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State, Religion, and Symbolic Violence: Religious Discrimination and Intolerance in Indonesia

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ABSTRACT: This paper explores the role of the state in Indonesia in perpetuating symbolic violence against religious minorities, as well as how the suppression of religious activities illustrates the state's failure to uphold its constitutional commitment to religious freedom. Motivated by the increasing incidents of discrimination and intolerance perpetrated by both the public and state authorities, this study aims to identify and critically analyze the mechanisms through which symbolic violence is enacted, the neglect of minority protections, and the legal rhetoric employed to legitimize such actions. Using a qualitative methodology that combines normative legal analysis with a critical sociological perspective, this research examines legislation, legal doctrines, and illustrative case studies. It draws on Pierre Bourdieu's theory of symbolic violence, Karen Armstrong's theory of aggression, as well as the principles of strict scrutiny and the conceptual distinction between 'security' and 'safety' as outlined in the ICCPR framework. The findings reveal that the state, both actively and passively, contributes to the production and normalization of symbolic violence, often yielding to majoritarian pressures and invoking 'public order' to curtail religious freedoms. Despite ratifying the ICCPR, Indonesia has not fully internalized its principles into national law, resulting in ambiguous human rights protections. This paper concludes that without structural reforms and a firm commitment to secular legal principles, the future of pluralism in Indonesia remains at risk.

KEYWORDS: Symbolic Violence, Freedom of Religion or Belief, Intolerance, Pluralism

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I. INTRODUCTION

Cases of discrimination and intolerance of religious activities in Indonesia have persisted and become increasingly systematic over the past 3 years, where minority religious activities are dissolved under the pretext of "permission" or "public order".[1] In 2024, SETARA Institute for Democracy and Peace- An NGO dedicated to issues of religious freedom- recorded 260 incidents of violations of the right to freedom of religion/belief across Indonesia. This number has increased significantly from the previous year, which was 217 incidents.[2]This report highlights several critical findings. First, there were 73 incidents of intolerance perpetrated by members of the public, alongside 50 discriminatory actions carried out by state authorities. Second, legal instruments were misused in 42 cases to justify acts of discrimination, such as the prosecution of victims and the use of blasphemy articles, as well as 29 incidents of reporting blasphemy by the community. Third, disturbances persist at houses of worship, with 42 documented cases indicating that the problem of establishing houses of worship remains unresolved. Additionally, a significant number of discriminatory actions were conducted by state actors. Of the 159 state-related incidents, the majority (50) were committed by local government officials, followed by 30 involving police officers, 21 attributed to various administrative authorities, and the remaining 10 involving the military, prosecutors, and regional coordination forums (Forkopimda).[3]

This condition indicates a pattern of intolerance that is not only rooted in societal attitudes but is also supported by the actions of the authorities and legitimised through public policies. On the other hand, the state as a human rights bearer has a dimension of obligations, namely respecting, protecting, fulfilling, and advancing human rights.[4] However, the state, through its regulations, often plays an active or permissive role in strengthening the symbolic power of the majority group. For example, the 2006 Regulations on

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[1] Rinto Sitompul, M Ridwan & Yusniar Lubis, *Pelindungan Hukum Masyarakat Minoritas dalam Konteks Kebebasan Beragama* (Medan: Pestaka Bangsa Press, 2023) at 5–6.

[2] *Rilis Data Kondisi Kebebasan Beragama Berkeyakinan (KBB) 2024: Regresi di Tengah Transisi*, by SETARA Institute for Democracy and Peace (Jakarta: SETARA Institute for Democracy and Peace, 25 May 2025) at 1–6.

[3] *Ibid.*

[4] Henry J Steiner, Philip Alston & Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals : Text and Materials* (Oxford University Press, 2008) at 183.

the Establishment of Houses of Worship 2006[5] give the local majority the right to reject the religious activities of the minority. In the regions, for example, there are still regional regulations that are used as a basis for people to commit acts of discrimination and religious intolerance. Instead of simplifying, this regional regulation complicates the 2006 house of worship regulations, making them overlap and become even stricter and more difficult.[6]

Human Rights Watch- an international NGO that focuses on research and the protection of human rights- has shown that the state and its apparatus actively legitimise such arrangements through their implementation.[7] This approach reflects the symbolic power that privileges the majority, accommodated by legal instruments, while continuously excluding minority groups.[8] This symbolic power is structural and sublimated by the state that not only allows, but also facilitates a way of thinking that positions minority religions as a "threat" to public order. As Pierre Bourdieu explains, symbolic violence occurs when a dominance system is reinforced through norms that seem "natural".[9] Majority domination is not always done physically, but through the legitimacy of social values that seem reasonable and collectively accepted.[10] Symbolic violence works when the dominated party, in this case a religious minority, accepts its subordinate position as if it were "natural" and "normal", when the condition is a product of a social construct reproduced by the dominant actor, such as the state, the apparatus, and the majority society.[11]

Previously, there have been several studies that have addressed similar issues. Andi Alfian, for instance, explains how symbolic violence operates through language, discourse, and social practices that seem reasonable to legitimise the

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5 *Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 8 and Number 9 of 2006 (Regulation on the Establishment of Houses of Worship in 2006)*, Joint Regulation 2006.

6 For example, there are several problematic Regional Regulations, such as the Governor of West Java Regulation Number 12 of 2011 which provides stricter technical requirements, the Bekasi Regency Regional Regulation Number 3 of 2009 which also contains strict provisions regarding the establishment of houses of worship, Bogor City Regional Regulation Number 1 of 2010 which requires the minimum distance of houses of worship and affirms the rules on permits from local residents, Circular Letter of the Regent of Cilegon Number. 300/1223/Kesbangpol/2022 which rejected the construction of the Maranatha HKBP Factory.

7 *Laporan Universal Periodic Review 2017–2021: Hak Beragama dan Berkeyakinan*, by Imparsial (Jakarta: Imparsial, 2022) at 14–16.

8 *World Report 2023: Freedom of Belief and Expression*, by Human Rights Watch (New York: Human Rights Watch, 2023).

9 Pierre Bourdieu, *Language and Symbolic Power* (Harvard University Press, 1991) at 113–114.

10 Pierre Bourdieu, *Renungan Pascalian* (Yogyakarta: Kreasi Wacana, 2016) at 202.

11 *Ibid.*

dominance of a particular group.[12] Another study by Riza Abdul Hakim pointed out that sentiments against anti-minorities are produced and legitimised through legal regulations, such as the Decree on the Establishment of Houses of Worship and the social practices of the majority, so that citizenship relations are full of tension between the dominance of the majority and the rights of minorities.[13] This article offers three distinct contributions. First, it employs Pierre Bourdieu's approach to symbolic violence theory to explain the latent interplay between the state, law, and majority domination. Second, by integrating juridical analysis with a critical-cultural approach, this study aims to uncover the hidden dimensions of symbolic violence in the regulation of religious freedom in Indonesia. Third, it combines the concept of discrimination and intolerance to provide a more comprehensive depiction of the lived realities by the minority religious groups.

The rampant dissolution of religious activities illustrates the active and passive roles of the state in reproducing the symbolic power of the majority over religious minorities. These actions are not merely administrative or technical I nature, but rather reflect a systemic pattern of symbolic violence legitimised by the state authority. This phenomenon raises two questions: First, how does the state play a role in producing symbolic violence against religious minorities? Second, how does the dissolution of religious activities reflect the state's failure to fulfil its constitutional obligations to religious freedom? This research is expected to make a theoretical contribution through a symbolic power approach, as well as provide practical benefits for formulating a more equitable and contextually informed policy to protect religious freedom. The urgency of this study lies in the urgent need to critically examine the legitimacy of the laws used to suppress minorities under the guise of maintaining "public order." The limitations of this study are primarily focused on relevant national and local regulations, as well as a case study of the dissolution of the retreat in Sukabumi, which serves as a concrete illustration of symbolic dominance in state policies towards minority religious groups.

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[12] Andi Alfian, "Kekerasan Simbolik dalam Wacana Keagamaan di Indonesia" (2023) 18:1 Al-Adyan: Jurnal Studi Lintas Agama 25–50 at 27–50.

[13] Riza Abdul Hakim, "Agama, Identitas, dan Kewargaan: Problematika Hukum dan Sentimen Anti Minoritas di Terban" (2016) 5:2 IN RIGHT: Jurnal Agama dan Hak Azazi Manusia 256–297.

II. METHODS

This study employs a critical sociological approach that aims to reveal how the law is not a neutral entity, but benefits a particular group and is often used to normalise injustice.[14] In addition, this research is grounded in a critical sociological analysis that conceptualizes law not as a neutral and objective system of norms, but as an integral component of the broader social structure and power relations that exist within society. In this context, law is seen as a product of social construction that often favours the interests of dominant groups, such as the religious majority or political elites, and reinforces inequality through seemingly neutral legal language.[15] This approach differs from legal positivism, which focuses only on legal texts and procedures; Critical-sociological analysis places law in social, historical, and ideological contexts.[16] In the study of human rights and religious freedom, critical-sociological analysis is helpful to understand how the state, through regulations, apparatus, and public discourse, can produce symbolic violence against minorities, not only through direct intervention, but also through neglect, social legitimacy, and the implementation of biased regulation.[17]

III. THE STATE AND SYMBOLIC VIOLENCE AGAINST RELIGIOUS MINORITIES

A. The Role of the State in Reconstructing Symbolic Power over Religious Minorities in Indonesia

In the modern framework, the state is not only a sovereign authority but also a bearer of human rights obligations. In the doctrine of international human rights, the state has three primary obligations: to respect, to protect, and to fulfil the fundamental rights of citizens. This obligation is affirmed in General Comment No. 31 of the UN Human Rights Committee, which states that states are responsible not only for avoiding rights violations but also for

[14] Roberto Mangabeira Unger, *The Critical Legal Studies Movement* (Cambridge: Harvard University Press, 1986) at 5–15.
[15] Duncan Kennedy, *A Critique of Adjudication: Fin de Siècle* (Harvard University Press, 1997) at 14–16.
[16] Roger Cotterrell, *Law, Culture and Society: Legal Ideas in the Mirror of Social Theory* (Ashgate Publishing, Ltd., 2006) at 44–45.
[17] Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field" (1987) 38:5 UC Law Journal 814 at 812–814.

ensuring the effectiveness and implementation through law and policies.[18] In Indonesia, Article 28I paragraph (4) of the 1945 Constitution emphasises that government holds the responsibility for human rights protection, promotion, enforcement, and fulfilment. This affirmation is strengthened by the ratification of the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12 of 2005, which makes freedom of religion a non-derogable rights.[19]

Furthermore, the state's position on freedom of worship is affirmed in Article 29 of the Constitution, which became a subject of intense debate during the 2000 constitutional amendment discussion. This debate occurred between nationalist groups and religious groups, which began with the Presidential Decree of July 5, 1959. In considering the decree, it is stated that the Jakarta Charter was deemed to "animate" the Constitution and comprises a series of units.[20] A key question that emerged was whether the discussion of the first principle of Pancasila—belief in one supreme God—was adequately addressed in the constitutional text. This issue resurfaced prominently during the second phase of the constitutional amendment, involving political factions such as Demokrasi Indonesia Perjuangan (F-PDIP), Party Factions Bulan Bintang (F-PBB), and Faction Demokrasi Kasih Bangsa (F-PDKB), as well as several constitutional scholar.[21] A central point of contention was the phrasing of Article 29(1) and (2), particularly the term "belief," and whether it should be interpreted narrowly as organized religion. The United Nations Faction, represented by Hamdan Zoelva, proposed an amendment to Article 29(1) emphasizing that Indonesia is "not a secular state" and called for more explicit constitutional provisions regarding religion.[22] On the one hand, nationalist-democratic factions argued that the inclusion of phrases such as "the obligation to carry out Islamic sharia for its adherents" could infringe upon the non-derogable human right to convert or change one's religion.[23] The debate

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[18] See UN Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (2004) at para 6 CCPR/C/21/Rev.1/Add.13.

[19] See *Constitution of the Republic of Indonesia 1945* art 28I(4); *Law of the Republic of Indonesia Number 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights*, 2005.

[20] See the considerations in the Presidential Decree of July 5, 1959.

[21] Mahkamah Konstitusi Republik Indonesia;, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945: Buku VIII Warga Negara dan Penduduk, Hak Asasi Manusia dan Agama*, revisi ed (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2010) at 366.

[22] *Ibid* at 368–369.

[23] *Ibid* at 377.

extended beyond the legislature, involving major religious institutions such as the Indonesian Ulema Council (MUI), the Indonesian Bishops' Conference (KWI), and the Communion of Churches in Indonesia (PGI).[24] This debate ended by defending Article 29 of the Constitution, Chapter XI on Religion with the 1945 Constitution, which reverts to the values of "God" itself, which means that the state is limited only to cases, regarding the outlook on life, the choice to embrace and change religions, differences in dogma within one religion, and local beliefs remain unrestricted freedoms. The debate brought a discriminatory policy direction.

However, despite these normative commitments, the state often fails to fulfill them in practice. Instead of being the protector of freedom, the state is actively involved in the formation of a system that prevents religious minorities from exercising their beliefs freely. This failure is not only evident in direct actions, such as the dissolution of spiritual activities, but also through the formation of regulations that symbolically limit the space for minority groups to express themselves. Within the framework of critical legal theory (Critical Legal Studies), law is viewed not as a neutral entity but as a means of perpetuating the dominance of certain groups in society.[25]Pierre Bourdieu introduced the concept of symbolic violence, which is a form of power that is institutionalised through social symbols, including laws that are not recognised as a form of violence by those who are victims.[26] Through these two approaches, it can be seen that the legal norms in the applicable rules related to religion are not only a form of domination by certain groups, but also cause symbolic violence through written regulations.

Symbolic violence, according to Bourdieu, is a form of covert domination that works not through physical coercion or coercive force, but through the production of meaning, legitimacy, and perception structures that are unconsciously accepted by society as "normal" or "natural".[27] In the context of law, symbolic violence operates when the law is used to justify pre-existing inequality, reinforce power relations between majorities and minorities, and instil the idea that the subordinate positions of certain groups are reasonable

[24] See discussion on *Ibid* at 388–420.
[25] Bourdieu, "The Force of Law", *supra* note 17 at 839.
[26] *Ibid.*
[27] Pierre Bourdieu & Jean-Claude Passeron, *Reproduction in Education, Society and Culture* (London: SAGE Publications, 1979) at 4–5.

or inviolable.[28] This is where the danger of symbolic violence lies, where it is not visible to the naked eye, but whose impact is systemic and prolonged. The symbolic violence of the state against religious minorities is seen in legal products that are designed in such a way that they appear neutral and administrative, but serve to normalise inequality.

One form of symbolic violence that occurred was the Regulation on the Establishment of Houses of Worship in 2006, which requires recommendations from 60 residents and 90 users of houses of worship, as well as blessings from FKUB and regional heads, in the establishment of houses of worship. This provision symbolically places minority groups as entities that must receive legitimacy from the majority to exercise their beliefs. This practice is not only a violation of human rights principles, but also a symbolic form of power that normalises the subordinate position of minority groups. In addition, local regulations are also instruments of symbolic violence and contain discriminatory content under the pretext of maintaining local identity.[29] This regulation shows how the state, through its legal apparatus, institutionalizes discriminatory social norms by embedding them within the legal system. Within the framework of Lawrence M. Friedman's theory of the legal system, law consists of three interrelated ccomponent: the substance of the law (regulations and statutory content), the structure of the law (institutions and apparatus), and the culture of the law (societal attitudes and legal consciousness). [30] When the substance of the law contains bias, the bureaucratic structure becomes vulnerable to majoritarian pressure, and the prevailing legal culture tolerates or even reinforces intolerance. In such a configuration, symbolic violence is not only normalized but legitimized, turning legal instruments into tools of exclusion and oppression rather than mechanisms of justice and protection.

Furthermore, the use of formal legality to justify exclusion against minority groups constitutes a fundamental breach of the principle of the rule of law (rechtsstaat), which emphasises that the power of the state must be limited to prevent arbitrariness and protect individual freedoms.[31] In such cases, the law

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[28] David Swartz, *Culture and Power: The Sociology of Pierre Bourdieu* (Chicago: University of Chicago Press, 1997) at 89–92.

[29] *Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 8 and Number 9 of 2006 (Regulation on the Establishment of Houses of Worship in 2006), supra* note 5.

[30] Lawrence M Friedman, *Sistem Hukum : Perspektif Ilmu Sosial* (Bandung: Nusamedia, 2009) at 15.

[31] Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia (Jakarta: Konstitusi Press, 2006) at 93-96.

transforms into a symbolic instrument of repression. Ronald Dworkin asserted that law must be aligned with the principles of morality and substantive justice, rather than merely with administrative procedures.[32] In this context, formal legal proceduralism is used to justify the dominance of the majority group. Based on this explanation, the state has failed to separate itself from the pressure of intolerant groups that often use moral or public order issues to justify the act of banning or dissolving minority religious activities. Based on the analysis, the state becomes a facilitator of inequality through neglect or direct action by its apparatus. This aligns with Michel Foucault's analysis of how modern power operates through legal and administrative institutions to discipline the social body.[33]

This form of symbolic violence does not always manifest as an overt or direct violation. Nevertheless, its impact is structurally profound and damaging: it restricts the space for minority expression, reinforces social stigma, and curtails the constitutional rights of minority groups. The state acts not only as a regulator but also as an agent of reproducing the dominant ideology. When the state actively produces and preserves a discriminatory legal system, it has lost its constitutional legitimacy. For this reason, substantive legal reform steps are needed, not only by repealing discriminatory regulations such as the Establishment of Houses of Worship Regulations and problematic Regional Regulations, but also by building a legal culture that internalises human rights values and pluralism. Strengthening human rights institutions and the Constitutional Court, as well as constitutional education based on inclusive values, is part of the strategy of deconstructing symbolic state power.

B. Between Forced Tolerance and Religious Pluralism That Results in Discrimination and Intolerance

The discourse on religious tolerance and pluralism in Indonesia has been constructed within a normative framework that prioritises social harmony. However, in practice, the heralded narrative of tolerance is often a tool of control imposed on religious minorities. Both the state and the dominant segments of society frequently interpret tolerance not as mutual respect, but as a set of restrictions that minority groups are expected to accept in the interest

[32] Ronald Dworkin, *Law's Empire* (Cambridge: Harvard University Press, 1986) at 225.
[33] Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Pantheon Books, 1977) at 304.

of maintaining public order and social stability. This view is contrary to human rights principles that guarantee freedom of religion and belief as an absolute (non-derogable right).[34] When tolerance is forced, it results in the imposition of uniformity in religious life. Minority groups are often compelled to conform to the norms of the majority and comply with social restrictions that may not align with their values and beliefs. In this context, the state is not neutral, but plays a role in shaping religious hierarchies symbolically and institutionally. One prominent example is the role of Forum Kerukunan Umat Beragama (FKUB), which often functions as an instrument for perpetuating the dominance of the majority religion by granting more authority to certain groups to determine the validity or legality of other groups' religious activities.[35] For instance, the FKUB is granted the authority to provide written recommendations as a prerequisite for obtaining permits to establish house of worship. This action is a form of symbolic violence that has been legalised.

On the other hand, the concept of' pluralism - which holds particular significance in discussions of freedom of religion and belief- must not be interpreted arbitrarily; for example, it is equated with tolerance, mutual respect, and so on. As a worldview, religious pluralism encompasses several key principles. First, one's religion is not the only and exclusive source of absolute truth, so that in other beliefs, there can be found the concept of truth, at least a true "value." Second, the acceptance of the concept that each religion and its claims are equally trustworthy to its members, where pluralism emphasises aspects of togetherness within existing religions. Third, pluralism is sometimes equated with ecumenism, which refers to efforts aimed at fostering unity, cooperation, and mutual understanding between teachings and even denominations within a single religion.[36] Based on this understanding, pluralism as an ideology must be interpreted not only to the recognised religions in Indonesia, but more broadly to all local beliefs, both religious and non-religious, even between denominations in one dominant religion.
The root of the problem with the concept of religious pluralism can be traced in depth. Nurcholish, for example, affirms that pluralism has a strong basis in

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[34] See *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion*, by UN Human Rights Committee, UN Doc CCPR/C/21/Rev.1/Add.4 (United Nations, 1995) at para 1.

35 See Article 9 paragraph (2) in the 2006 Regulations on the Establishment of Houses of Worship.

[36] Fatonah Dzakie, "Meluruskan Pemahaman Pluralisme dan Pluralisme Agama di Indonesia" (2014) 9:1 Al-Adyan 79–94 at 80–81.

the scriptures themselves. He argues that the modern understanding of religion has undergone a form of semantic distortion, "castration of meaning", which results in a narrowed and reductionist interpretation of religious teachings. According to Nurcholis, the reductionistic understanding of religion is at the root of the acute and complex modern socio-theological problems. This complexity can be bridged by returning the concept of "religion" to its orbit, to a correct and comprehensive sense, rather than a reductionistic interpretation.[37] Former President Abdurrahman Wahid (Gus Dur) placed significant emphasis on the importance of pluralism. He advocated for an open and inclusive worldview to pursue the truth anywhere and consider the diverse perspectives across cultural. Pluralism must be manifested in both action and thought; pluralism is what gives birth to the concept of tolerance, which does not depend on natural intelligence, but on the heart and behaviour. Anti-pluralism means anti-tolerance. According to Gus Dur, this attitude is often found in those who are "rich and smart people". On the other hand, Gus Dur explained that the "best people" are neither rich nor bright, but are more tolerant.[38]

Furthermore, Djohan Effendi provides a middle ground between religion and pluralism, where, according to him, the concept of pluralism serves as a theological meeting point between religious people. Not only must it be recognised sociologically, but a distinction must also be made between religion and human diversity. Religion that is based on revelation and is divine and has absolute value. When religion clashes with the nature of the human mind, it cannot be fully grasped by the human mind, because man himself is relative. Hence, the concept of "truth" conveyed by man becomes relative. The absolute is the truth of religion in its original form, without human intervention, and this kind of truth can only be obtained through the knowledge of God Himself.[39] From these various explanations, the term pluralism forms the understanding that pluralism is a universal concept, akin to "global ethics," just as humanity and humans themselves are.

How does this relate to symbolic violence? As a conceptual framework, pluralism is indeed highly relevant; however, in practice, its implementation often falls short. Pluralism manifest in various forms. Some are rhetorical,

[37] Anis Malik Toha, *Tren pluralisme agama: tinjauan kritis* (Jakarta: Perspektif, 2005) at 51–89.
[38] Abdurrahman Wahid, *Muslim Di Tengah Pergumulan* (Leppenas, 1981) at 3.
[39] Djohan Effendi, "Dialog Antar Agama: Bisakah Melahirkan Teologi Kerukunan" (1978) 16 Prisma.

while other are genuine and transformative. The state tends to allow the status quo, where formal policies and regulations legitimise the dominance of the majority religion. In such a situation, pseudo-pluralism gives rise to new forms of institutionalised intolerance.[40] This phenomenon can be seen from the dissolution of various religious activities carried out by minority religious groups. The dissolution is often justified in the name of public order or social harmony, even though legally, there are no violations committed by these groups. From a human rights perspective, this kind of dissolution constitutes a violation of Articles 28E and 29 of the 1945 Constitution, which guarantee freedom of religion and worship according to one's faith and beliefs.

Karen Armstrong, for example, explains this phenomenon in terms of "aggression" and divides it into 2, namely, inward aggression and outward aggression. Outward aggression is described as an outburst of emotion and anger in an arbitrary act. Meanwhile, inward occurs when the overflow of feelings cannot come out or is inhibited, resulting in a suicidal event.[41]To deepen this perspective, Karen Armstrong explains that violence that often arises in the name of religion does not come from the teachings of the faith itself, but from the political dynamics, fear, and identity of threatened groups.[42] This theory, when contextualised with the phenomenon in Indonesia, occurs in coercive behaviour against rigid and exclusive forms of tolerance, thus creating a psychosocial condition that is vulnerable to institutionalised forms of symbolic aggression.[43] Thus, a pluralism model that does not provide equal space for all beliefs can be a trigger for institutionalised aggression, where the state becomes a symbolic agent that perpetuates inequality. This condition indicates that the state has not been able to fulfil its constitutional role optimally. The state prefers the path of compromise with the majority group for the sake of short-term political stability, rather than upholding the principles of justice and equality guaranteed by the constitution. As a result,

[40] Tim Lindsey & Helen Pausacker, eds, *Religion, Law and Intolerance in Indonesia* (London: Routledge, 2016) at 7–9.
[41] Karen; Armstrong, *Berperang Demi Tuhan ; Fundamentalisme dalam Islam, Kristen, dan Yahudi* (Bandung: Mizan, 2013) at 76–77.
[42] Karen Armstrong, *Fields of Blood: Religion and the History of Violence* (New York: Knopf, 2014) at 15–18.
[43] *Ibid* at 23–24.

the fundamental rights of minority groups continue to be eroded, both symbolically and materially.[44]

These conditions reveal the state's persistent failure to fulfill its constitutional mandates. The state prefers the path of compromise with the majority group for the sake of short-term political stability, rather than upholding the principles of justice and equality guaranteed by the constitution. The urgency, then, is to rebuild the paradigm of tolerance and pluralism within the framework of human rights, not solely in the narrative of social harmony. The state must develop affirmative policies that guarantee equal access to religious spaces, ensuring freedom of worship, and recognize the legitimacy of diverse religious identities. Without this paradigm shift, the rhetoric of harmony will continue to function as a tool to suppress legitimate and legal religious expression, as well as justify covert but systemic discriminatory practices.[45]

IV. ACTS OF NEGLECT AND FAILURE OF THE STATE IN THE FRAMEWORK OF PEACE

A. State Relations, Majority, and the Ignorant

The state bears a constitutional responsibility to guarantee and protect religious freedom. However, in practice, this obligation is frequently neglected, especially in the context of relations between religious majorities and minorities. The recurring phenomenon of the dissolution of religious activities by the authorities in the name of public order reflects a symbolic manifestation of structural violence, in which the law is used as a hegemonic tool to maintain the dominance of certain groups.[46] In many cases, the state actively tolerates acts of intolerance by non-state actors, even in situations that violate the law and human rights.[47] Edward Aspinall and Marcus Mietzner emphasise that post-reform democracy in Indonesia has regressed through the co-optation of

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[44] Al Khanif, *Religious Minorities, Islam and the Law: International Human Rights and Islamic Law in Indonesia* (London: Routledge, 2020) at 142–145.

[45] Komnas HAM, *Panduan Prinsip dan Strategi Penguatan Toleransi dan Pluralisme dalam Rangka Pemajuan HAM di Indonesia* (Jakarta: Komnas HAM, 2021) at 55–59.

[46] Andreas Harsono, "Intoleransi Beragama dan Berbagai Peraturan Diskriminatif terhadap Minoritas di Indonesia: Sejarah diskriminasi dari definisi sempit sampai "kerukunan beragama"" (29 October 2024), online: *Human Rights Watch* <https://www.hrw.org/id/news/2024/10/29/religious-intolerance-discriminatory-regulations-against-minorities-indonesia>.

[47] *Laporan Tahunan Kebebasan Beragama dan Berkeyakinan di Indonesia 2023*, by SETARA Institute (Jakarta: SETARA Institute, 2024) at 22–26.

public space by dominant religious groups, which is supported by the weakness of state institutions in upholding the principle of nondiscrimination.[48]

The state not only fails to carry out its obligations as a protector of human rights, but also contributes to the delegitimisation of minority rights through systemic neglect. Theoretically, this neglect can be explained through the framework of institutionalised dominance, in which legal and administrative structures are designed in such a way as to strengthen the position of the majority group while suppressing the existence of other groups.[49] In practice, the state becomes a tool of the dominant group that symbolically and materially controls the religious public space. This relationship implies that the state does not act as a neutral guardian of the constitution, but as a party that co-opts constitutional principles. Arskal Salim explained that the state often gives up its constitutional authority by allowing mass pressure to become the de facto policy-makers in religious matters.[50] Furthermore, Hefner noted that his phenomenon shows a power relationship in which the state tends to protect the "dominant moral community" at the expense of the principles of equality and non-discrimination.[51] This means that state failure is systemic and structured in the logic of a government that is compromising on intolerance.

Referring to this phenomenon, Pierre Bourdieu's theory of symbolic violence becomes relevant, in which the state acts as an agent of domination that legitimises the power of the majority through symbolic representation in policies and legal actions that are discriminatory against minorities.[52] This theory is reinforced by a critical-sociological approach that places the state not only as a law enforcer, but also as a political and ideological actor that produces inequality in the name of public stability and morality.[53] Meanwhile, from an international human rights perspective, restrictions on religious freedom are

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[48] Edward Aspinall & Marcus Mietzner, "Southeast Asia's Troubling Elections: Nondemocratic Pluralism in Indonesia" (2019) 30:4 Journal of Democracy 104–118 at 104–109.
[49] Martha Minow, *Not Only for Myself: Identity, Politics, and the Law* (New York, London: The New Press, 1999) at 90–94.
[50] Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: University of Hawaii Press, 2008) at 145–148.
[51] Robert W Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton: Princeton University Press, 2011) at 214–218.
[52] Pierre Bourdieu, supra note 6. p. 166-170. Supra note 6 is not directed to pierre Bourdieu book, please provide the exact pierre's book.
[53] Minow, *supra* note 49.

justified only within a rigorous, proportionate and non-discriminatory legal framework, as stated in General Comment No. 22 of the UN Human Rights Committee and the International Covenant on Civil and Political Rights (ICCPR).[54] Unfortunately, the implementation of this principle in Indonesia remains far from meeting ideal standards in protecting religious freedom, as evidenced by the numerous cases of prohibition of the construction of houses of worship and the forced displacement of minority communities that do not receive adequate protection from law enforcement officials.[55] Therefore, the state's failure to guarantee religious freedom is not only a form of denial of constitutional responsibility but also a threat to the pluralism that is the foundation of the diversity of the Indonesian nation.[56]

B. Legal Rhetoric Between Security and Safety Approaches as Instruments of Minority Control

The phrase "for the sake of public order" is often used by state officials as a justification for dissolving minority religious activities.[57] This justification appears administratively plausible, but in the context of human rights, such reasons must undergo strict scrutiny. They should not be used as an excuse to restrict absolute rights, such as freedom of religion.[58] Strict scrutiny itself is the highest standard in the test of the constitutionality of a restriction on human rights, where the government must prove that the restriction on human rights meets three elements, namely having a compelling interest, being carried out in the most minimal way (narrowly tailored), and not having other less restrictive alternatives.[59] In the context of religious freedom, this standard requires the state to prove that measures such as the dissolution of religious activities are necessary to prevent a real and immediate serious threat to public safety, and are not discriminatory or based on majority group pressure.[60] Suppose restrictions are imposed solely to avoid social tensions or local

[54] UN Human Rights Committee, *supra* note 34 at paras 3–4.
[55] Khanif, *supra* note 44 at 165–168.
[56] Hefner, *supra* note 51 at 214–218.
[57] For example, in January 2023, a group of Ahmadiyah members in Bandung City were holding weekly private services at their house of worship. However, local government officials and Public Order Agency (Satpol PP), accompanied by police, arrived to disperse the gathering. In an official statement, city officials stated that the disbandment was carried out to maintain public order and avoid potential social conflict. See, Laporan Tahunan Komnas HAM 2023, by Komnas HAM Republik Indonesia (Jakarta, 2023).
[58] UN Human Rights Committee, *supra* note 34 at paras 3–4.
[59] Erwin Chemerinsky, *Constitutional Law: Principles and Policies* (New York: Wolters Kluwer, 2015) at 568–572.
[60] David Feldman, "Human Dignity as a Legal Value: Part II" (2000) 1 Public law 61–76 at 68–70.

political pressure. In that case, those reasons do not qualify within the framework of strict scrutiny asserted by international law and constitutional principles.[61] This rhetorical approach reflects the use of the law as an ideological tool, not as a protector of constitutional values. In this context, the law is used as a means to maintain the status quo that benefits the majority group and harms the minority. Thus, the rhetoric of public order has become a legal cloak for discriminatory and intolerant actions.

Problems arise when countries, including Indonesia, fail to fully understand the framework of strict scrutiny and the principles in the International Covenant on Civil and Political Rights (ICCPR). When ratifying the ICCPR through Law No. 12 of 2005, Indonesia did not explicitly adopt the principle of strict scrutiny as a method for assessing the limitations on rights. Furthermore, in various implementing regulations, including the Criminal Code and regional rules, such as Articles 300-305 of Law Number 1 of 2023, which regulate criminal acts against religion, belief, and religious life or beliefs, for instance.[62] Asfinawati, for example, explained that the articles allow restrictions on freedom of religion and expression under the pretext of "public order or security" because their operational definition is very narrow and leans more towards the legitimacy of social control than the protection of human rights.[63] In addition, the Human Rights Watch report stated that the new Criminal Code narrows the space for civil liberties by upholding colonial norms and criminalising religious expression against minority groups, without taking into account Indonesia's international obligations under the ICCPR.[64]

Based on this explanation, The term "security" is often interpreted narrowly- primarily in terms of physical safety and public order- rather than in its broader sense of safeguarding personal integrity and human dignity as articulated in the International Covenant on Civil and Political Rights (ICCPR). Consequently, many law enforcement policies and practices purportedly in the name of "security" end up restricting fundamental rights, especially the right to freedom

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[61] International Commission of Jurists, *The Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR* (1984) at 10–12.

[62] *Law Number 1 of 2023 concerning the Criminal Code*, Criminal Code 2023 arts 300–305Chapter VII.

[63] Asfinawati, "Potensi Kriminalisasi Hak Minoritas Keagamaan dalam KUHP" (7 December 2022), online: *Sekolah Tinggi Hukum Indonesia Jantera* <https://www.jentera.ac.id/kabar/potensi-kriminalisasi-hak-minoritas-keagamaan-dalam-kuhp>.

[64] Human Rights Watch, "Indonesia: New Criminal Code Disastrous for Rights" (8 December 2022), online: <https://www.hrw.org/news/2022/12/08/indonesia-new-criminal-code-disastrous-rights>.

of religion, without a strict proportionality test mechanism.[65]In this context, the conceptual distinction between "security" and "safety" becomes increasingly relevant. The "security" approach tends to perceive rights and freedoms as potential threats to state stability, focusing on control and prevention. In contrast, the "safety" approach emphasises the fulfilment of rights with an orientation to human dignity and the guarantee of a sense of security for vulnerable groups.[66] Countries that adopt a "security" approach in their public policies without regard to the "safety" dimension risk criminalising legitimate and peaceful expressions of belief. What about Indonesia? Unfortunately, the approach used is "security", where the restriction of human rights in Article 18 paragraph (3) of the ICCPR, which uses the terminology "safety", is interpreted as "security", not "safety" in Law No. 12 of 2005.[67]

C. The State of Law, Religion, and The Future of Pluralism

A state of law is ideally an institution that guarantees justice, freedom, and equality of citizens without discrimination. But in practice, especially in multicultural and multireligious countries like Indonesia, the relationship between the state, law, and religion often poses its challenges. The religious influence of the majority, the perception of national security, and the legal rhetoric that is not always neutral usually put religious minorities in a vulnerable position. In this context, religious pluralism is not only a sociological challenge, but also a test for the principle of a democratic and human rights-based state of law.

Historically, the construction of the state of law in Indonesia was built on the foundation of Pancasila, which recognises diversity. It is a normative foundation that emphasises the principles of Godliness and Unity, which contains the recognition of religious, cultural, and ethnic plurality as a national reality.[68] In this regard, the rule of law in Indonesia not only emphasises the rule of law, equality before the law, and the protection of human rights, but

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[65] *Laporan Tahunan Kebebasan Beragama dan Berkeyakinan di Indonesia 2022*, by Wahid Institute (Jakarta: Wahid Institute, 2023) at 33–34.

[66] Wolfgang Benedek (juriste) & Matthias C Kettemann, *Freedom of Expression and the Internet* (Strasbourg: Council of Europe Publishing, 2020) at 41–43.

[67] See Article 18 paragraph (3) of Law No. 12 of 2005, "... security, public order, health and/or morals, or the fundamental rights and freedoms of others." The term security is different from the English version of the ICCPR which uses the terminology "safety". The term "safety" when interpreted, is more precisely "safety".

[68] Yudi Latif, *Negara paripurna: historisitas, rasionalitas, dan aktualitas Pancasila* (Jakarta: Gramedia Pustaka Utama, 2011) at 192–195.

must also be able to guarantee and nurture diversity as an integral part of social justice.[69] However, this doctrine is often read narrowly due to the dominance of majoritarian interpretations, which causes religious pluralism to be understood as diversity that remains within the bounds of majority norms, rather than as an equal relationship between beliefs. When the state involves religion in the public sphere through legislation or policies, such as sharia regulations or policies banning minority houses of worship, the state indirectly violates its principle of neutrality. This corroborates Hirschl's thesis of "constitutional theocracy," which is when the constitution and state institutions are controlled or influenced by certain dominant religious values.[70] In the modern approach of the state of law, for example, the state is obliged to separate itself from religious affairs and preferences. Ronald Dworkin, for example, emphasised that the state should not establish sectarian moral values that prevail in general and bind all citizens.[71] As the problem has been conveyed earlier, namely the mistake of interpreting into Indonesian in Law No. 12 of 2005, which is very crucial, namely the term "security" as "security" in a militaristic sense, not as "safety" which focuses on the protection of individuals from direct threats to their rights.[72]

In the framework of pluralism, the state should not be passively tolerant, but actively guarantee freedom of religion. Charles Taylor explains the importance of "recognition" as a principle of justice in a multicultural society.[73] The state is not only required not to discriminate, but also to recognise and facilitate the expression of different religious identities. In the Indonesian context, this recognition remains limited, as evidenced by the challenges faced by minority communities in constructing places of worship or conducting religious activities openly. However, religious pluralism in Indonesia is more often understood in the framework of forced tolerance. The state demands that society be "tolerant" without providing a legal structure that guarantees substantive justice for minority groups. This vertical and asymmetrical tolerance ultimately turns pluralism into empty rhetoric, often even used to

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[69] Moh Mahfud MD, *Membangun Politik Hukum Menegakkan Konstitusi* (Jakarta: Rajawali Pers, 2011) at 67.
[70] Ran Hirschl, *Constitutional Theocracy* (Cambridge: Harvard University Press, 2010) at 1–4.
[71] Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1977) at 195–204 Google-Books-ID: Au4SYQ0QS2wC.
[72] Jimly Asshiddiqie, supra note 31.
[73] Charles Taylor, *Multiculturalism and "The Politics of Recognition": An Essay* (Princeton: Princeton University Press, 1992) at 25.

justify the status quo of inequality.[74] The state also tends to use the law as a tool of control, not as an instrument of emancipation. The law is used to dampen differences, not to protect the expression of diversity. This shows the transformation of the state of law into a repressive administrative state.

Furthermore, An-Na'im emphasised that a democratic secular state does not mean anti-religion, but rather provides space for all religions to express themselves without subordination.[75] If the state is trapped in the religious bias of the majority, then it is no longer a state of law in a substantive sense, but a state that commits symbolic violence against minorities.[76] Pierre Bourdieu explained that symbolic violence is a form of domination carried out through symbolic mechanisms such as language, laws, and norms, which are unconsciously accepted by the dominated. In the Indonesian context, symbolic violence occurs when minorities feel forced to accept inferior status in social and legal structures.[77] To safeguard the future of pluralism, Indonesia needs to carry out serious constitutional reforms and legislation. The protection of religious minorities must be institutionalised through affirmative policies, limiting the role of the state in matters of faith, and strengthening supervision of law enforcement officials who are often on the side. The principle of strict scrutiny, as practised by the Supreme Court of the United States, can be adopted to test any policy that impacts religious freedom.[78]

Strict scrutiny requires that any restriction on fundamental rights must have a compelling interest and that the policies used must be the least restrictive means to achieve that interest.[79] Unfortunately, in practice in Indonesia, the justification for restricting rights often uses rhetoric "for the sake of public order" without adequate testing. Furthermore, the future of pluralism will be primarily determined by the state's willingness to deconstruct the dominant religious narrative that has been entrenched in the legal system. This requires the involvement of civil society, universities, and progressive religious institutions. The state must be a facilitator of equal interfaith dialogue, not a

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[74] Jeremy Menchik, *Islam and Democracy in Indonesia: Tolerance without Liberalism* (Cambridge: Cambridge University Press, 2016) Cambridge Studies in Social Theory, Religion and Politics at 45–72.
[75] ʻAbd Allāh Aḥmad Naʻīm, *Islam and the secular state: negotiating the future of Shariʻa* (Cambridge: Harvard University Press, 2008) at 107–108.
[76] *Ibid* at 114–115.
[77] Pierre Bourdieu, *Masculine Domination* (Stanford: Stanford University Press, 2001) at 35–38.
[78] Richard H Fallon Jr, "Strict Judicial Scrutiny" (2007) 1267–1337 at 1267.
[79] *Ibid.*

single regulator of religious interpretations.[80] The human rights-based governance (HRBG) approach can be a relevant framework for building a model of the state of law that is responsive to diversity.[81]

In the modern conception of the rule of law, the relationship between the state and religion is governed by the principle of non-intervention in individual belief systems. This principle is rooted in the doctrine of the separation between church and state, which affirms that the state must remain neutral in matters of faith and refrain from endorsing or suppressing particular religious doctrines. Mikhail Bakunin argued that "religion and the state are two institutions that mutually reinforce dominance over individuals."[82] Bakunin saw that the state tended to use religion as a tool of legitimacy of power, while religion used the state to impose obedience to certain dogmas. Therefore, the separation between the two is a prerequisite for guaranteeing true freedom, both in political and spiritual aspects.[83] In line with Bakunin, John Rawls emphasised that a democratic state should not base public policy on a particular religious doctrine, as this would undermine the principle of "overlapping consensus" in a pluralistic society.[84] Furthermore, Martha Nussbaum explained that a state that respects human dignity must guarantee religious freedom by keeping state institutions away from efforts to assess the truth of a religious teaching. Thus, the separation between state and religion is not an extreme form of secularisation, but a constitutional guarantee of freedom of belief.[85]

In practice, the principle of separation between state and religion is not fully realized in Indonesia. One clear example is the requirement to state one's religion on the national identity card (Kartu Tanda Penduduk, or KTP), which embeds religious affiliation as a formal component of civic identity and public administration.[86] Additionally, the establishment of the Forum Kerukunan

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[80] Elizabeth Shakman Hurd, *The Politics of Secularism in International Relations*, 105 (Princeton: Princeton University Press, 2008) at 90–91.
[81] *Human Rights-Based Approaches to Development Programming*, by United Nations Development Programme (UNDP) (United Nations Development Programme, 2006) at 11–13.
[82] MIkhail Bakunin, *God and State* (New York: Dover Publications, 2003) at 9–12.
[83] *Ibid.*
[84] John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993) at 150–153.
[85] Martha C Nussbaum, *Liberty of conscience: in defense of America's tradition of religious equality* (New York: Basic Books, 2008) at 3–7.
[86] See Law No. 23 of 2006 concerning Population Administration which has been amended by Law No. 24 of 2013 concerning Amendments to Law No. 23 of 2006 concerning Population Administration and

Umat Beragama (FKUB), which is given authority over government administration and is dominated by the majority religion, becomes a means of control over the establishment of houses of worship. This institutional configuration generates a symbolic power structure that suppresses minority religions under the guise of promoting harmony and tolerance.[87] It constitutes a form of domination that is legitimised through cultural symbols and social norms, which makes the oppressed group unaware that they are being oppressed.

VI. CONCLUSION

Indonesia, as a constitutional state, bears the obligation to guarantee freedom of religion and belief for all citizens. However, this commitment remains largely unfulfilled in practice. The state, either actively or passively, contributes to the reproduction of symbolic violence through regulations, public policies, and institutional practices that reflect majoritarian dominance. Rather than protecting minority rights, the state often legitimizes exclusion and discrimination under the pretext of maintaining public order. Pierre Bourdieu's theory of symbolic violence provides a crucial lens to understand how the law, rather than serving as an emancipatory force, becomes a medium for normalizing dominance and marginalization. Repressive acts such as the forced dissolution of religious gatherings, carried out without due process, illustrate how public order is weaponized to silence dissent and reinforce majority interests. Moreover, the misuse of terms like "public order" and "national security" outside the proportionality framework established in the ICCPR reveals a security-centric mindset that undermines human rights. In such a context, pluralism becomes rhetorical rather than real, and religious minorities are left vulnerable and insecure. To move forward, Indonesia must adopt a humanist legal paradigm that recognizes diversity as a strength and enforces a clear separation between religion and state authority. Legal frameworks must be revised to uphold equality, prevent systemic discrimination, and ensure that the law protects all citizens—majority and minority alike—with equal dignity.

Constitutional Court Decision Number 97/PUU-XiV/2016 for local belief adherents, the religion column can be left blank or filled with "Belief Adherents".

[87] Regulations for the Establishment of Houses of Worship in 2006.

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