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## UNRAVELING THE REALITY OF RELIGIOUS FREEDOM

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It is often assumed that the existence of a high-level legal product for freedom of religion and/or belief is a guarantee for the implementation of religious/belief life in a peaceful and safe manner. However, in this is not the case, even though the legal umbrella regarding the Right to Freedom of Religion and/or Belief (hereinafter referred to as KBB), is one of the legal products of Human Rights (HAM) which is complete hierarchically, and applies globally, the reality is the opposite. Existing legal products are not always directly proportional to the fulfillment of KBB rights for their adherents. A series of legal products discussing the KBB can be found from the highest and most general, namely in the Declaration of Human Rights (DUNHAM) in 1948, and in the International Covenant on Civil and Political Rights (ICCPR) Article 18 (1966). It contains, "There is no violation of the

Right to Freedom of Religion or Belief", "Everyone has the right to worship, everyone has the right to express their religion/beliefs", and even several countries have shown a commitment to advancing the rights of the KBB and supporting each other in their enforcement work. However, difficulties in fulfilling KBB rights are still encountered.

It turns out that guaranteeing the fulfillment of KBB rights is not easy and will not become a reality in a short time. There are many realities involved and long consequences for making it happen. The complexity of the concept of KBB Rights itself, the interrelated institutions in practice, and the parties who are often absent from being present in its realization are explained clearly by Heiner Bielfeldt and Michael Wiener in their book. Collaboration in writing this book makes the book entitled "Examining Religious

Freedom: Principles and Controversies" an alternative comprehensive overview of issues surrounding the KBB and efforts to fulfill it. Heiner Bielfeldt, a German Catholic philosopher and theologian who focuses on the study of Human Rights and Human Rights Policy, with his partner Michael Wiener, an activist at the United Nations (UN) High Commissioner for Human Rights.

The focus of Bielfeldt's studies revolves around philosophy, law and history, as well as contained in this book. Of course, equipped with empirical experience as part of the UN. For a period of 6 years (2010-2016) Bielefeldt served as UN Special Rapporteur in the field of KBB. The Special Rapporteur obtains a mandate to work within a group called the Special Procedures of the UN Human Rights Council. He collaborates with independent experts or working groups assigned to certain procedures to handle KBB issues. In general, the Special Rapporteur conducts studies on conflicts, acts to solve individual or structural cases, as well as carries out thematic, advocacy studies on alleged violations or abuses of KBB Rights in countries around the world.

This book can also be called the result of the collaborative activist-academic work of Bielfeldt and Wiener. Considering Wiener's background, which also deals with human rights issues, makes this book even richer in perspective. Not only theoretical

studies, but also a discussion of reality is a neat presentation in this book. So, it is very appropriate that the subtitle chosen for this book is "principles and controversies". For Wiener, this book is the second book he wrote together with Bielfeldt. The previous book was an international legal commentary on the KBB published by Oxford University Press (1996). Through this book they (also together with Nazila Ghanea) received the Remio Alberigo Senior Book Award.

The formulation of the conceptual basis of the KBB in this book and its relation to the controversy over its implementation, becomes a series of narratives that are not inflated, but also not narrow. Bielfeldt's philosophical study of KBB Rights, complemented by his experience and that of the author's collaborators, makes this book suitable for reading by various groups. Not only academics are interested in KBB metaphysical theories and concepts, global KBB issues, international law, religious studies and religious/belief policies, this book is also suitable for activists and those interested in the reality of KBB advocacy work. Presenting the book in an Indonesian translation version, in my opinion, makes it easier for more people to access it.

## **Questioning KBB Rights and Other Basic Rights**

This book is a translation of an English book entitled "Religious Freedom Under Scrutiny" (2020). From this aspect, it can be said that this translated version of the book is no different from the original book. Each chapter in this book is translated in a choice of words that are easy to read, as well as interesting sentences. One of them is a chapter entitled "Awkward Bedmates? Religious Freedom and Other Human Rights" is a translation of the chapter entitled "Awkward Bedfellows? Religious Freedom and Other Human Rights". The choice of translation words attracts readers to find out more about the content. And it is proven that its contents are a review of the clash between the KBB and other rights, such as the basic right to access to work for certain religious groups, the right to religious expression with certain gender constructions, or even freedom of expression which is often clashed with religious blasphemy. The debate that arises over the dominance of the majority over minorities is also present in this chapter.

Bielefeldt and Wiener discuss human rights in this book also from an interesting perspective. Both said that human rights with all their interrelationships (to see the KBB with other rights) is form of active work from all elements of society at all times. Bielefeldt

and Wiener saw that human rights (especially KBB) did not stop being discussed and their fulfillment was ensured even when policies on human rights had been published. Implementation and efforts to realize this policy are dynamic work, it is in line with the development of social life in society and the particularistic elements of human rights. This particularity of human rights often clashes with universalism of human rights. In this book, it is explained that Universalism is a fundamental right that belongs to all human beings for a simple reason, namely their humanity, and therefore they are equal for everyone. The condition for people to fulfill Universal Human Rights is their existence as human beings. This basic concept is the background for human rights as an "ongoing effort".

Human rights as an "ongoing effort" (work in progress) are positioning human rights as a continuous learning process based on openness to "deconstruction", criticism, questioning of basic conceptual assumptions. The Human Rights Universalism which is positioned as an "ongoing effort" will minimize the potential for human rights to emerge as a hegemonic bias in the name of freedom (of religion and belief) itself.

The particularity of human rights may emerge due to the development of political and cultural dynamics in countries that ratify the global consensus. However,

this development of particularity has also changed the meaning of the universality of human rights, even triggering conceptual confusion regarding it. Thus, human rights are always "work in progress". The actualization of human nature which continues to develop will have implications for changes in understanding and knowledge of the core concepts of human rights themselves. For example, we realize that initially human rights were metaphorized as humans with a certain sex/gender. Although initially this only had implications for literature or language, it later had an impact on the political and cultural understanding that followed. Then, when human awareness of gender diversity (men, women, masculine, feminism, gay, lesbian, etc.) strengthened, the concept of implementing human rights also expanded. This will very likely continue to happen, as long as the dynamics of human development are inherent. Likewise, the implementation of the KBB always goes hand in hand with various basic human rights. In Bielefeldt's other book, entitled "The Politics of Equality: Dimensions of Freedom of Religion or Belief" (2019), the relationship between these basic rights is explained in more detail.

### **Secularism Spectrum**

Historically, "human rights are indeed a Western product", but the narrative

about this is often expressed in a dogmatic-normative form which narrows the space for dialogue. On the other hand, this narrative also often appears to contrast local cultural claims with the dominant religion. Sometimes, this leads to the understanding that "in the East there is no need to implement human rights" or "if you implement human rights in the East, you will lose the spirit of the East". Therefore, countries that feel "not Western" are often reluctant to consider implementing the KBB in a more dignified direction. This does not mean that the "West" is more dignified, but often the consideration of humanity and its dignity as an individual is neglected by countries that prioritize collectivity in accommodating the interests of their citizens (including aspects of the KBB). Such a state usually ignores individual interests in expressing its beliefs. This narrative is also tried to be answered in this book. Bielefeldt and Wiener explained the conditions that could possibly be implemented in countries that want to implement the KBB in their policies. Society in general often sees that secular citizens feel that religious-based countries (or state-religion) are more appropriate in implementing the KBB, and vice versa. In some extreme conditions, people feel that a secular form of state is the only one that is most appropriate in order to implement the KBB. Bielefeldt and Wiener say in this book that there is no definite form that is

most appropriate to apply in one country, which can automatically be applied correctly in other countries too. So that evenly speaking, secular is better, or state-religion is better, is an inaccurate opinion. However, it is true that secularism comes to mind more often when cases of KBB violations occur. But the form of secularism needs to be examined more deeply too. Even starting from Bielefeldt and Wiener's experience in the field, they found many secular and state-religious spectrums themselves. The secular spectrum itself turns out to be so broad that it is not black and white in viewing religion. Even assuming that a secular state is necessarily "liberal" is a misguided understanding. In the fifth chapter of this book, the condition of Kazakhstan is described as reflecting restrictive, even almost closed, secularism. This condition was formed because it was influenced by the remnants of the Soviet Union which separated religion and state for the sake of state interests only. Religious communities, basic rights to religious education, and religious expression are subject to very strict state control.

In contrast to Bangladesh, this country practices the spirit of secularism but does not limit religious expression in public spaces. Even though secularism is often promoted (even in official state conversations), Bangladesh recognizes Islam as the state religion in its constitution. This secularization effort is supported by

efforts to recognize the existence of minority religions – Hinduism, Buddhism, Christianity and local religions – which are only ten percent of the population. This position is called inclusive secularism.

A more paradoxical form of secularism (Bielefeldt and Wiener, call it paradoxical secularism) is found in Denmark. Scandinavian countries call their condition "Lutheran secularity", that is, the effort to separate religion and public affairs is an illustration of the Christian faith that manifests itself in the practice of their lives, including politics. The religious or "sacred" aspect should merge with the "sacular", because all aspects of life are absorbed from the religious aspect. Hereafter this is called "sacrular". This concept is paradoxical – if one should not call it a confusing and strange concept – because the fact that there are other religions in this country is suppressed in such a way, differentiated and not considered as part of the Lutheran faith.

Bielefeldt and Wiener describe the situation in secular countries with various spectrums, presenting the real conditions of the dilemma of state and religion being regulated in the public sphere and constitutionally. Secularism often appears in confusing, ambiguous and contradictory forms, but secularism has not completely failed. Secularism at the KBB level carries a practical-implementation role. According to Bielefeldt and Wiener, the KBB rights recognized by the state provide normative

guidance and benchmarks. Meanwhile, secularism is a follow-up or "second level" which is useful for ensuring that the implementation of the KBB is not discriminatory. From this presentation, it is also clear that this does not mean that a country cannot use one religion at all as a benchmark for regulating relations between the state and religion. States may determine which is their "official religion", but still pay attention to the presence of other religions and provide appropriate space for these "others". Openness to the existence of other religions (or their adherents) in a country can be supported by the concepts of exclusive and inclusive secularism offered by Bielefeldt and Wiener. This concept is a reflective and clarifying result of the reality in the various countries they studied. Exclusive secularism is the state's attempt to limit religious aspects from being held in the private sphere, there is even a tendency to push them to certain limits so that they do not escape state supervision. The state still controls the realm of religious expression of its citizens. In contrast, the concept of inclusive secularism emphasizes the broadest encouragement for every religious entity to be expressed freely, and the state does not explicitly identify in one "official state religion". This chapter is suitable for reading by all groups who are still confused about the concept of secularism and what should be (and to what extent attempts have been made to apply it) the position of the

state and religion in its implementation efforts.

Bielefeldt and Wiener contain the breadth of KBB's conceptual reflections and direct experience of its controversy in this 360-page book concisely and neatly. The flow of writing and translation uses words and sentences that are comfortable to read. In several parts, the translator also embeds original terms that are typical in this book, for example *sacrular*, *forum internum* and *externum*, or conscientious objection, making it easier for readers to understand the meaning of the writing they read. However, the display layout in the book is a bit less attractive and tends to be boring. The discussion points in each chapter seem to be presented flatly, in fact this impression can be captured in the table of contents of the book. But isn't this view found in almost every theoretical reference book? So, it doesn't seem too disturbing if the display is not the main element you are looking for in this book.

## REFERENCES

- Bielefeldt, Heiner, 2019. *Politik Kesetaraan: Dimensi-Dimensi Kebebasan Beragama atau Berkeyakinan*. Yogyakarta: Penerbit Mizan.
- Bielefeldt, Heiner dan Michael Wiener, 2020. *Religious Freedom Under Scrutiny*. Pennsylvania: Pennsylvania Studies in Human Rights. Diunduh dari

<https://www.jstor.org/stable/j.ctv16t67>

[hm](#), pada 9 April 2024, 22:08 WIB.

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