



## MELINDUNGI HAK-HAK PESERTA DIDIK AGAMA MINORITAS DI SEKOLAH *ADVOCATING MINORITY RELIGIOUS STUDENT RIGHTS IN SCHOOLS*

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### **Abstract**

This paper aimed to describe the existence of governmental regulation towards minority groups, especially towards minority religious students at schools in Indonesia. The research was a multi-cases study in any region, among which were: Ambon Moluccas, Denpasar Bali, Jakarta, Bekasi West Java, Manado North Sulawesi, Ende, and Pangkalpinang. The data dug from various informants such as religious education teachers at schools, parents, students, head schools, headboards of the school committee, as well as any relevant documents. The research findings showed that any public schools ruled by a religious organization, such as Islamic based religious organizations, Christian based religious organizations, and Catholic-based religious organizations, were not allowing and denied to serve minority religious students. Meanwhile, the public schools ruled by government tried to fulfill the religious education in accordance with the student religious and by the same religious teachers as the student religion.

**Keywords:** Governmental policies; Minority religious students; Religious education; Religious rights

### **Abstrak**

*Tulisan ini membahas eksistensi kebijakan pemerintah terhadap kelompok minoritas, khususnya layanan pendidikan agama terhadap pelajar penganut agama minoritas pada sekolah di Indonesia. Penelitian ini merupakan studi kasus di beberapa daerah antara lain: Maluku, Denpasar, Jakarta, Bekasi, Manado, Ende, dan Pangkalpinang. Data digali dari berbagai informan seperti guru pendidikan agama di sekolah, orang tua siswa, peserta didik, kepala sekolah, komite sekolah, serta dokumen kebijakan pemerintah tentang layanan Pendidikan agama kepada peserta didik. Hasil penelitian menunjukkan bahwa hak peserta didik untuk memperoleh layanan pendidikan agama dan diajarkan oleh guru agama yang sama dengan agama siswa, sudah dilindungi oleh pemerintah melalui berbagai kebijakan. Pada sekolah umum berstatus swasta yang dikelola oleh organisasi keagamaan, tidak mengizinkan dan menolak melayani siswa agama minoritas. Sementara itu, sekolah negeri yang diatur oleh pemerintah berusaha untuk menyelenggarakan pendidikan agama sesuai dengan agama siswanya dan oleh guru yang sama dengan agama siswanya.*

**Kata Kunci:** Agama minoritas; Hak beragama; Kebijakan pemerintah; Pendidikan agama

## INTRODUCTION

Religious education service and minority groups are both the interesting topic to be discussed. In one hand, religious and education service become the fundamental rights for humankind, in other hand the minority group as the group that has the same right with others, including in religious service. It means that minority groups, whoever they are, and wherever they were, especially at school and other public life, they must be treated normally as same as the others or the majority one. There had been many researchers about minority group student, such as Glock & Kleen, (2019) and (ACJ, FG and JJ, 2018) who describe the racial – ethnic minority groups. Others author who also address about the ethnic minority groups were Postiglione (2017) describe The education of ethnic minority groups in China, and Lessard-Phillips & Li (2017), about social stratification of education by ethnic minority groups over generations in the United Kingdom.

There was still a lack, and limited publication about student minority groups refers to religion at school compare to racial and ethnicity. One publication found was written by Seginer & Mahajna, (2018) addressed about the acculturation strategies of youth from three religion minority groups in Israel namely Muslim, Druze, and ultra-Orthodox Jewish.

Seemingly, there were many parties still did not understand the role and function of religious education in schools. Some practitioners viewed religious education in schools as useless, and some even stated that religious education had negative effects on students. Actually, religious education functions were to shape people who are faithful and pious to The God The Almighty and have noble character, and are able to maintain peace and harmony in internal and inter-religious relations. Meanwhile the purpose and aim of religious education is to develop the ability of students to understand, appreciate and practice religious values that harmonize their mastery in science, technology and art.

Each school was obliged to provide religious education services to students. Although, as an autonomous institution, the school has the authority to regulate and manage school interests according to its own initiatives

based on the aspirations of employees, the community and other stakeholders. The principle that must be held in the implementation of school autonomy is to organize its own learning activities, both in terms of finance, infrastructure and interests or other educational needs.

In the practice of autonomy, each school offers religious lessons according to their own characteristics. In facts, there was a lot of Catholic schools offer just Catholic religious education. As well as Christian schools offer just Christian religious education, and Islamic schools just offer Islamic religious education. Even some schools have closed the opportunity for minority religious students to get religious education services in schools.

Minority religious students that did not get religious education services at school, got to study religion outside of school independently or did not even get religion study at all. In other words, their religious rights were ignored by the school. These children were not served in religious education and need to be advocated. Refers to those problems, this paper want to describe based on these questions: a) What is the government policy on religious education services?, b) How schools respond to the regulation, c) What best practices can be modeled?, and d) What are the obstacles and challenges in implementing the regulation?

The major objective of this study were: to investigate the government's efforts through a series of policies to maintain the rights of the minority religious students in schools. Explain the implementation of the regulation; recommend the solution of how to advocate religious education rights at school.

## CONCEPTUAL FRAMEWORKS

There is no internationally agreed definition as to which groups constitute minorities. It is often stressed that the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors including that individuals must identify themselves as members of a minority (UNHR, 2010). The term minority as used in the United Nations human rights system usually refers to

national or ethnic, religious and linguistic minorities, pursuant to the United Nations Minorities Declaration. All States have one or more minority groups within their national territories, characterized by their own national, ethnic, linguistic or religious identity, which differs from that of the majority population (UNHR, 2010).

Religious education service in school was perceived as a critical issue because school is a public institution that serves the critical needs of the citizen. All citizens at childhood years should have to stay at school for any period and for any subject matters to be learned. As in Indonesia, there were five religions and then added sixth religion that served by government formally, namely: Islam, Christian, Catholic, Hinduism, Buddhism, and since 2002 Khonghucu was counted in to be served. The consequence of those Laws that each school must provide those religion, since there were obligatory for school to serve education as one subject matter in their list of the lesson package.

Other than Indonesia Law and regulation, it was internationally agreed that the way people choose, embrace, and experience a religion is one of the fundamental human rights. It was stated in the Universal Declaration of Human Rights which adopted the United Nations in 1948, Article 18, 26 and 29, says about the main points of religious freedom. Article 18, for example to say that every person has the right to freedom of thought, conscience and religion, including the freedom of choice and embrace certain religion, and stated his religion in teaching, practice, and worship, either individually or in group. In the international covenant on civil rights and political ratified by United Nations on December 16, 1966, article 18 also stated the same thing as what is mentioned in article 18 of the Universal Declaration of Human Rights (Mudzhar, 2010). Later in the International Covenant on the Economic, Social, and Cultural Rights which was also ratified by the United Nations on December 16, 1966, in article 13, it was stated that all States and parties that have been ratifying the covenant must respect to the freedom of parents or guardians in ensuring that their children's education at schools conducted

in accordance with their religion (Mudzhar, 2010).

In this case, Indonesian government has ratified the International Covenant on Civil and Political Rights through the Law No. 12 of 2005. It means that the stipulations of the Universal Declaration are recognized and accepted in binding people in homeland. Under the Covenant, the normative core of the right for freedom of religion or belief can be formulated in the eight elements: 1). Internal freedom, in which everyone is entitled to freedom of thought, belief and religion; this right includes freedom to everyone adheres to, assign, or move or maintain his religion or belief. 2). External freedom in which every person has the freedom, either alone or together with others, in public or privately, to practice a religion or experience his belief in the activities of teaching, worship and observance. 3). Without being forced in which no one can be forced so disturbed liberty to embrace or adopt a religion or belief. 4). Without discrimination in which the state is obliged to respect and to ensure the right to freedom of religion or belief for all people within its territory and subject to its jurisdiction, the right to freedom of religion or belief without distinction of any kind such as race, color, sex, language, religion, political or other opinion, wealth, birth or other status. 5). The rights of parents and guardians in which the state is obliged to respect the liberty of parents and, when applicable, legal guardians, to ensure that the religious and moral education for their children is done in accordance with their own beliefs, and in accordance with children's ability and growth. 6). Freedom of corporate and legal position in which the religious communities should have the legal standing and the institution right to represent their rights and interests as a community. 7). Allowed restrictions against external freedom in which the freedom of practicing religion or beliefs may only be restricted by legal regulations, and such restrictions are necessarily to protect security, order, health, public morals, or the fundamental rights of others. 8). Could not be reduced in which the state should not diminish the rights of religion or belief freedom, even in an emergency situation (Colbran, 2007).

Above was stated clearly that discrimination is prohibited. Every restriction, harassment, or expulsion which is directly or indirectly based on human differences on the basis of religion, race, ethnic group, class, social status, economic status, gender, language, political belief should not happen in schools. Everyone is free to embrace their religion and to worship according to his religion and his belief (Human Rights Act). The state guarantees the freedom of every person and so is student, to embrace the religion and belief both in life and especially at schools.

In regard to the position of child (*including student*), the Covenant International on the Rights of Child adopted by the United Nations on 30 November 1989, particularly in article 14, 29 and 30, stated that the states or parties that had ratified the covenant, must respect to the religious rights of the child. Furthermore, these stipulations are strengthened more through the Child Protection law No. 23 of 2002, which stated: (1) Each child gets protection to worship according to their religion ; (2) Before a child can determine their own religion, the religion of children follow the religion of their parents (Child Protection Act). State, government, communities, families, parents, guardians, and social institutions were ensuring the protection of children in the embrace religion. The protection of children rights in embracing religion as mentioned, include coaching, mentoring, and practice religious teachings (Child Protection Act). Any person who deliberately uses wiles, a series of lies, or persuade a child to choose another religion not of his own volition, while known or suspected that the child is not sensible and not responsible in accordance with their religion shall be punished with imprisonment of 5 (five) years and / or a fine of Rp. 100,000,000.00 (one hundred million rupiah) (child Protection Act) (Indonesia, 2002).

Those stipulations of Laws have cleared that religious education at school should be an important part of religious life, especially for the child at a certain period of time. As Indonesia had diversity in religion and culture, and diversity in spread of population refers to its religion, some region is majority Moslem, and at other any region is Christian, Catholic, or

Hinduism majority. So it is inevitably that at some certain region and at some certain schools there are existed any minority religious student. In Denpasar Bali province as the Hinduism religion majority, there will be existed Moslem, Christian, Catholic, and Buddhism minority student. It is the same as in Ambon Moluccas or Manado North Sulawesi as a Christian religion majority regions, there will be existed Moslem, Buddhist, or Hinduism minority student. Therefore, the existence of Government regulation and policies to govern religious life in school is an important and strategic one.

## METHODS

This paper used descriptive research method with qualitative approach, held from 2012 up to 2015. The research was a multi-cases study in any region in Indonesia, among which are: Ambon in Moluccas, Denpasar in Bali, Jakarta, Bekasi in West Java province, Manado in North Sulawesi, Ende in East Nusa Tenggara Province, and Pangkalpinang in Bangka Belitung Islands province. The data took from any relevant documents, such as the governmental policy of religious education service, and the document of international agency in religious and human rights. As a qualitative research, the data dug from various informants such as religious education teachers at schools, parents, students, head schools, headboards of the school committee.

## RESULT AND DISCUSSION

### Governmental Policies toward the Religious Education Services

There are any laws and governmental policies covered of religious education. Among are: Law number 2 or 1989, Law number 20 of 2003, Governmental Regulation number 55 of 2007, Regulation of Religious Ministry number 16 of 2010. In law number 2 or 1989, the religious education mentioned in the part of curriculum. It was stated that the contents of the curriculum for every type, paths and levels of education must include: Pancasila education, religious education, and civic education (Indonesia, 1989).

The stronger statement about serving religious education toward the minority student could be found firstly on Law number 20 of

2003. There, at chapter twelve, point one, bullet a, stated that “Every student at any educational institution has the rights to receive religious education in accordance with their religion and taught by the same religious educators (Indonesia, 2003). And then in Article 37 stated that The curriculum in primary, secondary, and higher education level shall contain religious education (Indonesia, 2003). This statement interpreting more deeply at Governmental Regulation number 55 of 2007. On part of general requirements at article 1, stated that the meaning of religious education is education that provides knowledge and forming attitudes, personality, and skills of students in practicing of their religion, which is carried out at least through the subjects / courses in all paths, level and type of education (Kabinet, 2007).

The Religious education function is forming Indonesian that faith and fear of God Almighty, Indonesian that noble and capable of maintaining peace and harmony and the inter relationship among religious believers (Kabinet, 2007). In Article 3 stated that Each educational unit on all paths, levels and types are obligated to conduct religious education (Kabinet, 2007). And then in article 4 stated any important things, namely: (1) Religious education in formal education and in the equality education program organized at least in the form of the subject matter or study of religion; (2) Each learners in the educational unit at all paths, levels and types of education are entitled to religious education according to their religion and taught by the same educators; (3) Each educational unit provides a place to hold religious education; (4) The units of education that can not provide a place to hold religious education as referred to in paragraph (3) can cooperate with the other educational unit at the same level or organization of religious education in the community to organize religious education for students. (5) Each educational unit provides space and opportunities for learners to practice their religion under the provisions of the learner’s religion (Kabinet, 2007).

From this law, religious ministry as the governmental agency that took responsibility in managing religious life, initiated to deepening and interpreting more clear. Then, issued the

Regulation of Religious Ministry number 16 of 2010, that stated the obligation school towards religious education at article three: (1) Each school should have to organize religious education. (2) Each of learners at the school have the right to receive religious education in accordance with their religion and taught by the same religious educators.

In article four explained, in terms of the number of the same religion learners in a certain class is 15 (fifteen) or more, the religious education must be served in the classroom. (2) In terms of the number of the same religion learners in a certain class is less than 15 (fifteen), but by merging of several classes parallelly reached at least 15 (fifteen) learners, then religious education service is carried out by arranging a separate schedule that would not harm the students space to attend other subjects. (3) In terms of the number of the same religion learners in a certain school at least 15 (fifteen), the religious education services must be implemented in the school. (4) In terms of the number of the same religion learners in a certain school less than 15 (fifteen), the religious education held in collaboration with other schools or religious institutions in that territory.

Refers to that regulation, compulsory religious education for the student should be fulfilled by schools, either governmental schools, or community-based schools. The religious education both normally held governmentally at schools, either thorough teachers in the classroom at a certain school, or by preacher out of classroom and schools. Yet, both religious education held at school and outer school must be under school controlled.

### **Schools’ Responses toward The Regulation**

The first cases that got public controversy on mass-media was Catholic schools in Blitar Central Java on 2012. There were six formal-public schools denied to serve religious education to student. They were: Catholic Santamaria Elementary School, Yos-Sudarso Catholic Elementary School, Yos-Sudarso Catholic Junior High School, Yohanes Gabriel Catholic Junior High School, Diponegoro Catholic Senior High School, Santo Yoseph Catholic Senior High School. All of those schools had admonished by the Blitar local

government to implement religious education service toward their minority religious student, yet they defended their school experience for not giving religious education service in accordance to student religion and by the same religious teachers (Nurudin, 2013).

A similar case happen in Adisutjipto Catholic Senior High school in Balikpapan, that they did not serve religious education for other than Catholic religious students in the sake of "Episcopacy" educational policy (Saputra, 2015). The case in Frater Junior school Kendari, subordinated down by Sang Timur Foundation centered in South Makassar. They did not serve the other religious student than Catholic. Even all students ought to join Catholic religious education as the reference of their score in religious education subject. The other student than Catholic taught about universal values, like as: human solidarity, loving, brotherhood, cooperation (Amiruddin, 2017). The case in Catholic Frater Senior High school in Makassar, developed religious education curriculum based on The National Board of Catholic Education under the Kataketik commission. All the students, either catholic or non-Catholic ought to join the subject to gain the score for their religious subject matter (Rosdiana, 2015).

Other than Catholic cases, there was also the case of religious education service at 'Makale Christian Senior High school in Tanatoraja region. That was no religious education for other than Christian student. The foundation at where school subordinated in, perceived that the Tanatoraja region is a Cristian majority region, and so are in schools must be the same (Badruzzaman, 2014). Schools under subordinated of 'Yayasan Keagamaan Kristen (Christian Religious Foundation) in Manado city, north Celebes. Also the schools did not provide other religious service than Christian (Marannu, 2015). Experience of religious education service at 'YPK Diaspora Senior High School' in Jayapura city, to serve the other student with Christian subject matter in school. The school could not serve them because their number were a little, less than fifteen (Abubakar, 2014).

On those schools, minority religious students got religious information and material through various resources such as religious

teachers out of school. Some students got religious material from social media, mostly from the internet.

### Best Practiced

Other than those primordial-discrimination practice of religious organizations within the services of religious education in schools, some educational institutions which are under the auspices of the government or state-public schools and also private-public schools the auspices of religious organizations, that is willing to provide religious education services in accordance to students' religion. In Kupang city for example, there were SMA Muhammadiyah providing religious education teachers Catholic and Christian students (Tholkhah, 2013). There was also news about the Christian elementary school in Semarang that provides Islamic teachers for Muslim students, and even they held a pesantren Ramadan event (kind of short Islamic study, usually three days) for Muslim students.

In a research conducted in 2015, it was found a number of ideal schools that have practiced the fulfillment of the religious rights of the students at the school. They are: Senior High school (SMAN 1) in Bogor regency, Senior High school (SMAN 1) Manado city, Junior High school (SMPN 2) Ambon city, Junior High school (SMPN) Ende Flores, Senior High school (SMAN 1) Denpasar city. For private schools that the status was always under subordinated of religious organization, found some schools namely: Senior High School Labschool Jakarta, Senior High School (SMA SLUA - Hindu) in Denpasar city, Catholic St. Joseph Senior High School in Denpasar city, Christian Gloria Vocational senior high school in Manado, Buddhist Ananda Senior High School in Bekasi city, and SMK Bhakti Pangkalpinang (Hayadin, 2015b). At those schools, religious education service has been organized by a religious education teacher in accordance with students' religion. Each religious teachers got opportunity in developing materials and learning models, both intra-curricular in the classroom and extra-curricular done outside the classroom.

One of the best practice of fulfillment religious rights of student can also be found at

senior high school (SMAN 2) Palangkaraya city, Central Kalimantan. This school provides worship house and place for religious students. There was a mosque for Muslim students, teachers and employees. There was also mini church as the center of religious activity for Catholic and Christian students, as well as the temple for Hindu students (Hayadin, 2014). The school climate felt and looked dynamic and harmonious. The students of each religion, looks different when doing worship and religious services in houses of worship, but then to be mixed into one arena of sport in front of the school without a difference when they all came down to play basketball in the school yard (Hayadin, 2014).

The best practice of religious education service at Hinduism - based formal public school could be found in Denpasar, Bali province. there could be found the practice in where Saraswati Senior High school based on Hinduism religion to serve other than Hinduism student with their own religion and by the teacher in accordance with student religion. Majority of the student and staffs were Hinduism. There were six Buddhist student and 35 Cristian students as the minority group in the school. They were served by Buddhist teacher and Cristian teacher. The school assigned an (honorary) non-governmental teacher. For Christian student, because they were more than 15 persons, the learning process took place at a room in school. For the Buddhist student, because they were less than fifteen, they learnt at other school nearby (Muin, 2015).

Best practiced in Oikumene Senior High School Kendari South east Celebes. Over there, every religious student group include the minority ones served fully according to their religion and by the teacher in accordance with student religion (Mujizatillah, 2014). The best practice of religious education service of Buddhism - based formal public school could be found in Ananda Buddhist Senior High School at Bekasi city. Here in this school other than Buddhism student served with their own religion and by the teacher in accordance with student religion. Majority of the student and staffs were Buddhism, since the Foundation that subordinate the school was Buddhism personals. The school assigned an (honorary)

non-governmental teacher for Muslim, Cristian, and Catholic student. The learning process took place at a room in school like as the Buddhist religion lesson for Buddhist students (Faiqoh, 2015).

The best practice of religious education service at Catholic - based formal public school could be found in Denpasar, Bali province. Unlike the other Catholic – based school that did not serve religious education in accordance to student own, this school served all student even the minority group like as Khonghucu for just five persons with one Khonghucu teachers. The school managed one special exclusive day for religious education service in every week, took place in a room of the school. Each teacher had their own autonomy in leading and teaching their student and made scores refers to the learning process. The teachers had independent-creatively innovation in developing the learning process. Each student religion group could celebrate their own religion holy days both in school or outer school (Hayadin, 2015a).

The best practice of religious education service at Moslem majority formal public school could be found at Labschool Jakarta both junior and senior high schools. Majority of the student and staffs were Moslem, yet this was a non-Islamic identity school. This is a school with national identity. There were teen Christian students of junior high school served by one Christian religious teacher; nine Christian students of senior high school served by one Christian religious teacher; one Catholic student of senior high school served by one Catholic religious teacher; five Hinduism students at junior high school served by one Hinduism religious teacher; six Hinduism students at senior high school served by one Hinduism religious teacher (Munawirah, 2015).

The best practice of religious education service of Christian - based formal public school could be found at Gloria Vocation school in Manado city. There were Moslem and Catholic student as minority religious group, while the majority one was Christian. The foundation at where school subordinated provided Islamic religious teacher to teach 54 peoples of Moslem, and also provided one Catholic teacher to teach 28 peoples and Catholic student (Basri, 2015).



### Challenge on Implementing the Regulation

In public schools managed by the government, comprehend toward governmental policies was good enough. School leaders and school committee leaders had significant roles in practice of religious education in schools. And there were no big resistances for serving the minority religious student in school the government policies. The problems faced by public governmental schools in applying religious education service toward minority group was the lack of religious student, and the lack of school finance in hire (*honorary*) non-governmental religious teacher.

Meanwhile in public non-governmental school, especially at religious organization based-school, the leaders of organization itself had much more role in implementing religious education service toward minority religious student at school. Some cases at where the leaders of religious foundation had rigid narrow shallow comprehension and insight toward his religion would affect the practice of religious education service toward minority religious group in schools. Any religious leaders supposedly thought that religious to be served is his own religion, not other than his own. The other problems faced by schools in implementing religious service toward minority student group is finance available to hire (*honorary*) non-governmental teacher.

### CONCLUSION

The most obvious finding to emerge from this study is that religious student rights have been advocated by governmental policies in performed their religion in school through various order, laws, and regulatory package policies. Indonesia's legal regulation, ranging from the highest rule namely: 1945 Constitution, article 29; National education system law; Governmental Regulation number 55 of 2007; down to the lower regulation at the ministerial level namely, Regulation of Religious Ministry number 16 of 2010 had been constructed. All those laws were suitable with the: Universal Declaration of Human Rights; International Covenant on the Economic, Social, and Cultural Rights; International Covenant on Civil and Political Right; International Covenant on the Rights of Child.

It was also shown that the problems raised when the policies to be implemented. Most of the public schools ruled by a religious organization have any obstacle to make it happen because of episcopacy or religious reasons and lack of understanding toward the policies. Any other facts were related to the lack of school finance in hired the (*honorary*) non-governmental religious teachers. Meanwhile most of the governmental public schools performed well the policies. They served religious education in accordance with the student religious and by the same religious teachers with the student religion.

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