" verdraagzaamheid" itu."

Marilah" kita" di" dalam" Indonesia" merdeka" yang" kita" susun" ini," sesuai" dengan" itu," menyatakan:" bahwa"

prinsip" kelima" dari" negara" kita," ialah" keBTuhanan" yang" berkebudayaan," keBTuhanan" yang"

berbudi" pekerti" yang" luhur," keBTuhanan" yang" hormatBmenghormati" satu" sama" lain." Hatiku" akan"

berpesta" raya," jikalau" saudaraBsaudara" menyetujui" bahwa" Negara" Indonesia" Merdeka" berazaskan"

keB Tuhanan" Yang" Maha" Esa!121" Dengan" demikian," justru" melalui" agama" dan" keyakinan" masingB

masing," setiap" rakyat" Indonesia" justru" diberikan" keluasaan" untuk" berkarya," memberikan" pengaruh,"

mengamalkan" agamanya" sejauh" secara" berkeadaban," menghormati" kepercayaan" lain" disertai"

ajakan" untuk" berB Tuhan" secara" berkebudayaan." Tentu," ajakan" dan" menghormati" kepercayaan"

lain" ini" termasuk" mereka" yang" tidak" percaya" Tuhan," umat" yang" mengakui" Tuhan" yang" Maha"

Esa," mengajak" mereka" yang" ateis" sekalipun" untuk" bisa" berBTuhan" dengan" cara" bukan" memaksa"

tetapi" menghormati" kepercayaannya," memberikan" ruang" kepada" mereka" untuk"

meyakini" secara" jujur." 121" A.B." Kusuma."

(2009)," hlm." 163B164." 155" RAGAM)PUSPA)KEPERCAYAAN)DAN)AGAMA)DI)INDONESIA) " Pada"

zaman" Abdurrahman" Wahid," tahun" 2000," pemerintah"

Indonesia" mengakui" Konghucu" sebagai" agama" resmi." Namun" kita" sadar," jauh" sebelum" hadirnya"

agamaBagama" besar" di" Indonesia" seperti" Islam," Kristen" Katolik," Kristen" Protestan," Hindu," Budha"

serta" Konghucu," di" Indonesia" sudah" memiliki" banyak" kepercayaan" yang" percaya" pada"

ketuhanan," yang" disebut" Sukarno" sebagai" masa" praBHindu." Jika" Pancasila"

digali" oleh" Sukarno" juga" hingga" masa" praBHindu," dan" dilihat" dari" sejarah,"

bangsa" kita" justru" dengan" pelbagai" kepercayaannya" yang" berbeda" ini" bisa"

menerima" pelbagai" agamaBagama" besar" di" dunia" yang" masuk" ke" Indonesia" karena" keterbukaan"

mereka." Saya" kira" adalah" suatu" pengkhianatan" semangat" keterbukaan" ini," ketika" kemudian"

pelbagai" agama" besar" ini" kemudian" menolak" kepercayaanBkepercayaan" yang" ada" lebih" dulu" ini." Di"

Indonesia," kita" memiliki" agama" dan" kepercayaan" lokal" seperti" agama" Buhun" di" Jawa" Barat" yang"

konon" mencapai" 100" ribu" orang," Sunda" Wiwitan," Sunda" Wiwitan" aliran" Madrais," Kejawen" di"

Jawa" Tengah" dan" Jawa" Timur," Parmalim" (agama" asli" Batak)," Kaharingan" di" Kalimantan,"

Tonaas" Walian" di" Minahasa" Sulawesi" Utara," Tolottang" di" Sulawesi" Selatan," Aluk" Todolo" di" Tana"

Toraja," Toraja" Utara" dan" Mamasa," Wetu" Telu" di" Lombok," Naurus" di" Pulau" Seram" –" Maluku" dan"

lain" sebagainya" yang" menurut" data" di" Kementrian" Kebudayaan" dan" Pariwisata" tahun" 2003"

terdaftar" 245" aliran" kepercayaan." Beberapa" agama" lain" yang" bukan" agama"

lokal" tetapi" tentu" juga" tidak" terdaftar" resmi" adalah" Yudaisme," Baha'i" dan" Sikh."

Eka Darmaputera pernah menyatakan semua agama besar ada di Indonesia, kecuali Yudaisme. 122 Mungkin lebih tepat dikatakan, Yudaisme sudah ada lama di Indonesia bersama datangnya penjajah Eropa, dan pada zaman Belanda di Indonesia, agama Yahudi diakui sebagai agama resmi, bahkan Charles Mussry (9 Oktober 1919-23 Agustus 1971) adalah keturunan Yahudi Indonesia yang ikut berjuang di Surabaya, 10 November 1945. Setelah Indonesia memperoleh kemerdekaannya, sebenarnya hak

122 Eka Darmaputera. (1992), hlm. 14. 156

semua agama termasuk Yudaisme disamakan dengan agama lain. Namun, kemudian timbul penjelasan yang disebut "Agama Bagama" yang dipeluk oleh penduduk di Indonesia ialah Islam, Kristen, Katolik, Hindu, Budha dan Khong Cu (Confusius) dalam Penetapan Presiden Republik Indonesia Nomor 1/PNPS/Tahun 1965. Menarik walau tidak termasuk agama resmi, penjelasan itu masih menyebutkan: "Ini tidak berarti bahwa agama B agama lain, misalnya: Yahudi, Zarasustrian, Shinto, Taoism dilarang di Indonesia". 123 Namun, begitu penetapan KTP dalam kolom agama diberlakukan pada masa Orde Baru, dan juga pandangan politik Indonesia terhadap Israel, Yudaisme redup di Indonesia. Dalam lima tahun terakhir, muncul beberapa organisasi Yudaisme, misalnya Indonesia/ Jews/ Community (IJC) sendiri pernah mengupayakan agar Yudaisme dapat dianggap juga sebagai agama resmi sehingga dapat ditulis pada Kartu Tanda Penduduk (KTP) dan dengan demikian tidak perlu meminjam prosesi agama lain dalam acara pernikahan mereka. Yang lain, dengan nama United/ Indonesian/ Jewish/ Community/ (UIJC), yang sudah dibentuk sejak 2009, tetapi baru diresmikan Oktober 2011 dan dipimpin oleh Benjamin Verbrugge. 124 Bagaimana nasib pencatatan identitas mereka yang bukan agama yang diakui di Indonesia? Saat ini pengisian kolom agama di Kartu Tanda Penduduk memungkinkan bagi para penghayat kepercayaan atau yang agamanya tidak termasuk dalam enam agama yang diakui dapat mengosongkannya. Secara hukum, hal ini dinyatakan demikian: "Elemen data penduduk tentang agama sebagaimana dimaksud pada ayat (1) bagi Penduduk yang agamanya belum diakui sebagai agama berdasarkan ketentuan Peraturan Perundang-undangan 123

Penetapan Presiden Republik Indonesia Nomor 1/Pnps Tahun 1965 Tentang Pencegahan Penyalahgunaan dan/atau Penodaan Agama di Penjelasan Pasal 1 124 Wawancara Faisal Assef (Tempo) dengan Ketua Komunitas Yahudi di Indonesia, Sabtu, 15 Oktober 2011. 157 atau bagi penghayat kepercayaan tidak diisi, tetapi tetap dilayani dan dicatat dalam database kependudukan. 125

Ini tampaknya sesuai dengan Undang-Undang Dasar 1945 Pasal 28E ayat 2 yang menyatakan: "Setiap orang berhak atas kebebasan meyakini kepercayaan, menyatakan pikiran dan sikap, sesuai dengan hati nuraninya." Saat ini juga, berdasarkan Peraturan Pemerintah mereka yang menganut kepercayaan dapat melangsungkan pernikahan secara sah, jika: (1) Perkawinan Penghayat Kepercayaan dilakukan di hadapan Pemuka Penghayat Kepercayaan. (2) Pemuka Penghayat Kepercayaan sebagaimana dimaksud pada ayat (1) ditunjuk dan ditetapkan oleh organisasi penghayat kepercayaan, untuk mengisi dan menandatangani surat perkawinan Penghayat Kepercayaan. 126 Sementara menurut Undang-Undang tersebut, yang disebut dengan Penghayat Kepercayaan terhadap Tuhan Yang Maha Esa adalah setiap orang yang mengakui dan meyakini nilai-nilai penghayatan kepercayaan terhadap Tuhan Yang Maha Esa. Dengan demikian, perangkat hukum kita tampaknya sudah mulai memberikan ruang kebebasan bagi beberapa kepercayaan di Indonesia walau dalam praktiknya mungkin tidaklah mudah atau ternyata tidak dapat dilakukan. Misalnya, dalam kasus sahnya perkawinan tidak semua

125 Undang-Undang Republik Indonesia Nomor 24 Tahun 2013 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2006 Tentang 126 Administrasi Kependudukan Pasal 64 ayat 5. Peraturan Pemerintah Republik Indonesia Nomor 37 Tahun 2007 Tentang

Pelaksanaan "Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan." 158

kepercayaan "terdaftar" dan "memiliki" pemuka "Penghayat" Kepercayaan "dan" tidak "semua" kepercayaan "memiliki" cara "cara" perkawinan "secara" khusus. "Yang" juga "masih" menjadi "masalah" besar "adalah" perkawinan "campur" antaragama "masih" ditolak "hingga" saat "ini", "dengan" pilihan: "mereka" harus "mengorbankan" agama "atau" kepercayaannya "demi" mendapat "status" hukum "yang" sah "atau" mungkin "menikah" di "luar" negeri "saja", "itu" pun "jika" ada "dana" untuk "keluar" negeri. "Mungkinkah", "departemen" agama, "yang" menurut "Victor" Tanya 127 "pada" tahun "1946" dibentuknya "Kementerian" Agama "awalnya" untuk "memuaskan" golongan "nasionalis" Muslim, "kemudian" berkembang "mencakup" juga "mengurus" agama "Kristen" "Katolik", "Hindu" "Budha", "bisa" juga "menjadi" mitra "bagi" kepercayaan "kepercayaan" tradisional "di" Indonesia "untuk" menyelesaikan "kasus" "kasus" ini? "Bagaimana" pun, "jikalau" ada "warga" negara "Indonesia" yang "karena" kepercayaan "atau" agamanya "tidak" bisa "menikah" secara "sah" atau "harus" keluar "negeri" untuk "itu", "atau" kehilangan "beberapa" hak "sebagai" warga "negara", "menunjukkan" kelemahan "interpretasi" kita "terhadap" Sila "Ketuhanan" Yang "Maha" Esa.

Bagaimana "mungkin" sila "ini" bertentangan "dengan" sila "lainnya"? "Jika" penganut "kepercayaan" pada "Tuhan" yang "Maha" Esa "dan" pelbagai "kepercayaan" tradisional "Indonesia" saja "mengalami" kesulitan "dengan" hal "KTP" dan "pengakuan" hak "hak" sipilnya "seperti" dalam "pernikahan" ataupun "pengurusan" hak "anak" dan "sebagainya", "maka" "terlebih" lagi "mereka" yang "percaya" Tuhan "tidak" ada (ateis), "atau" percaya "bahwa" akal "budi" manusia "tidak" mampu "mengetahui" Tuhan "itu" ada "atau" tidak (agnostik) "ketika" harus "mengisi" secara "jujur" pada "kolom" agama "di" KTP "dengan" segala "akibatnya" hak "hak" sipilnya "di" lapangan. 127

T.B. "Simatupang." (1995), "hlm." 176. "159" REFLEKSI) PANCASILA) TERHADAP) ATEISME) DI) INDONESIA

"Kita" lihat, "dari" zaman "sebelum" kemerdekaan "pun" ateisme "128" sudah "ada" di "bumi" Indonesia, "seperti" yang "dinyatakan" oleh "Sukarno" dan "dapat" kita "lihat" dalam "sejarah." Namun, "dalam" bangsa "kita", "stigma" terhadap "ateisme" meningkat "sejalan" dengan "sikap" terhadap "PKI" yang "dalam" sejarah "dianggap" pernah "mengkhianati" negara "Indonesia." Tentu "kita" juga "sadar" pengkhianatan "itu" bisa "datang" oleh "siapa" saja "bahkan" atas "nama" sebuah "agama" yang "diakui" pun. "Maka" yang "ditolak" adalah "bukan" kepercayaannya "tetapi" tindakan "kekerasan" yang "mengkhianati" cita "cita" bangsa "Indonesia" seperti "dalam" pemberontakan, "kerusuhan", "segenap" kekerasan "pembunuhan" massal, "entah" itu "dilakukan" oleh "Komunisme", "ataukah" dilakukan "atas" nama "agama" tertentu. "Setiap" pemberontakan, "kerusuhan", "pembunuhan" wajib "diadili" dan "dihukum" dengan "sepantasnya" sebagai "manusia" yang "rasional" dan "terikat" pada "moralitas." Dalam "hal" G30S, "pembunuhan" itu "terjadi" bukan "saja" pada "para" jenderal "tetapi" juga "pada" mereka "yang" anggota "PKI" dan "dituduh" PKI "tanpa" melewati "pengadilan" hukum "yang" adil "dan" jelas. "Saat" ini, "kenyataan" di "Indonesia", "mereka" yang "memilih" tidak "beragama" di "Indonesia", "entah" karena "mereka" yang "ateis", "atau" agnostik "ataupun" menggunakan "sebutan" lainnya: "freethinker, / non-religious, / secularist" dan "sebagainya", "menurut" sensus "online" dari "atheis" berjumlah "1205" orang. 129 "Tentu" data "ini" bukanlah "data" yang "representatif" karena "pendataan" ini "masih" bersifat "online", "suka" rela, "dan" mereka "yang" ateis "belum" tentu "mau" "repot" "repot" mengisi "hal" tersebut, "atau" malah "mendapatkan" risiko "ketika" mengakui "dirinya" ateis. 128

Di "sini" kita "harus" bisa "membedakan" antara "Komunisme" dengan "Ateisme", "karena" banyak "mereka" yang "menganut" ateisme "tidak" memilih "paham" komunisme "dan" sebaliknya "beberapa" yang "beragama" memilih "dan" setuju "dengan" perjuangan "komunisme" untuk "keadilan" sosial "dengan" musuh "129" bersama "mereka" kapitalisme. "http://www.atheistcensus.com/country" dan "data" diambil "di" awal "Mei" 2015. "160" Berkaitan "dengan" nasib "ateis" di "Indonesia", Ketua "Mahkamah" Konstitusi "Mahfud" MD "pernah" menyatakan "dalam" Kompas, "Selasa" 10 "Juli" 2012, "Semenjak" ada "MK,"

kebebasan" individu" ateis" dan" komunis" bebas" menjalankan" apa" yang" dianutnya" di" Indonesia." Tapi" mereka" tidak" boleh" mengganggu" kebebasan" orang" lain," terutama" orang" yang" menganut" agama" tertentu."Kebebasan"harus"dianggap"sama."130"" Di"kesempatan"lain,"ia"menyatakan:"" Orang" ateis" atau" komunis" kalau" mengakui" apa" yang" dianutnya" secara" perseorangan" tidak" ada" yang" bisa" menghukumnya." Orang" itu" (komunis" dan" ateis)" bisa" dihukum" kalau" melanggar" bunyi" undangBundang" dengan" disertai" ancaman." Tapi" kalau" menghidupkan" PKI" (Partai" Komunis" Indonesia)" atau" organisasi" ateis," mereka" bisa" dihukum" karena" bertentangan" dengan" Pancasila."131"" Beda" dengan" penganut" aliran" kepercayaan," dalam" hal" ini" mereka" yang" menganut"ateisme"akan"kesulitan"bukan"saja"dalam"mengisi"kolom" di" KTP," tentu" juga" pada" pengurusan" sahnya" suatu" perkawinan" di" Indonesia132" yang" tentu" akan" berakibat" pada" diakuinya" hakBhak" anakB anaknya," tetapi" juga" serta" kebebasan" mereka" mengeluarkan" pendapat" atas"keyakinan"kepercayaan"mereka133.""

Walau"butir"keB7"Pancasila"menyatakan""Tidak"memaksakan"suatu" agama" dan" kepercayaan" terhadap" Tuhan" Yang" Maha" Esa" kepada" orang"..... 130"

Aditya"Revianur."Kompas,"10"Juli"2012." 131" Aditya"Revianur."Kompas,"16"Juli"2012." 132"

Pasal"2"UU" No."1" Tahun"1974"tentang"Perkawinan."UndangBundang"ini"masih" terus"direvisi." 133" Pasal" 156a" Kitab" UndangBUndang" Hukum" Pidana" (KUHP)" dapat" membuat"

seorang"ateis"dikenakan"Kejahatan"Terhadap"Ketertiban"Umum:""Dipidana" dengan" pidana" penjara" selamaBlamanya" lima" tahun" barang" siapa" dengan"

sengaja"di"muka"umum"mengeluarkan"perasaan"atau"melakukan"perbuatan:" a)" yang" pada" pokoknya" bersifat" permusuhan," penyalahgunaan" atau" penodaan" terhadap" suatu" agama" yang" dianut" di" Indonesia;" b)" dengan" maksud" agar" supaya" orang" tidak" menganut" agama" apa" pun" juga," yang" bersendikan"Ketuhanan"Yang"Maha"Esa."" 161""

lain.""ataupun"UUD"1945"Pasal"28E"disebut"di"atas"sudah"menandaskan"

"Setiap"orang"berhak"atas"kebebasan"meyakini"kepercayaan,"menyatakan"

pikiran"dan"sikap,"sesuai"dengan"hati"nuraninya.""namun"rupanya"ini"sulit"

berlaku"untuk"ateisme"di"Indonesia"seperti"yang"terlihat"dari"penolakanB

penolakan"atas"nama"agama"dan"tuduhan"bahwa"ateisme"sama"dengan"

komunisme"atau"tuduhan"lainnya"bahwa"ateisme"tidak"bermoral."

Niat"baik"agama"agar"orang"menaruh"kepercayaan"kepada"Tuhan" Yang" Maha" Esa" adalah" sesuatu" yang" baik," namun" ketika" dalam" level"

praktis"menunjukkan"sikap"menolak"warga"negara"Indonesia"yang"secara"

jujur"menyatakan"diri"ateisme"akan"menjadi"kontradiksi"dengan"niatnya"

itu"karena"tidak"lagi"bersifat"mengajak"dan"suka"rela"tetapi"dalam"bingkai"

pemaksaan."Dalam"bingkai"Pancasila,"ada"beberapa"alasan"mengapa"kita" harus" memberikan" hakBhak" sebagai" warga" negara" bagi" mereka" yang"

mengaku"ateisme"di"Indonesia"saat"ini,"juga"dalam"pencantuman"kolom" agama/kepercayaan" sebagai" ateisme," sahnya" sebuah" pernikahan" dan" bahkan"pendirian"komunitas"atau"organisasi"atau"berserikat.""

ATEISME)DENGAN)SILA)PERTAMA) " PertamaBtama," ateisme" atau" agnostisme" adalah" juga" suatu"

kepercayaan."Agus"Creemers"mengikuti"pemikiran"James"W."Fowler"(1940B 2015)"menyatakan,"

Kepercayaan"adalah"suatu"yang"universal..."ciri"dari"seluruh"hidup," tindakan," dan" pengertian" diri"

semua" manusia," entah" mereka" menyatakan" diri" sebagai" 'orang" yang" percaya'" dan" 'orang" yang"

berkeagamaan'" atau"sebagai'"orang"yang"tidak"percaya"pada"apa" pun""

(Fowler/Keen/Berryman,"ed., "Life"Maps)134""

Lebih"jauh"lagi,"Fowler"menyatakan"juga:""Seorang"ateis"yang"bukan" nihilis" pun" memiliki" faith," yaitu" kepercayaan" eksistensial" nyata" berupa"..... 134 Creemers."

(1995),"hlm."47."" 162"" tindakan" mencari" arti" dan" makna," bisa" dalam" bentuk" konkret," seperti"

percaya"pada"akal"budi"manusia,"ilmu"pengetahuan,"karya"sosial,"kesenian" dan"sebagainya."135"

Kedua," seperti" diutarakan" oleh" Antoine" Vergote" (1921B2013)," seorang" ahli" psikologi" agama" dari"

Belgia" bahwa" ateis" atau" tidak" percaya" adalah" bukan" karena" ketiadaan" pertanyaan" religius" atau"

ketiadaan" ketertarikan,"tetapi"lebih"merupakan""respon"pertanyaan"pada"manusia"

oleh "agama. 136" Jika "pertanyaan" adanya "keberadaan" Tuhan "itu" ada, "apakah" dengan "demikian" mereka "tidak" boleh "menjawab" pertanyaan "itu?" Justru "karena" kita "mengakui" kepercayaan "pada" Tuhan "yang" Maha "Esa," "tidak" bisa "tidak" akan "melahirkan" pertanyaan "keberadaan" Tuhan. "Ketiga," pertanyaan "keberadaan" Tuhan "menuntut" jawaban "jujur" dan "lahir" dari "keyakinan" terdalam. "Pertanyaan" berikutnya "dari" Dawkins "seorang" ateis, "relevan" untuk "ditanggapi," jika "Tuhan" ada, "apakah" kira-kira "Tuhan" lebih "menghargai" mereka "yang" beragama "secara" munafik "dan" tidak "jujur," ataukah "mereka" yang "jujur" dalam "pencarian" kebenaran "dan" menyatakan "sikapnya" yang "skeptis" terhadap "Tuhan. 137" Apakah "kita" yang "mengakui" diri "sebagai" umat "beragama," menolak "jawaban" jujur "atas" pencarian "mereka" ini? Maka "dari" kacamata "Sila" Pertama, "Ketuhanan" yang "Maha" Esa, "justru" menerima "bahwa" pertanyaan "apakah" Tuhan "itu" ada "atau" tidak "ada" sebagai "suatu" pertanyaan "yang" sah, "dan" kita "juga" menerima "jawaban" yang "jujur," bukan "jawaban" yang "dipaksakan" sehingga "kita" harus "menerima" kepercayaan, "ketika" mereka "memilih" ateis "atau" agnostik. "Tampaknya" kita "harus" belajar "toleransi" bukan "saja" dengan "umat" beragama "atau" yang "memiliki" kepercayaan "yang" berbeda, "tetapi" juga "terhadap" mereka "yang" kepercayaannya "ateisme" atau "agnostik." "Dalam" hal "ini," praktik "keharusan" mengisi "kolom" agama "adalah" suatu "kontradiksi" 135 "Cremers." (1995), "hlm." 48. "136" Vergote. "Unbelief, insofar as it is not a pure absence of religious questions or interests, is equally a response to the question addressed to humankind/ by religion." (1996), "hlm." 38. "137" Richard "Dawkins." (2006), "hlm." 131. "163" pada "tataran" nilai "Ketuhanan" yang "Maha" Esa "karena" pada "satu" sisi "percaya" adanya "Tuhan," "percaya" pada "pentingnya" nilai "kejujuran," "tetapi" di "sisi" lain "memaksa" orang "untuk" mengisi "dengan" tidak "ada" pilihan "lain" selain "pada" agama "Bagama" resmi "yang" menghasilkan "sikap" munafik "dalam" realitas "kehidupan." Hal "ini" bagusnya "sudah" direvisi "di" Indonesia "dengan" memperbolehkan "mengosongkan" kolom "agama," "walau" belum "tuntas" pada "konsekuensi" lainnya "seperti" pada "perkawinan" dan "pengakuan" keluarga. "ATEISME) DAN) SILA) KEDUA) " Kedua, "menurut" sila "Kedua," "Kemanusiaan" yang "adil" dan "beradab." Jelaslah "sulitnya" mereka "yang" menganut "ateis" atau "menganut" kepercayaan "lain" mendapatkan "hak" mereka: "kebebasan" meyakini "kepercayaannya," "menikah" secara "sah," "memiliki" anak "secara" sah "dan" diakui, "meninggal" secara "sah," bahkan "juga" berorganisasi "atau" menyuarakan "pendapat" secara "sah" tanpa "dituduh" PKI "atau" dihukum "oleh" massa "atau" sama "di" hadapan "hukum." "Keadilan" atas "kejujuran" bersikap "belum" bisa "kita" terapkan "jika" kita "mendiskriminasi" hak "mereka" yang "ateis" atau "agnostik." Ketiga, "Persatuan" Indonesia. "Realitas" di "lapangan" memang "menunjukkan" adanya "kehadiran" mereka "yang" berkeyakinan "ateis," dan "realitas" ini "bukan" hanya "ada" pada "hari" ini "saja," "tetapi" sejak "dulu." "Ir" Sukarno "sudah" mengatakan "umumnya" bangsa "Indonesia" percaya "kepada" Tuhan "tetapi" ada "juga" orang "yang" tidak "percaya" kepada "Tuhan." Menafikan "mereka" seolah-olah "tidak" ada, "mengusir" mereka "keluar" dari "Indonesia" atau "sengaja" mempersulit "mereka" untuk "mendapatkan" hak "mereka," justru "bertentangan" nilai "Bhinneka" Tunggal "Ika," "keberbedaan" tetapi "satu" warga "negara" Indonesia. "Nilai" Pancasila "sendiri" tidak "pernah" memaksudkan "meminggirkan" golongan "yang" kecil " (non Bagama) " dan "hanya" membela "kepentingan" golongan "mayoritas" (dalam "hal" ini "umat" beragama, "apalagi" agama "tertentu" saja). "Keempat," Pancasila "sendiri" merupakan "ideologi" terbuka "yang" mementingkan "dialog" dan "kejujuran" bernalar "dalam" demokrasi "serta" tidak "serta" merta "menepis" perbedaan "secara" koersif "kecuali" itu "melawan" hukum "atau" melanggar "hak" orang "lain." "138." "Jika" mau "agama" ingin "mengajak" seseorang "ke" agama "tertentu" yang "diyakini" baik "haruslah" itu "bersifat" dialogis "dan" bersifat "suka" rela. "Bukankah" ateis, "skeptis," "agnostik" adalah "sesuatu" yang "lumrah" dalam "pencarian" kebenaran, "sama" seperti "yang" pernah "dilewati" oleh "Agus" Salim "ketika" belajar "dan" berdiskusi "dengan" pamannya "Syekh" Ahmad "Khatib" al Minangkabawi "di" Jeddah: "Selama" lima "tahun" di "Arab" Saudi... "bertambah" dalam "sikap" saya "terhadap" agama "dari"

tidak"percaya"menjadi"syak,"dari"syak"menjadi"yakin"mengakui"keadaan" Allah"dan"agama"Allah."139""
Adik"Agus"Salim"sendiri,"Khalid"Salim,"dikenal"sebagai"ateis,"dan" kemudian" memeluk" Katolik" dan"
komentar" Agus" Salim" karena" dituduh"
gagal"mengajak"adiknya"memeluk"Islam:""Saya"sekarang"jauh"lebih"dekat"
dengan"Khalid"karena"dia"Katolik."Artinya,"dia"punya"Tuhan."Kalau"dulu" kan"dia"ateis."140" Kelima,"
tantangan" kita" justru" bagaimana" menjadikan" nilaiBnilai"
Ketuhanan"sebagai"dasar"moral"bersama"untuk"mengisi"pembangunan"
agar"Kesejahteraan"Sosial"Bagi"Seluruh"Rakyat"Indonesia."Ini"hanya"akan"
sangat"kuat"dilakukan"jika"dilakukan"secara"bersamaBsama"dengan"semua" komponen" warga" negara"
Indonesia," lintasBagama," lintasBkepercayaan." Sama" seperti" yang" pernah" dilakukan" oleh" Parliament/
of/ the/ World's/ Religions,"dalam"Declaration/Toward/a/Global/Ethic,"4"September"1993"di" Chicago" USA,"
untuk" berkomitmen" bersama" dalam" global/ ethic/ untuk"
saling"memahami,"untuk"kepentingan"bersama,"mendorong"perdamaian"
dan"hidup"yang"ramah"terhadap"lingkungan,"baik"mereka"beragama"atau" tidak." Kata" "baik" mereka"
beragama" atau" tidak"" menjadi" suatu" ajakan"
bersama"dari""agamaBagama""di""dunia""juga""kepada""mereka""yang""tidak""
beragama"untuk"bekerja"bersama"bagi"kepentingan"umat"manusia.".....
138" Semua" pihak" berkedudukan" sama" di" bawah" hukum," entah" Islam," Kristen"
atau"mereka"yang"tidak"beragama." 139" Arief"Zulkifli,"et"al,"eds."(2013),"hlm."76." 140" Ibid., "hlm."86."""
165"" Ketika," dunia" diperhadapkan" dengan" masalah" yang" kian" kompleks"
dan"global,"maka"tidak"bisa"tidak,"kerja"sama"umat"dunia"yang"satu,"lintasB agama" termasuk" yang"
tidak" beragama" juga" perlu" dilakukan." Dengan" demikian," kita" justru" menghidupkan" nilai" Ketuhanan"
Yang" Maha" Esa," ketika" bukan" menolak" kehadiran" yang" lain" tetapi" mampu" merangkulnya" dengan"
nilaiBnilai" moral" universal" yang" dipercaya" dimiliki" setiap" agama" sebagai" komitmen" bersama,"
dalam" hal" kehidupan" di" Indonesia" adalah" Pancasila." Dengan" demikian," ini" menegaskan" kembali"
bahwa" justru" Pancasila" memberikan" ruang" bagi" setiap" agama" dan" kepercayaan" termasuk" mereka"
yang" ateis" atau" agnostik" di" Indonesia" dapat"
memperjuangkan"kejahteraan"sosial"bagi"seluruh"rakyat"Indonesia."(*)"" DAFTAR)PUSTAKA) "
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KEBEBASAN)BERAGAMA)DAN)HAK)ASASI) MANUSIA) Johnson)Panjaitan) ""
PERANGKAT)HUKUM)YANG)TIDAK)MEMADAI) " Dimasukkannya" pasalBpasal" hak" asasi" manusia" di"
dalam" UUD" '45" dan"diberlakukannya"UU"No."39/1999,"yang"salah"satu"pasalnya"menjamin" hak"
kebebasan" beragama." Tidak" sertaBmerta" penghormatan" terhadap" kehidupan" beragama" setiap"
warga" negara" menjadi" lebih" baik." Karena," pasalBpasal" yang" ada" di" UUD" '45" maupun" yang"
terdapat" di" UU" No." 39/1999,"masih"terlalu"umum,"tidak"secara"spesifik"mengatur""bagaimana" negara"
harus" memenuhi" kewajibannya" dalam" melindungi" kebebasan"
beragama"bagi"setiap"pemeluknya." ""Oleh"karena"itu,"perlu"adanya"suatu" undangBundang" yang" dapat"
menjabarkan" secara" lebih" lengkap" tentang"
kewajiban"negara"dalam"melindungi"hakBhak"warganya,"khususnya"yang"
berkaitan"dengan"hak"kebebasan"beragama." Pada" konteks" Indonesia" yang" sedang" bertransisi"
menuju" negara" demokratis," untuk" menghindari" kegamangan," akibat" adanya" arus"
kebebasan"yang"lahir"dari"gerakan"reformasi."Perangkat"hukum"(UndangB
Undang)"yang"rinci"menjadi"suatu"kebutuhan"yang"niscaya."Pada"saat"ini," arus" kebebasan" yang"
semestinya" dapat" dikelola" menjadi" kekuatan" konstruktif" pembangunan" bangsa," malah" menjadi"
sumber" ketegangan" baru." Kebebasan" menjadi" pengertian" liar" yang" sulit" dibedakan" dengan"
anarkisme," di" mana" masyarakat" merasa" dapat" melakukan" apa" saja" atas" nama" kebebasan"
(misalnya," sebagian" masyarakat" merasa" mempunyai" wewenang" untuk" memerangi" kemaksiatan"
dengan" menggunakan" caraB 169""
cara"kekerasan"dan"memerangi"kelompok"agama"lain;"kasus"Maluku)."Di"
pihak"lain"aparatus"negara"yang"mempunyai"otoritas"untuk"melindungi"hakB
hak"asasi"warganya,"malah"tidak"mampu"melakukan"law/enforcement/
(penegakan"hukum),"karena"kerap"bertindak"raguBragu"dan"tidak"mampu"
lagi"membedakan"antara"ketegasan"menjalankan"UndangBUndang"dan"
perilaku"yang"melanggar"hak"asasi"manusia." "" Saya" ingin" mengutip" James" Madison," salah" seorang"
perumus" konstitusi" Amerika"pada"abad"18"yang"mengatakan,""tanpa/ketertiban/
dan/aturan/hukum/ yang/tegas,/tidak/akan/ada/kebebasan/dan/hak/asasi/
manusia." ""Di"sini"soalnya,"kalau"kita"berharap"terlalu"banyak"dengan"UUD"
'45"dan"UU" No." 39/1999"yang"mana"secara"sosiologis"terbukti,"tidak"
mampu"menghentikan"pelanggaran"hak"asasi"manusia"yang"terus"saja"
berlangsung"seperti"di"Maluku"dan"teror" bom"di"malam"Natal."Dalam" perspektif" hakBhak" asasi"
manusia," khususnya" yang" berkaitan" dengan" kebiasaan"hukum"International,"tak"kurang"3"
(tiga)"kovenan" induk,"yaitu" masingBmasing" Pernyataan" Semesta" tentang" HakBHak" Asasi" Manusia"
(Universal/Declaration/of/ Human/Rights),"Kovenan"Internasional"tentang"
Hak"Ekonomi,"Sosial"dan"Budaya"(International/Covenant/on/Economic,/
Social/and/Cultural/Rights)"dan"Kovenan"Internasional"tentang"Hak"Sipil" dan"Politik"
(International/Convenant/and/Political/Right)"yang"memuat"
tentang"kebebasan"beragama"dan"anti"diskriminasi."

Namun "ketiga" kovenan "ini" masih "dianggap" terlalu "umum", "kurang" tegas "dan" "terperinci" untuk "dapat" secara "efektif" melindungi "individu" dari tindakan "diskriminatif", "maka" Majelis "Umum" PBB "mengeluarkan" resolusi "tambahan" untuk "mencegah" "diskriminasi" yang "berkaitan" dengan "hak-hak" minoritas, " (termasuk" agama)." Yaitu, " Deklarasi" Penghapusan " Segala "Bentuk" Ketidaktoleransian "dan" "Diskriminasi" Berdasarkan "Agama" atau "Kepercayaan" (Declaration/and/of/Discrimination/Based/on/Religion/or/Belief) "dan" Deklarasi "Hak" Orang-Beragama "yang" Termasuk "Bangsa" atau "Suku" Bangsa, " Agama" dan " Bahasa" Minoritas (Declaration/ on/ the/ Rights/ of/ Persons/ Belonging/ to/ National/ or/ Ethnic,/ Religious/ and/ Linguistic/ Minorities)."" 170"" RATIFIKASI) INSTRUMEN) HAK) ASASI) MANUSIA) " Dengan" berkecenderungan" kepada" kebiasaan" hukum" Internasional," semestinya" bila" Indonesia" ingin" serius" untuk" dapat" memenuhi" hak-hak" kebebasan" beragama" warganya," maka" tidak" bisa" tidak" sebagai" warga" dunia," Indonesia" terikat" secara" moral" untuk" mematuhi" kebiasaan" hukum" Internasional. "Namun" untuk" lebih" menguatkan," mengingat" realitas" sosial" dan" politik" internal" Indonesia" (konflik" agama" dan" etnis)," kita" harus" segera" mengikatkan" diri" kita" secara" hukum" dengan" masyarakat" Internasional," dengan" cara" meratifikasi" dua" (2)" kovenan" induk," beserta" dua" (2)" deklarasi" tentang" penghapusan" konflik" berdasarkan" agama," maupun" hak" orang-Beragama" orang" minoritas. "Memang" tahun" ini" kita" berencana" meratifikasi" dua" (2)" kovenan" induk" tersebut," namun" untuk" kepentingan" pencegahan" diskriminasi," dua" (2)" kovenan" itu" saja," tidak" cukup. ""Sebab" pasal-pasal"nya," yang" berkaitan" dengan" kebebasan" beragama" dan" pencegahan" diskriminasi," tidak" jauh" beda" dengan" yang" diatur" oleh" UUD" 45" dan" UU" No. "39/1999." Dengan" demikian," sesuai" dengan" kebutuhan" kita," khususnya" yang" berkaitan" masalah" mayoritas-Bminoritas" (konteks" agama)," kita" juga" harus" meratifikasi" kedua" deklarasi" pencegahan" diskriminasi" agama" tersebut. " Deklarasi" tentang" Penghapusan" Segala "Bentuk" Ketidaktoleransian" dan" "Diskriminasi" Berdasarkan "Agama" dan" "Kepercayaan," penting" bagi" kita" karena" secara" jelas" dan" tegas" menuntut" tanggung" jawab" negara" untuk" menghentikan" pertikaian" agama," seperti" yang" terjadi" di" Maluku. "Sehingga" tak" terjadi" bias" pandang," yang" seolah-olah" menganggap" bahwa" konflik" di" Maluku" semata-mata" konflik" horizontal" dan" pelaku" pelanggaran" hak" asasi" manusia" adalah" masyarakat" Maluku" sendiri," baik" yang" Kristen" maupun" Muslim. " Dalam" perspektif" hak" asasi" manusia," seperti" diatur" dalam" deklarasi" di" atas," bahwa" konflik" agama" di" Maluku" cermin" dari" kegagalan" Negara" memenuhi" kewajibannya" dalam" menegakkan" hukum" dan" ketertiban. " Artinya," rakyat" Maluku," baik" Kristen" atau" Muslim" merupakan" korban," bukan" pelaku" pelanggaran" hak" asasi" manusia. " Menganggap" rakyat" Maluku" sebagai" pelaku" pelanggaran" hak" asasi" manusia," lebih" merupakan" upaya" negara" untuk" menyalahkan" korban" (blaming/the/victim)" dan" lari" dari" tanggung" jawab. " 171"" Begitu" juga" dengan" Deklarasi" Hak" Orang-Beragama" yang" Termasuk" Bangsa" atau" Suku" Bangsa, " Agama" dan" Bahasa" Minoritas," yang" mewajibkan" negara" untuk" memelihara" keseimbangan" dan" keharmonisan" hubungan" antar" masyarakat" dengan" cara" melindungi" hak-hak" khusus" minoritas. " Hak" khusus" bukanlah" hak" istimewa," melainkan" hak" ini" diberikan" agar" kaum" minoritas" mampu" menjaga" identitas," ciri-ciri" dan" tradisi-tradisi" khasnya" (misalnya," pengakuan" terhadap" kepercayaan" Khonghucu" bagi" masyarakat" Cina). "" Pemenuhan" hak-hak" untuk" mendapat" perlakuan" non-diskriminatif," guna" dapat" berbahasa" mereka" sendiri," mendapatkan" keuntungan" dari" pelayanan-pelayanan" yang" mereka" organisir" sendiri," serta" berpartisipasi" dalam" kehidupan" politik" dan" ekonomi" negara," sebagai" indikator" bahwa" kaum" minoritas" telah" mencapai" status" yang" selama" ini" dimiliki" oleh" kelompok" mayoritas" (seperti," presiden" Indonesia" dapat" dijabat" oleh" kaum" minoritas" dan" juga" tidak" diperlukannya" izin" khusus" untuk" membangun" gereja). " Namun" demikian" perbedaan" perlakuan" kepada" kaum" minoritas" dapat" dibenarkan," justru" bertujuan" untuk" persamaan" yang" efektif" dan" kesejahteraan" komunitas" secara" menyeluruh" (affirmative/action). " Bentuk" afirmatif" seperti" ini," dapat" dilihat" dari" kebijakan" pemerintah" yang" mengizinkan" masyarakat" Tionghoa" dapat" libur" di" hari" kerja,"

untuk" merayakan" Imlek." Mengatur" secara" khusus" hakBhak" minoritas" dan" perbedaan" perlakuan" (affirmative/ action)" yang" terkandung" dalam" deklarasi" ini," menegaskan" berlakunya" prinsip" subsidiaritas." Prinsip" subsidiaritas" merupakan" kriteria" bagi" kewajiban" campur" tangan" Negara" untuk" mendukung" dan" melengkapi" usaha" masyarakat" untuk" menjamin" prasyaratBprasyarat" kebahagiaan," sejauh" mereka" sendiri" tidak" dapat" menyelesaikan" tugas" mereka" secara" memuaskan." Sedangkan" apa" yang" dapat" dikerjakan" secara" memuaskan" oleh" masyarakat," jangan" diambil" oper" oleh" Negara." Tanpa" adanya" hukum" positif," seperti" yang" diatur" di" dalam"dua"

(2)"deklarasi"yang"telah"saya"sebutkan"di"atas."UUD"45"dan"UU" No." 39/1999," sungguh" sangat" tidaklah" memadai" untuk" dapat" secara"

efektif"menjamin"kebebasan"beragama"dan"mencegah"adanya"perlakuan" diskriminatif"terhadap"penganut"agama"minoritas"di"Indonesia." 172"

HARAPAN)TERHADAP)PLURALISME) "

Bila"saat"ini,"perangkat"legalBformal"tidak"dapat"lagi"kita"harapkan," maka" kita" harus" menggali" kemungkinan" lain" yang" tersedia," seperti" misalnya," nilaiBnilai" dasar" masyarakat" kita," yang" tumbuh" berdasarkan" realitas"sosiologis"masyarakat"Indonesia"yang"plural."Arus"reformasi"yang" membawa" kehidupan" politik" kita," menjadi" lebih" demokratis" menuntut" adanya" perlakuan" terhadap" pluralism." Tidak" seperti" pada" jaman" orde" baru," di" mana" pluralism" lahir" dari" paksaan" dan" rasa" takut" kepada" penguasa." Maka" dalam" jaman" reformasi" adanya" peluang" untuk" melahirkan" kembali" pluralism," bukan" saja" sebagai" fakta" yang" harus"

diterima,"melainkan"juga"sebagai"suatu"nilai"dan"sekaligus"hal"yang"dicitaB citakan." Karena" demokrasi" yang" hakiki" menuntut" adanya" keanekaragaman" sebagai" sumber" kemajuan" masyarakat." Makin" demokratis" sebuah" negara" akan" makin" besar" sikap" hormatnya" terhadap" hak" asasi" manusia," makin" kecil" kemungkinan" negara" akan" mengambil" kebijaksanaan" yang" betulBbetul" bertentangan" dengan" nilaiBnilai" agama" atau" moral" kita." Tetapi" di" lain" pihak," tak" mungkin" kita" mengharap" bahwa"segala"keinginan"hati"Kita"dipenuhi"oleh"negara."Negara"dapat"saja" mengizinkan" halBhal" terjadi," misalnya" adanya" tempat" pelacuran," walaupun" kita" menganggap" pelacuran" itu" amoral." Dari" semua" golongan" dalam" masyarakat," termasuk" golonganBgolongan" agama," memang" dituntut"kemampuan"untuk"bersikap"toleran"dalam"batasBbatas"tertentu."!! "*****"

173"***** 174"***** 12 KEBEBASAN)BERAGAMA)DI)INDONESIA):)

TINJAUAN)HUKUM) Jacob)Jack)Ospara)dan)Tony)Budidjaja) "" PENDAHULUAN) "

Masih"adakah"perlindungan"hukum"terhadap"kebebasan"beragama" di" Indonesia?" Pertanyaan" ini" semakin" mengemuka" seiring" dengan" semakin" maraknya" kasusBkasus" intoleransi" agama" di" Indonesia." Para" agamawan,"teolog,"tokoh"masyarakat,"dan"pejabat"pemerintah"(termasuk" instansi"penegak"hukum)"baik"pusat"maupun"daerah"memiliki"pandangan"

yang"berbedaBbeda"tentang"hal"ini." KasusBkasus" terkait" agama" yang" timbul" dekade" terakhir" ini" di" berbagai" tempat" di" Indonesia," seperti" penutupan" gereja" GKI" Yasmin" di" Bogor," penutupan" dan" pelarangan" ibadah" HKBP" di" Bekasi," pengrusakan"

dan/atau"menghalangi"secara"tidak"sah"pembangunan"rumah"ibadah,"dan" penyerangan" dan" penganiayaan" umat" Ahmadiyah" yang" sedang" beribadah," pengusiran" warga" atas" penganut" agama/aliran" agama" yang" berbeda," pemaksaan" pindah" agama," dan" berbagai" kasus" intoleransi" agama"lainnya,"membuat"Kita"pantas"bertanya"apakah"semboyan"negara" Bhinneka" Tunggal" Ika," serta" Pancasila" dan" UUD'45," sebagai" dasar" dan" konstitusi"negara,"masih"berlaku." Laporan" Komnas" HAM" tentang" praktik" intoleransi" di" Indonesia"

selama"triwulan"l"tahun"2015"pun"sudah"menyebutkan"bahwa"Indonesia" 175"" sudah" memasuki" status" situasi" "siaga" satu"141." Namun" demikian," sebagaimana" diungkapkan" Achmad" Fauzi," seorang" aktivis" multikulturalisme," pemerintah" nampaknya" belum" menjadikan" isu" perlindungan" hak" atas" kebebasan" beragama" dan" berkeyakinan" sebagai" skala"prioritas.142""

FORUM)KOMUNIKASI)ANTAR)UMAT)BERAGAMA)(FKUB) " Manfaat" keberadaan" Forum" Komunikasi" Antar" Umat" Beragama" (FKUB)" yang" berdasarkan" Keputusan" Bersama" Menteri" Agama" dan" Menteri"Dalam"Negeri"Nomor"9"dan"Nomor"8"tahun"2006"telah"dibentuk" di" semua" provinsi" dan" tingkat" pemerintahan," pun" sekarang" kerap" dipertanyakan." KonflikBkonflik" terkait" agama" yang" kembali"

dan"menjalankan"agama"yang"dipeluknya."Ada"lima"hal"utama"yang"akan" dimuat"dalam"RUU"tersebut,"yaitu"jaminan"mengenai"hak"beragama"dan" hak"kependudukan"bagi"WNI"yang"menganut"agama"di"luar"agama"Islam," Kristen," Katolik," Hindu," Budha," dan" Khonghucu," aturan" dan" jaminan" mengenai" pendirian" rumah" ibadah" atau" tempat" peribadatan," aturan" mengenai" kegiatan" penyiaran" keagamaan," aturan" dan" jaminan" perlindungan"kelompok"minoritas"dari"tindak"kekerasan,"dan"mengenai" aturan" penafsiran" keagamaan" yang" dikhawatirkan" sehingga" tidak" menimbulkan" praktik" intoleransi." Namun" demikian," nampaknya" masih" banyak" kalangan" yang" ragu" atau" bahkan" terangBterangan" menyatakan" tidak"setuju"dengan"RUU"tersebut." 178""

Karena"alotnya"pembahasan"RUU"tersebut,"akhirnya"RUU"tersebut" tidak" dimasukkan" ke" dalam" Program" Legislasi" Nasional" 2015B2019144." Alotnya" pembahasan" RUU" tersebut" diakibatkan" oleh" karena" adanya" kontroversi"dalam"masyarakat145"tentang"aturan"pendirian"rumah"ibadah" yang"selama"ini"berpedoman"kepada"peraturan"bersama"Menteri"Agama" dan" Menteri" Dalam" Negeri" Nomor" 8" dan" 9" tahun" 2006" serta" belum" selesainya" penyusunan" naskah" akademik" RUU" tersebut" sebagaimana" diwajibkan" oleh" UU" No" 11" tahun" 2012" tentang" Pembentukan" Peraturan" PerundangBundangan." Lagipula," Indonesia" sudah" memiliki" UU" Nomor" 7" Tahun" 2012" tentang"Penanganan"Konflik"Sosial"dan"UU"Nomor"17"tahun"2013"tentang" Organisasi" Kemasyarakatan," apabila" tujuan" RUU" tersebut" adalah" untuk"

mengatasi"konflikBkonflik"sosial"yang"ada." (TINJAUAN)HUKUM)) " Konsep" kebebasan" beragama" telah" ditegaskan" oleh" sila" pertama" Pancasila" (KeBTuhanan"Yang"Maha"Esa)."Sila"ini"tidak"merujuk"pada"agama" (Bagama)"tertentu."Pada"dasarnya"sila"ini"tidak"menenal"agama"(Bagama)" resmi"karena"yang"menjadi"landasan"pokok"para"pendiri"bangsa"ini"adalah" pengakuan"keberadaan"Tuhan"yang"Maha"Esa." Di"dalam"UUD"1945,"khususnya"Pasal"28"E"ayat"1"dan" (2),"puntelah" ditegaskan" bahwa" negara" wajib" menghormati" kebebasan" beragama" dan" berkeyakinan"sebagai"bagian"dari"hak"dasar"warga"negara."Pasal"28"E"ayat" 1"dan"2"yang"menyebutkan":" Setiap" orang" bebas" memeluk" agama" dan" beribadat" menurut" agamanya," memilih" pendidikan" dan" pengajaran," memilih" pekerjaan," memilih" kewarganegaraan," memilih" tempat"tinggal"di"wilayah"negara"dan" meninggalkannya,"serta"berhak"kembali." Setiap" orang" berhak" atas" kebebasan" meyakini" kepercayaan,"

menyatakan"pikiran"dan"sikap,"sesuai"dengan"hati"nuraninya." ""

144"" Koran"Tempo,"30"Apri"2015,"hlm."8." 145"" Koran"Tempo,"13"Mei"2015,"hlm."9." 179"" Kebebasan" beragama" dan" berkeyakinan" itu" disebut" juga" di" dalam" Pasal"28"H"ayat"(1),"Pasal"28"I"ayat"(1)," (2)"dan"(5),"dan"Pasal"29"ayat"(2)." Bahkan"Pasal"28"I"ayat"(1)"dengan"tegas"menyatakan":" Hak"untuk"hidup,"hak"untuk"tidak"disiksa,"hak"kemerdekaan"pikiran" dan" hati" nurani," hak" beragama," hak" untuk" tidak" diperbudak," hak" untuk" diakui" sebagai" pribadi" di" hadapan" hukum," dan" hak" untuk" tidak" dituntut" atas" dasar" hukum" yang" berlaku" surut" adalah" hak" asasi"manusia"yang"tidak"dapat"dikurangi"dalam"keadaan"apa"pun."" Berdasarkan" ketentuan" tersebut," jelas" bahwa" dalam" keadaan" apapun,"hak"beragama,"tidak"dapat"dikurangi"(nonGderogable/right)." Selanjutnya," Pasal" 28" I" ayat" (4)" UUD" 45" menegaskan" bahwa" penegakan" hakBhak" asasi" itu" adalah" tanggung" jawab" negara," terutama" pemerintah." Pasal" 28" I" ayat" 4" berbunyi" sebagai" berikut:" "Perlindungan," pemajuan," penegakan," dan" pemenuhan" hak" asasi" manusia" adalah" tanggung"jawab"negara,"terutama"pemerintah."" Namun," kebebasan" beragama" ini" dibatasi" oleh" Pasal" 28" J" ayat" 2" yang"berbunyi":" Dalam" menjalankan" hak" dan" kebebasannya," setiap" orang" wajib" tunduk" kepada" pembatasan" yang" ditetapkan" dengan" undangB undang"dengan"maksud"semataBmata"untuk"menjamin"pengakuan" serta"penghormatan"atas"hak"dan"kebebasan"orang"lain"dan"untuk" memenuhi"tuntutan"yang"adil"sesuai"dengan"pertimbangan"moral," nilaiBnilai" agama," keamanan," dan" ketertiban" umum" dalam" suatu" masyarakat"demokratis.""

Kewajiban"agar"setiap"orang"yang"menjalankan"hak"dan"kebebasan" beragama" dan" berkeyakinannya,"

untuk tunduk pada pembatasan yang ditetapkan dengan undang-undang adalah agar masyarakat kita yang amat majemuk ini terhindar dari kesewenang-bewenangan dari mereka yang kuat dan agar mereka yang menjalankan kebebasannya bersikap bijaksana dan tidak menyulut konflik. Dalam hubungan itu pula, maka setiap bentuk pembatasan hak asasi hanya boleh diatur oleh undang-undang, tidak bisa oleh peraturan lain, seperti peraturan pemerintah (PP), keppres, SKB, Perda, dan lain-lainnya. Pasal 180 ini acap kali digunakan sebagai pembedaan adanya pembatasan beragama dan berkeyakinan, tidak hanya pada tataran ekspresi, tetapi juga pada substansi ajaran agama dan keyakinan itu sendiri. Dengan pasal ini keyakinan keagamaan bisa dipersalahkan jika ada kelompok lain yang merasa terganggu hak asasinya dalam beragama dan berkeyakinan dengan adanya agama dan keyakinan itu. Jelas bahwa dalam perlindungan konstitusi Indonesia, beragama dan berkeyakinan tidaklah bersifat mutlak, tetapi terbuka peluang adanya pembatasan melalui Undang-Undang 146. Bagaimana konstitusionalitas kebebasan beragama itu diimplementasikan lebih lanjut? Jaminan kebebasan beragama dan berkeyakinan itu dapat dilihat dalam sejumlah undang-undang. Secara umum undang-undang tersebut menampilkan dua wajah. Ada undang-undang yang dengan jelas dan tegas mengakui kebebasan beragama dan berkeyakinan serta menentang segala bentuk diskriminasi. Pada saat yang sama masih terdapat pula sejumlah undang-undang dan juga regulasi di bawahnya yang mengancam kebebasan beragama atau berkeyakinan di satu sisi serta melanggar praktik diskriminasi di sisi yang lain. Undang-Undang No. 39 tahun 1999 tentang Hak Asasi Manusia dapat dikategorikan sebagai undang-undang yang memberi jaminan penuh kebebasan beragama atau berkeyakinan. Undang-Undang ini memberi landasan normatif bahwa agama dan keyakinan merupakan hak dasar yang tidak bisa diganggu gugat. Pasal 22 UUD ini menegaskan: "Setiap orang bebas memeluk agamanya masing-masing dan untuk beribadah menurut agamanya dan kepercayaannya itu." Negara menjamin kemerdekaan setiap orang memeluk agamanya masing-masing dan untuk beribadat menurut agamanya dan kepercayaannya itu. Selanjutnya dalam Pasal 8 juga ditegaskan bahwa: "146 Slamet Efendi Yusuf, Ibid 181" "Perlindungan, pemajuan, penegakan, dan pemenuhan hak asasi manusia terutama menjadi tanggung jawab negara, terutama Pemerintah." Jelas dari pasal ini bahwa negara dalam hal ini pemerintahan merupakan institusi pertama yang berkewajiban menjamin kebebasan beragama/berkeyakinan dan segala sesuatu yang menjadi turunannya seperti pengakuan hak sipil tanpa diskriminasi. Yang dimaksudkan dengan diskriminasi di sini dijelaskan dalam Pasal 1c UUD No. 39 Tahun 1999 sebagai berikut: "Diskriminasi adalah setiap pembatasan, pelecehan, atau pengucilan yang langsung ataupun tak langsung didasarkan pada pembedaan manusia atas dasar agama, suku, ras, etnik, kelompok, golongan, status sosial, status ekonomi, jenis kelamin, bahasa, keyakinan politik, yang berakibat pengurangan, penyimpangan, atau penghapusan pengakuan, pelaksanaan, atau penggunaan hak asasi manusia dan kebebasan dasar dalam kehidupan baik individual maupun kolektif dalam bidang politik, ekonomi, hukum, sosial, budaya dan aspek kehidupan lainnya." Undang-Undang No. 12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights (Konvensi Internasional tentang Hak-Hak Sipil dan Politik) juga memuat dengan jelas kebebasan beragama dan berkeyakinan yang menjadi tuntutan komunitas Internasional. Dengan meratifikasi International Covenant on Civil and Political Rights (ICCPR) tersebut maka Indonesia telah menjadi negara pihak (State Parties) yang terikat mengimplementasikan isi konvensi tersebut. Pasal 18 ICCPR menegaskan: "Setiap orang berhak atas kebebasan berfikir, keyakinan dan beragama. Hak ini mencakup kebebasan untuk menetapkan agama atau kepercayaan atas pilihannya sendiri, dan kebebasan, baik di tempat umum atau tertutup, untuk menjalankan agama dan kepercayaannya dalam kegiatan ibadah, pentaatan, pengalaman, dan pengajaran. Tidak seorangpun dapat dipaksa sehingga terganggu kebebasannya untuk menganut atau"

menetapkan "agama" atau "kepercayaannya" sesuai "dengan" pilihannya." 182"" Dengan "pasal" ini "semua" negara "pihak" diwajibkan "menjamin" serta "memastikan" bahwa "setiap" orang/warga "negara" memiliki "hak" atas "kebebasan" berpikir, "berkeyakinan" dan "beragama" baik "atas" pikirannya sendiri "maupun" bersama "orang" lain, "baik" di "tempat" umum, "maupun" tertutup "untuk" menjalankan "agama" dan "kepercayaannya" dalam "kegiatan" ibadah, "pentaatan," "pengamalan" dan "pengajaran." "Konvensi" tersebut "juga" menjamin "hak" setiap "orang" untuk "menpunyai" pendapat "dan" menyatakan "pendapatnya" tanpa "campur" tangan "pihak" lain " (Pasal 19)." Dijamin "pula" persamaan "kedudukan" semua "orang" di "depan" hukum "dan" setiap "orang" atas "perlindungan" hukum "yang" sama "tanpa" "diskriminasi" (Pasal 26). "Negara" pihak "juga" bertanggung "jawab" melindungi "golongan" etnis, "agama," serta "bahasa" minoritas "yang" mungkin "ada" di "negara" pihak" (Pasal 27).""

Dalam "konvensi" ini "termuat" pula "ketentuan" mengenai "pembatasan" penggunaan "kewenangan" oleh "aparatus" represif "negara," khususnya. "Hak" yang "disebut" dalam "konvensi" ini "sering" disebut "hak" negative" (negative/ rights)." Artinya, "hak" dan "kebebasan" yang "dijamin" dalam "konvensi" ini, "akan" dapat "terwujud" apabila "peran" negara "dibatasi." Tetapi "bilamana" intervensi "negara" terlalu "dominan," maka "hak" dan "kebebasan" yang "diatur" di "dalamnya" akan "dilanggar" oleh "negara." Semua "negara" yang "melakukan" pelanggaran "terhadap" hak tersebut "akan" memperoleh "kecaman" yang "keras" sebagai "negara" pelanggar "serius" hak "asasi" manusia (gross/violation/of/human/rights)." Meskipun "UUD'45" dan "serangkaian" undang-undang "cukup" menjadi "landasan" yang "kuat" bagi "kebebasan" beragama "dan" berkeyakinan, "namun" ternyata "masih" terdapat "regulasi" setingkat "undang-undang" yang "problematis" ditinjau "dari" sudut "hak" asasi "manusia" terutama "terkait" kebebasan "beragama" dan "berkeyakinan." Undang-undang tersebut "adalah:" UU "Nomor" 1/PNPs/1965 "yang" derivasinya "adalah" Penetapan "Presiden" (Penpres) "No." 1 "Tahun" 1965 "tentang" Pencegahan "Penyalahgunaan" atau "Penodaan" Agama. "Pada" Tahun "1969," Penpres "tersebut" ditingkatkan "statusnya" menjadi "UU" No.5 "Tahun" 1969. "Sampai" saat "ini" Undang-undang "ini" belum "dicabut" dan "masih" berlaku "walaupun" beberapa "pasalnya" bertentangan "dengan" semangat "perlindungan" kebebasan "beragama" dan "berkeyakinan." Salah "satu" pasal "Undang-undang" 183"" ini "yang" menimbulkan "problem" dalam "kaitannya" dengan "toleransi" dan "kebebasan" beragama "adalah" pasal "1," yang "berbunyi:" "Setiap" orang "dilarang" dengan "sengaja" di "muka" umum "menceritakan," "menganjurkan" atau "mengusahakan" dukungan "umum," "untuk" melakukan "penafsiran" tentang "sesuatu" agama "yang" dianut "di" Indonesia "atau" melakukan "kegiatan" keagamaan "yang" menyerupai "kegiatan" keagamaan "dari" agama "itu," penafsiran "dan" kegiatan "mana" menyimpang "dari" pokok "ajaran" agama "itu." "Implikasi" dari "pasal" ini "sangat" luas "terhadap" kehidupan "bernegara" terutama "terkait" dengan "agama." Sejumlah "otoritas" negara "dapat" disebutkan "sebagai" berikut: (1) Menentukan "pokok" ajaran "agama." Dalam "penjelasan" pasal "ini" disebutkan "Departemen" Agama "mempunyai" wewenang "menentukan" pokok "ajaran" agama. "Pertanyaannya," apa "fungsi" utama "Departemen" Agama "dan" "benarkah" ia "memiliki" otoritas "untuk" menentukan "pokok" ajaran "agama?" Pokok "ajaran" agama "itu" dilarang "untuk" ditafsirkan "secara" menyimpang. "Problemnya," apa "penafsiran" dari "ukuran" menyimpang "itu?" Penafsiran "terhadap" pokok "ajaran" agama "yang" tidak "mengikuti" pendapat "mainstream" bisa "dikategorikan" menyimpang. "Ini" jelas "ancaman" atas "kebebasan" berpikir "yang" menjadi "bagian" dari "hak" asasi "manusia." (2) Negara "memiliki" otoritas "untuk" menentukan "benar" salah "penafsiran" suatu "agama." Hal "itu" berarti "negara" memonopoli "kebenaran" atas "suatu" penafsiran "agama." Pertanyaannya, "benarkah" negara "mempunyai" otoritas "tunggal" untuk "menentukan" salah "atau" benar, "menyimpang" atau "tidak" menyimpang "sebuah" tafsir "agama?" (3) Negara "melalui" Departemen "Agama" memiliki "kewenangan" untuk "menyelidiki" aliran "yang" dianggap "bertentangan." Apa "ukurannya" menentukan "apakah" suatu "aliran" bertentangan "atau" tidak? "Bila" bertentangan "juga," bertentangan "dengan" apa? "Dengan" penafsiran "mainstream" atau "konstitusi?" Ternyata "dalam" praktik "sampai" memasuki "era" reformasi "ini," penyesatan "dan" pelanggaran "184"" terhadap "aliran" keyakinan "yang" dilakukan "oleh" negara "melalui" aparat"

penegak" hukum" lebih" bersifat" represif" daripada" akomodatif.""
Larangan"melakukan"kegiatan"keagamaan"berdasarkan"penjelasan"
UU"ini"adalah"segala"macam"kegiatan"seperti"menamakan"suatu"aliran" sebagai" suatu" agama,"
mempergunakan" istilah" dengan" menjalankan"
ajaranBajaran"kepercayaannya"atau"menjalankan"ibadahnyanya."Sementara" untuk" mengetahui"
pokokBpokok" ajaran" agama," Departemen" Agama"
mempunyai"alat/caraBcara"tersendiri"untuk"menyelidikinya."Selanjutnya,"
adanya"agama"yang"diakui"dan"tidak"diakui"negara,"membawa"pula"
implikasi"ikutannya"di"mana"hak"sipil"suatu"warga"negara"tidak"sepenuhnya"
diberikan"karena"senantiasa"dilekatkan"dengan"agama"yang"dipeluknya."
Pembatasan"ini"berdasar"pada"penjelasan"dari"pasal"demi"pasal"undangB undang"ini:" ...
agamaBagama"yang"dipeluk"oleh"penduduk"Indonesia"ialah"Islam,"
Kristen,"Katolik,"Hindu,"Budha"dan"Khong"Hu"Cu"(Confusius). "Hal"ini"
dapat"dibuktikan"dalam"sejarah"perkembangan"AgamaBagama"di"
Indonesia."Karena"6"macam"Agama"ini"adalah"agamaBgama"yang"
dipeluk"hampir"seluruh"penduduk"Indonesia,"maka"kecuali"mereka" mendapat" jaminan" seperti" yang"
diberikan" oleh" pasal" 29" ayat" 2" UndangBundang" Dasar" 1945" juga" mereka" mendapat" bantuanB
bantuan"dan"perlindungan"seperti"yang"diberikan"oleh"pasal"ini.""
Pada"bagian"lain"penjelasan,"ditambahkan" "Ini"tidak"berarti"bahwa" agamaBagama" lain," misalnya:"
Yahudi," Zarasustrian," Shinto," Taoism" dilarang" di" Indonesia." Mereka" mendapat" jaminan" penuh"
seperti" yang" diberikan"oleh"pasal"29"ayat"(2)"dan"mereka"dibiarkan"adanya,"asal"tidak"
melanggar"ketentuanBketentuan"yang"terdapat"dalam"peraturan"ini"atau" peraturan"lain.""
Penjelasan"pasal"ini"sebenarnya"secara"tidak"langsung"menyebut"
hanya"6"agama"yang"diakui"di"Indonesia."Keenam"agama"yang"disebutkan" di" sini" dimaksudkan" untuk"
menjelaskan" mana" agama" yang" (1)" bebas" hidup;"
(2)"mendapat"fasilitas"sebagaimana"dijamin"oleh"Pasal"29"ayat"(2)" termasuk" pelaksanaan" hakBhak"
sipilnya;" (3)" mendapatkan" bantuanB 185"" bantuan" dan" perlindungan" dari" Pemerintah." Diluar" dari"
keenam" agama" tersebut" sebenarnya" mendapatkan" jaminan" dalam" point" (1)" dan" (2)," namun"
dalam" praktiknya" mereka" hanya" memperoleh" jaminan" dalam" point"1." Ketentuan" tentang"
pengakuan" agama" itu" selanjutnya" ditindaklanjuti" melalui" Surat" Edaran" (SE)" Menteri" Dalam" Negeri"
No." 477/74054/BA.01.2/4683/95"tanggal"18"November"1978,"yang"antara"lain" menyatakan" bahwa"
agama" yang" diakui" oleh" pemerintah" adalah" Islam," Kristen," Katolik," Hindu," dan" Budha," sementara"
Khonghucu" dikeluarkan" dari"daftar"agama"yang"diakui,"karena"sebelumnya"dengan"lnpres"No.14" tahun"
1967" tentang" Agama," Kepercayaan" dan" Adat" Istiadat" Cina,"
Khonghucu"telah"dicabut"eksistensinya"sebagai"agama." Jelas" dari" uraianBuraian" di" atas" bahwa"
praktik" pengakuan" atas" agama" sampai" sekarang" masih" terus" berlangsung." Di" luar" enam" agama"
yang" secara" penuh" menikmati" hakBhaknya," ternyata" masih" ada" aliran" agama," dan" keyakinan"
lokal" yang" terdiskriminasi." Ternyata" belum" ada"
kemajuan"yang"berarti"dari"pemerintah"untuk"menghilangkan"diskriminasi" berdasarkan" agama" dan"
keyakinan." Seyogyanya" dengan" meratifikasi" sejumlah" kovenan" dan" konvensi" internasional" seperti"
UndangBundang" Nomor" 29" Tahun" 1999" tentang" Pengesahan" Konvensi" Internasional"
Pemberantasan"Segala"Bentuk"Diskriminasi"Rasial;"UU"No.11" Tahun"2005" tentang" Pengesahan"
Kovenan" Internasional" Tentang" HakBHak" Ekonomi," Sosial" dan" Budaya" serta" UndangBundang"
No.12" Tahun" 2005" tentang" Pengesahan" Kovenan" Internasional" Tentang" HakBHak" Sipil" dan"
Politik," Indonesia" sangat" diapresiasi" karena" memiliki" itikad" yang" kuat" untuk" menghilangkan" segala"
bentuk" diskriminasi," menegakkan" hakBhak"
ekonomi,"sosial"dan"budaya"serta"menjamin"hakBhak"sipil"warga"negara." Ternyata" ratifikasi" konvensi"
dan" kovenan" tersebut" tak" sepenuhnya"
dijalankan"secara"konsisten."Dalam"konteks"ini"sekurangBkurangnya"dua"
hal"harus"dilaksanakan"oleh"pemerintah"Indonesia."Pertama,"melakukan" penyalarsan" sejumlah"
undangBundang" dengan" kovenan" yang" telah" diratifikasi." Bila" tidak," maka" akan" selalu" terulang"

paling" awal" dimulai" dengan" merumuskan" kebijakan," prosedur" dan" praktik" kerja" yang" membuat" komunikasi" dan" informasi" dapat" berjalan" lancar," konflik" tereduksi," tercipta" kohesi" antarmereka" dan" menimbulkan" sebuah" kreativitas" dalam" bergagasan. "Efektifitas" dari" kebijakan," prosedur" dan" praktik" ini" dievaluasi" dari" ada" atau" tidak" adanya" peningkatan" kinerja," kepuasan" bekerja," loyalitas" pada" organisasi" dan" keterlekatan" (engagement)" pada" pekerjaan" atau" organisasi. ""

Keberhasilan" pada" tingkat" awal" tersebut" akan" membuat" organisasi" memiliki" peluang" untuk" menjadikannya" sebagai" sebuah" strategi" untuk" memenangkan" persaingan. " Mereka" menjadikan" keberagaman" menjadi" kekuatan" yang" tidak" dapat" ditiru" dengan" mudah" oleh" pesaing. " Pada" tahap" ini, " maka" keberagaman" tidak" lagi" menjadi" sebuah" pilihan" namun" menjadi" sebuah" keharusan" karena" menjadi" kunci" sukses" dalam" bisnis. "" Keberagaman" justru" diusahakan" dan" dipelihara. "" Pada" titik" yang" paling" ultimat, " keberagaman" dan" pengelolannya" sudah" menjadi" sebuah" budaya" bagi" perusahaan. " Pada" kondisi" ini" kebijakan" telah" menjadi" nilai, " prosedur" telah" menjadi" sebuah" aktivitas" otomatis" dan" praktik" telah" menjadi" sebuah" tradisi. " Keberagaman" kemudian" menjadi" jati" diri" bagi" organisasi" tersebut" dan" mereka" bangga" terhadap" hal" tersebut. " 193""

Gambar"1": "Model" Pengelolaan" Keberagaman" dalam" Bisnis" Sumber: "Kochan, "2003"" Wallace" dan" Pillans" menjelaskan" gradasi" dari" pengelolaan"

keberagaman" pada" organisasi" dalam" lima" tingkat. " Tingkat" pertama" adalah" kondisi" di" mana" organisasi" tidak" memiliki" kesadaran" akan" adanya" keberagaman" dan" tidak" melihat" pentingnya" untuk" mengelola" keberagaman. " Tingkat" kedua" adalah" kondisi" dimana" perusahaan" mulai" menyusun" sebuah" kebijakan" atau" prosedur" tentang" keberagaman" namun" lebih" didorong" oleh" alasan" kepatuhan" hukum" atau" menghindari" perusahaan" dari" masalah" internal. " Pada" tingkatan" ini" seringkali" perusahaan" lebih" bersifat" reaktif. "" Pada" tingkat" ketiga, " organisasi" menerima" keberagaman" dengan" memperlakukan" sama" untuk" setiap" orang. " Asimilasi" adalah" fokus" utama" dari" pengelolaan" keberagaman" ini. " Mencari" persamaan" dan" mengesampingkan" perbedaan" biasa" terjadi" pada" tingkatan" ini. " Pada" tingkat" keempat, " organisasi" memperlakukan" individu" sebagai" individu" dimana" perbedaan" dihargai" sama" pentingnya" dengan" persamaan. " Fokus" perhatiannya" bukan" asimilasi" namun" integrasi" yang" inklusif. " Dan" pada" tingkat" kelima, " hal" ini" telah" menjadi" DNA" organisasi" dan" berjalan" secara" natural. "" 194""

Tabel"13.1. "Gradasi" Pengelolaan" Keberagaman"" Sumber: "Wallace" and" Pillans, "2011""

KEBEBASAN)AGAMA)DALAM)DUNIA)BISNIS) "

Seperti" telah" disampaikan" pada" bagian" awal" tulisan" ini, " kebebasan" agama" dalam" dunia" bisnis" berada" dalam" kerangka" pengelolaan" keberagaman. " Dengan" demikian" kerangka" pengelolaan" di" atas" dapat" digunakan" untuk" mengelola" atau" mengevaluasi" kebebasan" agama" dalam" sebuah" organisasi" usaha. "" Kita" dapat" melihat" apakah" suatu" perusahaan" tidak" peka" terhadap" keberagaman" agama" seperti" pada" tingkat" 1" gradasi" pengelolaan" keberagaman" atau" mereka" telah" peka" dan" memiliki" prosedur" dan" kebijakan" yang" mengatur" keberagaman" tersebut" B" tingkat" 2. " Bisa" jadi" perusahaan" itu" pada" tingkat" 3, " 4" atau" 5" dalam" pengelolaan" keberagaman" agama. " Kita" juga" dapat" mengevaluasi" dan" merasakan" sejauh" mana"

keberagaman" agama" menjadi" kekuatan" untuk" memenangkan" persaingan"

bahkan" keberagaman" agama" telah" menjadi" budaya" dan" jati" diri" organisasi. "" Pada" bagian" ini, " fokus" pembahasan" kita" akan" lebih" mengarah" kepada" kebebasan" dan" keberagaman" agama. " US" Equal" Employment" Opportunity" Commission" mendefinisikan" agama" tidak" dalam" pengertian" tradisional" yaitu" agama" yang" terlembagakan, " namun" meliputi" juga" agama" 195""

kepercayaan" yang" diamalkan" oleh" sekelompok" kecil" masyarakat. " Mereka" juga" mendefinisikan" aktivitas" keagamaan" yang" menjadi" perhatian" dalam" pengelolaan" keberagaman" agama" di" perusahaan. ""

Aktivitas" tersebut" dapat" dilihat" pada" tabel" di" bawah" ini: ""

Tabel"13.2. "Spektrum" Aktivitas" Keagamaan" B" US" Equal" Employment" MENGANUT! " PRIVAT"

MENJALANKAN! IBADAH! Mengikuti" ibadah" Berdoa" Mengikuti" aturan" makan" dan" minum" tertentu"

MENGEKSPRESIKAN! AGAMA! Mengenakan" pakaian" dan" simbol" keagamaan"

Memajang" benda" keagamaan" Menahan" diri" atau" menolak" aktivitas" tertentu" PUBLIK"

MENDEKLARASIKAN! Menceritakan "ajaran" agama" dan" melakukan" AGAMA! ekspresi"keagamaan"
Sumber:"Opportunity"Commission"(olahan"penulis)" " Secara" sederhana," kebebasan" beragama" dalam"
perusahaan" dan" dunia" bisnis" dapat" dilihat" dari" sejauh" mana" seseorang" bebas" melakukan" aktivitas"
keagamaannya." Ada" perusahaan" yang" membatasi" kebebasan"
beragama" hingga" pada" aktivitas" menjalankan" ibadah," namun" tidak" untuk" ekspresi" agama" apalagi"
deklarasi" agama." Misalkan," ada" perusahaan" yang" memperbolehkan" karyawannya" melakukan" sholat"
namun" melarang" penggunaan" hijab" selama" di" kantor" dan" hanya" mengizinkan" karyawan"
untuk" mengenaikannya" pada" saat" pergi" atau" pulang" kantor." Mirip" dengan"
hal" tersebut," di" beberapa" tempat," kalung" salib" pun" tidak" boleh" dikenakan"
selama" bekerja." Namun" di" perusahaan" lain," pakaian" yang" mencerminkan"
aturan" agama" ini" justru" diakomodasikan" sehingga" saat" mereka" merancang"
seragam," mereka" selalu" membuat" versi" pakaian" tersebut.""
Dari" survei" yang" dilakukan" oleh" Chartered/Institute/of/Personnel/and/
Development" di" Inggris," terdapat" enam" hal" yang" paling" banyak" dilakukan" oleh" perusahaan" untuk"
mengakomodasi" keberagaman" aktivitas" keagamaan," sebagai" berikut:""
196"
1.!
Mengizinkan" cuti" pada" waktu" khusus" (76%) 2.!
Mengizinkan" karyawan" untuk" berpakaian" sesuai" ketentuan" agama" (65%) 3.!
Memberikan" waktu" atau" fasilitas" untuk" kegiatan" ibadah" (61%) 4.!
Menyediakan" makanan" dan" minuman" yang" sesuai" (61%) 5.!
Mendukung" jejaring" agama" di" tempat" kerja" (37%) 6.!
Memberikan" cuti" tambahan" (14%) 7.!
Pengelolaan" kebebasan" beragama" juga" dapat" dilihat"
dari" dasar" pemikiran" yang" melandasinya." Pada" umumnya" perusahaan" berada" di"
antara" dua" kontinum" pemikiran," yaitu" bebas" agama" dan" bebas" beragama.""
Paradigma" bebas" agama" memiliki" semangat" yang" mirip" dengan" tingkat" 3" pengelolaan" keberagaman,"
yaitu" meminimalkan" perbedaan." Dalam"
konteks" ini," maka" mereka" cenderung" untuk" meletakkan" agama" hanya" di"
area" privat" dan" budaya" yang" dibentuk" adalah" budaya" sekular." Sedangkan" kontinum" di" ujung" yang"
lain," sangat" menghargai" dan" menghormati" perbedaan" yang" serupa" dengan" tingkat" 4" atau" 5"
dalam" gradasi" pengelolaan" keberagaman." Pada" titik" ini" agama" diperbolehkan" berada" di"
ruang" publik" dan" budaya" yang" ingin" dibentuk" adalah" budaya" inklusif." Dari"
hasil" survei" terhadap" 532" perusahaan" di" Amerika" Serikat," 58% "perusahaan"
berada" di" kontinum" bebas" agama," 32% "berada" di" antara" kedua" kontinum" ini" dan" 10% "hanya"
berdasarkan" agama" tertentu" (SHRM" Survey" Report," 2008)."
Gambar" 2: "Kontinum" Pengelolaan" Kebebasan" Beragama" Sumber: "olahan" penulis" 197"
Terlepas" dari"
pendekatan" dan" pola" pikir" dalam" mengelola" keberagaman" agama," dunia" bisnis" terbiasa" untuk"
mempertanyakan" dampak" dari" pengelolaan" tersebut." Dalam" konteks" mikro," hingga" saat" ini" belum"
ditemukan" hasil" yang" tergeneralisasi" bahwa" kebebasan" dan" keberagaman" agama" membawa"
peningkatan" langsung" pada" kinerja" bisnis." Dampak" positif" yang" ada" lebih" kepada" kinerja"
antara" seperti" moral" karyawan," loyalitas" karyawan" dan" reputasi" perusahaan." Survei" yang" dilakukan"
oleh" Society" for" Human" Resources" Management" untuk" melihat" dampak" yang" paling" terpengaruhi"
dengan" mengakomodasi" keberagaman" agama" dalam" perusahaan," menghasilkan" data" sebagai" berikut:""
1.!
Moral" Karyawan" (68%) 2.!
Retensi" Karyawan" (38%) 3.!
Loyalitas" Karyawan" (37%) 4.!
Reputasi" Perusahaan" (34%) 5.!
Posisi" sebagai" Tempat" Pilihan" Kerja" (19%) 6.!
Produktivitas" (13%) 7.!
Rekrutmen" Karyawan" Terbaik" (2%) 8.!
Indonesia" sendiri" sebenarnya" belum" digolongkan" sebagai"
negara" dengan" keberagaman" agama" yang" tinggi." Singapura" misalnya" justru" sudah"
termasuk" pada" negara" dengan" tingkat" keberagaman" agama" yang" tinggi." Pengelolaan" keberagaman"
dan" kebebasan" agama" di" Indonesia" pada" umumnya" terkonsentrasi" pada" dua" agama" yang" paling"
banyak" dianut," yaitu" Islam" dan" Kristiani." Walaupun" demikian," hal" ini" dapat" menjadi" modal"
'latihan" yang" baik" untuk" mengelola" keberagaman" dan" kebebasan" agama." Di" Indonesia" memang"
belum" ditemukan" survei" untuk" hal" serupa." Namun" dari" pengamatan" kita" dapat" melihat" dan"
merasakan" bahwa" perusahaan" juga" berada" di" antara" kedua" kontinum" ini." Tabel" di" bawah"
ini" menggambarkan" beberapa" contoh" praktis" kebebasan" beragama" pada" kedua" kontinum" ini." 198"

Tabel 3: "Beberapa contoh praktis dari kedua kontinum kebebasan beragama"

Tabel 4: "Religious Diversity Index" (Pew Research Centre, 2014) " Secara umum dapat dikatakan bahwa exposure perusahaan

Indonesia terhadap keberagaman dan kebebasan agama ini telah melalui perjalanan yang panjang. Hal ini bukanlah hal yang asing dan baru bagi perusahaan di Indonesia. Walaupun langkah pengelolaan mungkin bersifat sporadik dan mencoba-coba, namun tampaknya perusahaan Indonesia dapat menemukan cara dan gayanya sendiri dalam mengelola keberagaman dan kebebasan beragama ini. 199 Tantangan ke depan mungkin akan lebih besar dengan makin beragamnya tenaga kerja di Indonesia akibat arus masuk dari negara lain. Tantangan juga datang dari internal dengan meningkatnya tuntutan ekspresi keagamaan yang dirasakan dalam beberapa waktu terakhir ini. Untuk itulah maka perusahaan di Indonesia perlu untuk segera melakukan pengelolaan keberagaman agama secara sistematis dan terstruktur yang dibekukan dalam sebuah kebijakan, prosedur formal dan budaya. Langkah Blangkah sporadik yang mungkin jitu sampai hari ini biasanya bersifat sangat cair dan tidak kokoh untuk menghadapi tantangan ke depan. Tulisan ini diharapkan dapat menjadi pemicu dan inspirasi awal bagi perusahaan di Indonesia untuk mulai memikirkan dan menggali hal ini secara serius dan sistematis. (DAFTAR PUSTAKA) Barta, Thomas, et al. (2012, April). "Is There a Payoff from Top Team Diversity?" McKinsey Quarterly. Chua, Roy. (2011). "Innovating at the World's Crossroads: How Multicultural Networks Promote Creativity." Working Paper. Harvard Business School. Herring, Cedric. (2009, April). "Does Diversity Pay? Race, Gender and the Business Case for Diversity." American Sociological Review, 74. Hewlett, Sylvia Ann, et al. (2013, December). "How Diversity Can Drive Innovation." Harvard Business Review. Kochan, Thomas, et al. (2003). "The Effects of Diversity on Business Performance: Report of The Diversity Research Network." Human Resource Management, 42(1). Pew Research Centre, (2014, April). "Global Religious Diversity." Society for Human Resource Management. (2008). "Religion and Corporate Culture: Accommodating Religious Diversity in the Workplace." Survey Report. Wallace, Wanda, & Pillians, Gillian. (2011). Diversity and Business Performance. Corporate Research Forum. 200 14 RELIGIOUS FREEDOM DALAM PERSPEKTIF BISNIS) Hermanto " Jawa Pos, 6 April 2015, hal 1, Dahlan Iskan menulis: "KEJUTAN baru: Amerika, kampiun negara demokrasi itu, kini punya peraturan daerah (perda) syariah. Dengan perda baru itu, kini pedagang di Negara Bagian Indiana, tempat saya belajar, boleh menolak melayani konsumen berdasar keyakinan agama...." Heboh. Gempar. Protes pun marak. Dari berbagai wilayah. Juga dari berbagai kelompok. Pertunjukan musik di ibu kota negara bagian itu, Indianapolis, yang seharusnya berlangsung minggu depan dibatalkan. Artisnya sendiri yang membatalkan. Sebagai protes. Uang karcis dikembalikan. Sebuah perusahaan besar juga mengancam. Ia menyatakan membatalkan ekspansinya. Bahkan lagi mempertimbangkan untuk cabut dari wilayah Indiana. Perusahaan itu seperti mewakili sikap umumnya kalangan bisnis di Indiana. Mereka khawatir buruh mereka, pada satu tahap nanti, bisa menolak aturan perusahaan berdasar keyakinan agama si karyawan.... Yang terjadi sebenarnya adalah para pedagang bunga dan kue di Indiana menolak menjual dagangan mereka kepada kaum gay dan lesbian. Dalam pandangan agama mereka, tindakan homoseks adalah sebuah dosa. Dan mereka menginterpretasikan lebih jauh ajaran tersebut menjadi ijin untuk mendiskriminasi. Dalam kasus ini, diskriminasi dilakukan oleh penjual yang beragama mayoritas kepada pembeli yang 201 memiliki kepercayaan minoritas. Rupanya pemerintah Indiana mendukung diskriminasi tersebut. Kejadian di atas adalah sebuah contoh kasus pelanggaran Religious Freedom dalam dunia bisnis. Ada beberapa hal yang menarik dalam kasus tersebut. Pertama, biasanya pelanggaran Religious Freedom dalam dunia bisnis terjadi di tempat kerja, yaitu antara pemilik bisnis dengan karyawan, atau karyawan yang satu dengan yang lain. Dalam kasus ini, pelanggaran terjadi antara penjual dan pembeli. Ini menunjukkan bahwa pelanggaran Religious Freedom dalam bisnis tidak terbatas di tempat kerja saja, melainkan dapat terjadi

dalam" segala" interaksi" bisnis." Kedua," kasusBkasus" seperti" ini" menjadi" liputan" media" massa" di" Amerika," namun" jarang"sekali"menjadi"liputan"di"Indonesia."Apakah"ini"menandakan"bahwa" kasusBkasus" seperti" ini" jarang" terjadi" di" Indonesia?" Minimnya" liputan" mengenai"hal"semacam"ini"bisa"jadi"justru"menunjukkan"masih"rendahnya" perhatian" masyarakat" terhadap" permasalahan" Religious/ Freedom" dalam" dunia" bisnis" di" Indonesia." Ketiga," adanya" ikut" campur" yang" besar" dari" pemerintah" setempat" hingga" mengeluarkan" perda" khusus" untuk" itu." Dibandingkan" dengan" kondisi" di" Indonesia," jarang" sekali" terdengar" pemerintah" mengeluarkan" aturanBaturan" yang" berkaitan" dengan" Religious/ Freedom" di" dunia" bisnis." Ini" menunjukkan" bahwa" penerapan" Religious/ Freedom" dalam" dunia" bisnis" di" Indonesia" belum" mendapat" perhatian"yang"memadai"dari"pemerintah"Indonesia,"baik"pusat"maupun" daerah." Keempat," respon" masyarakat" luas" yang" memprotes" perda" tersebut" adalah" sesuatu" yang" jarang" ditemui" di" Indonesia." Kelima," permasalahan" Religious/ Freedom" terkadang" tidak" berdiri" sendiri." Permasalahan" Religious" Freedom" bisa" terkait" dengan" permasalahan" Hak" Asasi"yang"lain,"seperti"persamaan"derajat,"dsb."Keenam,"adalah"menarik" untuk" mencermati" analisa" bahwa" kalangan" bisnis" "khawatir" buruh" mereka,"pada"satu"tahap"nanti,"bisa"menolak"aturan"perusahaan"berdasar" keyakinan" agama" si" karyawan."" Jika" umumnya" pelanggaran" dianggap" dilakukan" oleh" kelompok" yang" kuat," seperti" pemerintah" atau" pemilik" bisnis," maka" kekuatiran" ini" menunjukkan" adanya" potensi" bahwa" pelanggaran" dapat" dilakukan" oleh" karyawan" kepada" pemilik" bisnis." Jadi" pelanggaran"dapat"dilakukan"oleh"siapapun." 202"" Analisa" di" atas" menunjukkan" bahwa" wacana" tentang" Religious/ Freedom"dalam"dunia"bisnis"memiliki"cakupan"yang"luas."Tulisan"ini"tidak" akan" membahas" semua" hal" tersebut," melainkan" akan" membatasi" pembicaraan" tentang" Religious/ Freedom" dari" perspektif" bisnis" dalam" konteks" di" Indonesia" saja." Namun" ini" pun" masih" terlalu" luas." TulisanB tulisan" seperti" ini" dapat" ditujukan" kepada" banyak" kalangan," seperti" kepada" pemerintah," kaum" akademisi," mahasiswa," kelompok" agama" tertentu,"masyarakat"umum,"dll."Tulisan"kali"ini"secara"spesifik"mengambil" pemilik"bisnis,"dan"secara"luas"semua"pelaku"bisnis,"sebagai"audience."Jadi" tujuan" tulisan" ini" adalah" memberi" informasi" kepada" pemilik" bisnis" di" Indonesia" tentang" bentukBbentuk" pelanggaran," bentukBbentuk" penerapan" dan" insentif" untuk" menerapkan" Religious/ Freedom" dalam" dunia"bisnis"di"Indonesia."" MENGAPA)PENTING) " Dalam" bagian" ini" akan" dibahas" alasan" di" balik" tujuan" yang" dicantumkan"tadi."Alasan"ini"dapat"disampaikan"melalui"jawaban"atas"tiga" pertanyaan:" mengapa" penting" untuk" menerapkan" Religious/ Freedom" dalam" dunia" bisnis" di" Indonesia," mengapa" mengambil" pemilik" bisnis" sebagai"audience,"dan"mengapa"perlu"memberikan"informasi"dan"insentif" untuk"menerapkannya." Pernyataan" pertama," mengapa" penting" untuk" menerapkan" Religious/Freedom"dalam"dunia"bisnis"di"Indonesia?"Setidaknya"ada"empat" alasan"yang"dapat"disampaikan."" Pertama,"penerapan"Religious/Freedom"ini"sesuai"dengan"deklarasi" PBB"tentang"Hak"Asasi"Manusia"artikel"18,"tahun"1948"yang"berbunyi:"" Everyone/ has/ the/ right/ to/ freedom/ of/ thought,/ conscience/ and/ religion;/this/right/includes/freedom/to/change/his/religion/or/belief,/ either/alone/or/in/community/with/others/and/in/public/or/private,/ to/manifest/his/religion/or/belief/in/teaching,/practice,/worship/and/ observance./ " 203"" Dalam" deklarasi" tersebut," Religious/ Freedom" dikenali" secara" Internasional" sebagai" sebuah" Hak" Asasi" dari" seluruh" umat" manusia." Sebagai" sebuah" idealisme" yang" telah" diakui" oleh" seluruh" dunia," maka" sudah" sewajarnya" jika" Indonesia" pun" mengadopsinya." Penerapan" Religious/ Freedom" di" dunia" bisnis" adalah" bagian" dari" pelaksanaan" deklarasi"tersebut." Kedua," penerapan" Religious/ Freedom" ini" sesuai" dengan" UndangB Undang"Dasar"negara"Republik"Indonesia"tahun"1945"pasal"28E"ayat"1"dan" 2,"dan"pasal"28I"dimana"Religious/Freedom"telah"diakui"sebagai"Hak"Asasi" warga"negara"Indonesia."Religious/Freedom"ini"dijamin"oleh"negara"dalam" pasal"29"ayat"2." Jadi,"menerapkan"Religious/Freedom"dalam"dunia"bisnis" di"Indonesia"adalah"bagian"dari"pelaksanaan"UUD"1945"itu"sendiri." Ketiga," penerapan" Religious/ Freedom" dalam" dunia" bisnis" dapat" menciptakan" masyarakat" yang" lebih" damai." Ketika" sikap"

menghargai" Religious/ Freedom" menjadi" budaya" dalam" perusahaan," maka" sikap" ini" akan" diadopsi" oleh" karyawanBkaryawannya." Ketika" karyawanBkaryawan" tersebut"menerapkan"sikap"ini"dalam"hubungan"sosial"di"luar"kerja,"maka" terciptalah"masyarakat"yang"lebih"damai.""

Keempat,"penerapan"Religious/Freedom"dalam"dunia"bisnis"dapat" meningkatkan" perekonomian" suatu" negara." Secara" umum," bisnis" akan" berjalan" dengan" lebih" baik" ketika" kondisi" keamanan" terjamin." Dalam" suatu" masyarakat" yang" damai" seperti" yang" telah" dibahas" dalam" poin" ketiga"di"atas,"maka"bisnis"dapat"berjalan"dengan"lebih"lancar."InvestasiB investasi" luar" negri" pun" lebih" berani" masuk." PerusahaanBperusahaan" mendapatkan" suasana" yang" lebih" kondusif" untuk" berinovasi" maupun" berekspansi."Semua"ini"akan"berdampak"positif"terhadap"perekonomian" negara"tersebut." Pertanyaan" selanjutnya," mengapa" memilih" pemilik" bisnis" sebagai" audience?" Alasannya" sederhana" saja," yaitu" pemilik" bisnis" adalah" pihak" yang" paling" "berkuasa"" (setelah" pemerintah)" untuk" menerapkan" atau" tidak"menerapkan"Religious/Freedom"dalam"perusahaannya."" Pertanyaan" terakhir," mengapa" dibutuhkan" informasi" dan" insentif" untuk" menerapkannya?" Pertama," informasi" dibutuhkan" karena" masih"

minimnya"kesadaran"akan"Religious/Freedom"di"kalangan"pemilik"bisnis"di" Indonesia." Dalam" mempersiapkan" tulisan" ini," penulis" sempat" 204"" mewawancarai" beberapa" teman" yang" adalah" pemilik" bisnis." Ketika" ditanya," "apa" pendapat" Anda" tentang" penerapan" Religious/ Freedom" di" dalam" bisnis" Anda?" maka" kebanyakan" akan" tercengang." Mereka" tahu" tentang"istilah/Religious/Freedom,"namun"mereka"tidak"memahami"apa" kaitannya"dengan"bisnis."Menerapkan"Religious/Freedom"tidak"ada"dalam" agenda"bisnis"mereka,"bahkan"sebatas"wacana"pun"jarang."Sebagian"lagi" merasa" wasBwas" dengan" pertanyaan" ini." Dari" sini" dapat" disimpulkan" bahwa" kesadaran" akan" Religious/ Freedom" masih" rendah" di" kalangan" pemilik" bisnis," dan" bahkan" ada" kecenderungan" untuk" berpikir" negatif" tentang" tema" ini." Namun" ketika" ditanya" "apakah" pernah" mengalami" konflikBkonflik" atau" pengambilan" keputusan" berkaitan" dengan" masalah" agama" dalam" bisnis?" sebagian" besar" mengatakan" mengalaminya." Jadi" sebenarnya," permasalahan" Religious/ Freedom" ini" relevan" bagi" pemilik" bisnis," namun" mereka" tidak" menyadari" seberapa" jauh" kaitan" dan" cakupannya." Untuk"itu,"mereka"membutuhkan"informasi"tentang"bentukB bentuk"pelanggaran"dan"penerapan"Religious/Freedom"dalam"bisnis."

Kedua,"pemilik"bisnis"adalah"kelompok"yang"berhatiBhati"terhadap" perubahan."Perubahan"dapat"mendatangkan"kesempatan,"namun"dapat" pula"mendatangkan"bahaya."Perubahan"environment"bisnis"juga"biasanya" membuat" caraBcara" yang" selama" ini" nyaman" digunakan" dan" tidak" bermasalah" menjadi" tidak" dapat" lagi" digunakan." Penerapan" Religious/ Freedom" dalam" dunia" bisnis" bisa" menimbulkanperubahan" environmen" semacam"ini."Selain"itu,"jika"di"atas"telah"disampaikan"bahwa"penerapan" Religious/ Freedom" adalah" baik" bagi" suatu" negara," kebaikan" berskala" nasional" ini" tidak" otomatis" membuat" pemilik" bisnis" terpanggil" untuk" menerapkannya."Sesuatu"yang"baik"bagi"negara"bisa"jadi"tidak"dirasakan" langsung"manfaatnya"oleh"pemilik"bisnis,"apalagi"jika"hasil"jangka"pendek" tidak"segera"dirasakan."Pemilik"bisnis"akan"bertanya,"apa"faedahnya"bagi" saya" untuk" melakukan" ini," mengingat" sepertinya" banyak" usaha" mental" dan"juga"biaya"yang"diperlukan"untuk"menerapkannya."Pemilik"bisnis"akan" mempertimbangkan"terlebih"dahulu"untung"ruginya."Apakah"ada"insentif" yang" diperoleh" perusahaan" ketika" menerapkan" suatu" kebijakan" baru?" Dibutuhkan" insentif" untuk" melihat" bahwa" perubahan" tersebut" adalah" sesuatu"yang"positif"dan"dapat"mendatangkan"keuntungan"bagi"pemilik" bisnis." 205"" PEMILIK)BISNIS) " Siapakah" pemilik" bisnis" itu?" Dalam" kaitannya" dengan" Religious/ Freedom," pertanyaan" yang" sederhana" ini" dapat" menjadi" sangat" rumit." Kerumitan" ini" perlu" dipahami" karena" dapat" mempengaruhi" pola" penerapan"Religious/Freedom"dalam"dunia"bisnis." Dari" segi" komitmen" terhadap" agama" yang" dianut," pemilik" bisnis" dapat"dibedakan"menjadi"mereka"yang"sangat"peduli"tentang"agama,"dan" mereka"yang"termasuk"dalam"kategori"pemeluk"agama"nominal."Mereka" yang" sangat" peduli," melihat"

agama" sebagai" identitas" dan" memandang" bisnis" sebagai" bagian" dari" perwujudan" iman." Mereka" ingin" membawa" prinsip2" agama" dan" praktikBpraktik" keagamaan" ke" dalam" bisnis" mereka."

Sedangkan" mereka" yang" nominal" biasanya" tidak" menjadikan" agama" sebagai"fokus"utama"dari"identitas"diri,"dan"tidak"merasa"harus"membawa" agama"ke"dalam"dunia"kerja.""

Pengkategorian" di" atas" dapat" digandengkan" dengan" tingkat" toleransi" seseorang." Ada" pemilik" bisnis" yang" memiliki" toleransi" tinggi" terhadap" agama" lain" dan" ada" yang" memiliki" toleransi" rendah." Toleransi" yang" rendah" dari" pemilik" bisnis" yang" memiliki" komitmen" keagamaan" tinggi" dapat" mewujudkan" dalam" diskriminasi" seperti" hanya" mau"

mempekerjakan" karyawan" yang" seagama" dan" tidak" memberi" kesempatan" karyawan" yang" berbeda" agama" untuk" menduduki" jabatan" penting." Toleransi" yang" rendah" dalam" kategori" pemilik" bisnis" nominal" dapat" berwujud" pelanggaran" mengenakan" semua" atribut" keagamaan" ataupun" membawa" halBhal" yang" berbau" agama" ke" perusahaan." Ketika" pemilik" bisnis" yang" kuat" memegang" agamanya" ataupun" yang" nominal" memiliki" toleransi" yang" tinggi," maka" permasalahan" antar" agama" menjadi" relatif" kecil." Jadi" prinsip" toleransi" ternyata" memegang" peran" sangat" besar" dalam" Religious/Freedom./ Unsur" mayoritasBminoritas" juga" menambah" kerumitan."

Kebanyakan" pembahasan" adalah" dalam" konteks" pemilik" bisnis" beragama" mayoritas" yang" mempekerjakan" karyawan" beragama" minoritas."

Demikianlah" situasi" yang" umum" dihadapi" di" negaraBnegara" maju." Namun" Indonesia" memiliki" situasi" yang" berbeda." Sering" dijumpai" bahwa" pemilik" 206"" bisnis" justru" berasal" dari" agama" minoritas," dan" karyawan" berasal" dari" agama" mayoritas." Ini" menimbulkan" sebuah" kondisi" yang" sangat" menarik" untuk" diamati," dan" biasanya" luput" dari" pembahasanBpembahasan" yang" berasal" dari" luar" negri." Jika" bisnis" di" suatu" daerah" didominasi" oleh" pemilik" bisnis" beragama" mayoritas," maka" kekuasaan" pemilik" bisnis" sangatlah" besar." Kelompok" agama" minoritas" hampirBhampir" tidak" punya" pilihan" untuk" bekerja" di" perusahaan" lain" yang" mereka" anggap" lebih" ideal." Mereka" juga" tidak" memiliki" perlindungan" secara" sosial" terhadap" diskriminasi" dan" pelecehan." Namun" lain" halnya" ketika" pemilik" bisnis" berasal" dari" agama" minoritas." Sebagai" penganut" agama" minoritas" ia" tidak" memiliki" banyak" kekuatan," tetapi" sebagai" pemilik" bisnis," ia" memiliki" kekuasaan" besar" dalam" perusahaannya." Jika" ia" termasuk" dalam" kategori" penganut" agama" dengan" komitmen" tinggi" namun" toleransinya" rendah," dan" ia" merekrut" lebih" banyak" orangBorang" yang" seagama" dalam" perusahaannya," maka" kondisi" mayoritas" dan" minoritas" dalam" perusahaan" itu" menjadi" berkebalikan" dengan" kondisi" mayoritas" minoritas" di" masyarakat." Seorang" karyawan" yang" berasal" dari" agama" mayoritas" akan" menjadi" minoritas" dalam" perusahaan" semacam" itu." Dan" diskriminasi" pun" dapat" terjadi," meskipun" dampaknya" tidak" separah" kasus" sebelumnya." Karyawan" tersebut" lebih" mudah" untuk" keluar" dan" mencari" perusahaan" lain" yang" lebih" cocok" untuknya." Situasinya" menjadi" berbeda" jika" pemilik" bisnis" yang" beragama" minoritas" ini" mempekerjakan" lebih" banyak" karyawan" yang" beragama" mayoritas." Jika" pemilik" bisnis" tersebut" memiliki" toleransi" yang" rendah," maka" ia" akan" berhadapan" dengan" resistansi," karena" karyawan" yang" mayoritas" berasal" dari" agama" mayoritas" itu" memiliki" back/ up" kekuatan" dari" jumlah" mereka" dan" dari" masyarakat" di" luar" perusahaan," yang" dapat" mereka" jadikan" alat" intimidasi" terhadap" pemilik" bisnis" yang" beragama" minoritas." Sebuah" kasus" yang" lazim" terjadi" adalah" ketika" karyawan" yang" beragama" mayoritas" menuntut" sesuatu" dengan" ancaman" bahwa" jika" tidak" dituruti" maka" kelompok" agama" garis" keras" akan" masuk" ke" perusahaan" itu" untuk" membela" mereka." Konflik" semacam" ini" dapat" menjadi" sangat" tidak" menyenangkan" bagi" jalannya" roda" perusahaan." Pemilik" bisnis" bisa" juga" bukan" perseorangan," tapi" sebuah" yayasan."

Ketika" yayasan" tersebut" adalah" sebuah" yayasan" keagamaan," maka" apakah" salah" jika" bisnis" tersebut" merekrut" karyawan" hanya" yang" seagama" saja?" 207""

Banyak" pesantren" yang" melakukan" bisnis" dengan" masyarakat" luas" sebagai" pasarnya." Juga" ada" gereja" yang" melakukan" bisnis" dengan" masyarakat" luas" pula" sebagai" target/ marketBnya." Dalam" bisnisBbisnis" yang" dimiliki" oleh" yayasan" keagamaan" demikian," yang" seringkali"

bertujuan" untuk" mensejahterakan" kaumnya," apakah" dapat" dibenarkan" untuk" mendiskriminasi" penerimaan" karyawan" dari" agama" lain" dan" hanya" menerima" yang" seagama" saja?" Jika" dibuka" kesempatan" untuk" menerima" karyawan" dari" agama" lain," sampai" seberapa" jauh" yayasan" keagamaan" itu" perlu" mengakomodir" Religious/Freedom" bagi" mereka?"

Di" sisi" lain," pemilik" bisnis" bisa" tetap" perorangan," namun" pasar" yang" dilayaninya" adalah" kelompok" agama" tertentu" saja." Misalnya," toko" buku" keagamaan," yang" menjual" buku" dan" asesoris" khusus" bagi" kelompok" agama" tertentu" saja." Apakah" salah" jika" bisnis" semacam" ini" merekrut" karyawan" yang" seagama" saja?" Dari" segi" keahlian," memang" sulit" bagi" karyawan" dari" agama" yang" berbeda" untuk" menguasai" produk" yang" dijual." Pembeli" juga" akan" merasa" risih" dilayani" oleh" staf" dari" agama" yang" berbeda." Apakah" alasan" ini" cukup" untuk" menutup" kesempatan" bagi" orang" yang" beragama" lain" untuk" bekerja" di" sana?"

Sebuah" komplikasi" lain" adalah" berhubungan" dengan" keberagaman" aliran" dalam" sebuah" agama" dimana" aliran" yang" satu" seringkali" merasa" lebih" benar" dari" yang" lain," bahkan" hingga" melabeli" yang" lain" sebagai" sesat." Ada" kecenderungan" bagi" pemilik" agama" yang" beraliran" tertentu," untuk" mendiskriminasi" calon" karyawan" yang" seagama" namun" berbeda" aliran." Namun" yang" menjadi" pertanyaan" adalah" apakah" semua" aliran" harus" dihargai" sebagai" memiliki" Religious/Freedom?" Bagaimana" dengan" aliran" yang" secara" mayoritas" dinyatakan" sesat?" Bagaimana" dengan" aliran" ekstremis" yang" selalu" ada" dalam" tiap" agama," meskipun" tidak" dianggap" sesat?" Pemilik" bisnis" akan" berhati-hati" dalam" menerima" karyawan" yang" berasal" dari" aliran" yang" dianggap" sesat" atau" ekstrem," karena" mereka" dapat" menyebabkan" munculnya" konflik" dalam" dunia" kerja." Berhakkah" pemimpin" bisnis" menghindari" mereka" dalam" penerimaan" karyawan?"

Jika" pembahasan" di" atas" lebih" banyak" menyoroti" tentang" Religious/ Freedom" bagi" karyawan," maka" satu" komplikasi" lain" adalah" pertanyaan" apakah" pemilik" bisnis" pun" memiliki" Religious/ Freedom?" Ketika" pemilik" bisnis" dipaksa" untuk" menerapkan" Religious/ Freedom" dalam" 208" perusahaannya," apakah" ini" tidak" berarti" menyalahi" Religious/ Freedom" yang" dimiliki" oleh" pemilik" bisnis" tersebut?" Apakah" pemilik" bisnis" tidak" memiliki" freedom" untuk" mengatur" perusahaannya" sesuai" dengan" keyakinannya?" Pertanyaan" semacam" ini" menunjukkan" bahwa" masalah" Religious/Freedom" bukanlah" masalah" yang" sederhana." Jadi," faktor" yang" perlu" dipertimbangkan" dalam" mengkategorikan" "pemilik" bisnis" sangat" beragam." Ini" memunculkan" kasus" spesifik" dalam" praktik" di" lapangan," di" mana" "satu" solusi" untuk" semua" mungkin" tidak" dapat" diberlakukan." Tiap" daerah" bisa" memiliki" kasus" yang" berbeda." Demikian" juga" tiap" negara," sehingga" apa" yang" bisa" diterapkan" di" negara" lain" belum" tentu" tepat" untuk" diterapkan" di" Indonesia." Tulisan" ini" tidak" bermaksud" menjawab" kerumitan" yang" dipaparkan" tadi," namun" hanya" ingin" menunjukkan" bahwa" pemilik" bisnis" bisa" berbeda" dari" satu" pribadi" ke" satu" pribadi," dari" satu" daerah" ke" satu" daerah." BENTUK) PELANGGARAN)

Secara" umum" dipahami" bahwa" pelanggaran" berbentuk" diskriminasi" dalam" bisnis" terjadi" pada" karyawan" di" tempat" kerja." Namun" sebenarnya" pelanggaran" bisa" terjadi" tidak" hanya" pada" karyawan" dan" tidak" hanya" di" tempat" kerja" (meskipun" masih" dalam" konteks" bisnis). Terkait" dengan" bisnis," pelanggaran" dapat" dilakukan" oleh" pemilik" bisnis" kepada" karyawan," oleh" rekan" sekerja" kepada" sesamanya," oleh" karyawan" kepada" pemilik" bisnis," oleh" pemerintah" kepada" pemilik" bisnis," oleh" masyarakat" kepada" pemilik" bisnis," oleh" pemilik" bisnis" kepada" customer," dan" bahkan" oleh" customer" kepada" pemilik" bisnis." Pelanggaran" dapat" terjadi" baik" di" tempat" kerja" maupun" di" luar" tempat" kerja" meskipun" masih" dalam" konteks" bisnis," misalnya:" di" pasar" di" mana" pembeli" bertemu" dengan" penjual." Tulisan" ini" lebih" banyak" membahas" pelanggaran" oleh" pemilik" bisnis" kepada" karyawan" karena" pemilik" bisnis" adalah" audience" utama." Pelanggaran" yang" lain" akan" disinggung" sekilas" saja." Pelanggaran" Religious/ Freedom" oleh" pemilik" bisnis/perusahaan" kepada" karyawan" dapat" berbentuk:" 209" 1." Diskriminasi" dalam" Rekrutmen"

Di" Amerika," penerimaan" karyawan" haruslah" didasarkan" pada" kualifikasi" pekerjaan" dan" tidak" pada"

halBhal" lain" seperti" agama." Dalam"wawancara,"agama"seseorang"tidak"boleh"ditanyakan."Calon" karyawan" pun" tidak" memiliki" keharusan" untuk" menuliskan" agamanya" di" biodata." Perusahaan" yang" mengharuskan" pencantuman" agama" di" biodata" dapat" dianggap" melakukan" diskriminasi" dan" dapat" dituntut." Di" Indonesia,"menanyakan"agama" seseorang" adalah" sesuatu" hal" yang" dianggap" lumrah" dan" tidak" menyinggung." Demikian" pula" dengan" mencantumkan" agama" di" biodata." Tidak" mencantumkan" agama" dalam" biodata" ketika" mengirimkan" surat" lamaran" kerja" justru" bisa" dianggap" sebagai" suatu" sifat" lalai" atau" sifat" kritis" yang" berlebihan." Sebenarnya," pencantuman"agama"saja"tidak"selalu"berarti"adanya"diskriminasi."

Seperti"dalam"kondisi"di"Indonesia,"ketika"pencantuman"agama"ini" dianggap"sesuatu"yang"lumrah,"hal"tersebut"tidak"identik"dengan" potensi" diskriminasi." Namun" ada" atau" tidaknya" pencantuman" agama" ataupun" pertanyaan" tentang" agama" dalam" rekrutmen," potensi" diskriminasi" karena" agama" tetap" ada" di" dunia" kerja" di" Indonesia." Seorang"calon"karyawan"bisa"ditolak"karena"ia"beragama" tertentu."Bisa"pula"sebuah"perusahaan"tidak"mempermasalahkan" agama,"namun"mempermasalahkan"atributBatribut"agama"tertentu" yang" dikenakan" sehariBhari," dan" itu" menjadi" alasan" perusahaan" tersebut" untuk" menolak." Pemilik" bisnis" yang" memiliki" kadar" komitmen" tinggi" namun" kadar" toleransinya" rendah" cenderung" memilih"mempekerjakan"karyawan"yang"seagama"dengan"dirinya." 2."

Diskriminasi"dalam"Promosi"Jabatan" Ini" terjadi" ketika" perusahaan" mendiskriminasi" staf" dari" agama"tertentu"supaya"tidak"bisa"menempati"jabatan"yang"tinggi" atau"strategis."Hal"ini"biasanya"didasarkan"pada"konsep"aku"lebih" mempercayai"orang"yang"seagama"denganku." 210" 3."

Perlakuan"dan"Perkataan"yang"merendahkan" Terkadang" ada" kesan" bahwa" orang" dari" agama" lain" itu" derajatnya" lebih" rendah," sehingga" boleh" diperlakukan" seenaknya." Melemparkan" gurauanBgurauan" yang" mendiskreditkan" agama" merupakan" pelanggaran" secara" verbal." HalBhal" seperti" ini" dapat" membuat"suasana"kerja"menjadi"tidak"nyaman." 4."

Penolakan"pemberian"hari"libur"/"cuti"untuk"keperluan"keagamaan" tertentu" Tiap" agama" memiliki" hariBhari" besar" sendiri," dan" membutuhkan" waktu" khusus" untuk" berziarah," misalnya" ke" tanah" suci," dan" sebagainya." Menolak" memberikan" hari" libur" pada" hariB hari" raya" keagamaan" merupakan" pelanggaran" terhadap" Religious/ Freedom." Namun" penolakan" terhadap" cuti" masih" dapat" diperdebatkan" karena"biasanya"cuti"memakan"waktu"yang"panjang" dan"dapat"mengganggu"kinerja"perusahaan." 5."

Pelarangan"pemakaian"atribut"tertentu" Pelarangan" ini" dapat" berbentuk" pelarangan" berpakaian" menurut"tradisi"agama"tertentu,"atau"pelarangan"memakai"atributB atribut" keagamaan" yang" lain." Namun" hal" ini" juga" berhubungan" dengan" kewajiban" yang" diterima" di" suatu" daerah." Jika" memakai" atribut"tertentu"dianggap"wajar"di"suatu"daerah"namun"dilarang"di" perusahaan," ini" dapat" menjadi" masalah." Tetapi," pelarangan" pemakaian" atribut" keagamaan" yang" ekstrem" atau" tidak" biasa" di" suatu" daerah" masih" dapat" diperdebatkan" apakah" ini" menyalahi" Religious/Freedom"atau"tidak."Sebagai"contoh,"bolehkah"customer/ service"memakai"sorban?" 6."

Pemaksaan"pemakaian"atribut"tertentu" Terkadang" perusahaan" mengharuskan" pemakaian" atribut" tertentu" yang" bertentangan" dengan" agama" karyawan." Misalnya," pemaksaan"menggunakan"rok"mini"bagi"Sales/Promotion/Girl"(SPG)," atau"pemaksaan"menggunakan"kostum"agama"lain"pada"waktu"hari" raya" tertentu." Di" Amerika" ada" kasus" pemaksaan" menggunakan" 211"

pakaian"sinterklas"kepada"karyawan"yang"Muslim,"dan"ini"menjadi" masalah." 7."

Pemaksaan"melakukan"tindakan"tertentu"yang"tidak"sesuai"dengan" agama" TindakanBtindakan" seperti" menyuap," atau" mengentertain" customer" ke" diskotik," dapat" dipaksakan" oleh" perusahaan" kepada" karyawannya" padahal" sang" karyawan" merasa" tidak" nyaman" melakukannya" karena" bertentangan" dengan" agama" yang" dipeluknya." 8."

Favoritisme"agama"tertentu" Pemilik" bisnis" dapat" memberikan" fasilitasBfasilitas" khusus" kepada" karyawan" yang" beragama" tertentu," seperti" membangun" tempat" ibadah" tertentu" dalam" pabrik," atau" memberikan" kelonggaranBkelonggaran" lebih," atau" mengijinkan"

kegiatan "keagamaan" tertentu," namun "tidak" memberikan "hal" yang "sama" kepada "karyawan" yang "beragama" lain. "Hal" seperti "ini" dapat "memicu" kecemburuan. "" 9. " Pemaksaan" mengikuti "kegiatan" keagamaan" tertentu" yang" dilaksanakan" di "kantor" Pemilik" bisnis" kadang" menggelar" kegiatan" keagamaan" tertentu" di" kantor," seperti" persekutuan," atau" ibadah" tertentu." Memaksa" semua" karyawan," termasuk" yang" beragama" lain," untuk" mengikuti" kegiatan" itu" merupakan" pelanggaran" terhadap" Religious/ Freedom. "" 10. " UsahaBusaha" memindahkan" agama" secara" tidak" nyaman" AgamaBagama" tertentu" memberikan" misi" kepada" penganutnya" untuk" mengundang" orang" luar" masuk" ke" agama" mereka." Perusahaan" ada" dalam" posisi" yang" sulit" ketika" ada" karyawan" yang" sangat" terobsesi" dengan" hal" ini" dan" tidak" memiliki" sensitivitas" yang" baik" dalam" menyampaikan" imannya." Jika" membatasi" kegiatan" seperti" ini," perusahaan" dapat" dituduh" 212"" melanggar" Religious/Freedom/kelompok" tertentu." Jika" mengizinkan," perusahaan" dapat" dituduh" melanggar" Religious/Freedom" kelompok" yang" lain. "" Pelanggaran" oleh" rekan" sekerja" kepada" sesamanya" dapat" berbentuk" pengucilan," perkataan" atau" tindakan" yang" merendahkan" dan" usahaBusaha" memindahkan" agama" secara" tidak" nyaman." Karyawan" juga" dapat" melakukan" pelanggaran" kepada" pemilik" bisnis" dalam" bentuk" pemaksaan" menyediakan" fasilitas" keagamaan" tertentu," tindakan" wanprestasi" berkedok" agama," dan" tuduhan" secara" tidak" adil" bahwa" pemilik" bisnis" telah" melakukan" pelanggaran/ Religious/ Freedom." Tidak" dapat" dipungkiri" bahwa" ada" karyawan" yang" mencoba" membuat" semua" masalah" menjadi" pelanggaran" oleh" pihak" pemilik" bisnis." Bentuk" diskriminasi" oleh" pemerintah" kepada" pemilik" perusahaan" biasanya" berbentuk" dikeluarkannya" peraturan" yang" berat" sebelah" kepada" satu" kelompok" atau" golongan" tertentu." Peraturan" semacam" perda" yang" dikeluarkan" oleh" pemerintah" Indiana" dalam" pembukaan" tulisan" ini" adalah" pelanggaran" semacam" itu." BentukBentuk" diskriminasi" oleh" masyarakat" kepada" pemilik" perusahaan" dapat" berupa" pemaksaan" menyediakan" fasilitas" keagamaan" tertentu" sebagai" ganti" ijin" berusaha" di" daerah" tersebut," atau" penolakan" berdirinya" suatu" perusahaan" dengan" alasan" tidak" sesuai" dengan" agama" masyarakat" setempat." Khusus" yang" terakhir," tentunya" ada" batasanBatasan" yang" perlu" diberlakukan." Jika" perusahaan" tersebut" memproduksi" barang" yang" haram" bagi" agama" tertentu" namun" tidak" haram" bagi" agama" lain," maka" masih" dapat" diperdebatkan" apakah" ini" merupakan" pelanggaran" Religious/ Freedom" atau" tidak." Namun" jika" perusahaan" tersebut" memproduksi" barang" yang" haram" bagi" suatu" negara," misalnya" narkotika," maka" tentunya" sangat" dapat" dibenarkan" penolakan" masyarakat" itu." BentukBentuk" diskriminasi" oleh" pemilik" bisnis" kepada" customer" dapat" dilihat" dari" contoh" kejadian" di" Indiana" tadi," yakni" ketika" penjual/pemilik" bisnis" menolak" melayani" pelanggan" dari" kalangan" agama" atau" kepercayaan" yang" berbeda." Di" sisi" yang" lain," menolak" membeli" dari" perusahaan" tertentu" karena" alasan" agama" dapat" dilakukan" oleh" customer" kepada" pemilik" bisnis. "" 213"" BENTUK)PENERAPAN) " Penerapan" Religious/Freedom" dalam" bisnis" dapat" dimulai" dengan" membuka" kesempatan" yang" sama" bagi" semua" agama" dalam" rekrutmen." Rekrutmen" tidak" lagi" didasarkan" pada" pertimbangan" agama" seseorang," namun" pada" halBhal" lain" seperti" kualifikasi." Demikian" juga" dengan" promosi" jabatan." Promosi" jabatan" diberikan" kepada" orang" yang" memang" mampu" menyandang" jabatan" itu" tanpa" memandang" apa" agamanya." Tentu" ada" pertanyaan," apakah" semua" agama" dapat" diterima?" Atau" apakah" aliran" ekstrim" perlu" diterima?" Untuk" menjawab" hal" ini," perlu" dimengerti" bahwa" ""neither/freedom/from/discrimination,/nor/freedom/of/ religion/per/se,/is/an/absolute/right,/and/at/times/they/may/have/to/give/ way/ to/ other/ competing/ interests,/ particularly/ when/ exercised/ in/ the/ context/ of/ work."" (Vickers," 2008)" Tujuan" utama" perusahaan" merekrut" karyawan" adalah" supaya" perusahaan" dapat" berjalan" dengan" baik" dan" menghasilkan" profit." Tujuan" ini" tidak" dapat" diganggu" gugat." Untuk" apa"

merekruit" karyawan" yang" justru" menambah" masalah?" Jadi" agama" atau" aliran" yang" dapat" diterima" dalam" rekrutmen" tentunya" yang" diyakini" tidak" menghalangi" kepentingan" perusahaan" dalam" menjalankan" bisnisnya." Perusahaan" bisa" pula" menerapkan" Religious/Freedom" dengan" cara" menghargai" waktu" khusus" atau" hari" Raya" keagamaan," seperti" waktu" sembahyang" di" hari" Jumat" bagi" umat" Muslim" dan" hari" Minggu" bagi" umat" Kristiani" serta" hari" libur" keagamaan." Penerapan" Religious/ Freedom" juga" bisa" dilakukan" dalam" bentuk" pemilik" bisnis" membangun" budaya" perusahaan" atau" mengeluarkan" peraturan" untuk" melindungi" karyawan" beragama" minoritas" dari" perlakuan" yang" tidak" baik" oleh" karyawan" lain." Pemaksaan" pemindahan" agama" atau" cara" yang" membuat" tidak" nyaman" perlu" dibatasi," dan" didorong" untuk" lebih" mengutamakan" interaksi" dan" dialog" yang" natural" dan" saling" menghormati." Pemilik" bisnis" perlu" bersikap" bijaksana" dan" sensitif" dalam" memberikan" penugasan" atau" mengatur" penggunaan" atribut" keagamaan" di" tempat" kerja" dan" tidak" menunjukkan" favoritisme." Pemilik" bisnis" dapat" juga" berbuat" lebih" jauh" dengan" menyediakan" fasilitas" yang" mempermudah" orang" untuk" beribadah" atau" memberikan" cuti" khusus" untuk" berziarah," dan" lain" lain," meskipun" itu" bukan" keharusan." Melakukan" lebih" dari" yang" diharapkan" selalu" menarik" simpati" banyak" orang," termasuk" ketika" itu" dilakukan" pada" karyawan." Terkait" dengan" hubungan" dengan" pasar," pemilik" bisnis" dapat" belajar" melayani" pelanggan" tanpa" membedakan" agamanya" dan" membuat" nyaman" semua" orang." INSENTIF)PENERAPAN) " Setidaknya" ada" dua" insentif" untuk" menerapkan" Religious/Freedom" di" dunia" bisnis," yaitu" insentif" profit" dan" motivasi" idealis." Insentif" profit" adalah" alasan" untuk" menerapkan" Religious/Freedom" dalam" bisnis" karena" alasan" tersebut" akan" mendatangkan" profit" bagi" perusahaan." Motivasi" idealis" adalah" alasan" yang" dapat" mendatangkan" kepuasan" batin" bagi" pemilik" bisnis" karena" telah" melakukan" sesuatu" yang" mulia." INSENTIF)PROFIT:) " 1." Peningkatan" performa" Ketika" agama" tidak" dipermasalahkan" di" tempat" kerja," bahkan" dihargai," maka" karyawan" akan" merasa" kehadirannya" diterima" dengan" baik" oleh" perusahaan." Perasaan" diterima" ini" akan" membuat" ia" merasa" nyaman" bekerja." Dan" karyawan" yang" merasa" nyaman" bekerja" akan" memberikan" kontribusi" positif" pada" peningkatan" performa" perusahaan." Sebagai" catatan," perlu" diperjelas" bahwa" penghargaan" akan" Religious/ Freedom" bukanlah" satu" faktor" yang" membuat" karyawan" merasa" nyaman" bekerja," melainkan" salah" satunya." Jadi" penghargaan" terhadap" Religious/ Freedom" karyawan" tidak" otomatis" membuat" suasana" kerja" menjadi" menyenangkan." Masih" banyak" faktor" lain." Namun" ketika" Religious/ Freedom" tidak" dihargai," ini" bisa" berakibat" negatif" pada" performa" perusahaan." 2." Peningkatan" rasa" turut" memiliki" dan" loyalitas" Karyawan" yang" peduli" Religious/ Freedom" biasanya" adalah" karyawan" yang" memiliki" komitmen" di" atas" rata-rata" dalam" hal" berdoa." Ketika" karyawan" merasa" dihargai" haknya" dalam" perusahaan," mereka" cenderung" akan" berdoa" pula" bagi" perusahaan," bisnis" dan" pemilik" bisnis." Esensinya" bukanlah" apakah" doa" itu" efektif" atau" semakin" banyak" doa" yang" dipanjatkan" semakin" banyak" berkat," namun" karyawan" yang" mendoakan" perusahaan" akan" cenderung" menumbuhkan" rasa" turut" memiliki" dalam" dirinya." Mereka" menjadi" karyawan" yang" peduli" akan" kelangsungan" perusahaan" dan" loyal." Karyawan" seperti" ini" adalah" aset" besar" bagi" perusahaan." 3." Pasar" tenaga" kerja" yang" lebih" besar" Perusahaan" membutuhkan" karyawan" yang" tepat," baik" dari" segi" kualifikasi" yang" dibutuhkan," maupun" karakter" yang" diharapkan." Ketika" perekrutan" karyawan" dibatasi" oleh" agama," maka" pasar" tempat" mencari" tenaga" kerja" yang" tepat" itu" menjadi" sempit." Ketika" pemilik" bisnis" memiliki" pikiran" yang" terbuka" dan" merangkul" Religious/ Freedom" dalam" bisnisnya," maka" ia" memiliki" pasar" tenaga" kerja" yang" lebih" besar." Ia" memiliki" lebih" banyak" kesempatan" untuk" memilih" karyawan" yang" paling" tepat" bagi" perusahaannya." 4."

Peningkatan "kejujuran" Beragama "tidak" otomatis "membuat" seseorang "menjadi" lebih "jujur." Kerap kali pemilik bisnis kecewa ketika berpikir bahwa merekrut orang yang seagama pastilah menjamin kejujuran di tempat kerja. Namun ketika penghargaan akan agama diterapkan dalam perusahaan, maka setidaknya pemilik bisnis memiliki dasar untuk menuntut kejujuran tersebut dari anak buahnya. Ketika pemilik bisnis berkata, "bukankah agamamu mengajarkan kejujuran?" maka anak buahnya dapat balik bertanya, "sejak kapan? 216" Anda peduli akan agama saya? Bukankah selama ini Anda tidak menghargainya?" Akan lain jadinya jika pemilik bisnis adalah seorang yang selalu menghargai agama. Ketika ia menuntut kejujuran dari anak buahnya berdasarkan agama masing-masing, ia didengarkan. Ini dapat berdampak pada peningkatan kejujuran di tempat kerja. 5. Pasar yang lebih luas

Sebagian besar customer akan memilih dengan perusahaan mana mereka akan bertransaksi. Jika perusahaan itu didominasi oleh karyawan-karyawan yang menampilkan atribut agama tertentu dengan sangat kuat, customer dari agama yang berbeda akan cenderung merasa tidak nyaman dan memilih mencari perusahaan lain. Perusahaan semacam ini bisa jadi sangat menarik bagi pelanggan yang seagama, namun mengusir pelanggan yang tidak seagama. Perusahaan yang sama sekali tidak menampilkan atribut keagamaan akan dianggap lebih netral bagi pelanggan-pelanggan tersebut. Demikian juga perusahaan yang sebagian karyawannya menampilkan atribut keagamaan yang kuat namun beragam, ini juga akan dipandang netral oleh pelanggan. Jadi dengan perusahaan keluar dari satu atribut agama tertentu, dan menerapkan Religious Freedom, pasar yang lebih luas akan terbuka. Hal ini juga berlaku bagi produk yang dijual oleh sebuah perusahaan. Memposisikan satu produk, misalnya buah kurma, sebagai makanan sehat dan bukan sebagai makanan khusus untuk dikonsumsi agama tertentu mungkin akan dapat meningkatkan penjualan produk tersebut. 6.

Pelayanan customer yang lebih baik Dalam perusahaan yang menerapkan Religious Freedom dan memiliki pelanggan yang bermacam-macam, sebagian dari pelanggan tersebut mungkin berasal dari agama tertentu. Perusahaan semacam itu dapat menugaskan karyawannya yang seagama dengan pelanggan semacam itu untuk dapat memberikan pelayanan yang lebih tepat, karena karyawan tersebut dapat memahami customer tersebut dengan lebih baik. Pemahaman yang lebih baik akan satu segmen pelanggan tentulah sangat berpengaruh terhadap perencanaan strategi perusahaan. Pemahaman yang lebih baik ini juga dapat meningkatkan kemampuan perusahaan untuk mempertahankan pelanggannya (customer/retention). 7.

Kemajemukan memperkaya perusahaan Karyawan yang berasal dari latar belakang yang beragam dan cara pandang yang berbeda-beda dapat menyumbangkan ide-ide yang kaya yang dibutuhkan oleh perusahaan, baik dari segi produk, market/strategy, maupun problem/solving. 8. Reputasi yang baik meminimalkan resistansi

Jika perusahaan mengusung suatu agama tertentu saja yang berbeda dengan masyarakat di tempat perusahaan itu berada, ini dapat menimbulkan masalah. Namun jika perusahaan menerapkan Religious Freedom dalam arti tidak membedakan dalam rekrutmen maka resistansi dari masyarakat akan minim. Demikian pula ketika Religious Freedom diterapkan lebih jauh dalam perusahaan, dimana ekspresi-ekspresi keagamaan dihargai, maka resistansi dari pihak luar seperti kelompok-kelompok ekstrem akan dapat diminimalisasi. Karyawan sendiri yang akan membela perusahaan dari resistansi-resistansi luar tersebut. 9.

Reputasi yang baik meningkatkan penjualan Reputasi yang baik dalam Religious Freedom, selain meminimalkan efek-efek negatif yang mungkin terjadi, juga memaksimalkan efek positifnya. Penerimaan masyarakat akan baik terhadap reputasi yang baik, dan ini akan dapat meningkatkan penjualan. 218 MOTIVASI IDEALIS:) 1.

Terciptanya masyarakat yang lebih toleran dan damai Pada jaman sekarang, kegiatan bisnis sangatlah mendominasi kehidupan masyarakat. Semua orang pasti terlibat dalam kegiatan bisnis, entah itu kegiatan menjual, membeli, atau bekerja. Juga adalah kenyataan bahwa sebagian besar masyarakat

Indonesia "bekerja" dalam "perusahaan B perusahaan" bisnis, "mulai" dari "perusahaan" keluarga "yang" hanya "mempekerjakan" beberapa "orang" hingga "perusahaan" Internasional "yang" mempekerjakan "ribuan" karyawan, "mulai" dari "yang" menjadi "buruh" hingga "staf" dan "pimpinan."

Jika "perusahaan" tempat "mereka" bekerja "itu" menerapkan "Religious/ Freedom" dengan "positif," dimana "interaksi" antar "agama" adalah "sesuatu" yang "natural" dan "terjadi" dengan "harmonis," maka "sikap" ini "akan" menjadi "budaya" perusahaan. "Budaya" ini "akan" berinteraksi "dengan" cara "pandang" para "karyawan," dan "pada" akhirnya "membentuk" karyawan B karyawan "yang" juga "menghargai" agama "lain."

Sikap "saling" menghargai "agama" yang "berbeda" menjadi "sesuatu" yang "dianggap" sudah "sepatutnya." "Toleransi" beragama "tinggi." "Karyawan B karyawan" yang "memiliki" cara "pandang" demikian "akan" membawa "cara" pandang "tsbke" dalam "keluarganya" dan "interaksinya" dengan "masyarakat" di "luar" pekerjaan. "Jika" sikap "saling" menghargai, "sikap" toleransi, "sikap" saling "mengakomodasi," "sikap" berdialog "dan" "sikap B sikap" positif "lainnya" ini "ada" dalam "masyarakat," maka "otomatis" pertikaian B pertikaian "antar" agama "menjadi" berkurang. "Masyarakat" akan "menjadi" lebih "dewasa" dalam "menyikapi" perbedaan "agama." "Terciptalah" masyarakat "yang" lebih "damai." "Jadi" sebenarnya, "perusahaan" memiliki "andil" yang "besar" dalam "menciptakan" masyarakat "Indonesia" yang "lebih" damai "dan" toleran "melalui" penerapan "Religious/Freedom" dalam "perusahaan" tersebut. "Pemilik" bisnis "dalam" hal "ini" telah "melakukan" sesuatu "yang" mulia "melalui" keterlibatannya "dalam" menciptakan "masyarakat" yang "lebih" toleran "dan" damai. "" 219"" 2.""

Meningkatnya "perekonomian" bangsa "Brian" J. "Grim" adalah "seorang" peneliti "yang" melakukan "studi" tentang "Religious/ Economic/ Theory./ Dalam" artikelnya "berjudul" "Is/ Religious/Freedom/Good/for/Business?/:A/Conceptual/and/Empirical/ Analysis"" Grim "melaporkan" beberapa "temuan" di "bawah" ini: "a.! Ada" kaitan "antara" pemerintah "yang" kurang "menghargai" Religious/ Freedom "dengan" tingginya "kekerasan" sosial "berdasarkan" agama "di" negara "tersebut." "b.! Kekerasan" sosial "berdasarkan" agama "dan" pembatasan B pembatasan "terhadap" Religious/Freedom "membuat" investasi "lokal" maupun "asing" pergi "meninggalkan" negara "tersebut." "Sebagai" contoh, "kekerasan" masalah "agama" di "Mesir" membuat "merosotnya" industri "wisata" di "sana." "c.! Ketidakstabilan" sosial "yang" ditimbulkan "oleh" pembatasan "dan" kekerasan "berdasarkan" agama "membuat" entrepreneur G/ entrepreneur "muda" memilih "membawa" talentanya "ke" negara "lain." "d.! Kestabilan" sosial "akan" membuka "lebih" banyak "kesempatan" untuk "berinvestasi," untuk "melakukan" kegiatan "bisnis" secara "normal," dan "kegiatan B kegiatan" bisnis "dapat" diprediksi "dengan" lebih "baik." "e.! Religious/Freedom" berkorelasi "dengan" rendahnya "korupsi" di "negara" tersebut. "Negara" yang "membuat" banyak "aturan" yang "menekan" Religious/ Freedom "biasanya" memiliki "tingkat" korupsi "yang" tinggi. "f.! Karena" umumnya "kelompok" keagamaan "memiliki" beban "mengenai" masalah "kesehatan" dan "pendidikan," maka "kesehatan" dan "pendidikan" tumbuh "lebih" baik "di" negara "yang" menghargai "Religious/Freedom." "g.! Inovasi" dan "teknologi" lebih "berkembang" di "negara" yang "menghargai" Religious/ Freedom "karena" pihak B pihak "yang" terkait "dengan" hal "tersebut" bebas "dari" rasa "takut" dihakimi "baik" oleh "pemerintah" ataupun "masyarakat" karena "dianggap" menyalahi "ajaran" agama. "220"" h.! Infrastruktur" komunikasi "lebih" berkembang "di" negara "yang" tidak "membuat" banyak "aturan" pembatasan "berkaitan" dengan "broadcasting" dan "literatur." "i.! Negara" yang "menghargai" Religious/ Freedom "memiliki" kemampuan "kompetisi" global "yang" lebih "besar." "j.! Penghargaan" terhadap "Religious/ Freedom" oleh "pemerintah" dan "kelompok B kelompok" dalam "masyarakat" berpengaruh "terhadap" pertumbuhan "ekonomi" suatu "negara"" "Dari" temuan B temuan "tersebut" disimpulkan "bahwa" penerapan "Religious/Freedom" dalam "bisnis" adalah "menguntungkan" bagi "suatu" negara "karena" dapat "meningkatkan" perekonomian "negara" tersebut. "Maka" pemilik "bisnis" yang "menerapkan" Religious/ Freedom "dalam" bisnisnya "secara" tidak "langsung" telah "memberikan" sumbangsih "besar" bagi "negara" dalam "meningkatkan" perekonomian "bangsa." "Bagi" pemilik "bisnis" yang "memiliki" rasa "cinta" tanah "air" yang "tinggi," alasan "ini" adalah "cukup" untuk "menerapkan" Religious/ Freedom "dalam" bisnisnya. "" 3."" Menghargai "sesama" ciptaan "Tuhan"

Manusia adalah ciptaan Tuhan yang paling tinggi derajatnya dan merupakan mahakarya dari Tuhan sendiri. Manusia dapat melihat jejak jejak Ilahi ketika ia memandang sesamanya, melampaui segala perbedaan. Menghargai sesama manusia tidak berarti harus menyetujui agama atau keyakinannya. Menghargai sesama manusia dapat berarti menghargai daya pikir yang diberikan Tuhan kepadanya, menghargai keputusan keputusan yang diambilnya meski berbeda dengan harapan kita, dan menghargai pencariannya akan kebenaran sebagai makhluk yang terbatas. Menghargai sesama dapat berarti memberikan ruang dan waktu bagi Tuhan sendiri untuk berkarya dalam hidup orang tersebut. Menerapkan Religious/ Freedom dalam bisnis berarti menghargai sesama manusia. Menghargai sesama manusia berarti menghargai Tuhan sendiri. Pemilik bisnis yang menerapkan 221 Religious Freedom dalam bisnisnya berarti telah menghargai Tuhan sendiri. KESIMPULAN) Penerapan Religious/ Freedom dalam dunia bisnis memberikan dampak dampak positif bagi suatu negara, seperti menciptakan masyarakat yang damai dan meningkatkan perekonomian bangsa. Namun wacana dan kesadaran akan hal ini masih minim bagi kalangan pemilik bisnis di Indonesia. Dampak positif bagi suatu negara tidak otomatis diterjemahkan sebagai dampak positif bagi pemilik bisnis. Oleh karena itu dibutuhkan informasi dan insentif bagi pemilik bisnis untuk menerapkan Religious/ Freedom di bisnisnya masing masing. Dengan memahami insentif yang ada, maka pemilik bisnis akan termotivasi untuk melakukan penerapan Religious/ Freedom dalam bisnisnya. DAFTAR PUSTAKA) Grim, Brian J. (2014). Is Religious Freedom Good for Business? A Conceptual and Empirical Analysis. Interdisciplinary Journal of Research on Religion, 10(4). Iskan, Dahlan. (2015, April 06). Semoga Saya Tidak 100 Persen Laki Laki. Jawa Pos. Vickers, Lucy. (2008). Religious Freedom, Religious Discrimination and the Workplace. Oregon: Hart Publishing. 222 15

KEBEBASAN) BERAGAMA) DAN) ANTISIPASI TERORISME) GLOBAL) Thomas) Santoso) Kebebasan beragama (religious/ freedom) merupakan hak asasi manusia dalam kaitannya dengan iman kepercayaan terhadap Tuhan pencipta alam semesta. Dalam artian yang luas, kebebasan beragama tidak hanya bertalian dengan hubungan vertikal manusia dengan Tuhan, namun juga hubungan horisontal sesama manusia sebagai makhluk ciptaan Tuhan. Studi yang dilakukan oleh Martin van Bruinessen (2004) tentang kebebasan beragama di Surabaya merupakan contoh yang menarik. Sekurang kurangnya sejak awal 1980-an, kajian Alkitab berskala kecil dan kelompok doa yang disebut persekutuan doa menjadi semakin populer di kalangan orang Kristen Protestan. Para penganut Katolik (pada akhir 1980-an) kemudian melakukan hal yang sama dalam kelompok kelompok kecil yang disebut kelompok doa karismatik. Persekutuan doa terdiri 10 sampai 25 orang, sebagian besar merupakan pasangan suami isteri, yang menghadiri gereja yang sama, yang bertemu secara rutin (biasanya sekali dalam seminggu) di rumah anggota untuk membaca Alkitab dan berdoa bersama. Para anggota kelompok pada umumnya tinggal di lingkungan yang sama dan umumnya mempunyai status sosial ekonomi yang kurang lebih sama. Hal ini mempermudah berkembangnya ikatan emosional yang lebih erat dan lebih akrab di antara para anggota. Masalah pribadi anggota atau masalah keluarga sering kali didiskusikan di dalam kelompok itu; para anggota saling membantu satu sama lain dan berdoa bersama, meminta pertolongan Ilahi, untuk memecahkan masalah mereka. Bagi 223 sebagian orang, persekutuan doa merupakan suatu jaringan yang menghubungkan para anggota dengan anggota lain; bagi banyak orang, persekutuan doa itu merupakan jaringan terpenting dan satu satunya jaringan yang bermuatan emosionalitas (persekutuan doa lebih penting daripada keluarga seseorang). Para anggota juga cenderung melakukan kontak di luar pertemuan mingguan tersebut. Hal serupa terjadi pula pada kelompok pengajian dalam komunitas muslim. Dalam hal ini telah terbentuk jaringan pengikatan (bonding) yang sangat erat dan merupakan modal sosial bagi komunitasnya. Studi yang dilakukan Francis Fukuyama (1995 dan 1999) menunjukkan masyarakat yang memberikan ruang kebebasan beragama memiliki modal sosial yang

kuat." Pada" gilirannya," masyarakat" yang" memiliki" modal" sosial" yang" kuat" akan" lebih" mudah" mencapai" taraf" kehidupan"ekonomi,"politik,"pendidikan,"dan"hukum"yang"baik."

Di"sisi"lain,"kebebasan"beragama"juga"dipahami"sebagai"kerjasama" yang" harmonis" antar" agama" dalam" suatu" jaringan" penjemabatan" (bridging). " Agama" bisa" melakukan" hal"hal" positif" untuk" meningkatkan" modal"sosial,"dan"mencegah"upayaBupaya"yang"dapat"mengurangi"modal" sosial" masyarakat." Salah" satu" upaya" mengurangi" kebebasan" beragama" sebagai"modal"sosial"adalah"praktik"terorisme"global"yang"menjadi"fokus" tulisan"ini.""

TERORISME)GLOBAL) " Dalam" kajian" ilmu" sosial," terorisme" acapkali" diartikan" sebagai" penggunaan" kekerasan" yang" menimbulkan" rasa" takut" di" masyarakat" dalam" usaha" mencapai" suatu" tujuan." Douglas"&" Waksler" (1982)" menunjukkan" bahwa" unsur" penting" terorisme," yang" membuatnya" menjadi"suatu"strategi"yang"demikian"kuat"dalam"situasi"tertentu,"adalah" efektivitasnya" dalam" menimbulkan" kondisi" ketakutan" yang" sangat" menonjol" meskipun" terhadap" mereka" yang" tidak" secara" langsung" atau" secara" kebetulan" menjadi" obyek" serangan" teroris." Para" teroris" biasanya" memusatkan"serangan"mereka"pada"bentuk"tindakan"yang"sangat"spesifik" yang" bisa" dialami" oleh" segmen" publik" yang" sangat" luas" sebagai" suatu" 224"" ancaman" pribadi" kepada" anggota" masyarakat" tersebut." Sifat" serangan" yang" acak," dalam" kaitannya" dengan" waktu" dan" tempat" terjadinya," memperbesar" ketakutan" yang" dirasakan" oleh" obyek" potensial" suatu" serangan." Karena" tidak" ada" yang" bisa" meramalkan" kepada" siapa" atau" di" mana" atau" kapan" serangan" itu" terjadi," maka" bisa" saja" serangan" itu" menimpa" saya" atau" kita." Inilah" yang" dirasakan" oleh" orang" yang" berhasil" dipengaruhi" oleh" kampanye" teroris," sehingga" hanya" dengan" tindakan" yang" agak" persuasif" para" teroris" akan" dengan" mudah" mendapatkan" tuntutan." Kemungkinan" untuk" disakiti" atau" dibunuh" oleh" serangan" seperti" ini" bisa" saja" kecil," tetapi" keacakan" dan" ketidakmampuan" untuk" membuat" prediksi" akurat" bagi" peluang" seseorang" untuk" bebas" dari" serangan,"membuat"teror"semakin"bertambah." Perlu" dipahami" bahwa" terorisme" tidak" sama" dengan" kekerasan," karena" terorisme" merupakan" metode" politik" yang" menggunakan" kekerasan."Terorisme"memandang"kekerasan"tidak"sebagai"tujuan,"tetapi" sebagai" cara" menunjukkan" kekuatan" ancaman" seseorang." Penggunaan" kekerasan" juga" merupakan" cara" efektif" untuk" menunjukkan" kekerasan" pihak" lain." Jika" kekerasan" menjadi" tujuan," maka" ia" tidak" lagi" disebut" terorisme." Terorisme" juga" beda" dengan" balas" dendam," karena" memiliki" motivasi"yang"berbeda."Meskipun"ancaman"atau"tindakan"balas"dendam" bisa" menimbulkan" teror," namun" maksud" tindakan" balas" dendam" merupakan" pertalian" dengan" kesalahan" masa" lalu," sedangkan" maksud" terorisme"adalah"menimbulkan"ketakutan"akan"bahaya"yang"bisa"terjadi" di" masa" depan." Namun" pada" kenyataannya" terorisme," kekerasan," dan" balas"dendam"sulit"dibedakan." Terorisme"global"menggunakan"kekerasan,"yang"menimbulkan"rasa" takut," yang" memperlakukan" seluruh" dunia" sebagai" lingkungan" yang" pantas" untuk" tujuan" politik." Terorisme" global," meminjam" istilah" Ritzer" (2004:" 595)" tidak" menyebarkan" something" (sesuatu" secara" fisik," seperti" bom," dan" gas" beracun)" ke" seluruh" dunia," karena" lebih" besar" kemungkinannya" untuk" ditangkal" oleh" komunitas" setempat." Sebaliknya," terorisme"global"menyebarkan"nothing" (bukan"sesuatu,"seperti"fanatisme" sempit)" ke" seluruh" dunia." Menurut" Ritzer," adalah" lebih" mudah" untuk" mengekspor" nothing," ketimbang" something," ke" seluruh" dunia." Nothing" 225"" lebih" kecil" kemungkinannya" untuk" ditangkal," dan" cenderung" minimalis" karena" mudah" bereplikasi" terus" menerus" dan" lebih" menguntungkan" karena"reproduksinya"relatif"murah." Lewat" nothing," terorisme" global" melakukan" persekongkolan" dengan"sistem"kekerasan"lokal"yang"melembaga."Inti"dari"sistem"ini"ialah," meminjam"istilah"Paul"Brass" (1997),"para"spesialis"kekerasan,"yaitu"orangB orang"yang"selalu"aktif" kapan" saja" dalam" memantau"kehidupan"sehariBhari" sebuah" kota" tempat" mereka" tinggal" atau" yang" selalu" mereka" kunjungi." Para" spesialis" kekerasan" ini" meliputi" orangBorang" dari" semua" lapisan" masyarakat" yang" memainkan" peran" berdasarkan" status" mereka" dalam" kehidupan." Oleh" karena"itu"para"spesialis"kekerasan"adalah"para"spesialis"yang" mampu" mengubah" peristiwaBperistiwa" yang" terjadi" dalam" komunitas" menjadi"peluang"terjadinya"kerusuhan."Ketika"saatnya"tiba"untuk"memicu" kerusuhan" berskala" besar,"

maka" orang" dari" lapisan" bawah" di" daerah" pinggiran" dan" luar" kota, "para" penjahat, "dan" pasukan" khusus" yang" terlatih" akan" mengambil" peran." Di" daerah" daerah" yang" rentan" kekerasan," kelompok" ini" berkemungkinan" besar" pernah" digunakan" sebelumnya" dan" akan" selalu" siap" untuk" terlibat" dalam" peristiwa" tersebut" jika" mendapat" perintah." Seperti" dinyatakan" Douglas" &" Waksler" (1982), "ilmuwan" sosial" akhirnya" semakin" sadar" bahwa" kemungkinan" terorisme" telah" meningkat" secara" signifikan" melalui" ekstensi" media" massa," karena" pada" dasarnya" efektivitas" terorisme" terletak" pada" ketakutan" publik" yang" disebarluaskan." Liputan" media" massa" memperluas" pandangan" publik" yang" menganggap" diri" mereka" sebagai" korban" potensial" terorisme" sehingga" meningkatkan" jumlah" ancaman" potensial." Adalah" lazim" terjadi" bahwa" media" massa" memberikan" liputan" live" tentang" serangan" teroris," suatu" kebijakan" yang" dieksploitasi" kelompok" teroris," karena" perhatian" publik" selalu" menjadi" hal" yang" vital" bagi" tujuan" mereka." Semakin" ekstrim" suatu" tindak" kekerasan," sakit" yang" terasa" semakin" besar," semakin" besar" perhatian" dan" semakin" besar" ketakutan" yang" dirasakan" langsung," semakin" efektif" rasa" teror" yang" menjadi" tujuan" terorisme." Namun," media" massa" hanya" membuat" terorisme" menjadi" lebih" efektif;" media" massa" tidak" menciptakan" terorisme." Terorisme" akan" berhasil" bila" publik" mampu" mempelajari" tindakan" sebagai" syarat" suatu" teror" dan" merasa" terancam" dan" terteror" oleh" tindakan" tersebut." Keterlibatan" media" massa" dalam" mempublikasikan" peristiwa" tersebut" semakin" membuat" setiap" tindak" kekerasan" menjadi" lebih" efektif," sehingga" menjadi" lebih" menarik" bagi" mereka" yang" melakukan" dramatisasi" dan" terorisme." Dalam" hal" ini" media" telah" melakukan" pembesaran" (amplify) penyimpangan." Namun" perluasan" ini" terjadi" dalam" jangka" waktu" yang" singkat" karena" bisa" membuat" audiens" bosan" dan" menimbulkan" tekanan" untuk" menjaga" rating" audiens" tetap" tinggi." AGAMA) DAN) TEROR) " Ada" tarik" menarik" yang" janggal" antara" teror," kekerasan," politik" dan" agama." Tidak" semua" teror" dan" kekerasan" di" dunia" ini" memiliki" landasan" agama," tetapi" jauh" lebih" banyak" kekerasan" terjadi" atas" nama" agama" (Beuken" &" Josef, "1997": "vii)." Hari" demi" hari" laporan" yang" diberitakan" antara" lain" tentang" teror" atas" nama" Islam;" pengeboman" oleh" orang" Katolik" dan" Protestan;" pembunuhan" massal" oleh" orang" Hindu" dan" Budha;" pembasmian" etnik" di" Afrika;" maupun" perang" antara" Katolik," Kristen" dan" Muslim." Secara" apologetik" adalah" terlalu" sederhana" untuk" mengklaim" bahwa" ajaran" agama" pada" dasarnya" tidak" memiliki" unsur" teror" dan" kekerasan," dan" hanya" manusialah" yang" membelokkan" dari" makna" sesungguhnya." Dalam" kenyataannya" akar" teror" dan" kekerasan" bisa" ditemukan" langsung" dalam" agama," dan" oleh" karena" itu" agama" bisa" dengan" mudah" dijadikan" kendaraan" bagi" tendensi" teror" dan" kekerasan" (Houtart" dalam" Beuken" &" Josef, "1997": "1)." Kenyataan" menunjukkan" bahwa" sejarah" kehidupan" manusia," seperti" yang" tercantum" dalam" narasi" Kitab" Suci," adalah" sejarah" tentang" teror" dan" kekerasan." Agama" secara" moralitas" memang" tidak" mengajarkan" atau" melakukan" teror" dan" kekerasan." Tetapi" agama," terutama" agama" prophetis," akan" melakukan" tindakan" kekerasan" ketika" identitas" mereka" merasa" terancam." Penganut" agama" ini" merasa" tindakan" kekerasan" yang" mereka" lakukan" dibenarkan" oleh" "tuhan" mereka." 227" Bila" kita" menyentuh" sistem" sistem" agama" besar" lainnya" maka" kita" akan" menemukan" jejak" yang" sama." Naskah" naskah" landasan" agama" tersebut" mencerminkan" ritualisasi" kekerasan" pengorbanan," penggunaan" kekerasan" untuk" mencapai" kebaikan" tertinggi," dan" kebutuhan" akan" kekerasan" dalam" mempertahankan" iman," bersamaan" dengan" regulasi" etis" kekerasan" tidak" sah," semuanya" bertujuan" mencapai" perdamaian" tertinggi" (Houtart" dalam" Beuken" &" Josef, "1997": "2)." Dalam" pada" itu," analisis" sosiologis" menyatakan" bahwa" agama" dapat" berfungsi" mempersatukan" masyarakat" (integrasi) atau" memecah" belah" masyarakat" (disintegrasi)." Ajaran" agama" yang" menekankan" cinta" kasih," perdamaian," keadilan," kejujuran" dan" pelbagai" perbuatan" baik" lainnya" tentulah" diharapkan" dapat" berfungsi" integratif." Namun" di" sisi" lain," kecenderungan" setiap" agama" yang" menganggap" agamanya" paling" benar," sifat" ekspansi" agama" dari"

daerah" kelahirannya" ke" daerah"daerah" lain," serta" penetrasi" agama" ke" dalam" budaya" lokal," acapkali" menimbulkan" tindak" kekerasan" yang" mengarah" pada" fungsi" agama" yang" disintegratif." Konflik"juga"semakin"bertambah"ketika"agama"menjadi"sumber"langsung"terjadinya"kekerasan." Dalam" beberapa" kasus," agama" menghasilkan" perbedaan" pemahaman." Beberapa" perbedaan" tersebut" muncul" secara" mudah" sebagai"dasar"moralitas"yang"digunakan"sebagai"alasan"bagi"aksiBaksi"teror" dan" kekerasan," dan" intensitas" ritual" yang" digunakan" sebagai" alat" untuk" melakukan"aksi"itu."PerbedaanBperbedaan"lainnya"merupakan"perbedaan" yang"lebih"mendalam"dan"menjadi"bagian"dari"inti"agama"itu."Citra"agama" tentang"perjuangan"yang"gampang"dikenali,"dan"konsepBkonsep"tentang" perang" yang" dahsyat" telah" dilakukan" dalam" perjuanganBperjuangan" sosialnya." Ketika" peperangan" itu" diimpiBimpikan" sebagaimana" yang" muncul" dalam" rencana" manusia," akhirnya" hal" itu" mereka" tuangkan" menjadi"kenyataan"melalui"aksiBaksi"teror"dan""kekerasan." Permasalahan" itu" semakin" kompleks" dengan" adanya" pemahaman" baru"yang"menyatakan"bahwa"agama"berperan"dalam"bagian"dunia"yang" lain" sebagaimana" ideologi" masyarakat," khususnya" dalam" gerakan" nasionalisme" agama," dimana" agama" dan" ideologi" politik" digabungkan." Ketika" kasusBkasus" ini" diungkap," agama" menjadi" tidak" bersalah," dengan" catatan" tidak" membawa" ke" arah" kekerasan." Namun" kenyataannya," 228"" dengan" adanya" gabungan" dari" tatanan" kehidupan" politik," sosial," dan" ideologi," maka" agama" lebur" dengan" ekspresi" kekerasan" sebagai" perwujudan"dari"aspirasi"sosial,"harga"diri,"dan"gerakan"demi"perubahan" politik"(Juergensmeyer,"2000:"9)." Jika"agama"telah"melegitimasi"aksi"kekerasan"tertentu,"mereka"juga" berusaha"untuk"membatasi"frekuensi"dan"ruang"aksi"tersebut."Sikap"yang" membingungkan"ini"mencerminkan"penggunaan"kekerasan"sebagai"suatu" alat" untuk" mempertahankan" diri" sendiri" dan" mematuhi" normaBnorma" agama"pada"salah"satu"sisi,"tetapi"juga"mengetahui"potensinya"atas"sifat" merusak" yang" tidak" dapat" terkontrol" terhadap" pihak" lain." Pada" hampir" sebagian"besar"agama"seseorang"menjumpai"penekanan"yang"mendalam" antara"penggunaan"dan"sublimasi"kekerasan"dan"suatu"keberanian"untuk" menjadi""martir" yang" suci"" yang" mengorbankan" hidup" mereka" untuk" kehidupan"orang"lain"(Appleby,"1999":"11)." Untuk" meletuskan" kekerasan," identitas" agama" harus" memusnahkan" identitas" perorangan" pada" sejumlah" besar" orang," membangkitkan" kembali" perasaan" cinta" yang" dikaitkan" dengan" identifikasi" awal" bersama" anggotaBanggota" kelompok" yang" dimiliki" seseorang," dan" kebencian" terhadap" kelompok" lain" yang" anggotanya" dihomogenisasikan," dan" dilecehkan" martabatnya." Untuk" terjadinya" kekerasan," ancaman" terhadap" identitas" agama" harus" melawan" penghalang" tertentu," dimana" potensi" tindakan" menghakimi" menjadi" tindakan" kemarahan" yang" diaktifkan" sepenuhnya" yang" secara" jelas" melalui" dan" antara" anggota" suatu" kelompok" agama." Dipicu" oleh" kabar" angin," dinyalakan" oleh" demagog" agama," keinginan" untuk" menghakimi" memberikan" sinyal" pemusnahan" identitas" kelompok" dan" harus" dilawan" oleh"pengukuhannya"yang"kuat"(Kakar,"1996":"192)." Keterlibatan" agama" dibandingkan" identitas" sosial" lainnya" tidak" akan" padam" secara" perlahan," melainkan" sebaliknya," meningkatkan" konflik"kekerasan."Agama"membawa"konflik"antara"kelompok"intensitas" emosi" yang" lebih" besar" dan" motivasi" pemaksaan" yang" lebih" mendalam" dibandingkan" bahasa," daerah" atau" olokan" terhadap" identitas" etnis" lainnya." Skenario" kekerasan" dan" sasaran" yang" menjadi" tujuannya" secara" bersamaan" menunjukkan" bahwa" kekerasan" atas" nama" agama" bukanlah" 229"" sesuatu"yang"bersifat"alami"maupun"sesuatu"yang"tidak"dapat"dihindari." Sebaliknya," dalam" pelbagai" kasus" diinformasikan" bahwa" agama" telah" menjadi"sumber"kekerasan"di"berbagai"belahan"dunia,"dan"lebih"dari"itu" ditunjukkan"pula"skenario"kekerasan"sedang"ditangani"atas"nama"agama" yang" dipahami" dan" dipraktikkan" dengan" cara" yang" berbeda." Ia" memainkan"peran"penting"—"baik"yang"positif"maupun"negatif"—"di"semua" agamaBagama" besar." RitualBritual" yang" menimbulkan" kekerasan" sangat" inheren" dalam" agama." Kekerasan" tidak" bisa" begitu" saja" diabaikan," dan" dengan"naif"dihindari."Ia"menjadi"bagian"dari"kehidupan"manusia."Tetapi" pada" saat" yang" sama," unsurBunsur" destruktif" yang" imanen" dalam" kekerasan" bisa" ditransformasikan" dan" kemudian" diatasi." Dalam" hal" ini," agama" pun" bisa" menjadi" dasar" yang" kuat"

untuk mengatasi kekerasan (Beuken & Josef, 1997: vii & viii). Di sisi lain, unsur pengorbanan merupakan hal penting dalam kebanyakan agama. Sifat fundamental kekerasan dan peran pengorbanan dianggap sebagai cara untuk melarikan diri dari kekerasan. Di sini, pengorbanan menjadi sesuatu yang semakin ritual, yang menghasilkan kekerasan simbolik. Sakralisasi kekerasan membuat kekerasan tersebut bisa dibedakan dari kekerasan pada umumnya dan akhirnya diterima sebagai sesuatu yang wajar oleh suatu masyarakat. Agama telah dijadikan pembenaran kekerasan. Ada empat hal yang mempertautkan teror, kekerasan, politik dan agama. Pertama, agama semestinya tidak menimbulkan teror dan kekerasan. Namun fakta menunjukkan bahwa agama dapat menimbulkan teror dan kekerasan apabila berhubungan dengan faktor lain, misal kepentingan kelompok/nasional atau penindasan politik. Agama dapat disalahgunakan dan disalaharahkan baik dari sisi eksternal maupun internal. Dari sisi eksternal, agama prophetis (nabi), seperti Islam dan Kristen, cenderung melakukan kekerasan segera setelah identitas mereka terancam. Dari sisi internal, agama prophetis cenderung melakukan kekerasan karena merasa yakin tindakannya berdasar kehendak Tuhan. Oleh karena itu pemahaman agama atau bagaimana agama diinterpretasi merupakan salah satu alasan yang mendasari kekerasan politik Bagama. Agama telah dimanipulasi untuk kepentingan politik sebagai upaya untuk membebaskan dirinya dari kewajiban moral jika merasa eksistensinya terancam. Kekerasan telah dibingkai sebagai ekspresi keinginan untuk menetralkan dosa. Kedua, agama telah mengalami simplifikasi, politisasi, mobilisasi, dan dibuat transenden sehingga terjadilah komunalisasi politik Bagama: "agama bernilai lebih tinggi dibanding agama lain dan hukum nasional/internasional." Ketiga, orang beragama punya afiliasi agama dan juga kepentingan politik, sehingga bisa terjadi pertentangan dengan komunitas agama lain di wilayah geografis yang sama. Keempat, ambivalensi agamawan sebagai peacemaker sekaligus violencemaker. ANTISIPASI) TERORISME) GLOBAL) Terorisme global merupakan tragedi kemanusiaan. Lihat saja peledakan bom yang terjadi di Kuta, 12 Oktober 2001, di Hotel JW Marriot B Jakarta, 5 Agustus 2003, dan di depan Kantor Kedubes Australia B Kuningan Jakarta, 9 September 2004 telah membuka mata dan pikiran kita bahwa ancaman terorisme bukanlah persoalan sepele. Korbannya acapkali orang Borang dari lapisan bawah, tidak berdosa, atau sama sekali tidak tahu menahu dengan persoalan yang diperjuangkan oleh para teroris. Tidak hanya itu, ibarat bola salju, rasa takut masyarakat semakin besar ketika muncul ancaman lewat telepon seluler (dengan nomor yang digunakan langsung dibuang) tentang bom susulan. Pertautannya dengan manusia dan kemanusiaan menyebabkan terorisme harus dikaji secara holistik. Dari jumlah pelaku, misalnya, terorisme bisa dilakukan perorangan ataupun kelompok yang terorganisir. Dilihat dari pendanaan, bisa saja terorisme dibiayai oleh teroris sendiri atau melalui aliran dana bank dari pihak lain, dari dalam atau luar komunitas yang bersangkutan. Dari sisi nilai, ilmuwan sosial maupun agamawan cenderung menganggap kekerasan yang terinspirasi secara politik yang dilakukan oleh aparaturnegara tidak termasuk dalam pengertian terorisme. Padahal, kita acapkali memperoleh informasi bahwa beberapa tindakan aparaturnegara untuk membasmi teroris telah menggunakan taktik teroris dan memerankan diri mereka lebih mirip teroris. Bertumpu pada gagasan di muka, antisipasi terhadap terorisme global haruslah dilakukan lewat kerjasama yang baik dari semua elemen manusia. Agama bisa saja menjadi sentra kerjasama tersebut. Namun perlu dicatat bahwa agama akan berhasil menyelesaikan konflik eksternal dengan resolusi nonBkekerasan, jika konflik internal agama diselesaikan dengan cara yang nonBkekerasan pula. Pada kenyataannya agama cenderung melakukan paksaan dan kekerasan terhadap para pembangkangnya. Sejarah telah membuktikan bahwa agama belum lulus dalam resolusi nonBkekerasan menghadapi pembangkangnya sendiri. Ambivalensi adalah kata kunci untuk memahami teror, kekerasan dan agama. Ambivalensi telah terjadi dalam pemahaman kehidupan politik Bagama. Pemahaman agama yang mengajarkan cinta

kasih" dan" perdamaian"kenyataannya"berhadapan"dengan"pemahaman"agama"yang"
 menjadi"sumber"teror"dan"kekerasan."Perilaku"agawawan"yang"memiliki"
 wajah" ganda, "yaitu"di" satu" sisi" bertindak" selaku" peacemaker, !namun" pada"
 sisi" lain" berubah" menjadi" violencemaker/perlu" dikikis. "Ambivalensi" para" pelaku" kekerasan" terhadap"
 nilai" internal" dan" eksternal" dan" saling" keterkaitannya" dengan" teror" dalam" ranah" ketidakmenentuan"
 antara" hukum" dan" kekerasan. " Yang" mengganggu" perasaan" serta" menjadi"
 landasan" pemikiran" sehingga" teroris" menggunakan" cara" kekerasan" adalah" parsialitas" mereka" terhadap"
 komunitas" mereka" sendiri, " dan" ketidakpedulian" mereka" terhadap" perasaan" komunitas" lain. "
 Sudah" saatnya" agama" yang" satu" bekerjasama" dengan" agama" lain" yang" memiliki" komitmen" sama"
 terhadap" keadilan, " kebebasan, " dan"
 perdamaian, "serta" kesediaan" untuk" bertindak" dengan" cara" yang" sesuai" dengan" prinsip" moral" dan"
 martabat" manusia. " Setiap" agama" memiliki" tanggung" jawab" yang" sama" untuk" memerangi" terorisme. "
 Dalam" ikhwal" teror" dan" kekerasan, " para" teroris" dianggap" sebagai"
 penyerang. " Mereka" sangat" terlatih" dalam" praktik" teror, " yang" selalu" siaga" untuk" menggunakan"
 kekerasan, " dan" dianggap" sebagai" pahlawan" oleh" komunitasnya. " Oleh" karena" itu" langgengnya"
 teror" dan" kekerasan" bukanlah" konflik" alami" dan" terelakkan. " Kita" bisa" menyeleksi" tempat" di" mana"
 kekerasan" terjadi" dan" tidak" terjadi" di" masa" lalu, " membandingkannya" berdasarkan" berbagai" kriteria"
 demografis" dan" ekologis, " dan" kemudian" membuat" hipotesis" atau" sekumpulan" hipotesis" 232"" untuk"
 memperkirakan" mengapa" kekerasan" terjadi" di" beberapa" tempat" tetapi" tidak" di" tempat" lain. " Kita"
 harus" berupaya" untuk" memotong" mata" rantai" jaringan" terorisme, " memutus" aliran" dana" pelaku"
 teror, " menghindari" penggunaan" teknologi" untuk" hal" yang" mudarat, " dan" menghukum" berat" para"
 pelaku" teror. " Semua" itu" dilakukan" untuk" melindungi" masyarakat" selaku" (calon)" korban" terorisme. "
 Perlu" keberanian" untuk" melawan" terorisme. "" Untuk" itu, " renungkanlah" tulisan" Mahatma" Gandhi, "
 tokoh" yang" dikenal" anti" teror" dan" kekerasan, " sebagai" berikut: "" Saya" sangat" mempercayai" dimana"
 hanya" terdapat" pilihan" antara" kepengecutan" dan" kekerasan" saya" akan" menganjurkan" kekerasan. "
 Saat" putra" sulungku" bertanya" apakah" yang" dia" mesti" lakukan, " saat"
 saya" diserang" pada" tahun" 1908, " apakah" dia" seharusnya" berlari" dan" melihat" saya" dibunuh" ataukah" dia"
 harus" menggunakan" kekuatan" fisiknya" yang" dia" dapat" dan" ingin" gunakan" untuk" membela" saya, "
 saya" katakan" padanya" bahwa" itu" adalah" kewajibannya" untuk"
 membela" saya" meskipun" dengan" menggunakan" kekerasan. " Bahkan" saat" saya" terlibat" dalam" Boer"
 War, " yang" dikenal" dengan" pemberontakan" Zulu" dan" Perang" akhir. " Disini" saya" juga" menganjurkan"
 pelatihan" persenjataan" bagi" mereka" yang"
 mempercayai" metode" kekerasan. " Saya" lebih" senang" India" memiliki" persenjataan" untuk"
 mempertahankan" kehormatannya" bukannya" bersikap" pengecut" menjadi" saksi" yang" tidak" berdaya"
 menghadapi" kehancuran" kehormatannya" (Gandhi" dalam" Steger" &" Lind, " 1999:293). ""
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AGAMA,)MORAL)DAN)MASA)DEPAN) BANGSA148) AndreasA.)Yewangoe) ""

BANGSA)INDONESIA)ADALAH)BANGSA)YANG)BERAGAMA) " Ini" benar" seratus" persen." Tidak" salah" sedikitpun." Tetapi" pertanyaannya" adalah," apa" yang" dimaksud" dengan" "beragama"?"

Beragama"bisa"saja"berarti"sekadar"mempunyai"agama,"sama"seperti"kita" mempunyai" rumah," mobil," uang," dan" seterusnya." Tetapi" mempunyai" agama," itu" hanyalah" kulit" luar." Agama" seperti" itulah" yang" bisa" dicantumkan"di"dalam"KTP."Atau"bisa"juga"dimanfaatkan"untuk"tujuan" yang" bahkan" tidak" ada" sangkutPautnya" dengan" hakikat" dan"

substansi"agama."Untuk"tujuan"politik"misalnya,"bisa"saja"agama"seperti" itu"dimanipulasi"oleh"para"politisi."Maka"bisa"saja"terjadi,"sikap"dan"periB laku"seseorang"berbeda"bahkan"bertentangan"dengan"nilaiNilai"agama" yang"luhur."Ada"ritus"tetapi"tanpa"etika."Rajin"beribadah"tetapi"korupsi." Dalam"terminologi"teologi" (Kristen),"itu"disebut"credenda"tanpa"agenda." Ini" berbeda" dengan" sikap" keberagamaan" atau" religiositas." Sikap" religiositas"mengacu"kepada"nilaiNilai."NilaiNilai"ini"tertanam"di"dalam" hatiBsanubari"dan"diungkapkan"di"dalam"sikap"dan"perilaku"yang"luhur" sesuai" dengan" nilaiNilai" agama" tersebut." Maka" nilai" agama" seperti" "kebaikan"" misalnya" akan" menampilkan" seorang" beragama" yang" baik" 148" Disampaikan" pada"

Perayaan" Ulang" Tahun" keB80" Kardinal" Julius" Darmaatmadja" S.J., "pada"10"Januari"2015"di"Jakarta." 235" pula."Nilai"agama"yang"adil"akan"menampakkan"seseorang"yang"adil." Nilai" agama" yang" "mengasahi"," akan" menampilkan" seseorang" yang" mengasahi," bahkan" terhadap" musuh" sekalipun." Kalau" seseorang" menjunjung"tinggi"nilaiNilai"agama"yang"luhur"itu,"maka"ia"tidak"punya" pamrih"apapun."Bahkan"ia"rela"kehilangan"surga"demi"melaksanakan" kehendak"Allah"bagi"kebaikan"semua"orang." Maka" sikap" religiositas" seseorang" selalu" merindukan" kebaikan" orang" lain," bukan" hanya" kebaikan" sendiri." Ia" juga" tidak" akan" cepat" tersinggung"apabila"di"sekitarnya"ada"orang" yang"berperilaku"tidak" sesuai" atau" bahkan" bertentangan" dengan" apa" yang" diyakini" dan" dipraktikkannya." Ia" malah" menjalin" relasi" atau" bahkan" persahabatan" dengan" yang" bersangkutan" sehingga" pergaulan" antarBmanusia" memperoleh" wajahnya" yang" sangat" otentik." Mereka" tidak" kuatir" "tercemar"dengan"mereka"yang"distigma"sebagai"orang"berdosa."Tentu" saja" mereka" yang" berperilaku" berdasarkan" nilaiNilai" agama" itu" tidak"

menafikan"simbolBsimbol"dan"lambangBlambang."Namun"simbolBsimbol" dan"lambangBlambang"itu"tidak"dilepaskan"dari"apa"yang"disimbolkan"dan" dilambangkannya." Segera" simbolBsimbol" dan" lambangBlambang" dilepaskan" dari" yang" disimbolkan" dan" dilambangkannya," maka" keberagamaan"tersebut"menjadi"picik"dan"dangkal." BEBERAPA)CATATAN)ALKITAB)) "

Karena"saya"adalah"salah"seorang"pemimpin"agama"Kristen,"maka" saya"akan"mengemukakan"beberapa"teks"dari"Alkitab"yang"mendukung" pernyataan" saya" tadi." Di" dalam" Alkitab" Perjanjian" Lama," khususnya" di" dalam"tulisanBtulisan"para"nabi"berkaliBkali"kita"mendengarkan"kemuakan" Allah" dengan" ibadah," perayaan," korban" bakaran," puasa" dan" lain"

sebagainya"yang"dilakukan"oleh"bangsa"ini."Apa"yang"dikehendaki"Allah" adalah,"agar"umatBNya"mewujudkan"keadilan."Terutama"kepada"mereka" yang"lemah,"yaitu"para"perempuan"janda"dan"yatimBpiatu"keadilan"itu" sungguhBsungguh" harus" diwujudkan" dengan" tidak" menindas" dan" merampok" hartaBmilik" mereka." Mengapa" perempuan" janda" dan" anak" yatimBpiatu" diacu" secara" khusus" di" sini?" Sebab" di" dalam" kehidupan" 236" masyarakat"Israel"pada"waktu"itu,"mereka"adalah"yang"paling"rentan"untuk" ditindas"dan"diperlakukan"tidak"adil."Maka"karena"itu,"nabi"Amos"dengan" sangat"keras"menyerukan:"Biarlah"keadilan"bergulungBgulung"seperti"air" dan"kebenaran"seperti"sungai"yang"mengalir."Nabi"Yesaya,"kurangBlebih" menyatakan" dengan" sangat"

(particularly in America) against people of faith (particularly Christians). While in the East and Asia much of the religious persecution we hear about in the news is of a dominant religion (say Islam, in some places), against minority religions (i.e., Christianity), the issue in much of the West is very different, and centers around attacks and hostility of secular humanists in all walks of life against people of faith. In America, this is especially reflected against Christians. The battle is often about law and politics, but is deeply rooted in the academy, media, and entrenched in the American legal and judicial systems. And now, I would have to add, has spilled over into corporate America. The battle lines seem to be most sharply drawn in the immediate social contest over same-sex marriage (SSM). 239

In this article, I take the view secular humanism itself, including its undergirding atheism, is also a religion of sorts, and so this topic is in some ways an issue about the persecution of one religion against another. This is because secular humanism, including its underlying atheism, is really a belief system all by itself. It makes claims about ultimate reality. It even claims a supreme being (man) as the highest order of intelligence. It disavows any others. I thus assail in this paper the incorrect view that secularism is somehow "neutral," and thus can be trusted, while conventional religions like Christianity, cannot (some say these are "biased"). The truth, of course, is neutrality itself is a myth: everyone, including the secular humanist, believes in something. She has her own structure of beliefs, a creed, as it were, and is biased toward it. To understand how secular humanism is a belief about ultimate reality, with its own formal creed, just see the Humanist Manifestos, I, II, III, and the churches of atheism springing up in record numbers in California and England. 149

Secularism is not religiously neutral, but is itself a religious ideology, and attacks Christianity among others. Secular ideology is highly involved in the political and lawmaking process. Its proponents in fact seek to silence and injure those with differing viewpoints, such as Christians. That is the subject I wish to address in this article. I wish to do so primarily in the current debates over SSM. I suggest secular attacks against Christians on the issue of SSM show up in a couple of primary, related "hot" topic issues in American law and culture today. Secularists of course say marriage is whatever we want

149 The American Humanist Association (AHA) website has links to all three Humanist Manifestos. The Humanist Manifesto I (to some extent II also) specifically describes humanism as religious throughout; although some secularists today seek to separate the word "religious" from secular humanism, I consider such semantics essentially unconvincing. See http://americanhumanist.org/Who_We_Are/About_Humanism. AHA's website also shows a logo and supporting connection to the LGBTQ Humanist Council. Id.; see www.lgbthumanists.org. See also Gillian Flacus, "Atheist/Megachurches' Crop/Up/Around/the/World," *Huffington Post*, Nov. 11, 2013, http://www.huffingtonpost.com/2013/11/10/atheist-mega-church_n_4252360.html. 240 to call it. It is a fluidly defined, genderless institution, about sexually attracted grown-ups of any kind committing to each other at some level, and receiving some status from that. Christianity (and many other faiths) hold gender (male and female) is intrinsic to marriage. It is historically so understood as part of God's created order, honoring the complementarity of two sexes. I am focusing this article on what I see as these two cosmic, linked areas of clashing on SSM, between secular humanists and conservative Christians today. INTRODUCING) THE TWO "HOTBED") ISSUES) ON) SSM) IMPACTING) RELIGIOUS) LIBERTY) IN) AMERICA)

In my view, the two most controversial issues on SSM in America in the last ten or so years have been: 1) the ability of the citizenry to define marriage traditionally in their

States" or" the" Nation" as" a" whole,"
democratically,"either"in"statutes,"or"constitutional"amendments;"and"2)"
the"right"of"individuals"and"small"businesses"to"carry"on"their"services"and"
businesses"in"accordance"with"their"sincerely"held"religious"values,"even" if" that" means" declining" an"
offer" to" provide" their" goods" and" services" in" sameBsex" weddings" and" similar" events." I" expound"
only" briefly" on" these" issues"here"to"introduce"the"discussion:"""
Issue)I,)on)State)Traditional)Marriage)Definitions) "
Essentially"this"involves"the"right"of"the"citizenry"to"define"marriage," in"the"traditional"way"
(i.e., "historically"and/or"religiously),"as"the"lifelong"
union"of"a"man"and"a"woman."It"also"involves"the"right"to"do"this"through" the"legislative"
(democratic)"process."In"light"of"recent"events,I"wonder"if"
this"can"ever"happen."But"greater"issues"underlie"the"rights"of"a"people"to"
decide"this"issue"for"themselves,"in"regard"especially"to"any"religious"views"
they"have"on"the"matter,"amidst"what"I"see"is"a"growing"secular"view"of"
marriage"in"America."Consider"for"instance:""
Is"it"an"improper"entanglement"of"church"and"state"for"a"State"to" support" a" religious" view" of"
marriage?" Is" legislation" of" an" historical," 241"" religious" view" of" marriage" "improper"" discrimination"
against" sameBsex" couples?"Are"attacks"and"threats"against"Christians"who"hold"to"their"view" of"
marriage" justified?" Should" they" be" called" bigots" and" be" harassed" at" every" turn" for" expressing"
their" view?" In" terms" of" lawBmaking" and" the" democratic" political" process," should" LGBT" activists"
attempts" to" exclude" the"Christian"view"of"marriage"in"that"lawBmaking"process"be"applauded"
(as"it"is"in"America's"media,"educational,"and"secular"legal"institutions);or,"
is"that"stringent"effort"to"eliminate"the"Christian"view"of"marriage"in"the"
democratic"law"making"process"an"invidious"attack"on"the"religious"liberty" of"Christians"
(or"of"Jews,"Muslims,"Hindus"and"other"religious"persons"for"
that"matter)?"How"should"this"work"in"a"pluralistic"society,"in"Indonesia?"I"
suppose"you"may"already"guess"some"of"my"answers"to"these"questions."
In"any"event"this"specific"issue"of"secularist"attacks"against"Christians"over"
SSM"is"the"first"issue"I"wish"to"explore"in"this"article."
Since"the"initial"presentation"of"this"paper"at"this"Symposium,"the" Supreme" Court" of" the" United"
States" (SCOTUS)," in" Obergefell/ v./ Hodges," 576" U.S." (Consolidating" Case" No's." 14B556," 14B562,"
14B571," 15B574)" (decided"June"26,"2015),"against"all"dictates"of"common"sense,"has"ruled"
that"all"Fifty"States"must"now"allow"sameBsex"couples"the"right"to"marry"
(issuing"marriage"licenses)."Accordingly,"SCOTUS"has"taken"this"decision" away" from" the" voters" in"
every" State," trampling" on" democracy" in" the" process."" The" vote" was" five" Justices" to" four," and"
so" came" down" to" one" vote."Justice"Kennedy"wrote"the"majority"opinion"and"is"often"considered"
the""swing"vote""on"this"issue."The"decision"has"boiled"over"into"heated,"
angry"responses"not"only"in"America,"but"around"the"world."I"will"discuss"
some"of"its"specifics"and"implications"below."" Issue)II,)on)the)Rights)of)Small)Businesses)
(Bakers,)Florists,)Caterers,)etc.) to) Exercise) Religion) by) Declining) Invitations) to) Participate) in)
SameCSex) Weddings) " This"is"related"to"the"first"issue,"yet"it"should"always"be"considered" separate."
The" soBcalled" right" of" sameBsex" couples" to" marry" should" not"
impact"the"equal"or"greater"right"of"vendors"to"refrain"from"supporting"or" 242""
participating"in"it"on"First"Amendment"grounds."Some"on"the"secular"left"
simply"lack"enough"insight"to"see"this.""
Several"questions"might"arise"on"this"issue:"Should"individuals"and"
small"business"owners"be"allowed"to"run"their"businesses"in"accordance" with" their" religious" values" by"
not" supporting" events" they" consider"
immoral?"Suppose"for"instance"a"small"cake"and"bakery"shop"is"asked"by" a" sameBsex" couple" to"
design" and" create" that" special" wedding" cake" in"
celebration"of"their"sameBsex>wedding."The"baker"is"a"Christian,"and"her" involvement" in" that" wedding"

agencies." So far, they and the state bureaucracies protecting them, have gotten away with inflicting great pain, anguish, and humiliation on these vendors (often smearing them incorrectly as bigots). Secularly Educated state justice systems also usually side against the vendors. Situations of this bullying of vendors have sprung up all across America. The problem is, of course, the free exercise of religion is supposedly guaranteed by the First Amendment of the United States (U.S.) Constitution, by federal laws, and by State Constitutions and laws. I conclude this introduction with an array of troubling questions: How is it so staunch and angry SSM advocates can get away with severe acts of animus, bigotry, and discrimination against their opponents (shopkeepers, service providers, and similar villains), seeking their total destruction and ruin and threatening violence, in stark comparison to any insult same-sex couples may incidentally experience in having to go to another store, when virtually none of the cases in which vendors have declined their services are marked by a single shred of evidence of hate? Instead the refusals are illustrated by genuine politeness. Sorry, but read the stories; hate just is not there. And why is this? Because the vendors' refusal is not about a customer's so-called "identity," but the event they are asked to support, and a distorted, invented meaning of "marriage," which in good faith, they cannot. Issue II below discusses some of these vendors' stories and some of the constitutional issues facing them. Very soon, the Supreme Court of the United States (SCOTUS) will have to take up this issue. Interestingly, a recent precedent allowing businesses to exercise religious rights in another context (relating to abortions) could help steer SCOTUS in the right direction on this issue. I suppose it depends who is on the Court when this issue is decided. Importance, Introduction to Analysis: 245

I realize this clashing of values between secular¹⁵¹ and religious views (Christian specifically) may not be among the predominant religious liberty concerns in Asia, and in Indonesia, at this time, but it is certainly a significant issue, and one likely (eventually) to make its way here. Surprisingly, one of the speakers at this Symposium mentioned precisely the same issue of religious liberty facing small businesses. I am writing about here, according to events he is aware of in the U.S., and that was without any information coming from me. So we know we are not that far away on this issue. In fact, this clashing on marriage views has already spread in Asia, in places like South Korea, Hong Kong, Thailand and Taiwan. I suspect Indonesia will also have to prepare itself for handling this concern very shortly. It might help to point out some important differences between my two primary issues in this article, in setting the stage for discussing them: Issue I (States being able to keep a traditional definition of marriage) relates to what is called an "establishment of religion" concern; Issue II (business owners' rights to decline participation in SSM) relates in some ways to what is called a "free exercise of religion" concern. Each emphasis is incorporated in the First Amendment of the U.S. Constitution (and in many State Constitutions). Indonesia and other countries incorporate similar provisions in their constitutions as well, and I spell some of this out in Appendix-1 for Indonesia. Although these two issues are analytically, legally separate, they are also linked in culture and law, and I think more so than they should be. Resolution of the first issue, however, will

inevitably"impact"rights"under"the"second."I"discuss"this"connection"below."

I"shall"first"lay"out"the"basic"Constitutional"and"statutory"framework" protecting"religious"liberty"in"America."I"will"then"give"some"insight"into" how"America"has"slid"away"from"that"framework"

(my"own"theory"of"it). 151"

I"use"the"term"“secular”"in"this"article"a"bit"“tongue"in"cheek,”"in"its"assumed," common" use," as" depicting" “nonReligious”" stuff." The" truth" is" any" divide"

between"“secular”"and"“religious”"is"actually"just"artificial,"as"secularism"is/ itself" a" religious" view." I" appreciate" readers" keeping" that" in" mind" in" going" ahead"with"examining"this"article." 246"

CONSTITUTIONAL) AND) STATUTORY) FRAMEWORK) PROTECTING) RELIGIOUS)LIBERTY)IN)AMERICA,)CURRENTLY) "

The"First"Amendment"of"the"U.S."Constitution"says"in"relevant"part:" “Congress" shall" make" no" law" respecting" an" establishment" of" religion," or" prohibiting"the"free"exercise"thereof;".".152" States" in" the" U.S." have" similar" State" Constitutional" provisions." See"

for"instance"from"Virginia’s"original"Constitution"(1776)."

SEC"16:"That"religion,"or"the"duty"which"we"owe"to"our"Creator,"and" the" manner" of" discharging" it," can" be" directed" only" by" reason" and" conviction," not" by" force" or" violence;" and" therefore" all" men" are" equally" entitled" to" the" free" exercise" of" religion," according" to" the" dictates" of" conscience;" and" that" it" is" the" mutual" duty" of" all" to" practice" Christian" forbearance," love," and" charity" towards" each" other.153" "A" closer" look" at" the" First" Amendment" is" helpful" in" this" discussion."

The"first"clause"of"the"First"Amendment"(up"to"the"comma)"is"what"we"call" the" Establishment" Clause." Its" initial" intent" was" to" prevent" the" U.S." Congress" from" establishing" a" State" Church;" that" is," “institutionalizing”" a" single"national"Church"(i.e.,"one"of"the"various"Christian"ones)."It"served"to" prevent"Congress"from"establishing"and"institutionalizing"an"official"state" religion" under" that" Church" (such" as" Germany" and" England" have" had" at"

times,"and"which"some"of"the"individual"States"at"one"point"had).154"I"see" it" as" something" that" can" loosely" be" characterized" as" a" “freedom/ from/ religion”" provision," but" only" in" the" strictest" sense" of" freedom" from" an" institutional" religion" imposed" upon" all" at" the" national" level." This" was" so" 152" U.S."CONST."amend."I"(1791)." 153"

VA."CONST.,"§"16"(1776)." 154// SeeJOHN" EIDSMOE," GOD" AND" CAESAR," BIBLICAL" FAITH" AND" POLITICAL" ACTION" 19B24" (1997)" (giving" an" excellent" history," including" of" the" First" and" Fourteenth" Amendments"(applying"the"religion"clauses"to"the"States))." 247"

people"could"practice"their"own"religions"(again"contemplating"this"within" one"of"the"versions"of"Christianity)."" The"second"clause"(after"the"comma)"clearly"embodies"what"almost" everyone"calls"a"“freedom/of/religion”"clause."It"is"for"the"citizens"to"enjoy" this"right."Again,"the"idea"is"they"can"enjoy"the"free"exercise"and"practice" of"religion"without"imposition"from"a"national"or"state"religion.""

Among"the"issues"discussed"in"this"article,"the"first"one"(about"the" right" of" States" to" keep" the" traditional" definition" of" marriage)" involves" a" complaint"by"some"of"establishing"religion" (their"incorrect"position"is"that" a" traditional" view" of" marriage," since" it" is" also" a" religious" one," cannot" be" imposed"on"all"the"States)."The"second"issue"(about"business"owners"right" to"carry"on"their"business"according"to"their"religious"convictions)"relates" to"the"free"exercise"of"religion.""

In"terms"of"statutes,"in"1996"the"United"States"Congress"passed"the" Defense" of" Marriage" Act" (DOMA)," signed" into" law" by" then" President" Clinton" after" enjoying" widespread," bipartisan" political" support." The" Act" preserves"the"traditional"definition"of"marriage"as"the"union"of"one"man" and" one" woman" for" purposes" of" federal" law" and" government.155" It" was"

overturned"in"part,"in"a"decision"in"2013,"I"discuss"this"and"its"significance" in"greater"detail"below" (see"Issue"1)."" In" 1993," the" Congress" passed" the" first" ever" national" Religious"

Freedom"Restoration"Act"(RFRA).156"A"subsequent"Religious"Land"Use"and"

Institutionalized"Persons"Act"2000"(RLUIPA)"expands"upon"RFRA"and"helps" interpret" its" application" in" corporate" settings.157After" the" initial" RFRA,"

about "twenty" of the "States" passed similar laws. "The ones that have been all over the news this year involve those in Indiana, Arkansas, and Arizona." The purpose of RFRA laws accords chiefly with the second clause in the 155 DOMA, 110 STAT. 2419 (§3, containing the traditional marriage definition, was stricken) 156 107 STAT. 1488, 42 U.S.C. §2000bb, et./seq. 157 114 STAT. 803, 42 U.S.C. §2000cc, et./seq. 248 First Amendment to protect the free exercise of religion. The meaning of free exercise of religion is evidently, intentionally more expansive under RFRA (via RLUIPA) than it is in the First Amendment of the Constitution. 158 At the same time, many state, local, and city governments have recently passed Sexual Orientation, Gender Identity (SOGI) laws, which seek to prohibit discrimination on the basis of sexual orientation or identity. One can imagine the imminent clash between RFRA and SOGIs (see below). 159 In the wake of the recent Obergefell case, which certainly relates to Issue I but also has implications for Issue II in this paper, several new legislative and Constitutional responses are developing in America. I discuss these in sections below. In addition to Constitutional provisions, RFRA, and other statutes, an enormous body of case law (jurisprudence) has developed interpreting and applying these provisions at the national and state levels. Still also, there are countless local and municipal laws, rules, and ordinances dealing with the free exercise of religion, and prohibiting government from establishing a particular religion over everyone else. Each of these laws and cases however, is subject to final constraints imposed by the U.S. Constitution's First Amendment (above). 158/ Id. §§ 2000ccB2(4); see also Burwell v. Hobby Lobby Stores, Inc., 134 S.Ct. 2751, 2761 B62 (2014) (slip op. at 6B7) (same case in pdf version is supplied, Part I.A. (majority op.), explaining). In this note and throughout, I will be indicating parallel, pdf, slip opinion citations on several cases for ease of international readers seeking to find them. I also provide some internet links to these versions in a links sheet in Appendix - 3. 159

Not every State or locality has both a RFRA and SOGI law; some have one or the other, or possibly neither. See Alliance Defending Freedom (ADF), 3 Reasons SOGI Laws Are Being Defeated, April 14, 2015, <http://blog.alliancedefendingfreedom.org/2015/04/14/3ReasonsBsogiBlawsBareBbeingBdefeated/> (explaining SOGIs). 249 SYNOPSIS OF ISSUES: At present, the news shows a severe scourging of any Christian perspective on either of the issues above, as touching upon both the Establishment and Free Exercise Clauses in the Constitution. This is best interpreted as an attempt by leftists and secularists (including media, education, and the secular legal system) to purge the Christian view of marriage (on this and many other social issues) completely from the public square; i.e., to sanitize public debate on laws and policy from all religious influences. It does not stop there, however. The clear trend in even the commercial sphere (i.e., non-government, private sector and businesses), and in just about everywhere else you can think of in American life, is to keep religious views completely out of the conversation. It is as if the very limited idea of freedom from a state imposed religion has shifted starkly and speedily to the idea of freedom from religion in every aspect of American life, save for what usually happens inside the walls of a church. It is no longer just about escaping a state imposed religion (the intended meaning), and not even just about keeping religious views out of the public square (an incorrect view in the first place), but it goes deeper now to keeping religious views entirely to oneself (certainly an impermissible view). The idea is you can have religion in your church (i.e., worship), but not in debate on public policy issues, not in schools, and not in public discourse in society, even in the business world and at work. It is as if the idea of a non-establishment of religion has gone so far beyond the intended scope of the First Amendment (i.e., to prevent a state imposed

religion), "that" it "has" "swallowed" up "the" "second" clause "on" "free" exercise "of" religion "altogether." Freedom of religion is now being replaced with freedom from religion in virtually all aspects of American life. This was never the intent of the First Amendment and of basic justice. How did we stray so far from the rights and protections of the First Amendment in the Constitution as originally intended? This is the slide I referred to above. I give some suggested answers for this below. 250

THE(SLIDE)TOWARD(A)SECULAR)AMERICA)AND)LOSS)OF)RELIGIOUS) LIBERTY) " How did America get to the point of saying (incorrectly) statutes supporting an historical, traditional and natural meaning of marriage are unconstitutional because they essentially reflect a Christian view point, and this violates a so-called separation of church and state; i.e., the prohibition against establishing religion in the nation or in a State, at the hands of the government? Or how did we get to the point that Christian shop owners cannot exercise their religion or even their conscience when it comes to providing services to the public, even if it involves participating in an event that violates their understanding of marriage (i.e., a SSM wedding ceremony)? In short, I believe a chief reason is a growing trend toward Statism in America. She has moved increasingly in recent decades to a view of life that sees a greater role for the state than in the past, causing way too much blending of the government and private sectors. In large part this is due to the growing regulatory apparatus of government over commercial enterprises, in turn due to the economic meltdown and recession in 2008 and 2009. In some sense, then, the business world is also largely responsible for this trend. Clearly, big banks and financial institutions helped cause the financial crisis in 2008, in significant part due to their greed and avarice in the sham mortgage backed securities industry. That all led to a stunning rash of new government regulations, which in turn strengthened the intertwining of government and big business. In addition, America is in its second term with its most socialist inclined President to date, Barack Obama (something I surmise some voters had not really comprehended or lacked adequate information about during his election campaigns and speeches). The idea of Statism, like Socialism, is to increasingly hand over to the government many of the functions in society intended for handling in the private sector, such as by businesses, families, and even the Church. In my view, this ends in confusion in the minds of the average person, as the norms in a State, intended as applying to government, tend to get swept into the private sector as well, becoming new norms there, applicable to all. A separation of church and state, once understood to limit the reach of government, now more easily seeps slowly but ever so surely into a separation of church (and religion) from society: i.e., business, schools, culture, and just about every inch of society outside one's family and individual life or one's actual house of worship. In addition and simultaneously, we have very secular media and educational systems in America which are increasingly hostile to religious viewpoints and practices. Media and educational elites have been leaders in promoting homosexuality as a normal lifestyle, which must not be criticized or even challenged; doing so amounts to religious discrimination and bigotry. In that environment, it is hard to imagine religion, specifically Christianity, getting a fair shake. Since most of American legal education now is avowedly secular (just a product of the culture) it is not really surprising to see judicial decisions continually going against religious folks in the public square on these issues. This, of course, only exacerbates the slide away from truth, since the judicial and legal systems give legal unction to this restriction against religious liberty on questions like SSM and other social issues, reinforcing the speedy slope of this slide. This growing

Clause)." As noted," the argument is typically expanded to say a traditional view of marriage discriminates against homosexuals; that it violates the Equal Protection and Due Process Clauses in the Fourteenth Amendment, as applying to the States.¹⁶² In short, if religious views are even allowed in the lawmaking process, they must not violate, and must succumb to the Due

The Establishment Clause of the First Amendment is applicable to the States by the Fourteenth Amendment. As well, each State has its own constitutional version of an establishment and free exercise clause. The arguments in each are essentially the same, and I treat them as such. ¹⁶²

A Due Process Clause exists in the Fifth Amendment also, but applies chiefly to actions of the federal government (some contend it also contains some equal protection elements as well).²⁵⁴ Process and Equal Protection Clauses of the Constitution; i.e., such religious views cannot be superimposed in society and cannot discriminate against homosexuals. I noted those seeking to strike traditional marriage laws recently seem to center their arguments more on the Equal Protection and Due Process Clauses, and less on a violation of the Establishment Clause.

Obergefell certainly follows that track. SSM activists see the traditional marriage laws as mainly conservative in viewpoint, acrimoniously targeting gays (how they get there is sometimes very strange), and they would oppose those laws even if they were not based on religion. Even Justice Kennedy acknowledged other secular (non-religious) arguments have been raised in good faith, to support traditional marriage laws.¹⁶³ At the same time, SSM advocates, including the Court, certainly appreciate that the historical and traditional view of marriage is also a religious one, and to that extent, some still say this influence violates the Establishment Clause. Consequently, the idea of a religious underpinning of law must be addressed, as its criticism is not a view anyone can easily assume in no longer extant in this discussion. This criticism is of course where the secular liberal side really gets it wrong. I offer some illustrations: In *Varnum v. Brien*, 763 N.W.2d 862 (Iowa 2009), the Supreme

Court of Iowa indicated many Iowans reject same-sex marriage as a civil institution due to sincere, deeply ingrained, even fundamental religious belief.¹⁶⁴ The Court said that while religious institutions and individuals may continue to abide by their religious views of marriage in their own religious institutions and practices, those views are not apt for the civil and secular institution of marriage. It said incorporation of a religious view of marriage into Iowa's state, civil institution of marriage violates the establishment clause in its own Constitution (art. I, §3), and the entire

¹⁶³ Obergefell, 576 U.S. at ___ (slip op. at 4, 23). ¹⁶⁴ 763 N.W. 2d at 904. ²⁵⁵ doctrine of separation of church and state: ¹⁶⁵ [O]ur task [is] to prevent government from endorsing any religious view. State/government can have no religious views, either directly or indirectly, expressed through its legislation. . . . This proposition is the essence of the separation of church and state.¹⁶⁶ (emphasis added; internal citation omitted). If so (and it isn't), Iowa would also have to scrap its laws against murder, theft, child abuse, rape, incest, deceit, contract breaches, and so on, since religious views against these harmful things surely shaped those laws.

I hope to get into specifics of why this italicized statement is simply incorrect, below. It suffices for now to say the Iowa Supreme Court considered adherence to a religious definition of marriage, if applied in the secular, civil realm, to be an impermissible establishment of religion (but when has marriage ever been completely irreligious; isn't it spiritual?). The Iowa Supreme Court improperly confused the

our "lawmakers," with "our" input, "should" choose "among" those "perspectives," crafting "a" law "they" think "works" best. That is, "they" try "to" craft "laws" they "think" promote "the" greatest "good," happiness "and" justice "for" the "people." Sociologically speaking, "we" should "then" monitor "that" situation, "and" if "what" is "passed" as "law" does "not" promote "happiness," "welfare" and "justice" as "it" should—"something" we "can" empirically "measure" over "time"—"we" have "to" consider "changing" that "law." Congress "has" passed "laws" that "sounded" good "but" did "not" work (Prohibition, "of" alcohol, "was" likely "one" of "them). Then "it" had "to" repeal "the" law. Since "repeal" is "difficult" to "do," this "gives" all "the" more "reason" we "need" the "inclusion" of "a" variety "of" interested "and" reliable (time-tested) "values" perspectives "at" the "beginning" of "the" law-making "process." Allowing "only" a "secular" humanist "ideology," as "a" religious "view" point "in" itself, "to" control "all" the "outcomes" in "the" political "landscape," while "ignoring" ethical "ideologies" born "of" virtuous "religions" such "as" Christianity, "is" blatant "viewpoint" discrimination "that" is "likely" itself "a" violation "of" the "Constitution." As "one" scholar "explains" it, "the" sources "of" moral "influence" in "law" making "can" come "from" any "variety" of "springs." Come "they" will, "and" we "should" allow "those" voices "that" mean "good" in "a" democratic "society" to "speak." So, "any" individual's "ethical" sources "might" be "the" inspirational "poetry" of "Henry" Wadsworth Longfellow, "the" lyrics "of" Bob Dylan, "or" views "of" Freud, "or" Nietzsche, "or" Plato, "or" Aristotle, "or" common "sense," or "Gandhi," or "the" Magna Carta, "or" the "Humanist" Manifestos, "or" the "Universal" Declaration "of" Human "Rights," or "lessons" from "history," or "science," or "Karl" Marx, "or" Scripture, "or" the "Ten" Commandments. All "of" these "sources" make "claims" about "ultimate" reality "and" impact "the" conscience, "and" so "are" inherently "religious" in "nature;" a "conscience" is "also" something "a" lawmaker "must" use, "if" s/he "is" to "do" the "job" correctly. 169//

Id. "at" 33B34 (specifically citing "Bob" Dylan, "Confucius," and "others;" tying "this" also "to" free "speech" rights "of" their "adherents)." 258"

Some "ideas" and "sources" we "will" inevitably "accept" as "good" and "valid," while "others" we "will" reject "as" incorrect "and" flawed" in "the" law-making "process," viewed "in" the "hind" sight "of" history "as" one "of" our "greatest" teachers. To "reject" Christian "viewpoints" on "social" issues, "however," as "somehow" establishing "a" religion, "is" simply "in" correct. It "is" view "point" discrimination "and" smacks "of" deep" hypocrisy, "and" is "also" terrible "interpretation" of "the" Constitution. "The" First "Amendment" disestablishes "a" State "Church" (States' "establishment" clauses "do" not "differ"); "it" has "never" meant "the" exclusion "of" moral "view" points "on" social "issues" embodied "in" great "religions" (i.e., "those" containing "excellence" in "moral" values)."

I "have" included "a" diagram "in" Appendix B2 "illustrating" the "above" law-making "process." It "illustrates" why "view" point "exclusion" of "Christians" and "other" sincere "religions" is "wrong." Instead, "we" should "be" considering "their" ethical "and" moral" values "as" real "sources" and "contributions" to "law," and "not" do "so" simply "as" an "accommodation," but "because" it "is" inevitably "so." Let "the" best "system" of "moral" sources "win" in "the" end."

Second, "if" the "views" of "the" Iowa "Supreme" Court, "attorney" Boies, and "similar" views "on" the "establishment" of "religion" are "correct" (which "they" are "not)" then "most" of "the" good "laws" in "society" would "not" even "survive." As "I" already "stated," States "would" have "to" strike "their" good "statutes" criminalizing "murder," "homicide," "grand" larceny (stealing), "adultery," and "rape," among "so" many "others," since "these" all "have" religious "sources" supporting "them." Notably, "all" such "laws" have "supporting" structures "in" religion "including" something "as" common "as" the "Ten" Commandments "and" similar "Scriptures." Such "laws" are "not" merely "somehow" coincidentally "similar" with "ancient" religious "values," they "were" shaped "by" them "in" history, "and" such "laws" are "easily" supported "by" other "religious" ethics "as" well. And "yet" we "do" not "strike" such

laws" because" of" their" supporting" religious" underpinnings"and"connections,"as"somehow"impermissibly"establishing" a"religion."This"is"why"cases"like"Varnum"are"so"deeply"incorrect."" Lastly," this" exclusion" of" Christian" viewpoints" on" morality" from" lawmaking"cannot"be"the"intended"meaning"of"the"Establishment"Clause" since"it"would"simply"be"too"easy"to"get"around."All"that"proponents"of" traditional" marriage" would" have" to" do" is" articulate" secular" reasons" in" support"of"traditional"marriage"and"other"social"issues."Such"an"approach," 259"" which"is"not"really"necessary"and"slightly"saddening"to"see,"is"exactly"what" many"Christian"advocates"are"trying"to"do."They"do"this"in"order"to"avoid" the" threat" of"confusion" with" religious" issues" their" simple" minded" opponents"cannot"seem"to"avoid."I"suggest"their"approach"still"has"some" merit,"but"should"work"alongside"ethical"(and"religious)"values,"instead"of" replacing" them." After" all," valid" social" science" and" valid" religious" ethics" should"affirm"each"other"in"the"long"run."Examples"of"such"more"secular" sounding"" arguments" include" historical," cultural," traditional," and" very" importantly," simple" biological" reasons" for" supporting" marriage" as" the" union"of"a"man"and"a"woman."Sociologically"and"scientifically"speaking," for"instance,"it"is"simply"good"secular"policy"to"have"laws"steering"sexual" intercourse" among" individuals" in" society" into" an" enduring" maleBfemale" parenting" relationship" for" the" security" of" children" and" all" involved," including"the"mates."This"social"arrangement"is"ideal"for"building"strong" families,"which"in"turn"builds"strong"societies,"and"this"has"been"shown" historically"as"truly"optimal,"especially"when"families"have"both"a"mother" and"father"in"a"lowBconflict"setting.170 "" LEGISLATION)AND)SSM)IN)THE)COURTS:) " As"I"am"sure"many"in"Indonesia"already"know,the"United"Stateshas" both"a"federal" (national)"system"of"law"with"a"national"Constitution,"as" 170"" Arguments" such" as" these" have" been" raised" in" Obergefell" and" the" cases" preceding"it.""See/Obergefell,"576"U.S."at"___"(Kennedy,"J.)"(slip"op."at"23)," (Roberts," J.," dissenting)" (slip" op." at" 6B7)" (citing" Noah" Webster's" first" American"Dictionary"and"others);"id." (Alito,"J.,"dissenting)"(slip"op."at"4,"6);"" DeBoer/v/Snyder,"772"F.3d"388,"404B405,"408"(6th"Cir."2014)" (see"slip"op."at" 19B20,"23)"(see"link"inAppendix"–"3)."Social"science"studies"are"now"a"very" important"factor"in"the"SSM"cases."I"suggest"its"underdeveloped"data"on"the" impact"of"children"in"sameBsex"parent"households"is"another"reason"SCOTUS" should"have"decided"to"wait"this"out,"allowing"the"States"to"sort"out"the"data" and"decide.""See/Obergefell,"576"U.S."at"___"(majority"opinion)"(slip"op."at" 23B24)" (noting"but"dismissing"the"point)." 260"" well" as" separate" State" law" systems," with" their" own" State" Constitutions," statutes," and" court" systems." However," state" law" cannot" violate" the" Federal"Constitution"as"it"is"the"final"law"of"the"land."Interaction"between" the"two"systems"is"complex,"and"SCOTUS"has"the"final"say"on"what"is"and" is"not"constitutional"in"each"system."" Prior" to" June" 2013," the" United" States" had" afederal" definition" of" marriage"in"the"Defense"of"Marriage"Act"(DOMA)."Individual"States"passed" similar"laws"or"constitutional"amendmentsor"already"had"them"for"some" time" (about"thirtyBseven"States"still"had"enactments"existingas"of"2013;"all" States" had" the" traditional," natural" definition" in" some" form" prior" to" 2003).171" Each" of" these" laws" defined" marriage" traditionally" as" a" maleB female"union."DOMA"had"been"a"part"of"federal"legislation"since"1996."It" was"virtually"unanimously"passed"by"both"Houses"of"Congress,"it"enjoyed" wide" spread" bipartisan" support," and" was" signed" into" law" by" President" Clinton.172" It" also" defined" marriage" traditionally" as" "the" legal" union" between" one" man" and" one" woman" as" husband" and" wife."" 173It" was" overturned" however" in" June" 2013," as" unconstitutional" by" SCOTUS" in" a" very"close"5B4"vote"in"the"case"of"United/States/v./Windsor,"133"S.Ct."2675" (2013)." Justice" Anthony" Kennedy" wrote" the" lead" and" I" think" decisive" opinion"of"the"Court."" In"Windsor,"Edith"Windsor"and"Thea"Spyer"were"long"time"domestic" partners"in"a"relationship"dating"back"to"the"1960s,"and"living"in"New"York."

When "Spyer" became ill, "the couple" sought to wed, and did so in Canada
171// See DeBoer, 772 F.3d at 396 (slip op. at 7) (giving a breakdown of recent changes); Robert Barnes, Supreme Court Agrees to Hear Gay Marriage Issue, Washington Post, Jan. 16, 2015, available at <http://www.washingtonpost.com/wpBsrv/special/politics/sameBsexBmarriage/> (showing changes in gay marriage States between 2012 and 2015 as a result of Windsor and providing a handy geographical map of these changes). 172// See State of Disunity, ADF, June 26, 2013 <http://www.alliancedefendingfreedom.org/page/SCOTUSBMarriageBDecision/DOMABLoss>. 173
1 U.S.C. § 7 (the Dictionary Act). 261
in 2007. New York recognized their sameBsex marriage as of that date, but the federal government (including the IRS) did not, on account of the federal definition of marriage in DOMA as the legal union of only a man and a woman. This meant that after Spyer died, Windsor had a very large tax burden to pay on her inherited income, since technically, she was not the spouse of Spyer under federal law, but was under N.Y. State law. She claimed this violated equal protection, and due process under the Fifth Amendment of the Constitution. 174
The SCOTUS majority held DOMA's traditional view of marriage was unconstitutional as violating the Fifth Amendment of the U.S. Constitution. The rationale of Justice Kennedy's majority opinion was that DOMA conflicted with the New York State definition of marriage, which by this time had changed, allowing Windsor and Spyer to be married. And this, said Justice Kennedy, improperly trounced on a valid N.Y. State marital status conferred on the couple, by depriving them of marriage benefits at the federal level (i.e., as to inheritance tax exemption rights). SCOTUS said this disparity between a valid State definition and the different federal one had worked an injustice for the lesbian couple that traditional married couples would not have experienced. Central to Justice Kennedy's rationale was the highest value he placed on the separate States being able to determine the definition of marriage as they saw fit. That is, there should not be a uniform definition of marriage (traditional or new fangled) at the federal level: the States can each decide who can and who cannot marry, and what a marriage is. 175 174// See Windsor, 133 S.Ct. at 2683, 2693 (slip op. at 3, 20, Parts I, IV). 175 I do not wish to imply by anything I say in this article that a national definition of marriage is inappropriate, or that Windsor was correctly decided. A sovereign nation indeed has the right to set a uniform marriage law and policy (especially if it is godly), and most nations of the world (including Indonesia), have one. So did the U.S. in DOMA. Sovereigns can also legitimately adopt a traditional view of marriage as their national standard and most do (nothing in the Cosmos prevents it). So, a different 262
Strangely, and prophetically Justice Kennedy added some language to the opinion seemingly supporting the New York definition as a fair and reasonable one, suggesting perhaps it is the one all States should adopt. 176 However, the centerpiece of his decision was clearly that the definition of marriage is a State law issue, not a federal one, and a national definition would not be allowed. In Obergefell, Justice Kennedy then proceeded to ignore his own holding, imposing a national definition of marriage on all the States (the one allowing sameBsex couples to marry instead of the traditional one), showing himself irresistibly incapable of honoring his own holding in Windsor. Seeing a Supreme Court Justice engage in such blatant selfBcontradiction in this important line of cases was surprising to many, but not to some. 177
In the majority opinion, Justice Kennedy also stated the purpose of DOMA was to injure a class of individuals (homosexual couples wishing to marry), but he cited no support for this. Essentially he and the majority failed to acknowledge solid, rational arguments in support of the traditional definition of marriage (as indicated above) B ones that are not
holding in Windsor, affirming DOMA, would have been entirely legitimate in theory, albeit a bit confusing in application within our federalism system,

since "States" are allowed to define marriage separately. If uniformity is the goal, a correct national standard should apply and abide." 176//
Id. 133 S.Ct. at 2693. Setting a requirement for all the States to allow SSM is really the same as creating a federal definition, as it requires striking the traditional ones and making new SSMBagreeable ones. Windsor did not go this far, but Obergefell did. I am again not saying Windsor was correcting all respects. It did support States' rights on this issue, however." 177"
See concerns of Judge Martin Feldman in a Federal District Court case after Windsor, Robicheaux/v./Caldwell, 2 F. Supp. 3d, 910, 917, n. 7 (E.D. La. 2014) (slip op. at 9, n.7) (noting an "amorphous" but "alluring" redefinition of equality in Windsor, citing 133 S.Ct. at 2693) (see link in Appendix -3); see also Windsor, 133 S.Ct. at 2705, 2708 B10 (Scalia, J., dissenting) (slip op. at 16, Part II.A., 22, Part II.B.) (Justice Scalia calling this right from the start, and seeing Kennedy's hypocrisy in advance). 263"
based on hate or animus against homosexuals, but on the best interests of society and its children. An important practical purpose of DOMA was to preserve the status quo of a uniform, historical, and time honored definition of marriage, so that thousands of items of federal laws and regulations, such as tax and inheritance laws, would have a single uniform definition of marriage (and "married" persons and "spouses") applicable to them. DOMA's intent was not to injure, as seen in its wide support (and Justice Kennedy was incorrect in saying it was). Still, in a Christian rooted country, it would hardly seem necessary to codify a traditional view of marriage. In all likelihood, DOMA's supporters initiated the law anticipating strong challenges from LGBT activists to redefine marriage so that it could be changed into something entirely new: a gender irrelevant institution suiting their interests. 178 Interestingly, many of the supporters of DOMA and similar laws included prominent liberals like Bill and Hillary Clinton, and Barack Obama (signing a similar Illinois State law). Such supporters suddenly changed their views immediately prior to the Windsor decision, saying they were wrong in opposing SSM initially. 179
178// See Windsor, 133 S.Ct. at 2693 B94 (slip op. at 21); see also id. at 2708 (Scalia, J., dissenting) (slip op. at 20) (explaining Congress' rationale to preserve definitions, and not injure). 179//
See Juliet Eilperin and Robert Barnes, Obama's Words in Same Sex Marriage/ Filing/ to/ Court/ is/ a/ Major/ Shift/ for/ Him, WASHINGTON POST, March 6, 2015, available at <http://www.washingtonpost.com/politics/obamas-words-in-same-sex-marriage-filing-to-court-is-a-major-shift-for-him/2015/03/06/> 83940fa0Bc339B11e4B9271B610273846239_story.html; see Ali Elkin, Hillary Clinton's Evolution on Same Sex Marriage: Sounds a Lot Like Some Republicans, Bloomberg Politics, April 28, 2015, <http://www.bloomberg.com/politics/articles/20150428/hillary-clinton-s-evolution-on-same-sex-marriage-sounds-a-lot-like-some-republicans>; Taylor Berman, Bill Clinton Calls the Anti Gay Marriage Act He Signed Into Law Unconstitutional, GAWKER, March 7, 2013, <http://gawker.com/5989353/bill-clinton-calls-the-anti-gay-marriage-act-he-signed-into-law-unconstitutional>. 264"
Such changes are hypocritical, and betray any principled and honest approach in these so called leaders on this issue."
Windsor's after effects were dramatic, and also confusing. After Windsor, there was no longer a federal definition of marriage and this threw into confusion the definition not only of that term, but such other terms as "married," "marital," and "spouse" contained in over a thousand federal laws and regulations. After Windsor, the meaning of the term "marriage" (and similar words) in federal law would likely have to fluctuate with the States B not an ideal situation. 180 I suppose it can be said now, via Obergefell, Justice Kennedy has virtually single handedly

solved"the"confusion"of"various"State"marriage"definitions"by"making"SSM" part"of"a"new"uniform"definition"imposed"on"all"the"States."And"he"was not"even"elected."Still,"this"hardly"justifies"the"Obergefell"decision"(in"fact," Justice"Kennedy"never"mentioned"uniformity"as"a"rationale,"but"I"would not"be"surprised"if"he"had"it"well"in"mind)."

In"addition,"immediately"after"Windsor,"LGBT"activists"and"activist judges"began"claiming"a"major"victory."In"a"rash"of"irrational"opinions"by sympathetic"judges"in"various"States,"state"laws"with"traditional"marriage" definitions" were" overturned almost" overnight." In" a" swift" stampede" spanning"less"than"two"years,"twentytwo"States"had"their"traditional marriage"definitions"swept"away"by"anxious"judges"supportive"of"the homosexual"and"secularist"agenda."It"was"like"watching"falling"dominoes."

Homosexual"ouples"flocked"in"droves"to"civil"magistrates"to"immediately" get"their"marriage"licenses."" However,"none"of"this"was"a"consequence"intended"or"authorized" by"Windsor."The"case"only"overturned"the"federal"definition"of"DOMA," saying" emphatically" our" Constitution" leaves" the" determination" of" marriage"rights"and"restrictions"up"to"the"individual"States.It"is"a"matter of"State"law."In"the"U.S.,"we"moved"from"a"slight"number"in"2013"of"about" 180"" Justice"Scalia"raised"such"concerns"in"Windsor."133"S.Ct."at"2708B10"(Scalia," J.,dissenting)" (slip"op."at"19B21)."" 265"" thirteen"States"incorporating"the"genderless"definition"of"marriage"(and thirtyseven"staying"in"favor"of"traditional"marriage),"to""about"thirtyBeight" (including" D.C.)" adopting" the" genderless" definition" in" that" short" time" span.181" Just"prior"to"Obergefell"in"2015,"only"a"handful"of"States"were"still left"standing"for"traditional"marriage."It"was"a"complete"turn"of"events." But" this" was" done" illegitimately," not" according" to" anyreal" voting" by" citizens" either" in" constitutional" referenda" or" through" the" statutory" process," and" primarily" by" activist" judges" and" attorney" generals" indoctrinated" in" their" secularist" ideology" (since" this" is" the" choice" fare" served"up"at"almost"all"law"schools"in"America"in"the"last"several"decades)."

After"Windsor,"only"a"handful"of"courts"kept"the"sane"view"that"each" State" should" be" entitled" to" craft" its" own" marital" laws" though" the" democratic"process" (as"Windsor"said)."

"Some"went"on"to"give" cogent"and" sound" analysis," showing" how" keeping" a" traditional" view" of" marriage" is" rationally/ based/ in/ furtherance/ of/ a/ legitimate/ state/ interest." This" is" because"it"has"the"most"proven"capacity"in"building"strong"families"and" societies." And" this" is" an" important" constitutional" analysis," which" most" courts"seemed"to"overlook,"even"though"this"rational"basis"conclusion"is" something"most"people"instinctively"know"is"true."The"Sixth"Circuit"Court" of" Appeals,"was"the"first"and"only"federal"appeals"court"(since"Windsor)"to" issue"asmartly"articulated"decision"to"this"effect,"in"DeBoer/v/Snyder,"772" F.3d" 388" (6th" Cir." 2014).182" DeBoerinvolved" an" issue" of" whether" four" States," Ohio," Michigan," Tennessee," and" Kentucky," could" keep" their" traditional" definitions" of" marriage," or" whether" the" Constitution" of" the" 181// See"Robert"Barnes,"supra"note"23" (showing""maps"and"comparisons"between" 2012"and"2015);"seeDeBoer/v./Snyder,"772"F.3d"at"396,"405,"416"(slip"op."at" 7," 20," 35)" (claiming" 19" States" actually" in" favor" of" SSM," and" 31" against," according" to" actual" StateBbased" determinations," and" excluding" recent" federal"judicial"interference)."

In"only"11"States"and"the"District"of"Columbia," however,"have"the"citizens"of"the"State"actually"voted"in"some"way"for"SSM." See/Obergefell,"576"U.S."at"___"(Roberts,"J.,dissenting)"(slip"op."at"9)"" 182// Id.,"cert./granted,"83"U.S.L.W."3315"(Jan."16,"2015)."

266"" United"States"required"them"to"abandon"them.183""An"earlier"Eighth"Circuit" appellate"decision,"Citizens/for/Equal/Protection/v."Bruning,"455"F."3d"859," 864–868" (8th" Cir." 2006)" also" contained" some" initial" valuable" insights,"

showing "a rational basis for traditional marriage, in stabilizing homes.184" Because these cases affirmed each State's traditional marriage definitions, this created a conflict with some other federal appellate courts which struck down traditional marriage (these are the Fourth, Seventh, Ninth, and Tenth Circuits, and we have eleven main ones in the U.S. plus two special Circuit Courts). This "split in the Circuits" required SCOTUS to address this issue, by hearing an appeal from DeBoer, and this appeal is the Obergefell case we now have handed down to us from SCOTUS.185

In two of the four Federal Circuit Courts of Appeal just noted (the Fourth and Tenth Circuit Courts), there were split decisions. In each case one justice stood out and wrote a sound and well-reasoned opinion 183// DeBoer was a consolidated appeal from a set of four Federal District Court cases in each of those States." See DeBoer v. Snyder, 973 F. Supp. 2d 757 (E.D. Mich. 2014), Obergefell v. Hodges [Wymyslo], 962 F. Supp. 2d 968 (S.D. Ohio. 2013), Tanco v. Haslam, 7 F. Supp. 3d 759 (M.D. Tenn. 2014), and Bourke v. Beshear, 996 F. Supp. 2d 542 (W.D. Ky. 2014). In the appeal of DeBoer v. Snyder to SCOTUS the case was renamed to Obergefell v. Hodges, 576 U.S. ____ (2015) (the case coming from Ohio)." 184" 455 F. 3d at 864-868 (noting the constitutionally rational basis of a State's legitimate interest in channeling procreative human sexual intercourse into stable family relationships, through the historical concept of marriage)." 185"

The four Federal Circuit Courts examining the issue, and agreeing with lower courts in overturning State traditional marriage definitions are: Bostic v. Schaefer, 760 F.3d 352 (4th Cir. 2014); Baskin v. Bogan, 766 F.3d 648 (7th Cir. 2014); Latta v. Otter, 771 F.3d 496 (9th Cir. 2014), rehearing/en banc/denied, 771 F.3d 496; Bishop v. Smith, 760 F.3d 1070 (10th Cir. 2014); Kitchen v. Herbert, 755 F.3d 1193 (10th Cir. 2014). "The Sixth Circuit alone sought to preserve four States' traditional definitions in DeBoer. The Fifth, Eleventh and other Circuits seemed to be awaiting the SCOTUS decision." I already mentioned the Eighth Circuit above." 267" explaining why those States' statutes or Constitutional Amendments, keeping a traditional view of marriage, should not be stricken.186" In the Federal District Court level (which is the one immediately below the Appellate Circuit Courts I have mentioned above), a couple of sound, post-Windsor/ opinions also existed, and I mention them only for their sound articulation of what SCOTUS should have reasoned, but ignored in Obergefell. Specifically, a particularly good opinion came from Judge Feldman in Robicheaux v. Caldwell from the Eastern District of Louisiana in 2014.187" Robicheaux soundly indicated the States have legitimate interests in keeping a traditional view of marriage, including the importance of channeling sexual activities of individuals into the confines of a traditional marriage to raise children; this helps reduce illegitimacy and strengthens families and society. Similarly, each State has a legitimate interest in linking children to intact and thriving families formed by their own biological parents, as the ideal.188" Said traditional marriage definitions are of course rationally/ related/ to/ those/ legitimate/ 186// See Bostic, 760 F.3d at 385B98 (Niemeyer, J., dissenting); Kitchen, 755 F.3d at 1230B40 (Kelly, J., concurring in part and dissenting in part)." 187" 2 F. Supp. 3d 910 (E.D. La. 2014); see supra note 29 (information and cases)." 188// Robicheaux, 2 F. Supp. 3d at 916, 920 (slip op. at 8, 15) (see link in Appendix - 3). "Only three other Federal District Courts issued similar opinions, with good and sound reasoning, including the importance of States' rights in support of traditional marriage: Conde Vidal v. Garcia Padilla, 54 F. Supp. 3d 156 (D.P.R. 2014); Merritt v. Attorney Gen., No. 13B215, 2013 WL 6044329 (M.D. La. Nov. 14, 2013); Sevcik v. Sandoval, 911 F. Supp. 2d 996 (D. Nev. 2012) (a case decided actually before Windsor). However, the vast majority of Federal District Courts addressing the issue could not act quickly enough to"

overturn "States" "traditional" marriage definitions in "their" hot pursuit to change culture after Windsor, probably illegally at the time. See/ Robicheaux, 2 F. Supp. 3d at 916 (slip op. at 7B8 n.6) (citing cases). 268 government/ interests/ I have just mentioned (more on this wording immediately below). What SCOTUS Should Have Decided, in a Real EP, DP Clause Analysis: In a thoroughly principled approach, SCOTUS should not have voted to impose SSM on all Fifty States. It should have allowed each State to determine the issue itself, as it has historically, and as mandated again in Windsor. This is because the Equal Protection (EP) and Due Process (DP) Clauses in the U.S. Constitution do not require SSM. DP Clause arguments had been virtually abandoned by advocates in recent SSM cases, until Justice Kennedy sought to resurrect them in Obergefell. 189 Although EP Clause arguments are considered by some to have greater significance, I (with the dissenters in Obergefell) do not believe that Clause should have afforded the homosexual community a right to SSM. 190 I will address the typical EP and DP Clause arguments especially for the sake of informing my Indonesian audience. The Equal Protection Clause in the U.S. deals with classifications of people (individuals or groups) to see if they are being deprived of a fundamental/ right¹⁹¹ or being treated/ unequally in the law. In short, the " 189// Obergefell, 576 U.S. at ____," (slip op. at 10, 18B20); see/ id. (Roberts, J., dissenting) (slip op. at 9) (noting the Solicitor General basically dropped any DP arguments in oral argument). 190// See, e.g., CondeG Vidal, 54 F. Supp. 3d, at 167B68 (citing and explaining Baker/ v./ Nelson, 409 U.S. 810 (1972) (SCOTUS dismissing an appeal from the Minnesota Supreme Court's holding that marriage is between a man and a woman, having been so since the time of Genesis)). While Baker/ v./ Nelson is not a full merits opinion, it clearly affirmed the Minn. Supreme Court's indications there is no such thing as a constitutional right to sameBsex marriage, and indicated an alleged right to sameBsex marriage is not even a federal question. See/ Baker, 409 U.S. at 810 (overruled in Obergefell, 576 U.S. at ____ (slip op. at 23)) 191 "" Resort to "fundamental rights" verbiage (and the meaning of this) in the EP test is itself suspect since it tends to confuse any intended line between the 269 "" EP Clause will strike down a law if it deprives someone of a fundamental/ right or equal/ protection/ of/ the/ laws. It states in relevant part: "nor shall any State . . . deny to any person equal protection of the laws." It requires that similarly situated persons be treated similarly in the law, and not differently. It employs three levels of scrutiny to determine if a law violates equal protection, according to the classification of the individuals impacted by the law. In outline form, these are: 1. Heightened, / or/ strict/ scrutiny: If a law burdens (negatively affects) either: a. someone's fundamental rights (like a right to educate one's own children, or voting) 192, or "" b. a suspect/ (protected) class of people (i.e., African Americans or other ethnic groups); then the classification singled out in the law must be narrowly/ tailored/ to/ achieve/ a/ compelling/ state/ interest (i.e., the law must have a compelling state interest to justify and single out a certain class of people or to impact one of their fundamental rights). If the law does not meet that standard of strict scrutiny, it is unconstitutional and will be stricken (few laws that are examined under strict scrutiny survive). "" DP and EP Clauses, which Justice Scalia has warned about, and I tend to agree with. See/ Obergefell, 576 U.S. at ____ (Scalia, J., dissenting) (slip op. at 8B9). Since SCOTUS has in fact used this fundamental rights prong in EP Clause analysis (sometimes), I include it here as part of this analytical framework, like it or not. I also note Justice Alito, in Windsor/ separates this prong, saying nothing about it, in his EP analysis. / See/ 133 S.Ct. at 2716B18, (Alito, J., dissenting) (slip op. at 10B13). Some of the Justices have also criticized the use and span of implied

"fundamental" rights" championed
under "the" vague "idea" of "substantive" due "process" in "the" DP "Clause." See "id." at 2706,
(Scalia, J., dissenting) (slip "op." at 17); "id." at 2714 (Alito, J., dissenting) (slip "op." at 7)
(expressing "caution" about "substantive" due "process"). 192"
Note "again" the "concern" I "have" with "the" exact "meaning" of "this" prong "and" its
inclusion "in" equal "protection" analysis." 270" 2. Intermediate/scrutiny"
(used "typically" only "in" gender "classifications"): "if" a "law" burdens "a" quasi-suspect/class"
(i.e., "it" uses "a" gender-based "classification") then "the" classification "in" the "law" must "be"
substantially/related/to/an/important/government/interest "(these "laws" are "easier" to "pass" muster)." 3!
Rational/ basis/ review/ or/ scrutiny: "If" a "law" does "not" burden "someone's" fundamental/ right, "or" a
suspect/ class, "then" the "classification" in "the" law "need" only "be" rationally/ related/ to/ a/
legitimate/state/interest "to" be "valid"; i.e., "generally," a "specific" law
that "does/not" single "out" a "suspect/or/protected/class" of "people," nor
threaten "a" fundamental/right, "will" survive "if" there "is" a "rational/basis"
for "its" existence, "serving" a "legitimate" government "interest" (these "laws" are "the" easiest "to" survive). 193"
If "a" law "is" not "subject" to "strict" scrutiny, "it" is "usually" then "reviewed"
under "the" easier, "rational/basis/standard." SSM "was" never "a" fundamental "right"
(until "Obergefell" supposed "so") and "actually" still "lacks" that "quality" of
right, "nor" have "the" traditional "marriage" laws "targeted" a "suspect" class." "Homosexuals" have "never" been
found "to" constitute "a" suspect "class," and "even" Justice "Kennedy" in "Obergefell" did "not" say "they"
were." First, "a" fundamental "right" is "only" one "that" is "deeply" embedded "in" the "nation's"
history "and" traditions; "it" is "a" right "so" valuable "and" essential "to" the "concept" of "ordered" liberty "that"
justice "and" fairness" could "not" exist "without" it. 194 "Marriage"
(like "also" raising "a" family, "educating" one's "children," and "several"
193// See "Windsor," 133" S.Ct." at 2716B18, (slip "op." at 10B13) (Alito, J., dissenting)"
(laying "out" this "analytical" structure)." 194// See "Washington/v./Glucksberg," 117" S.Ct. "2558, "2267, "2275"
(1997) ("no" right "to" suicide; "listing" traditional "rights" of "marriage," "procreation," etc.)." 271"
others) "is" considered "a" fundamental "right," but "same-sex" marriage "is" not." It "is" new. 195 "
Second, "sexual" identity/orientation "has" never "been" accepted "by" the
SCOTUS "as" a "suspect" and "specially" protected "class," in "contrast" to "race," etc."
In "order" to "qualify" as "a" suspect "class," sexual "identity" or "orientation" would "have" to "characterize" a
group "which" "exhibits" obvious, "immutable," or "distinguishable" characteristics "that" define "them" as "a"
discrete "group." 196 "Those" with "alternative" sexual "identities" lack "these" attributes." As "the" American
Psychiatric "Association" (APA) explained, "sexual" orientation "covers" a "wide" range "of" sexual "desires"
and "is" not "an" immutable "characteristic" (like "one's" race "or" skin "color). 197 "Sexual" orientation "can" and
does "change" and "no" evidence "exists" to "show" that "people" are "born" gay." Sexual "identity" consists
of "a" mixture "and" range "of" various "sexual" preferences "on" a "wide" spectrum (i.e., "it" is "not" a
discrete "group); "it" is "a" behavioral "characteristic. 198 ".....
195" It "would" also "be" circular "and" improper" to "attempt" to "construct" a "new"
definition "of" marriage "by" incorporating "SSM" into "it," and "then" saying "it" is "a"
fundamental "right," but "that" did "not" stop "Justice" Kennedy "and" the "majority"
in "Obergefell" from "trying." See "576" U.S. "at" ____ (slip "op." at 17, "22B23)." 196//
Bowen/v./Gilliard, "483" U.S. "587, "603" (1987) (internal "citations" omitted) 197"
Nevertheless, "J. Kennedy" twice "claimed" sexual "orientation" is "immutable" in "Obergefell," 576" U.S. "at" ____
(slip "op." at 4, "8). "His" lack "of" support, "except" for "a"
smack "of" agendized, "biased" "science" "does" not "count" for "anything." For "a" good "discussion" of "the" legal
analysis, "see" Gene "Schaerr" and "Ryan" T.
Anderson, "Legal/Memorandum/Memo/to/Supreme/Court:/State/Marriage/ Laws/Are/Constitutional"
(no. 148), "Heritage" Foundation, "March" 10, "2015," at 6B7,
<http://www.heritage.org/research/reports/2015/03/memoToBsupremeBcourtBstateBmarriageBlawsBareBconstitutional>. "" 198"

Schaerr, "supra" note 49. "Some SSM advocates, like the Justices in Obergefell," say SSM should be allowed under Loving/v. Virginia, 388 U.S. 1 (1967). "In that case, SCOTUS struck down a Virginia marriage law forbidding interracial marriages. But the Court still considered marriage to be the union of a man and woman, never questioning it. Also, gender is intrinsic to marriage and defines it; race does not. See Ryan T. Anderson, "7 Reasons Why the Current/ 272" Properly, marriage laws supporting the traditional definition of marriage should not be subject to strict scrutiny (i.e., for targeting a suspect class or fundamental right), but should only be analyzed under a rational basis for their support. Such an articulated, rational basis exists: it is to channel heterosexual intercourse into a structure that supports child rearing, and so building strong traditional families in society (and other supporting rationales exist).¹⁹⁹ Since traditional marriage is perfectly rational, state laws supporting it should have been allowed to stand. As indicated, the Due Process Clause of the Fourteenth Amendment had not been getting much air time lately as a spoken argument in support of SSM (the Solicitor General did not rely on it in oral arguments in Obergefell).²⁰⁰ Since Justice Kennedy decided to revitalize it, combine it with equal protection, and extract out of it new, fundamental, liberty interests in sexual identity and in the dignity or realizing that through SSM, it is a good idea to shed some light on it. Essentially, in order to constitute a DP Clause violation, 1. the right claimed as being violated must be articulated/ with/ particularity, and 2. the right must be fundamental, in the order of magnitude discussed above (i.e., deeply rooted in the nation's history and traditions, etc.) Marriage Debate

Is Nothing Like the Debate on Interracial Marriage." The Daily Signal, August 27, 2014, <http://dailysignal.com/2014/08/27/7B>

reasons Bcurrent Bmarriage Bdebate Bnothing Blike Bdebate Binteracial Bmarriage" 199// See DeBoer, 772 F.3d at 404 (slip op. at 19) (marriage constructively directs sexual intercourse in society); Robicheaux, 2 F. Supp.3d at 916, 920 (slip op. at 8, 15) (marriage channels sexual intercourse into stable male female relationships and ideally links children with their biological parents, a mom and a dad).²⁰⁰ See Transcript of Oral Argument, Obergefell v. Hodges, 576 U.S. at (April 28, 2015), available at www.scotusblog.com. 273

Supporters of SSM cannot simply argue marriage is a fundamental right (it is, we all know), and so gay couples should have it. Instead, they must show SSM itself is a fundamental right. It would be incorrect to try to establish the point this way: (a) start by simply reiterating marriage is a fundamental right (as all the cases say it is), (b) then inject that same sex couples should also have it, and (c) voilà, we can now safely conclude marriage is a fundamental right for same sex couples too. This is sheer legal bootstrapping (insufficient circular reasoning). It leaves open the question still to be answered: it assumes what has yet to be shown: why should same sex couples, or anyone apart from complementary sex couples, be allowed to marry in the first place? Answer (says the case): because they want to, and have said so in no uncertain terms, and are also generally good people entitled to it.²⁰² Is that indicative of a fundamental right, however? It is not. But this circularity of argument is precisely what SSM advocates say all the time, and it is the very essence of Justice Kennedy's and the majority's opinion in Obergefell; the entire holding is grounded in circular reasoning (sheer judicial bootstrapping).²⁰³ It casts aside all definitions of what a marriage is (meaning the essence of a thing in itself), and is a reflection again of simple Court politics; one view of morality is simply substituted for another according to who is in charge; change the Court's composition and you change the result; but a genuine fundamental right to SSM was not shown. The very best the majority could offer was a sort of individual right

of "selfBautonomy," to "pursue" one's "identity," yet meaning "this" only "in" a very "limited," sexual/ and/ romantic" sense; but" even" this" would" not" 201 "" The term "oppositeBsex" couples" (juxtaposed" against" "sameBsex" couples)" can" sound" a" bit" ignoble. "I" think" a" better" term" in" conveying" the" truth" of" it" is" "complementaryBsex" couples." 202// Obergefell, "576" U.S. "at" ___ (slip" op. "at" 5, "15)." 203// Id. (slip" op. "at" 6, " 10," 12B18, " 22B33)" (saying, " in" sum, " it" is" time" to" confer" on" sameBsex" couples" the" same" dignifying" and" economicBState" benefits" that" have" been" enjoyed" by" traditional" couples" in" marriage)." 274 "" necessitate" a" right" to" "marriage." 204" Still" Kennedy" insists" SSM" is" necessary" (a" right" even), "so" individuals" can" dignify" their" searchedBfor, "selfBidentities;" and" this" right" of" "dignification" of" one's" sexual" identity, with" suitable" companionship, "shall" be" given. 205 "

I" should" ask: "does" the" Constitution" equally" give" anyone" a" right" to" a" career" of" his/her" choosing, " one" that" best" suits" their" selfBidentity" and" expresses" who" they" are, "and" dignifies" that" identity, "since" careers, "skills" and" talents, "and" social" roles, "may" shape" a" person's" sense" of" identity" as" much" or" more" than" his" sexual" identity?" I" wonder."

In" summary, "Justice" Kennedy" and" the" majority" in" Obergefillcould" not" ground" their" decision" on" a" straight" forward" analysis" of" either" the" DP" or" EP" Clause. "Instead" Kennedy" resorted" to" a" creative" mixture" of" ideas" in" both" clauses, " interBmingling" them, " to" shape" a" new" liberty" interest" in" seeking" out" one's" sexual" identity, " as" a" kind" of" fundamental" right" to" individual" autonomy" and" selfBexpression" (to" be" all" you" are); "and" it" requires" yet" an" additional" fundamental" right" to" give" expression" and" dignity" to" that" individual" interest, "through" marriage" (something" Justice" Kennedy" could" not" see" had" already" been" exclusively" defined" in" nature)."

This" is" shaky" ground" to" rest" a" new" right" upon, "given" its" sweeping" implications" in" every" State" across" the" nation. "It's" also" not" one" likely" to" be" embraced" very" widely" internationally, " including" in" Indonesia. 206" As" 204// Obergefell, "576" U.S. "at" ___ (slip" op. "at" 2, "10, "13)." 205// Id. (slip" op. "at" 10, "13B14)." 206 "" The" results" in" Western" Europe" (EC, " etc.)" are" a" little" bit" mixed. "States" like" the" UK" and" Ireland" (summer" 2015)" have" voted" to" allow" SSM, " and" Norway" has" approved" it" since" 2000. "But" the" European" Court" of" Human" Rights" has" made" it" abundantly" clear" (in" several" cases)" that" SSM" is" not" a" fundamental, "human" right, " under" Article" 12" of" the" European" Convention" on" Human" Rights" (examining" other" provisions" too). "It" has" said" so" again" more" recently" in" regard" to" Finland" and" a" transgender" marriage" case" there. "See" information" in, " Stefano" Gennarini, " European/ Court:/ Gay/ marriage/ is/ not/ a/ human/ right, " LIFESITE, " July" 25, " 2014, " <https://www.lifesitenews.com/news/europeanBcourtBgayBmarriageBisBnotBaBhumanBright>. "The" European" Court" has" decided" 275 "" evidence" of" this" weak" foundation, "note" that" Justice" Kennedy's" critics" are" not" only" the" case" dissenters, " nor" only" the" millions" of" Americans" with" similar" views, "but" even" liberal" scholars" have" expressed" serious" concerns" about" the" basis" of" this" decision. "They" question" things" like" "dignity" rights," the" absence" of" a" straight" forward" EP" Clause" analysis, "and" implications" of" all" this" to" our" nation. 207 "" A) SHORT,) TOP) 10) LIST) OF) GLARING) ERRORS) IN) KENNEDY'S) OBERGEFELL) OPINION,) AND) IN) HIS) WORLDVIEW) "

As" I" mentioned" earlier, "an" entire" article" should" be" devoted" to" this" subject. "I" just" intend" here" to" give" a" short" list" of" summary" points" of" Justice" this" is" essentially" a" matter" left" up" to" the" each" country. "Since" Justice" Kennedy" is" notorious" for" trying" to" apply" international" law" in" important" cases, " he" should" have" at" least" followed" that" same" reasoning" before" ignoring" States' rights" in" Obergefell. "Information" on" laws" supporting" Indonesia's" traditional" marriage" structure" is" in" Appendix" -"1." 207// See/ Obergefell, " 576" U.S. "at" ___ (Scalia, " J." dissenting)"

(slip" op." at" 8B9);" id." (Alito," J." dissenting)" (slip" op." at" 2B8);" see" Jeffrey" Rosen," The/ Dangers/ of/ a/ Constitutional/ "Right/ to/ Dignity,"/ The/ Atlantic," April" 29," 2015" (after" oral" argument),"available/at/http://www.theatlantic.com/politics/archive/2015/04/theBdangerousBdoctrineBofBdignity/391796/" ("expansion" of" the" constitutional"right"to"dignity"may"produce"farBreaching"consequences"that" [gay" couples]" will" later" have" cause" to" regret");" see/ also/ Jonathan" Turley," Obergefell/ and/ the/ Right/ to/ Dignity," Blog," Columns," July" 5," 2015,"" http://jonathanturley.org/latestBcolumn/"(noting"the"elusiveness"of"a"right" to"dignity,"and"that"J."Kennedy"failed"to"consider"homosexuality"a"protected" class,"and"raising"concerns"over"harms"to"other"freedoms,"like"religion"and" speech). "So"it"seems"many"liberals"should"also"feel"cheated"by"Obergefell," since"it"stopped"short"of"defining"sexual"orientation"as"a"protected" class." I" am"not"sure"how"Kennedy"feels"currently"after"his"Obergefell"opinion."It"may" be" he" and" others" consider" him" to" be" the" hero" of" this" case" and" its" social" movement." I"believe"if"history"survives"another"100"years,"in"hindsight,"he" will"be"considered"its"goat." 276"" Kennedy's"most"glaring"mistakes,"in"the"majority"opinion,"which"he"wrote." I"state"these"in"the"thirdBperson"singular"for"convenience"sake:" 1.! Kennedy" has" failed" to" comprehend" that" inherent/ in" the" definition" of" marriage" is" a" maleBfemale" union." It" is" essential;" it" cannot" be" marriage"without"that;"it"is"simple"etymology."It"is"as"if"a"circle"asked" to" be" a" square." We" can" give" it" that" label," and" even" give" it" equal" status,"but"it"will"always"be"a"circle.208 " 2.! Kennedy" consistently" confuses" the" incidents" and" benefits" of" marriage" (as"an"institution),"with"the"thing"itself."It"is"as"if"he"and" the"majority"actually/define"marriage"as"a"status"given"to"a"couple" by"the"State,"attaching"to"it"a"series"of"benefits"and"civil"rights"the" recipients" of" the" status" are" intended" to" enjoy." I" see" no" clear" definition"of"marriage,"and"what"this"right"to"marry"is"according" to"Justice"Kennedy,"apart"from"his"idea"it"is"a"status"given"by"the" State" with" an" attached" set" of" benefits," rights," and" recognitions" sameBsex" couples" should" also" enjoy."" Surely," if" marriage" is" a" fundamental"right,"it"should"be"carefully"defined"by"this"Court"(slip" op."at"15,"17)." 3.! He"confuses"sameness"with"equal/treatment,"and"the"latter"can"be" achieved," if" society" so" chooses," without" trying" to" redefine" what" something"is"to"make"it"the"same"as"something"it"is"not"(see"1)," above).209 "" 208"" Several" internet" sites" are" available" showing" this" simple" etymology" of" the" word"marriage." 209"" It"is"strange"in"the"extreme"Justice"Kennedy"never"even"considered"the"value" of""civil"unions""for"gay" couples"and"giving"them"the"same"rights"and"equal" treatment"as"traditional,"married" couples,"since"it"is"the"purpose"of"marriage" he"is"after;"this"was"the"solution"initially"reached"by"the"California"Supreme" Court" in" the" Proposition" 8" cases," and" by" the" European" Court" of" Human" Rights" in" its" jurisprudence."" It" is" as" if" he" cannot" see" giving" the" benefits" of" marriage"is"not"the"same"as"marriage"(see"point"2))." 277"" 4.! In" several" places" Kennedy" says" marriage" is" only" for" "couples"" (of" any" sex). In" fact," he" only" assumes" two" people" in" marriage," but" actually"gives"no"rational"basis"for"limiting"it"to" couples"(since"it" is" all"about"an"individual's""sexual"identity""and"some"want"many,"and" you"can"marry"whoever"you"want). "If"he"intended"marriage"to"exist" only" for" couples," he" should" not" have" ruled" as" he" did," since" his" rationale"does"not"support"his"assumption"of" couples.210 "" 5.! In" some" places," Kennedy" says" homosexuality" is" "immutable."" Scientifically," this" is" sheer" nonsense." Sexual" identity" is" not" even" clearBcut,"but"can"and"often"does"reflect"a"wide"and"varying"range" in" a" spectrum" of" sexual" attractions," sometimes" fluctuating" in" an" individual's"life"experiences" (see"text"supra,"and"notes"48B50)." 6.! His"holding"is"that"gender"is"irrelevant"to"marriage" (it" is" a" genderless" institution). "If"gender"makes"no"difference"in"marriage,"when"does" it"ever"make"a"difference?"Although"J."Kennedy"claims"his"ruling"in" no"way"harms""oppositeBsex" couples,"it" is"an"insult"to" gendered" people"everywhere"whose"identity"as"a"male"or"a"female"is"actually" important.211" I"still"think"human"existence"could"require"gender;"

and"it"seems"as"if"everyone"actually"has"one." 7.!

Justice"Kennedy,"the"majority,"and"countless"SSM"advocates"have" had"the"hardest"time"grasping"an"important"distinction:"asserting" conduct"is"immoral"is"not"equivalent"of"hating"the"people"doing"it" (it"should"be"so"easy"to"get)."I"can"call"my"friend's"callous"lifestyle" immoral,"and"this"is"not"hating"him."But"force"me"to"accept"it"as" moral"and"good"when"I"think"it"is"not,"then"we"have"a"problem.".....

210"" The"case"has"scores"of"references"to"couples"or"two"people."See/id."(slip"op." at"2,"3,"12B19,"22,"23,"and"so"on)." 211"" So" now" there" are" efforts" to" eliminate" male" and" female" toilets" and" locker" rooms," ban" terms" like" Mr." and" Mrs.,," man" and" woman" in" some" college" campuses" in" the" U.S.," and" even" some" court" documents" in" child" cases" are" being"changed"to""Parent"1""and""Parent"2""(instead"of"the"terms"Mother" and"Father),"infuriating"many"parents." 278""

Animus,"however,"lies"in"the"hearts"of"those"who"encounter"others" who" will" not" accept" their" conduct." So," who" hates" who" in" this" discussion?" It" is" the" LGBT" advocates" and" their" sympathizers" who" hate"those"who"will"not"agree"with"them.212 " 8.!

Kennedy's"insistence"on"avoiding/stigma"for"children"of"sameBsexB couple"households" (by"now"giving"the"parents"a"dignified"status"of" marriage),"is"hollow,"ineffectual" (it"can't"actually"achieve"this),"and" is"insulting"to"singleBparent"and"similar"families"which"have"children" but"no"marriage."Stigma"is"not"the"issue"for"any"of"these"children;" sympathy"is.213 " 9.!

The"case"is"a"severe"selfBcontradiction."In"Windsor,"Kennedy"clearly" stated"the"definition"of"marriage"is"a"matter/left/to/the/States."And" so"he"struck"down"a"single,"federal"definition"of"marriage"(DOMA)" in" that" case." In" an" act" of" supreme" judicial" hypocrisy," he," and" the" majority,"have"now"instituted"a"single"federal"definition"of"marriage" (it" is" the" one" in" California," or" Massachusetts," or" New" York" mandating" SSM)." I" have" indicated" this" above." But" this" is" the" very"..... 212"" I" can" give" some" credit" to" Justice" Kennedy" in" Obergefell" for" seeming" to"

graduate"from"the"idea"that"opponents"of"SSM"are"homophobic"bigots,"and" acknowledging" sincere," good" faith" arguments" in" favor" of" traditional" marriage" (slip"op."at"4)."But"vestiges"of"this"sentiment"still"sadly"remain"(see" slip"op."at"19)." 213"" Several" related" issues" surround" Kennedy's" stigma" argument" and" show" its" insufficiency:"What"about"cohabitating"couples"with"children,"straight"and" gay," who" do" not" want" to" get" married?" Can" SCOTUS" just" "deem"" them" "married,"" with" some" swipe" of" its" judicial" wand," to" solve" the" stigma" their" children"might"face?"Isn't"that"what"it"has"attempted"in"this"case?"And"what" about"single"gay"parents,"who"do"not"want"to"marry,"but"do"want"to"live"an" active"gay"lifestyle?"How"do"we"solve"that"child's"stigma;"how"can"the"Court" solve"any"such"stigmas?" 279"" thing"he"said"he"and"the"Congress"could"not"do:"impose"a"national" definition."He"did"it,"and"he"knows"it.214 " 10.!

The"decision"is/not/true."It"sends"a"wrong"message"to"our"children" now" and" in" future" generations," saying" it" is" alright" to" have" legal" fictions," based" on" actual" fictions," so" long" as" we" get" the" intended" result." This" has" bad" implications" for" all" sorts" of" legal" structures" in" society," and" does" not" inspire"any" hope" toward" a" good" and" just" society."..

WHAT)HAPPENS)NEXT)AFTEROBERGEFELL?)COUNTERCINITIATIVES:)"

It"is"likely"Obergefell"will"remain"the"law"of"the"land"for"a"very"long" time." Few," if" any," solutions" exist" to" reverse" the" case.".. Some" have"

suggested"impeachment/proceedings"to"remove"errant"Justices,"including" Kennedy.215" It" would" probably" not" be" successful" (it" happened" only" once" in" 1805)," but" it" could" send" an" important" message" in" principle." Initiating"

impeachment"could"also"show"the"public"that"something"is"very"wrong."I" do" not" know" of" anyone" seriously" pursuing" this" at" the" moment." Senator"

Ted"Cruz"is"suggesting"a"Constitutional"Amendment"limiting"the"terms"of" SCOTUS" Justices" so" they"

cannot" rule" this" way" (seeking" eight" year" term" limits).216" This" initiative" has" supporters" and" opponents." It" remains" to" be" seen"what"momentum"it"has. "214"

I"intend"nothing"about"the"importance"of"this"violation"by"placing"it"ninth"on" this" list" (it" is" only" a" matter" of" sequence)." Its" severity" is" unimaginably" profound"and"the"dissenters"have"rightly"taken"Justice"Kennedy"to"task"for" his"switch." 215// See"Interview"by"Megan"Kelly"of"Senator"Ted"Cruz,"in"REAL"CLEAR"POLITICS,"July" 5,"2015,"available/at/http://www.realclearpolitics.com/video/2015/07/01/" cruz_senate_should_be_able_to_impeach_supreme_court_justices.html." 216// Id.;"see/also"Ted"Cruz,"Constitutional/Remedies/to/a/Lawless/Supreme/Court," National" Review," June" 26," 2015," http://www.nationalreview.com/article/" 420409/tedBcruzBsupremeBcourtBconstitutionalBamendment. "" 280"" A" couple" other" Constitutional" Amendments" have" been" proposed." One" type" seeks" to" restore" to" the" States" their" right" to" define" marriage" traditionally" through" the" state" legislative" apparatus.217" In" a" second" variety," a" Constitutional" Amendment" seeks" once" again" to" make" the" traditional" marriage" definition" (maleBfemale)" the" supreme" law" of" the" land." This" second" kindfaces" much" greater" challenges" than" the" first" one" mentioned.218"A"Constitutional"Amendment"carries"much"greater"weight" than"astatute" (like"DOMA)"but"is"also"much"harder"to"achieve"(twoBthirds" of" both" houses" of" Congress" must" approve" it," or" twoBthirds" of" the" State" legislatures" may" establish" a" Constitutional" Convention" to" propose" Amendments).219" State"responses"to"Obergefellhave"been"mixed"so"far."Some"States" are" pursuing" interesting" and" innovative" strategies" to" fight" against" the" case;" some" of" course" will" choose" to" abide" by" it.220" For" instance," North" Carolina" is" allowing" civil" magistrates" and" court" clerks" to" excuse" themselves" from" getting" involved" in" sameBsex" marriages" (including" abstaining" from" performing" marriages," or" issuing" licenses)," according" to"217// See/ id." (another" Cruz" initiative)." Scott" Walker" (Governor" of" Wisconsin)" supports" this" initiative," see" Daniel" Strauss," Walker/ calls/ for/ Constitutional/ amendment/ to/ let/ states/ define/ marriage," POLITICO," June" 26," 2015," http://www.politico.com/story/2015/06/scottBwalkerBbanBgayBmarriageB constitutionalBamendmentB119470."Since"Cruz"and"Walker"are"both"running" for"President,"it"should"be"interesting"to"see"how"far"this"idea"goes." 218// See" Rebecca" Ballhaus," Rick/ Santorum/ Calls/ for/ Constitutional/ Amendment/ Banning/ SameGSex/ Marriage," WALL" STREET" JOURNAL," July" 13," 2015," http://blogs.wsj.com/washwire/2015/07/13/rickBsantorumBcallsBforB constitutionalBamendmentBbanningBsameBsexBmarriage/. "" 219"" U.S."Const."art."V." 220"" Eliot" C." McLaughlin," Most/ States/ to/ abide/ by/ Supreme/ Court's/ sameGsex/ marriage/ ruling,/ but," CNN," June" 30," 2015" (updated)," http://edition.cnn." com/2015/06/29/us/sameBsexBmarriageBstateBbyBstate/" (with" video" links" showing"States"pushing"back)."" 281"" their" sincere" religious" convictions.221" This" is" a" model" some" States" seem" interested"in"pursuing." "" Alabama"and"Oklahoma"introduced"laws"in"the"Spring"(just"prior"to" the"Obergefell"decision)"to"stop"issuing"state"marriage"licenses"altogether," and"relieving"justices"from"having"to"perform"any"marriages"(seeking""to" getout" of" the" "marriage" business, "" so" to" speak," although" late" modifications"to"both"bills"allow"judges"to"continue"officiating""secular"" civil"weddings,"including"for"sameBsex"couples).222"The"idea"of"these"bills" is" to" allow" such" States" to" simply" record" marriages" that" have" occurred" elsewhere"in"the"private"sector,"with"notaries" (as"marriage""contracts")," or"in"churches."Some"judges"and"civil"servants"are"very"much"in"favor"of" this"idea,"since"it"would"allow"them"to"avoid"the"stickiness"of"the"issue,"by" not"having"to"perform,"solemnize,"or"officially"sanction"and"be"involved"in" any"gay"marriages"if"they"did"not"want"to.223 "

It"is"not"clear"how"this"strategy"could"alter"in"any"significant"way"the" SCOTUS"decision,"so"as"to"restore"only"a"traditional"definition"of"marriage," 221"" Ryan" T." Andersen," North" Carolina" Legislature" Overrides" Veto," Allows"

Government"Employees"to"Not"Do"Gay"Marriages,"The/Daily/Signal,"June"11,"2015,"
<http://dailysignal.com/2015/06/11/nBcBlegislatureBoverridesBvetoBallowsBgovernmentBemployeesBtoBnotBdoBgayBmarriages/>" (legislation
passed"just"before"decision"in"Obergefell). "Since"the"start"of"this"writing,"the"
situation"of"Kim"Davis,"a"Kentucky"senior"court"clerk"who"is"in"jail"for"refusing" to" issue" marriage"
licenses" to" sameBsex" couples," has" made" international" news." I" think" Kentucky" should" learn"
something" from" North" Carolina's" approach." 222"
Shane"Trejo,"Alabama/Passes/Bill/to/Effectively/Nullify/All/Sides/on/Marriage," Tenth/ Amendment/ Center,"
May" 23," 2015," "<http://blog.tenth.com/2015/05/alabamaBsenateBpassesBbillBtoBeffectivelyNullifyBallBsidesBonBmarriage/>" (SB" 377);" T.J." Martinell," and" Shane" Trejo,"
Oklahoma"House"Passes"Bill"to"Effectively"Nullify"All"Sides"on"Marriage" Tenth" Amendment" Center,"
March" 16," 2015," "<http://blog.tenth.com/2015/03/oklahomaBhouseBpassesBbillBtoBeffectivelyNullifyBallBsidesBonBmarriageB67B24/>"
(HB"1125)." 223"
See"the"Tenth"Amendment"Center's"information,"supra"note"74." 282"
but"it"does"seek"to"shift"off"of"the"State's"shoulders"the"burden"of"carrying" a" new" definition" of"
marriage" repugnant" to" its" citizens," and" places" the" meaning" of" marriage" on" someone" else's"
shoulders" (the" private" sector)." Symbolically" and" significantly," this" seeks" to" avoid" the" State" having"
to" legislate"a"repugnant"new"definition"of"marriage,"without"really"injuring"
gay" couples" in" the" process.224" I" imagine" married" straight" and" gay" couples"
would" still" receive" equal" treatment" under" State" law" after" this" shift." Since" SCOTUS" holding" in"
Obergefell/ actually" only" requires" States" to" issue" marriage" licenses" to" sameBsex" couples" "on" the"
same" terms" and" conditions" as" traditional" couples," and" only" assumes," without" actually" requiring,"
that" they" issue" marriage" licenses" in" the" first" place," such" a"
strategy" could" have" some" traction.225" As" noted," civil" servants" and" judges"
seem" very" interested" in" it," since" it" allows" them" to" avoid" the" stickiness" of"
compelling" their" involvement" in" activities" violating" their" consciences."
I" suppose" it" is" also" conceivable" Obergefell/ could" be" overturned" one"
day," by" another" Supreme" Court," given" its" shaky" ground," and" if" our" legal" understanding" eventually"
evolves" with" "new" insights" into" a" better" understanding" of" justice"
(to" borrow" Justice" Kennedy's" own" thinking).226" (ISSUE" II:) CAN) INDIVIDUALS) AND) SMALL)
BUSINESSES) RUN) THEIR)
BUSINESSES) IN) ACCORDANCE) WITH) THE) DICTATES) OF) THEIR) FAITH?) " The" answer" here" is"
yes," and" no," but" mostly" yes." This" free" exercise" of" religion" issue" is" a" bit" more" straightforward"
than" the" establishment" of" religion" discussed" above." As" explained" above," the" free" exercise" of" religion"
is" guaranteed" by" the" second" clause" of" the" First"
Amendment: "Congress" 224//
Some" regulation" of" what" the" private" sector" gets" to" bring" into" the" registry" as"
a" marriage" certificate" seems" inevitable," at" least" to" prevent" sham" unions." 225//
Obergefell," 576" U.S." at" ____" (slip" op." at" 2," 23," 27). "Is" this" something" Kennedy" intended" as" a" source" of"
compromise;" or" is" it" an" exploitable" slip?" I" do" not" know." 226// Id." (slip" op." at" 4," 6," 7," 11," 20)"
(claiming" several" times" "new" insights" on" inequalities" in" our" basic" institutions" that" "once" passed"
unnoticed);" id." (Roberts," J., "dissenting)" (slip" op." at" 3)" (challenging" this" idea)." 283"
shall" make" no" law" respecting" an" establishment" of" religion," or" prohibiting/
the/ free/ exercise/ thereof" (emphasis" added). "It" is" also" expressed" in" all" the" State" Constitutions" (in"
various" wordings)," as" well" also" in" many" statutes"
and" ordinances." I" have" already" noted" the" Federal" RFRA's" enactment" first"
at" the" national" level" about" twenty" two" years" ago," and" since" then" similar" RFRA's" enacted" in" about"
twenty" States." I" also" explained," poised" against" these" are" several" local" SOGIs"
(Sexual" Orientation," Gender" Identity" laws),"
aimed" at" getting" all" Americans" to" honor" those" categories," no" matter" what" (I" discuss" these" more" below)."

OBERGEFELL'S)SLIGHT)CONTRIBUTION)TO)THIS)ISSUE:)) "

Although "Obergefell" deals chiefly with "Issue I," above (the "right" of "States" to continue to define marriage as they always have), what guidance, if any, does the case give on Issue II? In the very end of the opinion, Justice Kennedy, anticipating his holding has implications for free exercise of religion (for those against SSM), had this to say:"

Finally, "it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, sameBsex marriage should not be condoned." The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the

principles that are so fulfilling and so central to their lives and faiths, and

to their own deep aspirations to continue the family structure they have

long revered. ". . . In turn, those who believe allowing sameBsex marriage is

proper or indeed essential, whether as a matter of religious conviction or

secular belief, may engage those who disagree with their view in an open and searching debate." The Constitution, however, does not permit the State to bar sameBsex couples from marriage on the same terms as accorded to couples of the opposite sex.227

227// Obergefell, 576 U.S. at ____ (slip op. at 27). 284"

Some view these words as a ray of hope, as at least acknowledging

some protection of religious liberty. I suppose that could be a fair view. It

could also be too optimistic, especially for those less initiated with Justice

Kennedy's interesting style of jurisprudence.228 Others view these words with greater suspicion,

seeing them as a very thin shield. Notice the operative words for those who are opposed to

SSM, that they can advocate, and teach their views, and even debate the other side, but this

passage ignores words clearly allowing dissenters to exercise, and live/out their religious convictions

on this issue, in everyday culture and commerce, as required by the First Amendment. This

insufficiency in wording was highly suspicious to Justice Roberts, along with others in

dissent, and he was particularly acute in his criticism of this section of the case.229 "

STRATEGIES)ON)BOTH)SIDES)AFTER)OBERGEFELL:) " In the wake of Obergefell, several

conservatives have proposed a new federal statute, the First Amendment Defense Act

(FADA), to ensure the Constitution's free exercise of religion will stay afloat, allowing dissenters

of the Obergefell decision to live according to their

convictions.230 But it is extremely odd that we should need a federal law

228"" If Windsor is any indication, and it is, consider Kennedy's sleight of hand on

States' rights, hidden behind some innocuous sounding words on how the

N.Y. law has some merits to it, in his ineffectual view. "See 133 S.Ct. at 2693B 95." 229// Obergefell,

576 U.S. at ____ (Roberts, J., dissenting) (slip op. at 27B28); id. (Alito, J., dissenting)

(slip op. at 6B7). 230// See Kelsey Harkness, Here's/ How/ Religious/ Business/ Owners/ Could/ Protect/

Themselves/Against/Gay/Marriage/Decision, "The Daily Signal," June 30, 2015,

<http://dailysignal.com/2015/06/30/heresBhowBreligiousBbusinessBownersB>

couldBprotectBthemselvesBagainstBgayBmarriageBdecision/" (providing a link to FADA (H.R. 2802,

114th Cong. (2015B2016), and indicating it is likely insufficient for local vendor protections but

also recommending State 285"

to keep what the Constitution already gives. In an era of unbridled, liberal

Supreme Court activism, it has sadly come to this. The LGBT political action army is not sitting idly

by either, but is moving swift to the kill with a new federal law in its arsenal, the misleadingly

labeled, Equality Act (EA).231 It would seek to finish what Justice Kennedy only started,

rendering sexual orientation and gender identity as protected classes.232 It apparently would

forbid religious institutions (educational ones included) any exceptions for hiring, housing,

and even showering practices based on those classifications; it also could gut a major part of RFRA

including exemptions for religious businesses, and expands the meaning of "public

accommodations," including for

religious service providers. 233 As one commentator noted, "the EA seeks to turn Obergefell into an assault weapon against those who oppose SSM on religious grounds. Its thin cover is to stop discrimination, but what it really does is violate the religious liberty rights of small businesses and individuals. 234 FADA and EA are imminently heading for a collision over the First Amendment's interpretation. The skirmish is no less intense at the state and local levels with State RFRAs and local SOGIs colliding. SCOTUS, again, will ultimately have to decide this issue. It should help first to set out the RFRAs, and providing a good map showing States having both State RFRAs and local SOGIs." 231

Matthew Kacsmark, "The Inequality Act: Weaponizing Same Sex Marriage," The Witherspoon Institute, Sept. 4, 2015, <http://www.thepublicdiscourse.com/2015/09/15612/> (citing H.R. 3185, S. 1858 as the House and Senate versions of the EA). 232 Id. 233/ Id. (citing another, earlier controversial bill, the Employment Non-B Discrimination Act (ENDA) (S. 185, 113th Cong. (2013); evidently defunct), which at least allowed hiring exemptions for religious institutions and groups). 234/ Id.

(Note: the comments I reiterate here on the proposed law come from the analysis of the commentator, who states them as potential dangers in the legislation in its current version.) 286

history on correct and incorrect ideas leading to this imminent clash on this issue, in the States and in the whole nation. ""

INCORRECT) INTERPRETATIONS) AND) CORRECTIONS:) "

With the increasingly hostile attitude toward religion in America, especially against Christianity, secular efforts to silence religion, garnered by the power of the state, are also increasing significantly. A move is underway allowing Christians, and other people of faith, to have freedom of worship, but not freedom of religion or the working out of their faith in the practice of daily living in society and in their businesses. This is a violation of the First Amendment. To be sure, the free exercise of religion is never entirely absolute. For instance, one may not exercise religious practices that violate sensible laws of general applicability. For instance, if someone's religion requires child sacrifices to appease an ancient deity, it cannot be done, as that violates laws against killing, applicable to all of society. The same is so with religions that may require immoral sexual practices, as these may involve crimes of child molestation and rape. Although these may be extreme examples, the principle still is valid. A closer example is: what about some religions (Native American Indian ones, for instance) that involve smoking or ingesting certain hallucinogens (peyote for instance) as part of religious rituals? In Employment Div. v. Smith, 494 U.S. 872 (1990), SCOTUS ruled against Native American Indians who took peyote precisely for religious reasons, saying this violated criminal drug laws applicable to everyone. 235

Similar concerns of religious vendors violating generally applicable laws are simply absent in the SSM situation. This is so even though SSM was legalized: Laws protecting vendors from participating in certain events do not criminalize those events and do not prevent them from happening. Such vendors are not stopping such events, but they cannot be compelled to join them either. This is why analogy to Loving v. Virginia is so inapt in this situation. 287

In so holding in Smith, SCOTUS developed a new rule, and abolished an older balancing test to determine if government infringement of religion was improper. The original test required the government to demonstrate a compelling state interest to infringe on someone's religious activities (even if not part of a recognized, formal religion), and the government had to use the least restrictive means of achieving that interest. Smith changed that, allowing rules of general applicability (i.e., neutral ones that do not

directly" target" specific" religions" or" religious" groups), "to" be" applied" against" religious" activities, "even/ in/ the/ absence/ of/ a/ compelling/ state/ interest." As" a" reaction" to" Smith, " Congress" passed" the" Federal" RFRA" to" restore, "and" actually" exceed" the" original" and" stricter" test" above.²³⁶

According" to" RFRA's" test" now, "a" government" law" or" regulation" can" not" in" fringe" upon" individuals'" religious" practices, " even" if" the" law" or" regulation" is" one" of" "general" applicability" (i.e., " one" for" all" citizens" to" follow), " unless" it" serves" a" compelling" state/ interest, " and" is" the" least/ restrictive/ means" of" achieving" that" interest.²³⁷ Despite" the" almost" universal" appeal" and" value" of" such" a" law" to" balance" and" safe" guard" religious" activities" with" the" government's" important" interests, " LGBT" groups, " supported" again" in" large" part" by" secular" media, " educational, " and" big" business" elites" have" attacked" such" laws" as" discriminating" against" homosexuals. " This" is" where" they" get" it" so" wrong. " Everything" seemed" fine" and" comprehensible" until" gay" activists" sounded" the" battle" cry" to" adopt" SSM" all" across" America. " Gay" rights" have" since" gone" on" a" stampede, " and" have" only" been" emboldened" by" Obergefell. " In" the" Spring" of" 2015, " LGBT" groups, " with" the" sympathy" of" secular" media" pundits, " succeeded" in" spawning" a" public" outcry" against" RFRA's" in" Arizona, " Indiana" and" Arkansas, " claiming" these" laws" can" be" used" to" target" gays" and" withhold" services" from" them; " i.e., " to" discriminate" against" them" (and" this, " they" say, " is" intentional). " This" is" entirely" incorrect, " 236// See/ Burwell/ v./ Hobby/ Lobby, " 134" S.Ct. " at" 2761B62" (explaining" the" relevant" tests" and" history). " 237" Id. " 288" but" the" misinformation" campaign" and" threats" of" businesses" to" boycott" those" States" caused" governors" in" these" States" to" cave" in" to" the" pressure" and" amend, " or" waterBdown" their" State" RFRA's. " Secular" advocates" are" seeking" to" pass" SOGIs" anywhere" they" can" to" counterbalance" State" RFRA's, " and" building" off" of" momentum" from" Obergefell. " In" actuality, " if" a" vendor" was" going" to" deny" service" to" a" gay" person" or" sameBsex" couple" in" their" store, " such" as" at" a" restaurant" or" flower" shop" or" any" kind" of" retail" store, " they" would" attempt" to" do" so" in" any" case" (I" think" improperly), " with" or" without" a" RFRA" law. " Such" a" law" would" not" enable" the" vendor's" conduct" either" one" way" or" the" other. " In" contrast, " State" RFRA" laws" would" allow" a" Christian" vendor, " for" instance, " to" abstain" from" participating" and" joining" in" activities" or" events, " through" selling" their" services" and" goods" to" support" those" events, " when" said" events" violate" their" religious" beliefs. " Such" an" example" would" be" having" a" Christian" baker" join" in" the" celebration" of" a" sameBsex" wedding" ceremony" by" providing" the" spouses'" special" wedding" cake, " ideally" custom" designed" for" their" special" occasion. It" supports" and" celebrates" the" wedding. " If" an" individual" or" small" business" owner" felt" that" the" State" was" improperly" infringing" her" religious" rights" by" a" specific" law, " the" only" thing" the" RFRA" could" do" in" that" situation" is" allow" the" seller" to" try" to" make" her" case" in" court" to" stop" that" infringement. " It" can" do" nothing" more. " Even" a" year" ago" it" would" have" been" unthinkable" to" force" the" baker" to" have" to" participate" in" the" wedding" by" selling" her" skills" and" special" cake" for" that" occasion. " Even" students" I" have" taught, " who" favor" SSM, " still" strongly" oppose" the" idea" of" forcing" merchants" to" participate" in" such" events" if" they" do" not" want" to. " But" in" the" last" year, " in" case" after" case, " the" State's" administrative" apparatus" is" fining" and" criminalizing" such" vendors" who" sincerely" do" not" wish" to" violate" their" consciences. " Christian" business" owners" are" being" fined" by" States'" attorney" generals" and" civil" rights" boards, " and" are" given" this" choice: " either" support" the" celebration" or" face" the" fines" or" jail. " Many" of" the" vendors" have" been" forced" to" close" their" businesses" as" a" result" (see" cases" below). " Critics" of" RFRA's" have" completely" failed" to" draw" a" very" important" distinction" between" a" vendor" not"

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April" 22," 2015," <https://www.alliancedefendingfreedom.org/content/campaign/2015/RFRA/WhyEveryStateNeedsRFRAs.pdf>" 291""

services"to"the"general"public"in"his"store"(as"a"public"accommodation)," and"having"to"participate"in"events"clearly"violating"his"religious"views,"like" sameBsex"wedding"ceremonies)."" Small"business"owners,"however,"are"also"people."They"are"surely" allowed"to"operate"their"small"businesses"as"corporations"or"partnerships," and"as"simple"business"entities,"but"the"overall"vision"and"daily"decisionB making"of"the"business"is"about"the"people"who"run"it,"and"their"values" and"consciences"are"at"stake."This"should"not"be"ignored."However,"due" to"a"recent"ruling"of"SCOTUS"on"small"business"owners'"rights"to"religious" exercise" (see/Hobby/Lobby/Stores,Inc.),239"l"consider"the"argument"that" RFRAs" can" only" be" used" to" protect" individuals," and" not" businesses," is" largely"incorrect."l"discuss"Hobby/Lobby"further"below,"but"before"doing" so," it" should" be" helpful" to" see" some" examples" of" mistreatment" experienced"by"a"sampling"of"religiouslyBbased"small"businesses." I" could" cite" so" many" examples" of" abuse" (ranging" from" military" chaplains"being"told"they"cannot"share"their"faith"in"counseling"on"sameB sex"situations,"to"churches"being"told"they"cannot"preach"homosexuality" is" a" sin," to" Christian" colleges" and" universities" being" threatened" with" sanctions"if"they"fail"to"provide"housing"to"gay"couple,"to"county"clerks" being"jailed"for"not"issuing"SSM"licenses"out"of"sincere"religious"beliefs" (see" Issue" I," supra). However," l" am" choosing" to" focus" mainly" on" mistreatment"of"Christian"vendors"in"wedding" (and"similar)"businesses," and"who"wish"to"refrain"from"providing"services"for"sameBsex"wedding" ceremonies"(or"similar"gayBcelebrating"events).""

It"is"my"hope"this"problem"can"be"avoided"in"Indonesia."The"strict" nature"of"Indonesian"law"on"marriage"and"family"(see"Appendix"B1)"makes" this"a"very"unlikely"concern"for"a"very"long"time." 239//

Supra"note"10." 292"" COURT) TRENDS:) SEVERAL) EXAMPLES) OF) ABUSES) AGAINST) CHRISTIAN)BUSINESSES)IN)AMERICA)ON)SSM) " 1.! Arlene's/ Flowers.This" is" the" case" of" Baronelle" Stutzman," a" highly" skilled," 70" yearBold" grandmother" and" well" known" florist," and" an" active,"respected"member"of"her"community"in"Washington"State."

She"owns"Arlene's"Flowers"and"has"served"gay"people"in"her"flower" shop"for"years,"and"reaches"out"to"them."One,"in"particular,"(Robert" Ingersoll),"came"into"her"shop"in"2013"(he"is"a"repeat"customer)"and" asked" her" to" do" the" flower" arrangement" for" his" "wedding"" to" his" gay"partner."Baronelle"kindly"explained"she"would"not"be"able"to"do" that"in"honor"to"her"God."She"wished"him"well,"and"she"gave"him"a" hug.240"Interestingly,"she"did"offer"to"provide"him"flowers,"but"not" to" put" her" talents" as" an" arranger" into" a" ceremony" she" could" not" agree"with."" 2.!

In"a"week's"time,"Ingersoll"and"his"partner"sued"her."She"has"since" been" fined" thousands" of" dollars" by" a" soBcalled" civil" rights" group" (ACLU),"and"the"Washington"State"Attorney"General."The"State"AG" has"sought"to"take"her"house"and"personal"assets"if"she"cannot"pay" the" fine" and" her" legal" fees." Baronelle" says" she" did" not" decline" to" serve" the" event" because" her" longBtime" customer" and" his" partner" are"homosexuals,"but"because"she"did"not"want"to"participate"in"an" event" that" violates" her" view" on" marriage." The" Alliance" Defending" Freedom" (ADF)" appealed" her" free" exercise" case" to" Washington" State"Supreme"Court"on"April"27,"2015.241" ""

240"" See" the" story" in" her" own" words" in," Baronelle" Stutzman," I'm/ a/ Florist/ but/ I/ Refused/to/do/Flowers/for/My/Gay/Friend's/Wedding,"WASHINGTON"POST,"May" 12," 2015," available/ at<http://www.washingtonpost.com/posteverything/>" wp/2015/05/12/imBaBfloristBbutBiBrefusedBtoBdoBflowersBforBmyBgayB friendsBwedding/" 241// Id.," see/ also" Kelsey" Harkness," StateSays/ 70GYearGOld/ Flower/ Shop/ Owner/ Discriminated/ Against/ Gay/ Couple./ Here's/ How/ She/ Responded," THE" DAILY" 293"" 3.!

Sweet/Cake's/Bakery,/Aaron/and/Melissa/Klein/(Oregon):/In"this"case,"
the"Kleins"ran"a"small"family"bakery"as"a"Christian"couple."The"Kleins" have" five" children." Melissa" puts"
her" heart" and" soul" into" making" cakes,"including"wedding"cakes,"similar"to"the"way"any"artist"does"
with"her"work."In"January"2013,"a"lesbian"couple"asked"theKleins"to"
make"them"a"specialty"wedding"cake."Based"on"the"Klein's"religious" convictions" on" marriage," Melissa"
Klein" respectfully" and" politely" declined."This"created"a"furor"with"the"two"lesbian"women"(Rachel"
Cryer"and"Laurel"Bowman)"who"acted"antagonistically"by"reporting"
the"Klein's"to"the"Oregon"Bureau"of"Labor"and"Industries."The"Kleins"
were"found"to"have"violated"antiBdiscrimination"laws"in"a"place"of" public" accommodation" by" an"
Administrative" Judge." On" April" 24," 2015" a" new" fine" was" suggested" against" them" in" the" amount"
of" \$135,000."It"has"since"been"approved"by"a"court."Since"the"Kleins"
received"threats"and"were"vandalized,"they"were"already"forced"to" close" their" business" in" September"
2013" (there" are" no" business" assets)."So,"the"Administrative"Judge"is"essentially"trying"to"destroy"
the"Kleins"by"going"after"their"personal"assets."The"Kleins"hope"to"
appeal"the"vicious"rulings"against"them."A"video"story"of"their"ordeal" is"in"the"link"noted"below.242 " 4.!

Simply/Elegant/Wedding/Planning:"Here"we"meet"Lana"Rusev,"who"
fled"the"Ukraine"for"religious"persecution"about"twenty"years"ago,".....
SIGNAL," Feb." 20," 2015," <http://dailysignal.com/2015/02/20/stateBsaysB70B>
yearBoldBflowerBshopBownerBdiscriminatedBgayBcoupleBheresBresponded/" ;"
and/see"Notice"of"Appeal"to"Washington"Supreme"Court,"Ingersoll/v./Arlene/ Flowers,/ Inc.," No."
13B2B00953B3" (April" 27," 2015)," available/ at/
<http://www.adfmedia.org/files/ArlenesFlowersAppealNotice.pdf>." 242//
See/Tony"Perkins,"Sue/Chef:/Court/Fines/Bakers/\$135,000," WASHINGTON" UPDATE," April" 24," 2015,"
[http://www.frc.org/washingtonupdate/20150424/sueBchef](http://www.frc.org/washingtonupdate/20150424/sueBchef;);" see/ also/ The/ Klein's/ Story:/ Forced/ to/ Close/
Sweet/ Cakes/ Bakery," YouTube," October" 1," 2014,"https://www.youtube.com/watch?v=t0X_bEXtytc."
294"" only"to"find"it"in"Jacksonville,"Florida,"as"the"owner"of"this"business." Lana" was" approached"
recently" by" a" lesbian" woman" (Melissa"
McCord)"to"plan"her"sameBsex"wedding."She"declined"in"a"politely" written" letter." The" lesbian" woman"
went" on" a" rage" and" started" a" social"media"campaign"to"harm"Lana's"business."Lana"says"simply,"
she" is" sorry" if" she" hurt" anyone's" feelings," but" this" is" her" personal"
belief,"and"she"is"entitled"to"it."She"is"a"strong"woman,"and"says"the" customer" can" go" elsewhere" for"
her" planning" needs.243 " (Interestingly,"I"note"she"did"not"necessarily"base"this"on"a"religious"
conviction,"but"a"personal"one"she"cherishes.)" 5.!

Elane/Photography/(New/Mexico,Elaine/Huguenen&/husband)/and/
Urloved/Photography/(San/Francisco,/CA,/Nang/and/Chris/Mai):/Here" we" have" a" couple" of" tragic"
wedding" photography" cases" in" which"
both"businesses"were"forced"to"close"due"to"hate"mail"coming"from" LGBT" groups." In" each" case," the"
photography" studios" politely" and" rationally" refused" to" be" the" wedding" photographers" for" lesbian"
weddings."In"a"stunning"surprise"even"to"liberals,"SCOTUS"refused"
to"hear"the"case"of"Elane"Photography"(it"was"on"appeal"from"an" unsympathetic" State" Supreme" Court"
in" New" Mexico)," and" in" the" shrill"news,"the"business"was"shut"down."It"was"a"travesty"of"justice"
SCOTUS"should"never"repeat.244 "....." 243""

Her"amazing"story"can"be"found"at,"Tony"Perkins,"Wedding/Planner/Groomed/ for/ Marriage/ Fight,"
WASHINGTON" UPDATE," Jan." 20," 2015,"
<http://www.frc.org/updatearticle/20150120/weddingBplannerBgroomedB forBmarriageBfight>."" 244""

Stories"for"each"can"be"found"at:"Tony"Perkins,"Photography/Case/Another/ Snapshot/ of/ Intolerance,"
WASHINGTON" UPDATE," April" 7," 2014" (weblink" unavailable" currently," see" Family" Research"
Council:" www.frc.org)," and" Kristine"Marsh,/Gays/Force/San/Francisco/Wedding/Photographers/to/Close/
Shop," MRC" NEWS" BUSTERS," Nov." 21," 2014," <http://newsbusters.org/>"
[blogs/kristineBmarsh/2014/11/21/gaysBforceBsanBfranciscoBweddingB photographersBcloseBshop](http://newsbusters.org/blogs/kristineBmarsh/2014/11/21/gaysBforceBsanBfranciscoBweddingB photographersBcloseBshop)""
295"" 6.!

The/ Hitching/ Post:" This" is" a" wedding" venue" run" by" a" Christian"

minister"and"his"wife,"Donald"and"Evelyn"Knapp."The"Hitching"Post" is"a"scenic"wedding"chapel"in"Idaho"where"many"couples"choose"to" get"married."If"anyone"should"be"allowed"to"decline"involvement"in" a"gay"wedding,"it"should"be"Christian"ministers."But"not"so"according" to" the" small" city" in" Idaho" where" the" chapel" is" located." A" city" ordinance," which" includes" an" antiBdiscrimination" law" based" on" sexual" orientation," threatened" the" Knappswith" jail" time" of" up" to" 180" days" and" fines" against" the" Hitching" Post" of" up" to" \$1,000" per" day." City" officials" said" they" would" impose" the" same" fines" and" jail" penalties" on" any" minister" who" refuses" to" perform" a" sameBsex" wedding."It"is"strange"and"vicious.245 "" And/ Yet,/ One/ good/ case/ in/ the/ midst/ of/ it/ all:" Hands/ On/ Originals,/ coGowned/ by/ Blaine/ Adamson/ (Kentucky):" In" contrast" to" the" several" bad" cases"above,amongst"which"there"are"dozens"of"others,"I"can"at"least"offer" this" one" ray" of" hope" coming" out" ina" Kentucky" case" on" April" 27," 2015." A" Kentucky" Circuit" Court" has" just" ruled" that" this" small" ChristianBowned" customBdesigned" TBshirt" maker" is" not" compelled" to" make" TBshirts" supporting"Gay"Pride"events."The"customer"initially"seeking"out"and"then" suing" the" TBshirt" maker" was" the" Gay"&" Lesbian" Service" Organization" (GLSO)"of"Lexington,"KY."A"State"Human"Rights"Commission"initially"ruled" against"Hands"on"Originals"in"2012,"and"this"court"decision"overturns"that." Adamson"said"it"was"the"message"for"the"Gay"Pride"event"on"the"shirts"he" 245// See"Cheryl"K."Chumley,"Idaho/City/Ordinance/Tells/Pastors/to/Marry/Gays/or/ Go/ to/ Jail," WASHINGTON" TIMES," Oct." 20," 2014," available/ at/ http://www.washingtontimes.com/news/2014/oct/20/idahoBcitysB ordinanceBtellsBpastorsBtoBmarryBgaysB/." Similar" cases" are" taking" place" in" New"York"and"other"States"(see"internet)."I"am"advised"after"initially"writing" this"article"in"May,"2015,"the"City"has"backed"down"on"some"of"its"threats," due"to"public"anger." 296"" objected"to,"not"the"sexual"orientation"of"the"customer."It"is"the"only"case" I"am"aware"of"where"a"Christian"company"so"far"has"won"in"the"courts.246 " It"should"be"evident"by"now"that"the"SCOTUS"decision"in"Obergefell," concerning"mainly"Issue"I"above" (on"States"rights"to"keep"the"natural," historical" definition" of" marriage)" seriously" impacts" Issue" II" (individuals" and" small" businesses" free" exercise" rights)." In" reality," the" issues" have" become" highly" and" overly" intertwined." They" should" be" handled" as" analytically" and" legally" distinct:" legalization" of" SSM" can" exist" without" compelling"sincere"religious"dissenters"from"participating"in"it."But"LGBT" activists"do"not"seem"to"care"about"that,"as"many"seem"intent"on"using" their"legal"right"to"SSM"to"injure"anyone"who"disagrees"with"them"and" who" acts" according" to" their" sincere" religious" convictions," improperly" calling"any"abstention"from"participation"in"this"new"right"an"act"of"illegal" discrimination." "I"wonder"if"that"side"will"ever"grow"up"and"get"past"this." Justice"Scalia"noticed"this"excessive"and"illegitimate"intertwining"of" issueearly" in" oral" arguments" in" the" Obergefell" case" in" the" April" 28" hearing,"and"he"and"other"in"dissent"continue"to"sound"the"alarm.247"Until" something"changes"in"SCOTUS,"SOGs"will"likely"continue"to"be"commonly" misapplied"against"Christians,"so"that"any"vendor"s"(or"even"a"pastor"s)" unwillingness"to"participate"in"sameBsex"weddings"and"similar"events"will" criminalize"them,"intending"to"shut"them"down"in"ruin."SOGs"and"RFRAs" are"already"in"collisions"in"many"States."Since"Obergefell"imposed"SSM"on" the"States,"even"betraying"Justice"Kennedy"s"own"words"(in"Windsor)"that" the"prerogative"of"defining"and"limiting"marriage"is"left"to"the"States,"and" since"it"has"taken"this"issue"away"from"voters,"the"situation"in"America" should" only" get" worse." If" SSM" was" going" to" sweep" into" law" all" across" America" (debatable),"I"think"this"would"have"to"be"the"worst"imaginable" 246// See"Joe"Carter,"Christian/Printer/Wins/Victory/for/Conscience/Rights,"ACTON" INSTITUTE"POWER"BLOG,"April"27,"2015,"http://blog.acton.org/archives/77873B

christianBprinterBwinsBvictoryBforBconscienceBrights.html" 247//

See/Transcript"of"Oral"Argument"at"24B26,"Obergefell/v./Hodges,"576"U.S."at" ____"
(April"28,"2015);"see/id."(Roberts,"J., "dissenting)"(slip"op."at"14);"id."(Alito," J., "dissenting)"
(slip"op."at"6B8)" 297"" means"of"achieving"that"goal."Resentment"is"brooding"(support"for"SSM"is"
also"declining"in"some"polls)."Tensions"are"increasing,"and"we"now"have"a"
major"cultural"and"constitutional"crisis"at"hand."It"is"going"to"get"uglier.""
SOLUTIONS(IN)SCOTUS?)CONGRESS?)IS)THERE)AWAY)BACK)HOME?) " Some" jurists" may" already"
beseeing" this" problem" of" gay" "rights""
going"too"far,"as"intruding"on"religious"and"conscience"rights"of"Americans."
This"could"be"seen"in"one"of"the"few"bright"spots"for"Christian"businesses"
so"far"on"this"issue,"the"Hands"on"Originals"case"above."
As"I"noted,"one"of"the"problems"these"small"businesses"have"faced"
is"the"claim"that"as"businesses,"they"do"not"have"free"exercise"of"religion;" some" say" this" is" only" a"
right" for" individuals" (not" companies," even" small" ones). "I" believe" SCOTUS" recent" decision" in"
Burwell,/ Sec'y/ of/ Health/ and/ Human/Services/v./Hobby/Lobby/Stores,/Inc., "134"S.Ct."2751"
(2014)should" shut"down"that"argument."In"that"case,"SCOTUS"said"that"smaller"private" businesses"
(closely" held" corporations)" are" not" compelled" to" provide" abortifacients" (abortion"inducing" birth"
control" medicines)" to" employees"
as"part"of"their"insurance"packages"under"the"mandates"of"the"Affordable" Care"Act"
("Obama"Care"),"if"to"do"so"would"violate"their"sincere"religious" beliefs.248 " The" case" actually"
involved" three" family"businesses," each" of" which" has" vision" and/or" mission" statements"
indicating" the" businesses" would"be"run"in"accordance"with"their"religious"faith"values."Hobby"Lobby" is"
a" craft" store" retailer" with" five" hundred" stores" and" 13,000" employees," run" by" the" Green" family."
Mardel" is" a" business" started" by" one" of" the"
Green's"sons"operating"thirty"five"Christian"Bookstores"with"five" hundred" employees." Both" businesses"
are" based" in" Oklahoma." Conestoga" Wood" Specialties" Corp." was" started" by" the" Hahn" family"
(Mennonites)" in" Pennsylvania" as" a" woodworking" business." None" is" a" publicly" traded"
company"with"shares"sold"on"a"public"stock"exchange."They"are"privately".....
248// Hobby/Lobby,"134"S.Ct."at"2775,"slip"op."at"31B32"(Part"IV.A.)." 298""
owned"and"operated."Still,"some"of"the"businesses"have"grown"very"large"
(Hobby"Lobby"certainly"has). "Yet,"they"all"remain"family"run"and"operated," according" to" the" faith"
principles" and" values" of" those" families." All" three" businesses" were" facing" fines" in" the" millions" of"
dollars" for" refusing" to" provide" abortifacient" insurance" coverage" for" employees" prior" to" the"
Court's"decision.249 " SCOTUS"said"the"owners,"in"accordance"with"their"reasons"for"even" starting" the"
businesses," were" allowed" to" run" them" in" accordance" with" those" religious" values." So" just" like"
churches" or" Christian" ministries" and" schools," those" values" could" not" be" violated" by" the" health"
care" laws" compelling"them"to"provide"abortifacients"to"employees."And,"there"are" less" restrictive"
means" to" achieve" supplying" birth" control" medications" to" employees"really"needing"them"
(that"is"a"legal"test):"the"State"or"insurance"
companies"could"seek"to"pay"for"those"medications"instead"of"forcing"the"
family"businesses"to"do"so"by"contributing"to"insurance.250 " I" submit" Hobby/ Lobby's" analysis" should"
equally" apply" to" the" free" exercise"rights"of"small"businesses"in"the"SSM"context."If"small"businesses"
have"religious"rights"to"abstain"from"certtain"government"health"insurance" mandates"
(providing"employees"with"certtain"forms"of"birth"control),"they"
should"be"allowed"to"abstain"from"same"sex"weddings"and"similar"events," even" if" those" are" State"
authorized" by" new" SSM" definitions." Religious"
vendors"declining"to"sell"their"goods"and"services"are"not"stopping"or"even" inhibiting" same"sex"
wedding" ceremonies." They" would" simply" be" seeking"
to"abstain"from"participating"in"such"events"violating"religious"conscience." Several" other" vending"
options" also" usually" exist" for" same"sex" couples" seeking" to" wed." The" Free" Exercise" Clause" of"
the" First" Amendment" and"

RFRAs"properly"protect"this"abstention." 249// Id." at" 2775B76" (slip" op." at" 32)" (noting" hundreds" of" millions" in" total" annual" fines,"\$475"million/year"for"Hobby"Lobby)." 250// Id."at"2780B83"(slip"op."at"40B45)." 299"" SUMMARY)AND)CONCLUSION) " In"summary,"America"(U.S.)"is"now"a"nation"where"secular"humanist" ideology" is" rampant" in" our" culture," education," media," entertainment," commercial,"and"legal"systems."This"is"strikingly"evident"in"social"issues" like"sameBsex"marriage" (SSM). "A"serious"cultural"and"legal"battle"is"afoot" in"the"U.S."on"this"issue."In"two"key"subBissues"the"battle"has"been"intense," and"I"have"divided"and"named"them"as"such"in"this"article:"Issue"I,"on"the" rights" of" each" State" to" define" marriage" in" the" traditional" sense" as" the" union"of"a"man"and"wife"–"even"if"that"is"religiously"sourced;"and"Issue"II," on"the"right"of"small"businesses"to"abstain"from"having"to"participate"in" sameBsex"wedding"ceremonies" (and"similar"events)"which"they"find"to"be" objectionable"and"against"their"free"exercise"of"religion." SCOTUS"decided"Issue"II"in"Obergefell"(June"26,"2015),"at"least"it"did" so,"this"far."But"it"decided"incorrectly."The"case"is"not"supported"by"a"clear" and" cogent" analysis" coming" under" either" the" Equal" Protection" or" Due" Process" Clause" of" the" Fourteenth" Amendment." It" rests" instead" in" a" vaporous" mixture" of" selfBinterestBidentity" rights" concocted" from" somewhere"in"those"Clauses."I"have"given"a"short"list"(top"10)"of"worldview" misses"and"incorrect"assumptions"embodied"in"Justice"Kennedy's"and"the" majority's"opinion"which"highlight"its"shaky"foundation."I"am"hoping"this" list"is"still"helpful"to"the"reader,"since"it"is"intentionally"brief."As"a"prime" example,"the"case"missed"the"fundamental"point"that"marriage"is"already" defined,"and"inherently"requires"the"union"of"a"man"and"a"woman;"its" definition"starts"there;"it"is"also"not"a"set"of"collectible"benefits"and"status" recognitions"conferred"by"the"State"on"loving"couples."The"incidents"and" benefits" of" marriage" must" be" distinguished" from" the" thing" itself," in" its" essence." Yet" the" most" distressing" aspect" of" the" case" may" be" Justice" Kennedy's" stark" betrayal" of" his" own" integrity" in" the" predecessor" case," Windsor,"holding"in"that"case"it"is"the"prerogative"of"the"States"to"define" and"restrict"marriage,"but"then"taking"this"away"and"imposing"his"singular" definition"on"all"the"States."I"have"noted"the"reactions"to"this,"including" legislative" and" Constitutional" responses," which" likely" will" not" change" 300"" anything"soon,"but"will"heighten"the"intensity"of"the"strife"in"America."I" have"also"noted"some"incorrect"assumptions"of"LGBT"supporter"son"both" Issues"I"and"II."I"suggest"one"of"the"most"significant"of"these"is"the"strange" intermingling"of"these"two"primarily"separate"issues"in"the"first"place."" Specifically"in"Issue"II,"this"ties"to"the"strange"idea"that"somehow," legalization"of"SSM" (Issue"I),"must"impose"mandatory"legal"restrictions" against" the" exercise" of" someone's" religious" liberty." I" am" sure" this" is" actually"what"is"happening"in"America,"intentionally"(hence"the"several" examples"above),"but"it"should"not"be"so."It"is"absurd"to"seriously"suggest" the"legalization"of"anything"controversial"(like"SSM)"requires"everyone's" support"of"it,"including"religious"individuals"and"businesses"whose"sincere" religious" convictions" will" be" violated" by" their" active" support." Conscientious"objection"is"part"of"our"Constitutional"structure,"even"for" things"now"made"legal."It"always"has"been."" A" second" strange" idea," also" in" Issue" II," is" that" religious" vendors" declining" to" sell" their" wares" and" services" for" sameBsex" weddings" and" similar" gayBcelebrating" events" that" violate" their" sincere" religious" convictions"are"discriminating"against"people"on"the"basis"of"their"sexual" orientation."Shallow"confusion"exists"here"between"discrimination"against" individual"members"of"the"general"public,"and"a"legitimate"right"to"live" according" to" one's" religious" convictions." Ignorance" about" this," and" in" some"cases"vitriol"of"those"who"do"know,"is"hurting"America,"indeed"the" world." I" have" discussed" the" numerous" statutory" and" Constitutional"

initiatives spearheaded by both sides now in this ongoing, legal-cultural war, coming before and after Obergefell, with each side trying to seize upon it in some way. These include SOGIs and the so-called Equality Act (EA) on one side, and RFRA (State and Federal), and the First Amendment Defense Act (FADA) on the conservative side. I also noted some suggested Constitutional Amendments to restore the traditional marriage definition or curb judicial activism. I have said if country-wide support of SSM was someone's goal, I believe doing it the way this Court has is probably the least effective and legitimate means of accomplishing that goal. The effort could unravel upon its own lack of legitimacy. "A serious pushback is just starting." 301

If Obergefell has any silver lining to it, I would say it is the absence of any real arguments based on the Establishment Clause to overturn State historical marriage definitions. I was surprised and gratified by that. But vestiges of this faulty refrain of an argument still linger in some peoples' minds, so I thought this article should address it. I have accordingly argued at a more fundamental level that a bad interpretation of "separation of church and state" (an establishment issue) is one that opens the floodgates to secular humanistic, genderless ideas of marriage, while improperly shutting the door on historical Christian (and shared religious) views. Both traditional and gay worldviews on marriage are ideological and religious in nature. It is incorrect to consider one and not the other (the Christian view). To include secular humanistic ideological views on social issues like SSM and to exclude Christian and other religious viewpoints, smacks of ignorance, deception, and is truly the height of hypocrisy, since all values shape laws, and secular humanism is itself ideologically a type of religion. I conclude on these issues as so: I) SCOTUS should have left the definition of marriage up to the States and its voting citizens; and the historical vision of marriage is a superiorly rational one. II) Small, religiously based businesses should be allowed to conduct their businesses in accordance with their sincere religious convictions, and SCOTUS should allow Christian vendors to abstain from conscience violating events like same-sex wedding celebrations. 302

APPENDIX 1: INDONESIA'S CONSTITUTIONAL PROTECTIONS OF RELIGION, AND ITS MARRIAGE LAWS

Indonesia of course follows the principle of Pancasila (a kind of pluralism), incorporated into the Preamble of the 1945 Constitution. It embodies similar principles in regard to religious diversity, but declares an official belief in an Almighty God (incorporating monotheism): "By the grace of God Almighty and motivated by the noble desire to live a free national life, the people of Indonesia hereby declare their independence." (Preamble)

Likewise, according to Pancasila, Indonesia, as a sovereign State, shall be built and based on a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia. (The five core principles.)

Article 28 (Ch. XA, Human Rights, and mirroring many of those in the Universal Declaration of Human Rights) has several relevant provisions: Article 28B (1) says: "Every person shall have the right to establish a family and to procreate based on lawful marriage." Article 28E includes in relevant part: "(1) Every person shall be free to choose and to practice the religion of his/her choice. . . . (2) Every person shall have the right of the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his conscience" (emphasis added). Article 28H (1) denotes a right to live in "spiritual prosperity." And

28I preserves specifically the rights of freedom of thought, conscience, and religion. Article 29 (Ch. XI, Religion), relates specifically to religious exercise, saying:

(1) "The State shall be based upon the belief in the One and Only God."

(2) "The State guarantees all persons the freedom of worship, each according to his/her own religion or belief." In Indonesia, the principle of Pancasila, as well as others legal principles noted above, indicate against the establishment of a single State religion that all must adhere to, except possibly for the overarching 303 identity of the One True God (an expression of monotheism, yet its seeming underinclusiveness remains a debated issue). Indonesians may still exercise their religions, including Hindus and Buddhists, neither of which is actually monotheistic (or even actually theistic, as in Buddhism). Six officially recognized religions are Catholicism, Protestantism, Islam, Hinduism, Buddhism and Confucianism (the latest). Atheism is not listed as such, and can carry criminal punishments, but is somewhat common. Several minority religions are also theoretically protected, but not always so in practice (see comments of others in this Symposium giving specific details).

In terms of marriage, it seems also a traditional view of marriage and family, based on male/female couples, is established or at least implied in Article 28B (tying marriage and family together through procreation). In the Civil Code (KUHPertama), Chapter IV, Concerning Matrimony, Article 27 clearly indicates only heterosexual marriage: "a man can only be united with a woman, and a woman with a man, and each only to the other at one time" (see also Art. 29). It appears this definition

is not contradicted by other subsequent provisions of the Civil Code (see Ch. V et. seq.). Additional marriage laws and restrictions, including legality based on religious contracting, are covered specifically by several others in the Symposium (see, e.g., "Law No. 1/1974 on religious contracting for legality;" see also the specific contributions of Suhadi Cholil in his Symposium article).

It seems clear that traditional and religious definitions of marriage are deeply engrained in Indonesian law and social culture, and there is no suggestion this should change anytime soon.

APPENDIX (2: (RELIGIOUS VALUES (AND ETHICS) (SHARING IN THE (LAWMAKING (PROCESS (!!! Law! Influences! and! is! a! Source! of! Cultural! SOURCES! of! Morals,! Ethics,! and! Values! • Art! • Scriptures! • History! • Confucianism! • Science! • Songs! • Friends! • Movies! Parents! • Poems! Poets! School! • Marx! Engle! Aristotle! Plato! Sh aping! Values! Morals & LAW! MAKING! PROCESS! (State! Apparatus)! LAW! I.!

CASES\$ AND\$ COURT\$ MATERIALS\$ WITH\$ LINKS\$ TO\$ PDF\$ SEARCHABLE\$ VERSIONS\$ (SLIP\$ OPINIONS,\$ TRANSCRIPT,\$ ETC.)\$ Burwell\$ v.\$ Hobby\$ Lobby\$ Stores,\$ Inc.,\$ 134\$ S.Ct.\$ 2751\$ (2013),\$ available\$ at\$ http://www.supremecourt.gov/opinions/13pdf/13Y354_solp1.pdf

DeBoer\$ v.\$ Snyder,\$ 772\$ F.3d\$ 388\$ (6th\$ Cir.\$ 2014),\$ available\$

at http://www.dispatch.com/content/downloads/2014/11/Read_the

_court_decision_that_upholds_Ohioxs_ban_on_gay_marriage.pdf\$ Obergefell\$ v.\$ Hodges,\$ 576\$ U.S.\$ ___\$ (June\$ 26,\$ 2015),\$ available\$ at\$ http://www.supremecourt.gov/opinions/14pdf/14Y556_3204.pdf

United\$ States\$ v.\$ Windsor,\$ 570\$ U.S.\$ ___\$ (2013),\$ available\$

at http://www.supremecourt.gov/opinions/12pdf/12Y307_6j37.pdf

Robicheaux\$ v.\$ Caldwell,\$ 2\$ F.Supp.\$ 3d,\$ 910\$ (E.D.\$ La.\$ 2014),\$ available\$ at http://web.stanford.edu/~mrosenfe/Robicheaux_v_Caldwell_Louisiana_Fed_district_2014.pdf

Transcript\$ of\$ Oral\$ Argument,\$ Obergefell\$ v.\$ Hodges,\$ 576\$ U.S.\$ ___,\$

(April\$ 28,\$ 2015),\$ available\$ at\$ [http://www.supremecourt.gov/oral_\\$](http://www.supremecourt.gov/oral_$)

arguments/argument_transcripts/14Y556q1_3j4a.pdf\$ \$ II.\$ OTHER\$ CASES:\$

Baker\$ v.\$ Nelson,\$ 409\$ U.S.\$ 810\$ (1972)\$ Baskin\$ v.\$ Bogan,\$ 766\$ F.3d\$ 648\$ (7th\$ Cir.\$ 2014)\$

Bishop\$ v.\$ Smith,\$ 760\$ F.3d\$ 1070\$ (10th\$ Cir.\$ 2014)\$

Bostic\$ v.\$ Schaefer,\$ 760\$ F.3d\$ 352\$ (4th\$ Cir.\$ 2014)\$

Bourke\$ v.\$ Beshar,\$ No.\$ 3:13YcvY00750\$ (S.D.\$ Ky.\$ 2014)\$ Bowen\$ v.\$ Gilliard,\$ 483\$ U.S.\$ 587\$ (1987)\$

Citizens\$ for\$ Equal\$ Protection\$ v.\$ Bruning,\$ 455\$ F.3d\$ 859\$ (8th\$ Cir.\$ 2006)\$

Conde\$ Vidal\$ v.\$ Garcia\$ Padilla,\$ 54\$ F.\$ Supp.\$ 3d\$ 156\$ (D.P.R.\$ 2014)\$

Hollingsworth\$ v.\$ Perry,\$ 570\$ U.S.\$ 12\$ (2013)\$ Kitchen\$ v.\$ Herbert,\$ 755\$ F.3d\$ 1193\$ (10th\$ Cir.\$ 2014)\$

Latta\$ v.\$ Otter,\$ No.\$ 14Y35420,\$ 2014\$ WL\$ 4977682\$ (9th\$ Cir.\$ Oct.\$ 7,\$ 2014)\$

Loving v. Virginia, 388 U.S. 1 (1967) Merritt v. Attorney Gen., No. 13Y215, 2013 WL 6044329 (M.D. La. Nov. 14, 2013)

Obergefell v. Hodges, Nos. 1:13YcvY00501 and 1:14YcvY00129 (S.D. Ohio 2015)

Sevcik v. Sandoval, 911 F. Supp. 2d 996 (D. Nev. 2012)

Tanco v. Haslam, No. 3:13YcvY01159 (M.D. Tenn. 2014)

Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009) Washington v. Glucksberg, 521 U.S. 702 (1997)

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Hands On Originals (Christian Printer, success):

majalah berita mingguan di Jakarta, ketika sedang terjadi pergolakan politik dan krisis sosial ekonomi. Menyelesaikan kuliah Ilmu Politik di Program Pascasarjana Universitas Gadjah Mada (2003). Dosen luar biasa dan mengajar mata kuliah Filsafat Ilmu, Wawasan Kebangsaan, dan Pancasila di Universitas Airlangga, Surabaya (2004-2012). Pernah mengajar mata kuliah Filsafat Ilmu dan Logika di Fakultas Psikologi, Universitas Surabaya (2010-2013). Dosen luar biasa di Fakultas Entrepreneurship and Humanity Universitas Ciputra, pada mata kuliah Basic Natural Science, Citizenship, Pancasila, dan Civic. Sejak 2005 menjadi dosen tetap Fakultas Ilmu Sosial dan Hukum di Universitas Negeri Surabaya. Selain itu, juga menjalani Aktivitas profesi sebagai anggota Himpunan Dosen Etika Seluruh Indonesia (HIDESI). % ANDREAS% A.% YEWANGOE% Lahir dan tumbuh dalam keluarga dengan kekayaan rohani lokal nusantara, lulusan Sekolah Tinggi Teologi, Jakarta ini, menjadi Pendeta (saat ini telah emeritus) Gereja Kristen Sumba, sejak tahun 1969. Pernah mengajar dan menjabat Rektor di Akademi Theologia Kupang (kini dikenal sebagai Universitas Kristen Artha Wacana). Saat menempuh pendidikan lanjutan (1977-1979) di Universitas Vrije, Amsterdam, minatnya bergeser dari sekadar mempelajari agama-agama suku di Indonesia kepada Hinduisme dan juga teolog India Vengal Chakkarai. Menempuh pendidikan doktoral di Vrije 313\$ \$ Universiteit (1983-1987), Amsterdam dengan disertasi Theologia Crucis in Asia. Bersama beberapa tokoh agama, mendorong kelahiran dan aktifitas Indonesia Conference on Religion and Peace (ICRP) (2002). Ketua umum PGI (Persekutuan Gereja-Gereja di Indonesia) (2004-2014), kemudian menjadi Ketua Majelis Pertimbangan PGI (2014-2019). Pada tahun 2017, dilantik menjadi anggota Dewan Pengarah Unit Kerja Presiden Pembinaan Ideologi Pancasila (UKPYP). % CHOIRUL% MAHFUD% Direktur eksekutif Lembaga Kajian Agama dan Sosial (LKAS) Surabaya. Penggiat kerukunan lintas etnis dan agama di Asia Tenggara. Selain mengajar studi agama Islam, juga menjabat sebagai ketua kelompok riset studi agama dan perilaku masyarakat UPM Soshum (Unit Penyelenggara Mata Kuliah Sosial Humaniora) dan LPPM (Lembaga Penelitian dan Pengabdian Masyarakat), Institut Teknologi Sepuluh Nopember (ITS), Surabaya. Selain itu, juga menjadi koordinator tim hubungan antarmasyarakat (Humas) bidang sosial keagamaan di Surabaya. Dapat dihubungi melalui choirul.mahfud@its.ac.id. % DEDDI% TEDJAKUMARA% Direktur Eksekutif Prasetiya Mulya Executive Learning Institute, Jakarta. Mengajar di beberapa program di Prasetiya Mulya Business School, konsultan di berbagai korporasi, khususnya dalam mengembangkan rancangan strategi. Keahlian dan minat utama pada business planning and strategic performance management, learning and performance, value based management, social business, serta non profit management. Selain itu, aktif sebagai board member di Yayasan Trimulia, Yayasan Bintang Mulia dan sebagai founder dan board member di Yayasan Life Spring (family counseling). \$ \$ 314\$ \$ HERMANTO% Pengusaha di bidang kredit mikro, Koperasi Mitra Perdana di Jawa Timur. Memperoleh Gelar Bachelor of Science dan Master of Science jurusan Industrial & System Engineering dari The Ohio State University, USA. Terlibat dalam pelayanan gereja, pelayanan anak-anak jalanan, dan pemberdayaan desa. Kegiatan lain adalah pemberdayaan sikan mas koki. \$ \$ JACOB% JACK% OSPARA% Lulusan S2 Sekolah Tinggi Teologi, Jakarta ini, aktif di dunia pendidikan dengan mendirikan YPPK (Yayasan Pembinaan Pendidikan Kristen) Dr. J.B. Sitanala, Ambon, pada tahun 1977, dan menjadi Ketua Majelis Pendidikan Kristen di Indonesia (1978-2008). Di bidang keagamaan, menjadi Sekretaris Klasis GPM (Gereja Protestan Maluku) Pulau Lease (1974-1975). Anggota BPH (Badan Pelaksana Harian) Sinode GPM di Departemen Sekretariat, Pengurus Umum Sekolah Sekolah GPM (1974-1978), Wakil Sekretaris Umum

BPH\$ Sinode\$GPM\$(1982Y1986), \$dan\$menjadi\$wakil\$akyat\$sebagai\$Anggota\$
DPD\$RI\$(2009Y2014). \$Sejak\$tahun\$1991, \$menjadi\$dosen\$di\$Universitas\$
Kristen\$Indonesia\$Maluku, \$Ambon. % JOHAN%HASAN% Lulusan\$ Magister\$ Filsafat\$ Universitas\$
Indonesia, \$ tahun\$ 1999, \$ yang\$ saat\$ ini\$ aktif\$ sebagai\$ Pengajar\$ mata\$ kuliah\$ Pancasila. \$ Dekan\$
Fakultas\$ Entrepreneurship\$ dan\$ Humaniora\$ di\$ Universitas\$ Ciputra, \$ Surabaya\$ sejak\$ tahun\$ 2010\$
hingga\$ sekarang. \$ Juga\$ merupakan\$ salah\$
satu\$anggota\$Himpunan\$Dosen\$Etika\$Seluruh\$Indonesia\$(HIDESI). \$ \$ JOHNSON%PANJAITAN%
Praktisi\$ hukum\$ lulusan\$ Fakultas\$ Hukum, \$ Universitas\$ Kristen\$ Indonesia\$ ini\$ menjabat\$ sebagai\$
Sekretaris\$ Jendral\$ Asosiasi\$ Advokat\$ Indonesia\$ (AAI). \$ Sebelumnya\$ merupakan\$ Ketua\$ Bidang\$
Bantuan\$ Hukum\$Dewan\$Pimpinan\$Pusat\$(DPP)\$dan\$Direktur\$Lembaga\$Advokasi\$ 315\$ \$ dan\$
Bantuan\$ Hukum\$ (LAB)\$ AAI\$ (2005Y2010). \$ Saat\$ di\$ bangku\$ kuliah\$ (1988Y1990), \$ menjadi\$
asisten\$ pembela\$ umum\$ dan\$ bertugas\$ memberikan\$ konsultasi\$ hukum\$ kepada\$ korban\$
penggusuran\$ di\$ Lembaga\$ Bantuan\$ Hukum\$ Jakarta\$ (LBHJ). \$ Aktif\$ dalam\$ advokasi\$ perburuhan\$
sebagai\$ Koordinator\$ Forum\$ Solidaritas\$ Buruh\$ (Jaringan\$ Kerja\$ LSM\$ Perburuhan)\$ (1996Y1997)\$
dan\$ Anggota\$ Komisi\$ Pembaharuan\$ Hukum\$ Perburuhan\$ (1997). \$ Pernah\$ menjabat\$ sebagai\$
Kepala\$ Divisi\$ Politik\$ dan\$ Hak\$ Asasi\$ Manusia\$ Serikat\$ Pengacara\$ Indonesia, \$ (1998Y2001). \$
Selain\$ itu, \$ juga\$ berkariert\$ di\$ Pusat\$ Bantuan\$
Hukum\$dan\$Hak\$Asasi\$Manusia\$Indonesia\$(PBHI)\$sebagai\$Wakil\$Ketua\$
Badan\$Pengurus\$(1998Y2001), \$Sekretaris\$Jenderal\$(2001Y2004), \$Ketua\$
Badan\$Pengurus\$(2004Y2007). \$Saat\$ini\$menjadi\$Ketua\$Departemen\$Hak\$
Asasi\$Manusia\$Perhimpunan\$Advokat\$Indonesia\$(Peradi). \$ \$ KIM%LEUNGÚRGA%
Peneliti\$dan\$dosen\$ tamu\$di\$Sekolah\$Tinggi\$Ilmu\$Agama\$Buddha\$ Smarungga\$ di\$ Boyolali, \$ Jawa\$
Tengah. \$ Tahun\$ 2010\$ mendapatkan\$ gelar\$ Ph.D. \$ dari\$ Sri\$ Lanka\$ dengan\$ judul\$ disertasi\$ “A\$
Buddhist\$ Philosophy\$ of\$ Management\$ as\$ Reflected\$ in\$ the\$ Jātakas”. \$ Kim\$ juga\$
mengajar\$tentang\$Buddhisme\$di\$the\$University\$of\$Mauritius. \$\$Selama\$
lebih\$dari\$30\$tahun\$berpengalaman\$dalam\$pengembangan\$organisasi\$ bidang\$ manajemen\$ dan\$
konsultan\$ dalam\$ bidang\$ finansial\$ dan\$ pariwisata. \$ Kim\$ juga\$ menjadi\$ anggota\$ eksekutif\$ di\$ The\$
Council\$ of\$ Religions\$of\$Mauritius. \$Spesialisasinya\$dalam\$penerapan\$Buddhisme,\$
Manajemen\$Bisnis\$Buddhis,\$dan\$Interfaith. \$ \$ MARTINUS%JOKO%LELONO%
Pastor\$di\$Keuskupan\$Malang. \$Tahun\$2011, \$menyelesaikan\$studi\$ S1\$ di\$ Fakultas\$ Teologi,\$
Universitas\$ Sanata\$ Dharma, \$ Yogyakarta,\$
dengan\$skripsi\$mengenai\$Syekh\$Siti\$Jenar, \$“Penamaan\$Hubungan\$Allah\$
dan\$Manusia\$oleh\$Seorang\$Mistik\$Islam”. \$Kemudian\$pada\$tahun\$2015,\$
menyelesaikan\$pendidikan\$S2\$di\$universitas\$yang\$sama,\$dengan\$tesis\$ tentang\$ Kristologi\$ bagi\$
umat\$ katolik\$ yang\$ masih\$ menghidupi\$ tradisi\$ 316\$ \$ kebatinan\$ Jawa. \$ Saat\$ ini\$ sedang\$
menempuh\$ pendidikan\$ program\$ Doktoral\$ di\$ Indonesian\$ Consortium\$ for\$ Religious\$ Studies\$
(ICRS), \$ milik\$ Universitas\$ Kristen\$ Duta\$ Wacana, \$ Universitas\$ Islam\$ Negeri\$ Sunan\$
Kalijaga, \$dan\$Universitas\$Gajah\$Mada, \$Yogyakarta. % % PATRICK%M.%TALBOT% Steering\$
committee\$ untuk\$ Advocates\$ Asia\$ Conference\$ (2014)\$ dan\$ mendirikan\$ Indonesian\$ Christian\$
Legal\$ Society\$ (ICLS). \$ Saat\$ ini\$ mengajar\$ Hukum\$ Perdagangan\$ Internasional, \$ Perjanjian\$
Internasional, \$ Hukum\$ dan\$ Hak\$ Asasi\$ Manusia, \$ Metode\$ Penelitian\$ Hukum, \$ serta\$ Sosiologi\$
Hukum\$ Indonesia\$ dengan\$ penekanan\$ pada\$ fikih, \$ di\$ Universitas\$ Pelita\$ Harapan, \$ Jakarta. \$
Dewan\$ Pengawas\$ dan\$ Ketua\$ Koordinasi\$ Indonesian\$ Christian\$ Legal\$ Society\$ (ICLS)\$ yang\$
bekerja\$sama\$dengan\$International\$Justice\$Initiative\$(IJI). \$Peraih\$gelar\$ Juris\$ Doctorate\$ Degree\$
dari\$ Regent\$ University, \$ Virginia\$ Beach, \$ VA. \$ Pernah\$ belajar\$ bersama\$ The\$ Daniel\$ Iverson\$
Center\$ for\$ Christian\$ Studies, \$ serta\$ melayani\$ masyarakat\$ bersama\$ Miami\$ Youth\$ for\$ Christ\$
dan\$ Trinity\$ Curch’s\$ Peacemaker\$ Ministry. \$ Pindah\$ ke\$ Korea\$ Selatan\$ pada\$ tahun\$ 2005,\$
membawa\$ The\$ International\$ Commercial\$ Arbitration\$ Vis\$ Moot\$ Team\$ meraih\$ juara\$ pertama\$ di\$
The\$ Pan\$ Asian\$ Competition\$in\$Hong\$Kong\$(2012). \$Terinspirasi\$oleh\$pendiri\$Advocates\$
International, \$ Sam\$ Ericson, \$ Profesor\$ Talbot\$ telah\$ berbicara\$ di\$ lebih\$ dari\$ 11\$ negara\$ dan\$
memiliki\$ visi\$ untuk\$ membawa\$ pemikiran\$ Kristen\$ yang\$ kedudukan\$ yang\$ lebih\$ tinggi\$ terutama\$

yang\$ terkait\$ dengan\$ Hukum\$ dan\$ Keadilan\$ melalui\$ ICLS.\$ Beberapa\$ karya\$ tulis\$ yang\$ dihasilkan\$ meliputi\$ "How\$ Swiftly\$ the\$ Carmack\$ Amendment\$ is\$ Washed\$ Away"\$ (Journal\$ of\$ Maritime\$ Law\$ and\$ Commerce,\$ USA,\$ 2012),\$ "Social\$ Responsibility\$ in\$ Corporate\$ Investment"\$ (DongYA\$ Univ,\$ South\$ Korea,\$ 2012),\$ "Concerning\$ Summary\$ Repatriations\$ of\$ Sex\$ Trafficking\$ Victims\$ Out\$ of\$ Cambodia"\$, \$Gonzaga\$ Journal\$ of\$ International\$ Law\$ (Washington\$ State,\$ USA,\$ 2013).\$ Saat\$ ini\$ mengerjakan\$ proyek\$ pembuatan\$ "A\$ Student/Attorney\$ Handbook\$ Integrating\$ Christian\$ Worldview\$ in\$ Law".\$ % 317\$ \$ PAUL% MARSHALL% Anggota\$ senior\$ di\$ Center\$ for\$ Religious\$ Freedom,\$ Hudson\$ Institute\$ (Washington,\$ DC)\$ dan\$ juga\$ di\$ Institut\$ Leimena\$ (Jakarta).\$ Penulis\$ dan\$ editor\$ lebih\$ dari\$ dua\$ puluh\$ buku,\$ khususnya\$ tentang\$ kebebasan\$ beragama.\$ Beberapa\$ buku\$ di\$ antaranya\$ sudah\$ diterjemahkan\$ ke\$ lebih\$ dari\$ 20\$ bahasa.\$ Juga\$ menjabat\$ sebagai\$ Dewan\$ Penasehat\$ untuk\$ proyek\$ "Religion\$ and\$ Global\$ Politics"\$ di\$ Harvard\$ University\$ dan\$ Dewan\$ Penasehat\$ Keagamaan\$ di\$ Council\$ of\$ Foreign\$ Relations,\$ Amerika\$ Serikat\$ (AS).\$ Pernah\$ mengajar\$ di\$ Fuller\$ Theological\$ Seminary\$ (Los\$ Angeles),\$ Regent\$ College\$ (Vancouver),\$ University\$ of\$ Toronto\$ (Toronto),\$ Catholic\$ University\$ (Washington\$ D.C.),\$ Free\$ University\$ (Amsterdam),\$ European\$ University\$ for\$ the\$ Humanities\$ (Belarus),\$ dan\$ Rutgers\$ University\$ (New\$ Jersey).\$ % SUHADI% Dosen\$ Program\$ Pascasarjana,\$ Universitas\$ Islam\$ Negeri\$ (UIN)\$ Sunan\$ Kalijaga\$ Yogyakarta,\$ yang\$ juga\$ mengajar\$ Program\$ Master\$ di\$ Center\$ for\$ Religious\$ and\$ Cross\$ Cultural\$ Studies\$ (CRCS),\$ Sekolah\$ Pascasarjana\$ Universitas\$ Gadjah\$ Mada,\$ Yogyakarta.\$ Gelar\$ Sarjana\$ diperoleh\$ dari\$ Fakultas\$ Syariah\$ IAIN\$ (sekarang\$ UIN)\$ Sunan\$ Kalijaga\$ Yogyakarta\$ dan\$ mendapatkan\$ gelar\$ Master\$ dari\$ CRCS\$ UGM.\$ Peraih\$ Gelar\$ Ph.D\$ dari\$ Radboud\$ University\$ Nijmegen,\$ Belanda.\$ Disertasinya\$ diterbitkan\$ oleh\$ Lit\$ Verlag,\$ sebuah\$ penerbit\$ di\$ Jerman,\$ tahun\$ 2014,\$ dengan\$ judul\$ "I\$ Come\$ from\$ a\$ Pancasila\$ Family:\$ A\$ Discursive\$ Study\$ on\$ Muslim\$ Christian\$ Identity\$ Transformation\$ in\$ Indonesian\$ Post\$ Reformasi\$ Era".\$ Sebuah\$ penelitian\$ terbarunya\$ diterbitkan\$ oleh\$ CRCS\$ UGM\$ (2016)\$ bekerjasama\$ dengan\$ Search\$ for\$ Common\$ Ground,\$ Jakarta\$ dan\$ Kedutaan\$ Besar\$ Norwegia\$ dengan\$ judul\$ "Protecting\$ the\$ Sacred:\$ An\$ Analysis\$ of\$ Local\$ Perspectives\$ on\$ Holy\$ Site\$ Protection\$ in\$ Four\$ Areas\$ in\$ Indonesia".\$ \$Belakangan\$ tergabung\$ dengan\$ tim\$ KAICIIDY\$ Indonesian\$ menyusun\$ modul\$ dengan\$ judul\$ "Buku\$ Suplemen\$ Pendidikan\$ Agama\$ untuk\$ Perguruan\$ Tinggi\$ Pendidikan\$ Interreligius\$ Gagasan\$ Dasar\$ dan\$ Modul\$ Pelaksanaan"\$ (CDCCYRfPYKAICIID,\$ 2016).\$\$\$ 318\$ \$ SUTJIPTO% SUBENO% Meraih\$ gelar\$ Sarjana\$ Theologi\$ dan\$ Master\$ Divinity\$ di\$ STT\$ (Sekolah\$ Tinggi\$ Teologia)\$ Reformed\$ Injili\$ Indonesia,\$ Jakarta.\$ Saat\$ ini\$ sedang\$ menjalani\$ studi\$ Doktor\$ di\$ STT\$ Reformed\$ Injili\$ Internasional,\$ yang\$ bekerja\$ sama\$ dengan\$ Westminster\$ Theological\$ Seminary\$ di\$ Philadelphia,\$ USA.\$ Bergabung\$ dengan\$ Kantor\$ Nasional\$ Lembaga\$ Reformed\$ Injili\$ Indonesia\$ dalam\$ bidang\$ literatur,\$ yang\$ meliputi\$ penerjemahan\$ dan\$ penerbitan\$ buku\$ teologi.\$ Dalam\$ bidang\$ pendidikan,\$ menjadi\$ co\$ founder\$ dari\$ Sekolah\$ Kristen\$ Logos\$ di\$ Surabaya\$ (dimulai\$ pada\$ tahun\$ 2005).\$ Ditahbiskan\$ sebagai\$ pendeta\$ dan\$ menjadi\$ gembala\$ sidang\$ GRII\$ Surabaya,\$ pada\$ tahun\$ 1996.\$ Selain\$ itu,\$ juga\$ menjabat\$ sebagai\$ Direktur\$ Operasional\$ dari\$ penerbitan\$ dan\$ jaringan\$ toko\$ buku\$ Momentum\$ serta\$ Direktur\$ International\$ Reformed\$ Evangelical\$ Correspondence\$ Study\$ (IRECS),\$ sebuah\$ sekolah\$ teologi\$ korespondensi\$ untuk\$ awam\$ berbahasa\$ Indonesia\$ dengan\$ jangkauan\$ secara\$ internasional.\$ Selain\$ melayani\$ kotbah\$ dan\$ seminar\$ di\$ berbagai\$ gereja,\$ persekutuan\$ kampus\$ dan\$ persekutuan\$ kantor,\$ baik\$ di\$ dalam\$ negeri\$ maupun\$ di\$ luar\$ negeri,\$ juga\$ mengajar\$ di\$ STRI\$ Jakarta\$ dan\$ STT\$ Reformed\$ Injili\$ Internasional\$ di\$ Jakarta.\$ % THOMAS% SANTOSO% Lulus\$ S3\$ Ilmu\$ Sosial,\$ Universitas\$ Airlangga,\$ pada\$ tahun\$ 2002.\$ Dosen\$ tetap\$ di\$ Universitas\$ Kristen\$ Petra,\$ Surabaya,\$ sejak\$ tahun\$ 1985,\$ dan\$ menjadi\$ Guru\$ Besar\$ di\$ tahun\$ 2003.\$ % TONY% BUDIDAJA% Pengacara\$ dengan\$ pengalaman\$ lebih\$ dari\$ 20\$ tahun.\$ Berpengalaman\$ dalam\$ penyelesaian\$ sengketa\$ komersial\$ (baik\$ dalam\$

maupun luar negeri), perdagangan internasional, asuransi, dan restrukturisasi perusahaan. Mediator dan Arbitrator terakreditasi di Indonesia, anggota dari Chartered Institute of Arbitrator (CIArb), duduk di panel mediator dan Arbitrator Kuala Lumpur Regional Centre for Arbitration (KLRC), serta lembaga penyelesaian sengketa lainnya. 319 \$

Salah satu dari sedikit praktisi hukum dengan kualifikasi ganda, yaitu konsultan hukum pasar modal dan peradilan pajak. Lulus dari Universitas Leiden, Belanda, dengan gelar Master di bidang Hukum Bisnis Internasional. WS. ONGKY SETIO KUNCONO Doktor lulusan Universitas 17 Agustus 1945 dengan disertasi yang berjudul "The Influence of Confucius Ethics on Entrepreneurship, Business Ability and Performance of Chinese Retail Merchants in Surabaya". Aktivas, pebisnis, rohaniwan, dan cendekiawan ini mendirikan Study Park of Confucius, pada tahun 2000, yang kemudian berkembang menjadi jurnal yang terbit setiap hari (website: www.spojurnal.com). Aktif dalam Matakini (Majelis Tinggi Agama Konghucu Indonesia) Kota Surabaya dengan menjadi Bendahara (2014Y1015) dan Ketua Bidang Agama (2014Y2018). Konsultan Manajemen dan fengsui, penulis artikel di berbagai majalah Konghucu, serta aktif dalam berbagai kegiatan sosial. Dosen kehormatan di berbagai perguruan tinggi. Dosen Konghucu Pascasarjana (S2) Perbandingan Agama Fakultas Ushuluddin UIN (Universitas Islam Negeri) Syarif Hidayatullah, Jakarta. Dosen Program Pascasarjana (MM) STIE Artha Bodhi Iswara, dan di Universitas Kartini, Surabaya. Selain itu, juga menjadi anggota FKUB (Forum Kerukunan Umat Beragama) Provinsi Jawa Timur serta penyuluh Agama Konghucu Non PNS Kementerian Agama Jawa Timur. Sampai saat ini telah menghasilkan beberapa karya tulis. \$ \$ \$ 320 \$