

Rethinking Religious Freedom to Assure Harmonisation of Inter-Religious Life in Indonesia

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ABSTRACT

Keywords:

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This article provides an in-depth analysis and a critical examination of the human rights protection instrument that does not govern the mechanism to resolve the problem of Freedom of Religion rights violation. This article use normative legal research with statutory and historical approaches. The data will be analysed by using descriptive-analytical analysis. This article reveals that Human Rights Protection, especially on the Right to Freedom of Religion, is still becoming a matter of concern for Indonesia. The right to freedom of religion or belief is a fundamental human right recognised in all the major human rights treaties. However, they are still inter-religious tensions and a lack of protection by the Indonesian Government. For example, the violence exploded in Karubaga, the capital of Tolikara district in Papua province. Dozens of stalls and houses were set on fire, which spread to a nearby mosque, reported as conducted by the members of the Christians Group. The recent incidents happened in Singkil, Aceh. In Indonesia a state with various religious diversity which recognises five religions and one thought, it still does not establish the strict protection of the freedom of religion. The law only provides the mechanism on how to resolve grave human rights violations. On the other side, the protection of the light-categorised violation still cannot be enforced. Based on this analysis, the paper offers practical recommendations and guidance for state officials to enhance the protection of all religious groups in expressing their thoughts and to assure the harmonisation of inter-religion life.

1. INTRODUCTION

The violence exploded in Karubaga, the capital of Tolikara district in Papua province. Dozens of stalls and houses were set on fire, which spread to a nearby mosque, reported as conducted by the members of the Christians Group. The recent incidents happened in Singkil, Aceh. One church was reportedly burned in Aceh Singkil, Aceh. The cause of the set on fire, might be related to Muslims' insistence on the local government to demolish an unlicensed church. A similar incident also occurred in 2006.¹

¹ Dewi Suci Rahayu, "Police Name Eight Suspects in Aceh Singkil Case" (en.tempo.co, 2015), <https://en.tempo.co/read/709690/police-name-eight-suspects-in-aceh-singkil-case>; Buyung Syukron,

In a country with a state religion, freedom of religion is generally considered to mean that the government permits religious practices of other sects besides the state religion and does not persecute believers in other faiths. The interreligious tension in Indonesia is still high by looking at the above data. The tension cannot be solved well by the legal instrument of Indonesia. Shively was increasing complexity; and they must be handled in their natural order if we wish to keep all the issues dear and build up the complete solution into a harmonious whole, revealing its organic structure, the lines of its logic, and the completeness with which it satisfies all the pertinent values.

The first problem is abstract and ethical, and its solution principle is solely the light of reason. Properly speaking, it is a problem of the freedom of conscience. The factors in it are God, the moral law, the human conscience, and the State (meaning civil authority in its function of effectively directing citizens to the common good of the organised community).

This paper seeks the answer on the problem solving on freedom of religion in Indonesia rightly. In addition, the paper also elaborates the prospects and challenges to extend the authority of the Indonesian Human Rights Commission (KOMNASHAM) as the instrument to be a problem solver as one of the legal enforcements on human rights.

2. RESEARCH METHOD

This article is based on normative legal research. There are several approaches to writing legal research to obtain information relating to various aspects of the discussed issue. The article use a statutory and historical approach, especially when dealing with freedom of religion. The data collection method will be through a library search by accessing a range of relevant literature sources. The data will be collected by reading, analyzing, and summarising related documents, such as conventions, laws books, legal journals, and other sources associated with the central issue. The data will be analyzed by using descriptive-analytical analysis. Furthermore, the data will also be connected with legal principles, conventions, and other related rules, all under the legal protection of juridical thinking.

3. RESULT AND DISCUSSION

3.1. Human Rights Protection and Inter-Religious Tension

Human right is a fundamental right that guaranteed by the constitution or state. Human rights becoming *conditio sine qua non* or a state requirement to be fulfilled within a democratic state. A basic right is an important part of being a decisive part of the constitution of matter itself in the constitution. According to Mr JG Steenbeek as quoted

“Agama Dalam Pusaran Konflik (Studi Analisis Resolusi Terhadap Munculnya Kekerasan Sosial Berbasis Agama Di Indonesia),” *RI'AYAH* 2, no. 1 (2017): 1–28.

by Sri Soemantri revealed that in general, the constitution contains three main points, namely: the guarantee of the rights of man and citizen, the enactment of a state government structure that is fundamental, and constitutional restriction duty of a country that is fundamental.²

According to Miriam Budiardjo, in every provision of the Constitution concerning:³

- a. The organisation of the country.
- b. Human Rights (usually called the Bill of Rights that shaped its own script).
- c. The procedure to change the Constitution (amendment).
- d. There are times when loading prohibition to alter certain properties of the Constitution.
- e. The supreme of law which binds for all citizens and state institutions without exception.

The nature of the fundamental constitutional rights would have a different position than the other rights set out in the act or other lower legislation. In-laws and regulations can also be explicitly arranged on civil rights by several regulations under the act, based on Law Number 12 of 2011 on the Hierarchy of Legislation.⁴

Needless to say that the fundamental features of human rights in general universalism, freedom and equality must also guide the interpretation of freedom of religion or belief as laid down, for instance, in Article 18 of the Universal Declaration of Human Rights (UDHR), Article 18 of the International Covenant on Civil and Political Rights (ICCPR) which was ratified by Indonesian Government became Law number 12 of 2005 or the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief. First, freedom of religion or belief is a universal right that all human beings claim just because of their inherent dignity as ‘members of the human family. Second, given its liberating thrust as a right to freedom, it aims at empowering people to realize their potential of responsible agency and thus freely find their ways in the field of religion or belief, as individuals and together with others.

In keeping with its universalistic nature, freedom of religion or belief must be respected and implemented in a non-discriminatory manner, Since equality in human dignity necessarily implies equality of all in their basic rights as mandated by the 1945 constitution exactly in Article 28D (1) “*Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law*”, 28E (1) “*Every person shall be free to choose and to practice the religion of his/her*

² Sri Soemantri, *Prosedur Dan Sistem Perubahan Konstitusi* (Bandung: PT Alumni, 2006).

³ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, 1st ed. (Jakarta: PT Gramedia Pustaka Utama, 2008).

⁴ V. Krisdanar, “Menggagas Constitutional Complaint Dalam Memproteksi Hak Konstitusional Masyarakat Mengenai Kehidupan Dan Kebebasan Beragama Di Indonesia,” *Jurnal Konstitusi* 7, no. 3 (2010): 185–208.

choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it", (2) "Every person shall have the right to the freedom to believe his/her faith (*kepercayaan*), and to express his/her views and thoughts, in accordance with his/her conscience", 28I (1) "The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances", and 29 paragraph (2) "The State guarantees all persons the freedom of worship, each according to his/her own religion or belief". Besides the 1945 Constitution, there is also People's Assembly Decree Number XVII/MPR/1998 on Human Rights, Article 13 on freedom of religion as the right of liberty.

Categories created by Bruce A. Robinson about the "religious intolerance" to easier recognise the intolerance, such as:⁵

- a. The spread of misinformation about this group of beliefs or practices, although inaccuracies that information can easily be checked and repaired;
- b. The spread of hatred of the whole group; for example, stating or implying that all members of a particular group are bad, immoral behaviour, committing a crime, and so on;
- c. Taunting and belittling a particular faith group's belief and practices they hold;
- d. Trying to force religious beliefs and practices on others in order to follow their desires;
- e. Restrictions on the human rights of members of religious groups could be identified;
- f. devalue other religions as worthless or bad; and
- g. Inhibit a person's freedom to change their religion.

So many cases of religious intolerance in Indonesia are still not aligned with Indonesia's motion that said Unity. Cases of religious intolerance in Indonesia always happens every year. There are about 245 cases that occurred in Indonesia during 2013. Peace and brotherhood in a fraternal climate seem to be rare circumstances. Violations of freedom of religion /or belief throughout 2014 amounted to 158 cases with 187 actual actions. Of these, 80 cases involving 98 state actors, while 78 events involving 89 non-state actors.⁶

⁵ Bruce A. Robinson, "Religious Intolerance" ([religioustolerance.org](http://www.religioustolerance.org), 2021), <http://www.religioustolerance.org/relintol1.htm#def>; Victorio H Situmorang, "Kebebasan Beragama Sebagai Bagian Dari Hak Asasi Manusia," *Jurnal HAM* 10, no. 1 (2019): 57–68.

⁶ Oliver Simamora, "Peristiwa Aceh Singkil, Intoleransi Ditengah Kebinekaan" ([hetanews.com](http://www.hetanews.com), 2021), <http://www.hetanews.com/article/33558/peristiwa-aceh-singkil-intoleransi-ditengah-kebhinekaan>; Ricky Santoso Muharam, "Membangun Toleransi Umat Beragama Di Indonesia Berdasarkan Konsep Deklarasi Kairo," *Jurnal HAM* 11, no. 2 (2020): 269–83, <https://doi.org/10.30641/ham.2020.11.269-283>.

3.2. The Analysis of Inter-Religious Tension: Aceh Singkil and Tolikara West Papua

3.2.1. Aceh Singkil

The sealing of churches in the regency of Aceh Singkil adds to the long list of cases of intolerance in Indonesia. Moves to limit the number of churches that have resulted in the sealing of churches have been an issue in the community for a long time. On 26 October 2010, the Regent of Aceh Singkil, Makmur Syahputra sent a letter to the Minister of the Home Affairs, Minister of Religious Affairs and Minister of Law and Human Rights regarding Clarification on the Building of Places of Worship (Churches) in Aceh Singkil Regency. Limits placed on the number of churches, the sealing which has occurred and threats to demolish churches have resulted in Christians and other minority religions feeling pressured and threatened. This reality means that rights to freedom of worship in accordance with one's religion and faith are not fulfilled and are taken away by decision-makers. This violates Articles 28 and 29 of the Indonesian Constitution 1945 and Articles 4 and 22 of Law No. 39 of 1999 on Human Rights.

The clash is originated from a group of people who were not satisfied with the agreement between the Local Government and that group regarding 21 churches with problematic licenses. As planned, the government will demolish the church on 19 October 2015. Then, on Tuesday morning, about 8 a.m., approximately 500 people from a community gathered near to Masjid Lipat, Kajang Bawah Village, District Simpang Kanan, Singkil district. At 10 a.m., a mass of hundreds of people moved to several churches in question. On the way, those people were stopped by the members of the police and military. Massa was dispersed in different directions. Most of the mass move to Christian Protestant Church of Indonesia (GHKI) in the Suka Makmur Village, Gunung Meriah, Aceh Singkil. The mass burned the church. Mass then moved again to the Dangguran village to burn other churches. However, the residents kept the next church, so both groups clash was inevitable and caused the victims.⁷

According to a report obtained by *Jurnal Islam Bersatu (JITU)* from *Forum Umat Islam Aceh Singkil*, related to the chronology of conflict between religious communities (SARA) in Aceh Singkil, it has lasted 36 years ago, precisely since 1979. The report described the chronology of conflict in Aceh Singkil, ranging from 1979 to the clashes on Tuesday, 13 October 2015. Starting from 11 July 1979 in Kajang Lipat, an agreement was signed jointly by eight scholars representing Muslims and eight sextons representing Christians. They agreed not to exercise or rebuild (renovation) churches before obtaining approval from local governments.

⁷ Kompas, "Kronologi Bentrok Massa Di Aceh Singkil Versi Kapolri" (Kompas.com, 2021), <http://nasional.kompas.com/read/2015/10/13/23020341/Kronologi.Bentrok.Massa.di.Aceh.Singkil.Versi.Kapolri>; Delmus Purneri Salim, "Kerukunan Umat Beragama Vs Kebebasan Beragama Di Indonesia," *Potret Pemikiran* 21, no. 2 (2017): 16–34, <https://doi.org/10.30984/pp.v21i2.741>.

On 13 October 1979, the joint pledge was made to keep the inter-religious harmony and comply with agreements that have been made on 11 July 1979. Eleven Muslim religious leaders signed this joint pledge, and 11 Christian religious leaders witnessed and signed by Muspida South Aceh district (not be Singkil), Dairi and Tapteng District, North Sumatra, also witnessed by the elements of Muspika Simpang Kanan. A few years later, on 11 October 2001, the letter of agreement was re-created after one of the churches in the Suro district burned. Arson is suspected of violating the rules that have been made before, namely the establishment of churches without permission.

Facilitated by Muspika and officials, a dialogue was made in a meeting. The dialogue results were as follows: Church in Singkil allowed may be only one unit, the Church Kuta Kerangan with a size of 12×24 meters and has only one floor. *Undung-undung* (house of worship in small, red) may only be four, namely: one church in the village of Kerasan in Suro district, one church in the village of Napagaluh District of Lake Paris, and the one church in the village of Suka Marmur Gunung Meriah, and the one church in the village Lae Gecih Simpang Kanan.

If there is a church or *undung-undung* other than set above, that church must be demolished by Christians themselves. In this case, Christians must keep their promises and obey the law, rules and treaties that have been agreed. Rather than be demolished, there are many new churches and renovations. According to the record of the Muslim Forum of Singkil, currently has been established 27 units of the church in Aceh Singkil. Subsequently, on 30 April 2012, Muslims in Aceh Singkil conveyed their protest to Regent Singkil related to the rise of illegal churches in Singkil district by a total of 27 units spread across seven sub-districts.

On 1 May 2012, a Controlling Team was established by the Government of Singkil to seal the five units of the church. However, the following day (2 May 2012), the controlling team did not go down to the location because there was a National Education Day event. On 3 May 2012, Controlling Team re-ran the task and managed to seal 13 churches. Five days later (8 May 2012), Team Control managed to seal two other churches.

Assault and arson by a group of people in Singkil demanded the government of Singkil to demolish all the churches which were not licensed in the region, postulates that sealing the church referred to the Joint Decree Two of the Minister of Houses of Worship, Regulation of the Governor of Aceh No. 25 of 2007 on Permits of Establishment of Houses of Worship in Aceh, here (Aceh National Regulation) Qanun Singkil No. 2/2007 on Establishment of Houses of Worship, and letters of agreement shared between

Muslims and Christians on 11 October 2001. The agreement was agreed that Christians should only establish one church and four chapels in Singkil.⁸

According to the Nanggroe Aceh Darussalam Governor Regulation No. 25 of 2007, the establishment of houses of worship must comply with the requirements of the administrative and technical requirements of the building; In addition, to fulfil the requirements referred to in paragraph (1), the establishment of houses of worship must meet special requirements include a list of names and National Identity Cards of the users of the synagogue at least 150 (one hundred and fifty) people authorised by the local authorities in accordance with the level of borders as referred to in Article 2 paragraph (3); Support from the local community at least 120 (one hundred and twenty) people who authorised by the village chief/local Geuchik; Written recommendations Head Office of Religious Affairs of the Regency/City; and a written recommendation from the Forum for Religious Harmony of Regency/City. This regulation is very discriminatory, a contrast to the Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs, who only require a list of names and Identity Card of the users of the synagogue at least 90 (ninety) person authorised by the local authorities in accordance with the level of boundaries, and support from the local community at least 60 (sixty) people who authorised by the village chief/village head.

Freedom of religion or belief is one of the groups in human rights as enshrined in the Universal Declaration of Human Rights adopted on 10 December 1948. Besides, the freedom of religion also affirmed clumps of other human rights such as the right to freedom of opinion and expression, freedom of thought, or education. Religious freedom rights are further divided into internal freedom (Forum Internum) and external freedom (forum externum).

Internal freedom contains the freedom of conscience to believe, embrace, and switch religion and belief and the right to maintain, embrace, or switch from religion or belief adopted in the Covenant on Civil and Political Rights and the Law No. 39 of 1999 on Human Rights. External freedom is freedom either alone or together with others, in public or in private areas, to manifest religion or belief in the form of teaching, practice, worship and arrangement. This freedom includes the freedom to establish places of worship, freedom to use religious symbols, the right of freedom to observe religious holidays, the right of freedom to establish religious leaders, the right to teach and spread the teachings of religion, the right of parents to teach religion to their children, the right to establish and manage religious organisations.

⁸ Heta news, "Peristiwa Aceh Singkil Intoleransi Ditengah Kebhinekaan" (hetanews.com, 2021), <http://www.hetanews.com/article/33558/peristiwa-aceh-singkil-intoleransi-ditengah-kebhinekaan>.

3.2.2. Tolikara West Papua Case

The incident began when GIDI initiated an international meeting near the location of the incident. Earlier, about three weeks before implementing the event, local church officials had issued a notification letter claimed to have been approved and recognised by the local government and local army and police. Then several youths wanting to stop the Eid prayer activity at one of the mosques. The authorities (police) said that tensions were triggered by a letter from the Tolikara chapter of the GIDI, demanding that local Muslims not carry out Eid prayers on 17 July. The letter was said to have been cancelled, but it was already taken as an order by a Christian group running a conference near the *musholla* (small mosque) where the Eid prayers took place.

The police and TNI officers were already aware of the church's proposed restrictions and had tried to negotiate with both groups but to no avail. A group of people on Friday morning pursued the mosque, demanding that the Muslims follow the requests outlined in the letter. Authorities failed to quell tensions between the groups at that time and released shots to disperse the crowd. Police personnel on duty at the time tried to block the youth. However, rather than lowering the tension, the clash escalated to a level that one of the personnel fired a shot. Following the shots, the people moved back but retaliated by throwing at the kiosks around the mosque.

On 24 July, Papua Police arrested two people, identified only as JW and AK, for instigating the riot. A group of nationally known Muslim figures had urged the National Police to investigate the case and arrest Tolikara GIDI board members Nayus Wenda and Marthen Jinggawho. They signed a letter that urged the Muslim community in Tolikara to stop their Idul Fitri prayers. The legal effort is due to the person who committed that crime. However, besides legal effort, that case also used non-litigation effort. That was through a peace treaty between Moslem Tolikara and GIDI, but the case still proceeded.⁹

3.3. Mediation and Reconciliation as the Alternative Inter-Religious Tension Dispute Resolution in Indonesia

National Commission of Human Rights, or KOMNAS HAM, was first established by Presidential Decree No. 50 of 1993 on 7 June 1993 upon the recommendation of the First Workshop on Human Rights organized by the Ministry of Foreign Affairs with the sponsorship of the United Nations (UN). Under Law No.39 of 1999, the agency has been strengthened in terms of the position and function as an independent institution with equal level to other state institutions and the has functions to carry out an assessment, research,

⁹ Fitriyan Zamzani, "Muslim-GIDI Sepakat Berdamai" (www.republika.co.id, 2021), <http://www.republika.co.id/berita/koran/halaman-1/15/07/31/nsca6244-muslimgidi-di-tolikarasepakat-berdamai>.

extension, monitoring, and mediation of human rights. The existence of the Commission is regulated under Article 75 through Article 99 of Law No. 39 in 1999.¹⁰

The establishment of KOMNAS HAM has goals for:

- a. Enhancing the protection and promotion of human rights in order to develop a complete Indonesian human person and enabled him to participate in various aspects of life; and
- b. Developing conducive conditions for the implementation of human rights in accordance with Pancasila, the 1945 Constitution, the United Nations Charter, and the Universal Declaration of Human Rights.

To implement these objectives, the Commission carries out the following functions:

1. The Function of Assessment and Research

To carry out these functions, the Commission has some authorities, among others:

- a. To conduct research and study of various international instruments in order to provide advice on possible accession or ratification; and
- b. To conduct research and study of various legislations to provide recommendations on the establishment, change, and repeal of legislation related to human rights.

2. The Function of Counseling

In order to execute this function, KOMNAS HAM is authorized to:

- a. disseminate the insight about human rights to the people of Indonesia;
- b. Increase public awareness of human rights through the institutions of formal and non-formal education as well as various other circles; and
- c. Cooperate with organizations, institutions, or other parties both nationally, regionally, and internationally in the field of human rights.¹¹

3. Monitoring Functions

This function includes the authority to, among others:

- a. monitor the implementation of human rights and preparation of the results of such observations;
- b. investigate and examine the events that arise in the community which are reasonably suspected as human rights violations;
- c. invite the complainant or the victim, nor the parties complained of questioning or hearing the testimony;

¹⁰ Hasrullah, *Dendam Konflik Poso (Periode 1998-2001): Konflik Poso Dari Perspektif Komunikasi Politik* (Jakarta: Gramedia Pustaka Utama, 2009).

¹¹ Angel Damayanti, "Muslim-Christian Relationships in Indonesian Reform Era Within the Framework of Democracy: Case Study of Bandung, Bekasi and Bogor" (University of Sains Malaysia, 2017).

- d. call the witnesses for questioning and hearing the testimony, and to witness the complainant requested to submit the necessary evidence;
- e. review the spot and other places deemed necessary;
- f. invite the parties concerned to provide information in writing or submit the necessary documents in accordance with the original approval from the Chief of the Court;
- g. examine the grounds such as houses, buildings, and other places occupied or owned by certain parties with the approval of the Chief Justice; and
- h. give an opinion based on the approval of the Chief Justice to the particular case which is in the process of justice, in the case where there are human rights violations in public affairs and the examination by the court that the judge shall notify the arguments of the Human Rights Commission to the parties.¹²

4. Mediation Function

In carrying out the functions of mediation, the Commission is authorized to do:

- a. Peace disputing parties;
- b. Completion of the case through consultation, negotiation, conciliation, and expert assessment;
- c. Provision of advice to the parties to resolve the dispute through the courts.
- d. Submission of recommendation on something of cases of human rights violations to the Government to follow up its completion; and
- e. Submission of recommendations on the case of human rights violations to the House of Representatives for further action.

All groups who have reason to believe that their human rights have been violated can file reports and court orally or in writing to the Commission. Complaints will only be served if it is accompanied by the correct identity of the complainant and a description or evidence of early clear on the material in question.¹³ In general, the two approaches simultaneously make human rights enforcement efforts, namely the prevention and repression. Efforts to create conditions more conducive to the respect of human rights known to the prevention are carried out through various persuasive means. As for efforts to deal with cases of human rights violations under the provisions of the applicable law is called repression.¹⁴

1. Enforcement through prevention

Enforcement of human rights through prevention, among others, is performed in the following measures.

¹² Kees van Dijk, *A Country in Despair: Indonesia between 1997 and 2000* (Leiden: KITLV Press, 2001).

¹³ Choirul Fuad, *Konflik Bernuansa Agama: Peta Konflik Berbagai Daerah Di Indonesia 1997-2005* (Jakarta: Puslitbang Kehidupan Keagamaan, Badan Litbang dan Diklat, Kementerian Agama RI, 2013).

¹⁴ Bahtiar Effendy, *Islam and the State in Indonesia* (Singapore: ISEAS, 2003).

- a. The creation of legislation and establishment of human rights courts;
- b. The creation of institutions monitoring and supervising the implementation of human rights. This institution could be an independent state institution (for example, KOMNAS HAM) and the institutions established at the initiative of the community (non-governmental organizations / NGOs working in the areas of human rights monitoring);
- c. Implementation of human rights education to society through education in families, schools, and communities. In this case, both printed and electronic media, as well as non-governmental organizations / NGOs in raising public awareness, have a huge role; and
- d. The creation of human rights legislation is more complete, including the ratification of various international human rights instruments.

2. Enforcement through prosecution

Enforcement of human rights through activities carried out in the form of the following measures.

- a. Settling disputes through peace, negotiation, mediation, conciliation, and expert assessment. KOMNAS HAM possesses the authority in this dispute settlement process.
- b. Serving, consulting, mentoring, and doing advocacy for people who face human rights cases. In this case, legal aid agencies and non-governmental organizations engaged in the advocacy community plays an important role.
- c. Investigation, namely the data, information, and facts collection relating to the events in the community that suspected conducting a violation of human rights. This investigation is the task of the Commission. However, in general, human rights NGOs and mass media also do so independently.
- d. Settling disputes of grave human rights violations through the judicial process in a Human Rights Court; and
- e. Receiving complaints from victims of human rights violations. The Commission, legal aid agencies, and human rights NGOs have an important role in this case.¹⁵

In the recent Tolikara and Aceh Singkil case, the dispute settlement for the inter-religious tension was being done by the society through the eigenrechting without any consultation to the government through the peace ways. The government also, especially the Local Government, was failed to detect the prior signs of disharmony caused by the religious aspect. Both cases involve the two religious groups which each was defending the right of their religion. In Singkil, the group of moeslem has warned the government about the violation of the agreement and the law by establishing the illegal church without

¹⁵ Budi Gunawan, *Terorisme: Mitos & Konspirasi* (Jakarta: Forum Media Utama, 2006).

any permissible permit. That unsatisfied group took the action by the mean of coercion to demolish the undemolished illegal churches.¹⁶

This reason also being indicated in Tolikara case. The GIDI group expressed their disappointment by coercion through the attacking when the moeslem conducted their worship. The unsatisfied group also banned all the moeslem related to the religious worship through criminal activities such as the burning and physically attacking the moeslem when the moeslem did not obey their warning.¹⁷

The inter-religious disharmony has been regulated in any regulation about human rights, such as by the article 29 paragraph (2) read: the State guarantees all persons the freedom of worship, each according to his/her religion or belief, the attachment of the Human Rights Act 1999 which firmly stated that the religious worship is the basic rights of all people and have to be recognized and protected by the state, the ratification of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights which also guarantee the freedom for doing worship of any his religion.¹⁸

The conflict can be avoided when both groups try to solve the dispute through peace. The alternative way to solve the problem can be negotiation, mediation, and conciliation. KOMNAS HAM may actively facilitate the disputing parties in mediation and conciliation and facilitate socializing how to negotiate with the disputing parties. The lack of human rights promotion and the socialization for human rights dispute settlement takes a big role in the conflict, besides the lack of the promotion of inter-religious harmony and tolerance as the biggest factor, and the absence of the government conducting their task to guarantee the freedom of religion also the absence of the government in preventing the clash which takes the other part.¹⁹

When the society in Singkil was being facilitated to solve their disappointment of the breach of the contract to do mediation or conciliation, the clash could be avoided. In that way, the dispute will be solved even before the crash happens. As well as the Tolikara society can avoid criminal action when the society understands and is being facilitated to solve the case through peaceful ways, both in the mediation of conciliation.

¹⁶ Hasrullah, *Dendam Konflik Poso (Periode 1998-2001): Konflik Poso Dari Perspektif Komunikasi Politik*.

¹⁷ Siswono Judohusodo, *Agama-Agama Dan Wawasan Kebangsaan* in *Agamaagama Dan Wawasan Kebangsaan* (Jakarta: Balitbang PGI and Mission 21, 2005); Salim, "Kerukunan Umat Beragama Vs Kebebasan Beragama Di Indonesia."

¹⁸ Theodor Kampschulte, *Situasi HAM Di Indonesia: Kebebasan Beragama Dan Aksi Kekerasan* (Postfach: Internationales Katholisches Missioswerk e.v Fachstelle Menschenrechte, 2001); Salim, "Kerukunan Umat Beragama Vs Kebebasan Beragama Di Indonesia."

¹⁹ Cornelis Lay, "Kekerasan Atas Nama Agama: Perspektif Politik," *Jurnal Ilmu Sosial Dan Ilmu Politik* 13, no. 1 (2009): 1–8.

4. CONCLUSION

The violence exploded in Karubaga, capital of Tolikara district in Papua province. Dozens of stalls and houses were set on fire, which spread to a nearby mosque, reported as conducted by the members of Christians Group. The recent incidents happened in Singkil, Aceh. The inter-religious disharmony has been regulated in any regulation about human rights, such as the article 29 paragraph (2). However, legal instrument in Indonesia is not quite enough to solve the problem of freedom of religion. Because the tension of inter-religion is a very sensitive issue, but the legal instrument only provides through the litigation process. That only will arise the tension of inter-religious.

The researcher's suggestion is to strengthen the role of KOMNAS HAM to become a mediator or a conciliator. It has the extended right to investigate the case of human rights violations. Then, the government has to make a new Law on KOMNAS HAM to ensure the authority to solve the human rights violation besides the grave human rights violation because the non-litigation process will pressure the inter-religious tension to assure the harmonization of the inter-religious life in Indonesia.

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