

Overlooking The Phenomenon of Religious Intolerance And Discrimination Within The Framework of The State Constitution: A study in Indonesia*

La intolerancia y la discriminación religiosas en el marco de la Constitución
del Estado: un estudio en Indonesia

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Abstract

One of the rights and freedoms of citizens recognized and protected by the Indonesian constitution is the right to have a religion and belief. This acknowledgment affirms that the diversity of religions and beliefs is safeguarded by the constitution. However, the constitutional recognition and guarantee of these rights and freedoms, which reflect the diversity of religions and beliefs, do not necessarily materialize into reality. In practice, the relationship among citizens belonging to different religions and beliefs is often marked by disharmony and conflict. Discrimination and intolerance towards followers of minority religions and adherents of certain beliefs have intensified in the last few decades.

This phenomenon of intolerance and discrimination presents a paradox for the Indonesian people. The reason for this paradox is that pluralism has been a natural aspect of Indonesian society since ancient times. The phrase “Bhinneka Tunggal Ika” demonstrates that indigenous Indonesians have long embraced pluralism. Behind the paradox of intolerance and discrimination, the struggle for constitutional values originating from Pancasila is in conflict with other values that contradict these principles.

This battle between the two sets of values undermines the integrity of the Indonesian constitution. These conditions give rise to the following questions: What

causes the paradox of intolerance and discrimination that reflects anti-pluralism attitudes in Indonesia over the last few decades? The research methods employed in this study are juridical-normative and juridical-philosophical.

The research concludes that the paradoxical phenomenon of intolerance and discrimination, which reflects an anti-plurality attitude and has led to a constitutional crisis, is primarily due to the influence of radical values that have been spreading in Indonesia in recent times. The author suggests that legislation on the rights and freedoms of religion and belief should be promptly enacted to provide legal protection for every citizen.

Keywords:

discrimination, pluralism, Pancasila, Indonesia.

Resumen

Uno de los derechos y libertades de los ciudadanos que se reconocen y protegen en la Constitución de Indonesia es el derecho y la libertad de tener una religión y una creencia. Esto significa que la diversidad de religiones y creencias está reconocida y protegida por la Constitución de Indonesia. Sin embargo, el reconocimiento y la garantía constitucional de los derechos y libertades de los ciudadanos que reflejan la diversidad de religiones y creencias no se materializan necesariamente en la realidad. En la práctica, la relación entre los ciudadanos que pertenecen a diferentes religiones y creencias no es armoniosa y enfrenta problemas. El tratamiento de la discriminación y la intolerancia hacia los seguidores de religiones minoritarias y los adeptos de ciertas creencias se ha intensificado en las últimas décadas.

El fenómeno de la intolerancia y la discriminación es una paradoja para el pueblo indonesio. La razón es que, para la nación indonesia, el pluralismo ha sido algo natural desde la antigüedad. La frase “Bhinneka Tunggal Ika” demuestra que los indonesios indígenas han conocido el pluralismo desde hace mucho tiempo. Detrás de las paradojas de la intolerancia y la discriminación, la lucha por los valores constitucionales que se originan en Pancasila se encuentra en agitación con otros valores que son contrarios a Pancasila.

La batalla entre estos dos conjuntos de valores implica socavar los principios de la Constitución indonesia. Estas condiciones dan lugar a los siguientes problemas: ¿Cuál es la causa de la paradoja de la intolerancia y la discriminación que refleja las actitudes antipluralistas en las últimas décadas en Indonesia? Los métodos de investigación utilizados son jurídico-normativos y jurídico-filosóficos.

Las conclusiones de la investigación que se pueden presentar son las siguientes: El fenómeno paradójico de la intolerancia y la discriminación, que refleja la actitud antipluralista que se ha producido en las últimas décadas y ha llevado a una crisis constitucional, se debe a la influencia del desarrollo de valores radicales que se han estado extendiendo en Indonesia en los últimos tiempos. El autor puede presentar sugerencias para que la ley sobre los derechos y la libertad de religión y creencias se promulgue de inmediato para brindar protección legal a todos los ciudadanos.

Palabras clave:

discriminación, pluralismo, Pancasila, Indonesia.

Introducción

The democratic rule of law is considered the ideal type of state in modern times (Sibuea, 2010). This is because a democratic rule of law recognizes and respects the dignity and worth of human beings as individuals who possess rights and freedoms based on equality. Recognition and respect for human rights and freedoms must align with moral demands. The democratic rule of law grows and develops as a result of the intellectual struggles of experts, informed by the empirical experiences of Western European nations against arbitrary rulers (Sibuea y Widjanarko, 2021). The resistance of Western European nations was aimed at advocating for the recognition of human nature as a being endowed with rights and freedoms. The success of this struggle positioned human law as a subject of consideration. Recognition and respect for individuals as subjects with rights and freedoms have not been acknowledged in all types of countries in the past, except in those characterized by a democratic rule of law.

The instrument of a democratic legal state that functions to guarantee the recognition and protection of human rights and freedoms is the constitution. Wheare (1966) stated that the contents of the constitution, among others, include the following: “On the other hand, many modern Constitutions contain a declaration of the rights of the subject....” The constitution of a democratic state stipulates human rights and freedoms as one of its essential components. The recognition and protection of the rights and freedoms of citizens align with the goal of forming a state according to Locke’s social contract theory, which aims to protect human rights and freedoms. Based on John Locke’s social contract doctrine, the people form and establish the state with the aim and function of protecting their natural rights, such as the right to life, the right to own property, and the right to express their will and thoughts freely and independently (Friedmann, 1960). Every country has the right and freedom to regulate the contents deemed necessary to be included in the constitution, including human rights and freedoms (Barendt, 1998). Based on its material content and function, the constitution is determined to be the highest law (Kurnia, 2014; Blanco, 2020).

The constitution must be respected, and its orders must be implemented in the reality of national and state life. Ideally, adherence to constitutional norms should be reflected in the behavior of state administrators and citizens. The constitutional norms that manifest in the behavior of state administrators and citizens reflect the normative constitution (Loewenstein, 2013). These norms carry the meaning of a living constitution. A living constitution is an ideal constitution that possesses constitutional value as a normative constitution and is neither nominal nor merely semantic.

In constitutional theory, a nominal constitution is a written document that exists but is not actively followed or adhered to in the real-world political system. It’s like a rulebook that’s there in name, but isn’t actually used to govern how things work. A semantic constitution, on the other hand, is a constitution that reflects the actual political reality, often in dictatorial or totalitarian regimes, but doesn’t impose any real constraints or rules on how the government functions (Nainggolan y Zainab, 2024).

One of the contents of the constitution that is the focus of this writing is the rights and freedoms of citizens to embrace religion and adhere to beliefs (not religion). The state must not interfere with the rights and freedoms of citizens to embrace religion and belief as private domains. In fact, the constitution and laws are obliged to protect the rights and freedoms of citizens to practice their religion or beliefs. The rights and freedoms to adhere to religions and beliefs that reflect a plurality of spirituality and are recognized and protected by the constitution are characteristics of a democratic rule of law nation. The constitutions of democratic law countries guarantee and protect the rights and freedoms of everyone to practice their religion. Additionally, the constitution guarantees the rights and freedoms of everyone to practice their religion. The right and freedom to embrace religion ensure that every citizen can freely worship according to their religion and beliefs. The right to freedom of religion is one of the constitutional rights (Thohari, 2016). The state does not intervene in matters concerning the rights and freedoms to embrace religion and belief because these are individual matters (Jehan, 2021). Recognition of the rights and freedoms of citizens to embrace religion or belief is one of the pillars of Indonesia’s democratic legal state.

Constitutional norms regarding the rights and freedoms to embrace religion and belief are concrete manifestations of the results of the positivization and normativization of the value of pluralism in religions and beliefs. The right and freedom to embrace religion and belief invite the presence of various religions and beliefs, which are recognized by the constitution of a state based on law. Recognition of the rights and freedoms of citizens to embrace religion or belief reflects constitutional recognition and protection of the value of spiritual pluralism (Mayo, 1965). Plurality is one of the values that is recognized and protected by the constitution of a democratic and lawful state. The diversity of religions and beliefs is recognized and protected by the constitution, allowing every citizen to worship according to their religion and beliefs under the protection of the state. In the Indonesian context, the diversity of religions and beliefs is one of the instrumental values protected by the constitution as a derivative of the basic values of Pancasila.

Democratic-law countries recognize and protect the rights and freedoms of citizens to embrace religion and belief. The Philippines acknowledges these rights and freedoms as stipulated in Article 3, Paragraph 5 of the 1987 Philippine Constitution. In South Korea, the recognition of the rights and freedoms related to religion is regulated by Chapter II, Article 8 of the South Korean Constitution. The American Constitution similarly safeguards the rights and freedoms to embrace religion, as outlined in Amendment I to the Constitution, dated December 15, 1791. The Indonesian Constitution also recognizes and protects the rights and freedoms of citizens to embrace religion and beliefs, similar to several other democratic countries mentioned earlier. The right and freedom to embrace religion are regulated in Article 28E, Paragraph (1) of the 1945 Indonesian Constitution.

In addition to the rights and freedoms to embrace religion, the Indonesian constitution also recognizes and protects the rights and freedoms of citizens to embrace beliefs, as stipulated in Article 28E, paragraph (2) of the 1945 Indonesian Constitution. The protection of the rights and freedoms of citizens to embrace religion and belief is regulated in Article 29, paragraph (2) of the 1945 Indonesian Constitution. The rights and freedoms of citizens to embrace religion and belief must be protected by the state because every citizen is a component of the nation and is positioned as a subject in the formation of the state (Friedmann, 1960).

The rights and freedoms to embrace religion and beliefs that are protected by the Indonesian constitution invite the presence of various religions on Indonesian soil. Several officially recognized religions in Indonesia include Islam, Christianity, Catholicism, Buddhism, Hinduism, and Confucianism. These religions coexist peacefully with various types of beliefs, which are also referred to as “ancestral religions” or “local religions.” Local religions or ancestral religions are the traditional beliefs of the Indonesian people that have been passed down from their ancestors since ancient times. Various kinds of beliefs, whether local or ancestral, thrive in all corners of Indonesia. Notable streams of Indonesian traditional beliefs include Kaharingan in Kalimantan, Kejawen in Java, Buhun and Sunda Wiwitan in West Java, Tolotang in South Sulawesi, Parmalim in North Sumatra, Aluk Todolo

in Tana Toraja, Sakai in Riau Province, and others (Wibisono et ál., 2020). The official religions recognized by the state and the original beliefs of the Indonesian nation, referred to as local or ancestral religions, have equal legal status based on a decision of the Constitutional Court. Ideally, this equal legal standing means that religions and belief systems, whether ancestral or local, have the same rights and obligations and receive the same treatment.

The ideal conditions for the rights and freedoms to embrace religion and beliefs, as regulated and recognized in the constitution, are paradoxical in reality. At the implementation level, the rights and freedoms of citizens to embrace religion and beliefs in Indonesia remain problematic (Fatmawati, 2011; Lesmes y Moya, 2024). Currently, the conditions surrounding these rights and freedoms are increasingly concerning (Situmorang, 2019). The rights and freedoms to embrace religion and beliefs, which reflect the plurality of spirituality, have experienced disturbances and threats in the form of intolerance and discrimination against adherents of minority religions and belief systems by fellow citizens (Jufri, 2016). In fact, discrimination and intolerance also arise from the actions of state administrators. Intolerance and discrimination are behaviors that carry a dual significance. On one hand, they violate the constitutional rights and freedoms of citizens, as well as human rights recognized and protected by the constitution.

On the other hand, intolerance and discrimination are behaviors that deny the principle of equal status of citizens before the law, which is an important legal principle in the life of the nation and state. Furthermore, intolerance and discrimination undermine the diversity of religions and community beliefs, which are based on the rights and freedoms of citizens to embrace their chosen religions and beliefs. Conflicts between adherents of different religions and beliefs, fueled by intolerance and discrimination, have become more frequent in Indonesia since the reform era. These conflicts among religious communities are very complex, as they are increasing and occur in various regions of Indonesia (Rumagit, 2013). Data from 2012 indicate that sixteen state institutions were involved as perpetrators of violations of the rights and freedoms of religion and belief, accounting for a total of 106 acts. Intolerance and discrimination against citi-

zens who adhere to minority religions and belief systems occur in almost all regions of Indonesia, including Cikeusik (Pandeglang, Banten province), Temanggung (Central Java province), Medan (North Sumatra province), Jakarta, Solo (Central Java province), Surabaya (East Java), Palembang, Sulawesi, North Maluku, Papua, Kalimantan, Nangroe Aceh Darussalam (Aceh), and others.

Several incidents that can be cited as examples include the cases of Cikeusik, Pandeglang, Banten, and Temanggung (Central Java, Indonesia), which resulted in four fatalities (Fatmawati, 2011). Discrimination also occurs among citizens who adhere to minority religions (Utoyo, 2020). The incident of intolerance in Medan took place during Sunday worship at the Indonesian Bethel Church of the Filadelfia Congregation in the Medan Labuan District, Medan City, North Sumatra (Situmorang, 2019). Since 1996, several conflict events with social or religious nuances have occurred, including the riots in Situbondo on October 10, 1996; Tasikmalaya on December 26, 1996; Karawang in 1997; and the May Tragedy on May 13, 15, and 16 in Jakarta, Solo, Surabaya, Palembang, and Medan, along with other riots (Jamaludin, 2015). One of the factors contributing to inter-religious conflict originates from the positions of the majority and the minority. The trigger for conflict between majority and minority religions often involves the permit to build a house of worship. These conflicts manifest in various forms of violence with religious undertones, including physical clashes, vandalism, forced demolition, and the closing and burning of places of worship.

Discriminatory treatment by the state towards adherents of beliefs is evident in the Letter of the Minister of Home Affairs No. 477/707/MD, dated March 14, 2006, to the Governor of Central Java, which states: "Marriage for people belonging to non-religious adherents referred to (Islam, Christianity, Buddhism, Hinduism, and Confucianism) temporarily cannot be registered unless they are willing to submit themselves to one of the religions based on Presidential Decree Number 1 of 1965 concerning Prevention of Abuse and/or Blasphemy of Religion" (Maarif, 2018). This action can be considered discrimination against adherents of religious beliefs because it involves coercion to change religions (Utoyo, 2020). This indicates that the state, through a circular letter from the Minis-

ter of Home Affairs, acts discriminatorily against adherents of those beliefs. Furthermore, discrimination and intolerance towards adherents of those beliefs also arise from Law Number 23 of 2006 concerning Population Administration. Articles 61 and 64 of Law Number 23 of 2006 provide an identity column for adherents of religion but do not include a column for adherents of belief in the Family Card. As a result, citizens who adhere to belief systems are prevented from registering as Indonesian citizens and obtaining administrative services. The law was subsequently tested in the Constitutional Court, which ruled that Article 61, paragraph (1), and Article 64, paragraph (1), of Law Number 23 of 2006 concerning Population Administration contradict the 1945 Indonesian Constitution and do not have conditionally binding legal force as long as they do not include the term "beliefs."

Various incidents of discrimination and intolerance have resulted in the rights and freedoms to embrace religion and belief, as recognized by the constitution, becoming absurdly juxtaposed between existence and non-existence. The recognition of the rights and freedoms to embrace religions and beliefs that reflect the plurality of citizens' spirituality is protected by the constitution; however, it often seems to apply only on paper. There exists a significant gap between constitutional norms and the reality of the behavior of state administrators and citizens. These less-than-ideal conditions reflect an image of constitutional norms and values that are neither respected nor obeyed by state administrators and certain groups of citizens. This phenomenon also illustrates the paradox in the lives of the nation and state. The occurrence of discrimination and intolerance constitutes a denial of the pluralistic values of citizens' spirituality, which are guaranteed by the constitution and have been well maintained in a peaceful and harmonious manner.

The phenomenon of discrimination and intolerance encompasses behaviors that violate societal norms and undermine the dignity enshrined in the Indonesian constitution. In light of the statement above, the research problem is defined as follows: What are the causes of intolerance and discrimination against followers of minority religions and adherents of belief as manifestations of anti-pluralism in Indonesia over the last few decades?

Research Methods

This research employs a qualitative method that falls under the category of normative juridical research. It analyzes the principles of positive law, as well as the foundations and doctrines of law. Qualitative research focuses on social problems, analyzes them, and provides explanations for the issues being discussed (Liu, 2022; Morgan, 2018; Ravenek y Rudman, 2013). In addition to the juridical-normative research methods, this study also utilizes juridical-philosophical research methods. To address the problem formulation established in this study, the researcher applied two approaches: the statutory approach and the case approach, utilizing document analysis. The document analysis aims to capture discourse, understand the text, and dismantle the interests that exist within it. The instruments used to understand the rules of positive law include grammatical, historical, sociological, comparative, and other interpretive methods.

Discussion

The Phenomenon of Religious Intolerance And Discrimination in Indonesia

The phenomena of intolerance and discrimination against followers of minority religions and adherents of various beliefs in recent decades fall under the category of violations of constitutional norms concerning the rights and freedoms of citizens to embrace their religions and beliefs. Intolerance and discrimination can be viewed as manifestations of an anti-religious and anti-belief pluralism attitude that is both unique and paradoxical. This phenomenon is particularly contradictory, considering that Indonesian society is a pluralistic community that has long been accustomed to diversity in various aspects of coexistence. Therefore, it is essential to investigate the factors that contribute to intolerant and discriminatory behavior, which undermines the diplomatic values of religion and belief. The increasing prevalence of intolerance and discrimination necessitates further study, as these issues have the potential to trigger a crisis of constitutional values, ultimately impacting the existence of the nation and the state of Indonesia. Consequently, the phenomena of intolerance and discrimination, which embody anti-plurality values, warrant

examination and discussion from the perspective of constitutional law and theory due to their detrimental effects on constitutional values.

Historically, Indonesian society is pluralistic, not only in terms of race, ethnicity, culture, local customs, and languages (Ridwan, 2015), but also in various aspects and facets of life, including the spirituality of the Indonesian nation. For a long time, the Indonesian people have embraced various religions and beliefs, making the plurality of religions and beliefs a natural occurrence (Hoessein, 2017). The Indonesian nation has a special and distinctive term for pluralism: *Bhinneka Tunggal Ika*. Although *Bhinneka Tunggal Ika* conveys different meanings, it signifies unity (Kaelan, 2020). Pluralism develops organically throughout the archipelago, influenced by geographical, environmental, ethnic, and cultural conditions. The value of plurality is a noble characteristic of the Indonesian people, passed down from generation to generation (Asshidiqqie, 2004). Pluralism has thrived as a noble value system long before the Indonesian nation attained independence. The Indonesian people live in harmony and peace amid diversity, as they accept and respect differences as a natural aspect of life. In addition to pluralistic values, the indigenous Indonesian people are guided by principles of mutual cooperation, assistance, kinship, and equality before the law, among other forms of local wisdom.

As a form of local wisdom, the philosophy of *Bhinneka Tunggal Ika*, which reflects pluralism, underwent a process of quality improvement towards a higher gradation when the Indonesian nation became independent. The status of pluralism transitioned from being a philosophy of traditional society to an elevated position as the philosophy of the nation and state. Since independence, the value of pluralism has undergone a metamorphosis, evolving into the philosophical values that underpin the nation and state of Indonesia. This value was established by the nation's founding fathers as an integral part of the values that govern national and state life (Notonagoro, 1983). The decisions made by these national figures were informed by the historical reality of Indonesian society as a pluralistic entity. As a cornerstone of national and state life, the value of pluralism is articulated in the Preamble to the 1945 Constitution of the Unitary State of the Republic of Indonesia. Alongside the values of

gotong royong, kinship, equal status of citizens, and others, the value of pluralism functions as a foundational element of state organization (Wiyono, 2015). The value system of the Indonesian nation and state, as outlined in the Preamble of the 1945 Indonesian Constitution, is rooted in the legal ideals of Pancasila. The values of Pancasila, as presented in the Preamble of the 1945 Indonesian Constitution, serve as the philosophical foundation for the organization of the Indonesian state. The Preamble of the 1945 Indonesian Constitution is a text that encapsulates the values of the state's philosophy (Notonagoro, 1967). It is positioned as the fundamental rule of the state. The values of pluralism, legal equality, kinship, mutual cooperation, and others, as articulated in the Preamble of the 1945 Indonesian Constitution, have undergone a process of formulation, positivization, and normativization to yield constitutional norms.

One aspect of the plurality of Indonesian society is the diversity of religions and beliefs. This plurality is a derivative of the basic values of Pancasila (Asshidique, 2022). The value of pluralism in religions and beliefs undergoes a process of positivization and normativization, resulting in the emergence of constitutional norms that regulate the rights and freedoms of citizens to embrace religions and beliefs. Freedom of religion is regulated in Article 28E, paragraph (1), of the 1945 Indonesian Constitution, while freedom of belief is addressed in Article 28E, paragraph (2). The rights of citizens to embrace a religion or belief (including non-religion) are recognized and protected by the state. The Indonesian Constitution acknowledges and safeguards the pluralism of religions and beliefs based on the rights and freedoms to embrace them. The protection of the rights and freedoms of citizens to follow their chosen religions and beliefs is guided by the principle of legal equality, which is one of the foundations of the Indonesian legal system.

Normatizing Religious Freedom in the Indonesian Constitution

The constitutional norms governing the rights and freedoms of citizens to embrace religion and beliefs are imperative in nature; that is, they possess binding power over state administrators and citizens. Both state administrators and citizens must obey and comply with these constitutional norms. Recognition and

respect for the rights and freedoms of citizens to embrace religions and beliefs that reflect spiritual diversity are not sufficient merely to know the text of the constitution or the basic laws. Genuine recognition and respect for the constitution are demonstrated through the attitudes and behaviors of citizens and state administrators that align with constitutional principles. The state is responsible for and obligated to carry out constitutional mandates so that citizens can enjoy the rights and freedoms to embrace their chosen religions and beliefs. Natanael Tampubolon, Hisar Siregar, and Kasman Siburian commented as follows: "The government no longer only takes care that a person does not violate or have his rights violated, but furthermore must also make efforts to fulfill these rights as well as possible." (Tampubolon et al., 2022). If the behaviors of state administrators and citizens are in harmony with constitutional norms, such a constitution is termed a normative constitution. The normative constitution is the ideal constitution that all nations and countries aspire to achieve. A normative constitution is also referred to as a living constitution because the norms, principles, and values of the constitution are embodied in the behaviors of state administrators and citizens. In this context, the rights of every citizen, as articulated in the text of the constitution, are manifested in reality through submissive and obedient behaviors and the implementation of constitutional norms.

Concrete evidence of respect for the rights and freedoms of citizens to embrace religion and beliefs is reflected in the tolerant and non-discriminatory attitudes and behaviors toward adherents of different religions and beliefs. However, such tolerant and non-discriminatory behavior, resulting from respect for the plurality of religions and beliefs, is not born naturally or instinctively. Instead, it is part of a constitutional and cultural process. The culture of obedience to the constitution does not develop overnight and is formed without state intervention. The primary actor in building a constitutional culture is the state. The state can establish various modes or systems to ensure that citizens respect the rights and freedoms associated with religion and belief. Citizens have the right to sue the state to compel it to fulfill its obligations to protect these rights and freedoms. The people possess the legitimacy to demand that the state uphold

its responsibilities. Therefore, the people can assert their rights, which are clearly and firmly regulated by the constitution (Dimiyati et ál., 2020). One of the mechanisms that can protect the rights and freedoms to embrace religion and belief is the constitutional complaint.

Hypothetically, if pluralism of religions and beliefs, based on rights and the freedom of religion and belief, were commonplace in Indonesian society, differences in religion and belief would certainly not pose a problem. Such differences would be accepted as historical realities. Consequently, relations between citizens of different religions and beliefs would be maintained in harmony. All citizens would live in peace and harmony despite their differences in religion and belief. Pluralism among religions and beliefs would be regarded as a natural occurrence. However, these hypothetical ideal conditions do not materialize in reality, even though the constitutional text recognizes and guarantees the rights and freedoms of citizens to embrace their religion and beliefs. In fact, the harmonious ideal conditions are far from reality. Intolerance and discrimination against adherents of minority religions and beliefs continue to occur, presenting a paradox in the context of a strange and unique plurality phenomenon. This current state of reality contradicts the ideal conditions of harmony and peace. Differences in religion and belief, which should reflect pluralism, suddenly become problematic for a society that is already familiar with pluralism. The harmony of religious relations is disturbed and disrupted due to intolerance and discrimination against religious minorities and adherents of certain beliefs in several regions of Indonesia.

What is the cause of intolerance and discrimination against followers of minority religions and adherents of diverse religious beliefs as a manifestation of an anti-pluralism attitude, which simultaneously undermines constitutional values and has contributed to a crisis of these values over the last few decades? The erosion of constitutional values that leads to a constitutional crisis can be understood by examining the latent meanings of discrimination and intolerance towards followers of minority religions and adherents of certain beliefs. From the perspective of constitutional theory, discriminatory and intolerant behavior is not merely an ordinary criminal act but constitutes

an unlawful act, a violation of constitutional or human rights, or simply harassment and infringement of the constitution. Intolerance and discrimination are actions that carry hidden, latent meanings that are not easily comprehensible. Beneath actions that manifest as violations of citizens' constitutional rights, human rights, or harassment of the constitution, discrimination and intolerance encompass latent meanings that pose more dangerous and concerning negative impacts.

The phenomena of discrimination and intolerance that occur in several regions carry a negative connotation, undermining the values of the Indonesian Constitution. This undermining originates from a misunderstanding of the correct conception of life as a nation and state, which is contrary to the values of Pancasila (Asshiddiqie, 2015). However, for the perpetrators of intolerance and discrimination, these values are perceived as more attractive and reliable than the principles of Pancasila. Consequently, these perpetrators set aside the values of the Indonesian Constitution, which are intended to bind, unite, and maintain the unity and integrity of the plural Indonesian nation. The values of the Indonesian Constitution are universal fundamental principles derived from the Indonesian people's understanding of human nature as a mono-dual being. Additionally, the Indonesian Constitution contains national and state values that align with the Indonesian nation's comprehension of human nature, providing guidelines for behavior for state administrators and all citizens.

The pluralistic value of spirituality, regarded as a noble principle of the Indonesian nation and enshrined in the constitution as agreed upon by the country's founding fathers, has faced significant challenges from the encroachment of intolerance and discrimination—issues that are quite severe (Ruslan, 2015). The value of pluralism in religion and the practice of beliefs has been repeatedly undermined by a value system characterized by exclusivity, radicalism, and an aversion to differences. These values, which embody intolerance and discrimination, have transformed the beliefs, insights, and behaviors of a segment of the population from being gentle, polite, friendly, and tolerant of religious and belief differences to becoming extreme, radical, exclusive, and intolerant of spiritual diversity. The manifestations of these changes in values,

insights, and behaviors among members of society, influenced by intolerance and discrimination, are evident in extreme and radical behaviors that are anti-plural and discriminatory toward citizens of differing religions and beliefs. The phenomenon of discrimination and intolerance toward various religions and beliefs signifies a serious latent danger that threatens the existence of Indonesian constitutional values. Intolerant and discriminatory behavior can evolve at any moment into mass riots, as has occurred several times in Indonesia, including incidents in Poso, Sulawesi, and East Java (Yunus, 2014).

The undermining and onslaught of Pancasila values, which are meant to be inclusive, by exclusive, intolerant, and radical values that manifest in discriminatory behavior, leads to the erosion of constitutional values. The noble values enshrined in the constitution are fading and losing their appeal among groups that practice intolerance and discrimination. Values such as tolerance, mutual assistance, and harmony are increasingly dimming and losing their attractiveness. The process of this erosion of noble constitutional values, due to the undermining of values deemed more appealing by certain groups within society, reflects conditions that contribute to a crisis of constitutional values (Khamid, 2016; Tirado & Pachón, 2024). This crisis has placed the Indonesian nation in an alarming situation, with the potential for widespread escalation of physical conflict. The crisis of constitutional values possesses enormous destructive power against the nation and the state, and it could lead to a fragmentation of the unity and integrity of the Indonesian nation, simultaneously threatening the existence of the Republic of Indonesia.

The phenomenon of intolerance and discrimination, which embodies values that are intolerant and discriminatory towards the diversity of religions and beliefs, presents a paradox for the Indonesian nation, as this diversity is not new to its society. Historically, this diversity has not posed a problem for the Indonesian people. However, the current prevalence of discriminatory and intolerant behavior can serve as a benchmark for assessing the ongoing and turbulent changes in societal values. If discrimination and intolerance are becoming more frequent and widespread, it follows that the erosion and assault on Pancasila values are also intensifying. This phenomenon simultane-

ously indicates a crisis of constitutional values that is increasingly critical, serious, and concerning (Alganih, 2016). The new values emerging and spreading in contemporary society, in various forms and manifestations, pose a significant threat to Pancasila, thereby heightening the urgency for vigilance. Therefore, it is essential to closely monitor the causes of this paradox and the direction of its development.

Intolerance and discrimination against plurality and difference represent constitutional phenomena that reflect the slow but certain undermining of constitutional values, which are often not realized quickly. The value system of the Indonesian Constitution, established and sourced from Pancasila, is gradually undermined by other value systems (Budiman et al., 2022). Essentially, the erosion of constitutional values is a condition that reflects a conflict of values currently brewing in society in a powerful way, even though it remains invisible. This upheaval of values is an upheaval in the metaphysical realm that can only be understood through the interpretation of the visible meaning of phenomena. The process of undermining constitutional values leads to a constitutional crisis that poses a significant danger to the Indonesian people, akin to an anomaly in the theory of scientific revolution.

The ongoing undermining and onslaught of constitutional values represent a fierce battle between conflicting value systems. This struggle has the potential to lead to a constitutional crisis. The conflict arose when values associated with anti-religious pluralism and belief infiltrated the minds of certain members of society, resulting in behaviors that oppose the pluralistic values of Pancasila and leading to constitutional abuse. The values of intolerance and discrimination exhibited by some members of society attempt to challenge, undermine, and vie for influence against the principles of the Indonesian constitution, which are rooted in Pancasila. The infiltration of intolerant and discriminatory values significantly alters the insights, beliefs, and behaviors of those who perpetrate such intolerance and discrimination. These changes in thoughts, beliefs, and values contribute to the emergence of societal members characterized by violence, a propensity to take offense, exclusivity, intolerance, discrimination, and radicalism (Tawaang y Mudjiyanto, 2021). Such individuals often disregard, show little interest

in, and resist complying with the norms and values of the constitution that stem from Pancasila.

Some understandings and values that seek to undermine and destroy the constitutional values originating from Pancasila include terrorism, foreign cultural values, neo-liberalism, hedonism, corrupt behavior, and the display of wealth, among others. These understandings promote values that are contrary to Pancasila, making them the main adversaries of this foundational philosophy. Such value systems are particularly attractive to certain segments of society, influencing and altering their insights, beliefs, and behaviors. Each of these understandings contributes to the erosion and undermining of the values enshrined in the Indonesian constitution. However, the most significant notion that erodes and undermines constitutional values—especially the value of pluralism—is radicalism, which is currently spreading throughout society. Its manifestations include intolerance and discrimination against religious minorities and adherents of various beliefs. The understanding and value of radicalism have proliferated rapidly in Indonesia over the last few decades.

In the Asian region, Indonesia is one of the important areas in the study of terrorism and religious radicalism (Budiman et al., 2022). In particular, the threat of radicalism in the Pancasila state, as a democratic law state, poses a significant risk, especially in the last ten years (Hastangka y Ma'ruf, 2021). Radicalism manifests in concrete, destructive-anarchist actions in the name of religion by groups against adherents of other religions or different religious groups that are considered heretical (Hastangka y Ma'ruf, 2021). From a religious perspective, radicalism emerges as a collective social movement that fights against structures, systems, and values deemed incompatible with the perpetrator's belief system. This indicates that radicalism originates from a narrow understanding of religion, leading to the perception that values other than those of the perpetrators are incorrect and misguided. In simple terms, radicalism can be interpreted as the understanding of a group of people who commit acts of violence under the guise of religion, claiming that their sect or interpretation is the most correct, without regard for other groups. Radicalism is an ideology that seeks social and political change or renewal through violent and drastic means (Sahril et

ál., 2020). Such understandings and values of radicalism are clearly contrary to the principles and values of Pancasila as the foundation of national and state life.

Radicalism necessitates radical changes in systems, norms, and values that are perceived as inconsistent with the belief systems of the perpetrators, often employing violence as a vehicle. Violence serves as a tool for radicals to alter the situation according to their perspective, even if it leads to adverse outcomes. The philosophy advocating for change toward a better direction through violence and coercion is clearly incompatible with the values of the Indonesian people, who cherish peace, harmony, tolerance, and respect for diverse religions and beliefs. However, the notion of radicalism has proliferated and infiltrated all levels and layers of society, including intellectuals, bureaucrats, religious figures and leaders, members of the Indonesian National Armed Forces (TNI), members of the Indonesian National Police, and others (Gani y Hutapea, 2022). Today, radicalism represents a phenomenon that warrants vigilance as it poses a significant threat to Pancasila, as it infiltrates and corrupts the insights and minds of nearly all societal elements, particularly the younger generation (Suhendra y Mahrusillah, 2019). This situation is deeply concerning and requires immediate attention to prevent it from becoming too late to address. Asshidique (2017) characterizes Indonesia's troubling condition due to intolerance and discrimination as follows: "The nation (Indonesia) is known as the most diverse nation in the world with its cultural traditions that are full of tolerance, but since the reformation, it has instead experienced a more violent and widespread radicalization." Consequently, religious harmony and citizens' beliefs, based on the rights and freedoms of religion and belief, have emerged as serious issues for the Indonesian nation.

Various incidents of discrimination and intolerance in the last few decades are evidence of the unhealthy condition of Indonesian society. Intolerance and discrimination reflect the abnormal state of Indonesian society, which carries negative connotations (Hariani, 2019). The Indonesian nation is currently experiencing serious challenges and threats, undermined by acts of discrimination and intolerance that are infiltrated and permeated by radical understandings and

values that contradict Pancasila. The phenomena of discrimination and intolerance, along with the principles of the Indonesian constitution, face a serious threat from an ideology guided by values that oppose Pancasila. This threat undoubtedly has a negative impact on the integrity of the Indonesian nation. The threat of radicalism to constitutional values will affect differences in interests, views, and values. These differences lead to varying perceptions that may provoke reactions based on these perceptions, potentially resulting in conflicts that could escalate into riots. Several incidents of conflict between groups, classes, races, and religions illustrate these issues (Sudiadi, 2009).

Ideas To Prevent Intolerance In Indonesia

Behaviors of intolerance and discrimination influenced by the notions and values of radicalism represent a latent threat to constitutional values, particularly the value of harmony among religious communities and adherents of diverse beliefs (Sudiadi, 2009). Changes in people's behavior, shifting from tolerance and gentleness to radicalism and intolerance, are manifestations of alterations in societal values that are currently agitating invisibly. These changes indicate that the Indonesian constitution is facing significant challenges and threats to fundamental values, with the potential for considerable damage to various aspects of national and state life.

The manifestations of changing societal values, which are currently turbulent, include violations of constitutional norms regarding the rights and freedoms of religion and belief by certain community members based on specific beliefs and values. The noble values of the nation and state, especially those that respect differences in religion and belief as enshrined in the constitution—agreed upon by national figures—are in conflict with radical values that seek to gain influence and followers. The values of Pancasila contend for influence against the radical values held by those who perpetrate intolerance and discrimination. This battle between the two value systems remains largely invisible, resulting in most members of society being unaware of it. In fact, this struggle reflects the value crisis currently engulfing the Indonesian people (Huertas y Molina, 2024).

Intolerance and discrimination not only negatively impact the values of the Indonesian Constitution but also have tangible adverse effects on various aspects of national and state life. First, the rights and freedoms of citizens to embrace their religion and beliefs are considered human rights and constitutional rights. Discrimination and intolerance towards citizens who adhere to minority religions or beliefs constitute violations of both human rights and constitutional rights. Such discrimination and intolerance towards fellow citizens of different religions or beliefs violate the principle of legal equality, thereby demeaning these individuals. Furthermore, intolerance and discrimination manifest as an affront to the dignity of the Constitution, which is the highest law derived from the values of Pancasila. Within the context of intolerance and discrimination, several negative elements emerge: (a) the violation of constitutional rights and human rights concerning the rights and freedoms of religion and belief; (b) the degradation of the dignity of fellow citizens through the violation of the principle of legal equality; and (c) the undermining of the dignity of the Constitution as the highest law, which is rooted in the values of Pancasila.

Second, discrimination and intolerance undermine and destroy harmony in the relationships between religious communities and adherents of various beliefs. The disturbance of religious harmony and belief due to intolerance and discrimination results in a society that is sharply and exclusively segmented based on the orientation of the values of individual citizens or groups (Sa'idah, 2020). The values of each individual and group are not always compatible with those of Pancasila. As a result, a sharply segmented society will give rise to conditions and situations that lack cohesion and are characterized by high tension. This condition of a society that is sharply and exclusively segmented based on individual or group values, combined with high tension, can, at any time, explode into mass physical conflicts or riots.

Third, harmonious relations among adherents of different religions and beliefs, when contrasted with those that are fragile and characterized by high tension, can lead to negative changes. A society that values politeness, manners, gentleness, tolerance, and appreciation of differences can suddenly become violent and easily divided (Yusak, 2003; Daza, 2024). Such

a fragile society can be easily provoked into committing mass unlawful acts with significant destructive potential. This condition poses serious national and state issues, as it harbors a latent danger that threatens constitutional values. Threats to constitutional values, in turn, have significant consequences for the existence of the nation and the Republic of Indonesia.

Conclusion

The 1945 Indonesian Constitution, specifically Article 28E and Article 29, should be sufficient to strengthen the position of religion and belief in Indonesian society. The diversity of religions and beliefs in a pluralistic society ought to make Indonesia a harmonious country capable of embracing differences, as reflected in the motto of Bhineka Tunggal Ika. Unfortunately, some groups have undermined this ideal, leading to various tragedies of intolerance and discrimination in several regions. Sociologically, the emergence of radical ideologies that have infiltrated society has triggered the recent tragedies of intolerance and discrimination. This situation is particularly paradoxical, considering that the pluralistic Indonesian nation is protected by the state constitution, which necessitates adequate legal instruments to anticipate further division and damage.

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Datos de artículo

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