

# **Recognizing Freedom of Religion or Belief as A Human Right in Indonesia**

## ***Towards the Society More Civilize, Democratic, Harmony and Peaceful***

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### **1. Recognizing Freedom of Religion as a Human Right in Indonesia**

Freedom of religion is one of the fundamental rights that we must promote in all over the world. The universal declaration of human rights affirms that everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance (art. 18). Freedom of religion or belief is a fundamental right, inherent of our dignity as a human person.

The International Covenant on Civil and Political Rights, as an international law gives guarantee that freedom of religion is one of the human rights. The art. 18 of this international covenant states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching,
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice,
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

This is standard of international, which recognize and guarantee the freedom of religion. Religion or belief is not only a private rights, but fundamental rights, that all the people must respect. This human right must be recognized by the government, all the people should observe and practice in the society.

The Indonesian government recognizes the freedom of religion and belief is human right, and guaranteed and protected by the laws (for example, the Law on Human Rights) and constitutions. The Indonesian Constitutions states on the article 28E:

1. Every person shall be free to choose and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.
2. Every person shall have the right to the freedom to believe his/her faith, and to express his/her views and thoughts, in accordance with his/her conscience.

All Indonesian manifest freely and must have a religion, as we can find in the Identity Card, and prohibit them do not have religion. The religions are very important role and have enormous impulse in all aspects of Indonesian life-style. All important activities must have relations with religion.

According to the laws and constitutions, the Indonesian government recognizes the freedom of religion and belief. The consequences of this decree are that all Indonesian must have the equal right, dignity and freedom. In the reality there are many violations against this freedom, discrimination, exclusions and aggressions to the other, who are not as their group. So recognizing by the laws and constitutions to the freedom of religion and belief must be completed with the promotion and protections of it. The freedom of religions is not sufficient for the Indonesian life-style. We need the real and practice guarantee, which capable to promote and protect the human dignity.

For Indonesian life-style, the recognizing, promoting and protecting the freedom of religion or belief is a human right, must have guarantee from the capable government and we must create in the society the multiculturalism, which promotes the society more democratic, harmony and peaceful.

## **2. Freedom of Religion and Multiculturalism**

Freedom of religion and multiculturalism as a fact has a proper value, exist in the plural society, which indicate the diversity in many aspects of human life I appreciate with the program of the Canadian government, which issued officially the *Multiculturalism Act*. In this document, the promotion and protection of human rights has real challenges to be fulfilled in the society. The government has a policy to promote the awareness of the people that multiculturalism as a fundamental social life of the people. With the multiculturalism, we consider that we have the equal dignity, fundamental freedom and human rights, in which all human persons must respect them. No body allows ignoring these challenges. Promotion and protection of human rights must be apriority of the entire program.

The differences of nation, race, colour, sex, language, religion and culture cause the varieties of human action, those are discriminations, manipulation,

domination, not respect one another, imperialism, colonialism and war in this world. All these human actions have marked the catastrophic history, there were many victims, especially women and children. In the plural society of one country, with Multiculturalism, all nation and race would like to have their equal rights. So the differences between majority and minority are not actual and relevant for the people. The people must consider that many diversity of cultures, habitual, race, language and religion, build a new civilization as a beautiful mosaic, which call national culture or national civilization.

When we speak on the real national culture, we can't find it. It's because all cultures in this world are inter-dependent one another. The national culture has built on the original one and inculturized by the other cultures, as a union and integral inseparable civilization. If someone would like to separate and look for the original culture, it will be lost the proper identity as a national culture.

Multiculturalism in the pluralistic society demands the disponible attitude and actions of all the people on equal rights, no discriminations, respect on freedom and human rights, and also on decision making. In reality, the majority (of religion, groups, race and culture) always dominates the other, and the minority will be victim of their attitude and provocations that the majority must have more rights than the minority.

The movement of multiculturalism which prefers to indicate the equal rights and no discriminations open the new perspectives for promotion and protection of Human Rights. Up till now there are many violations of human rights and the consequences; there are many victims, which invite us to respond their need.

There is no place more for mono-culture, which normally the majority discriminates the minority and against human dignity. The movement of multiculturalism will enriches the nation and national culture must be capable to create the multi-cultures, new civilization and promote the human rights. All cultures, nations, races, colours, and religions are inter-dependent, which need one another. The task of multiculturalism guides the new culture and new civilization for promotion and protection of human rights.

### **3. The Promotion and Protection of Human Rights**

The Promotion and Protection of Human Rights is a program and agenda for action of the Vienna Declaration<sup>1</sup>. Human Rights must be promoted and

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<sup>1</sup> The Vienna Declaration: Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, 14-25 June 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993).

protected in all situations as a priority program for action, especially in democratic era and situation. In the Vienna Declaration establishes that the promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles, in particular the purpose of international cooperation. In the framework of these purposes and principles, the promotion and protection of all human rights is a legitimate concern of the international community. The organs and specialized agencies related to human rights should therefore further enhance the coordination of their activities based on the consistent and objective application of international human rights instruments<sup>2</sup>.

The promotion and protection of human rights are considered as an obligation to promote, to protect and to observe the human value, which is the dignity of human person. In fact the human rights have the universal value. The Vienna Declaration affirms that all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms<sup>3</sup>. We need the universal respect for human rights and to observe them. So the efforts of the international community's attitude towards the universal respect for, and observance of, human rights and fundamental freedoms for all, contribute to the stability and well-being necessary for peaceful and friendly relations among nations, and to improved conditions for peace and security as well as social and economic development<sup>4</sup>.

To protect the human rights, the government must ratify the international instruments of human rights and other documents<sup>5</sup>, which protect them. Or the government gives protection to the people with the positive law, policy, and the other guarantees, so they live in peace and safety in their own country. The people will achieve the common good and welfare with protection by the government.

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<sup>2</sup> The Vienna Declaration, 4

<sup>3</sup> The Vienna Declaration, 5.

<sup>4</sup> The Vienna Declaration, 6.

<sup>5</sup> There are many types of international document, for example. Conventions, statute, covenants, ect. which must be ratified by the government if these documents will become positive law in that country. So the people will be guaranteed or protected with a positive law.

#### 4. The Violations of Human Rights

In the *Millennium Declaration*<sup>6</sup>, firstly however – there are 1,350 representatives of over 1,000 non-governmental organizations (NGOs) and other civil society organizations from more than 100 countries - gathered in New York from 22-26 May 2000 stated that entering the third millennium, the fulfillment of human rights is threatened by numerous challenges. The increasing economic gaps and the unprecedented increase in poverty that are the result of the existing world economic order, constitute the greatest and most unjust violations of human rights: the misery and death of millions of innocent people every year. In the same document, they affirm: “We are witnessing some of the worst violations of human rights, including the use of food as a weapon, in the context of the armed conflicts and civil wars, which have been erupting with increasing frequency. Moreover, civilians are bearing the brunt of the deployment of weapons of mass and indiscriminate destruction in such conflicts. We are also witnessing a resurgence of racism, fascism, xenophobia, homophobia, hate-crimes, ethnocide and genocide, which impact most greatly on indigenous peoples and other disadvantaged or under-represented groups; the resurgence of patriarchy that threatens to erode the gains made by women; the persistence of the worst forms of child labor; the impunity enjoyed by perpetrators of massive and systematic violations of human rights; the on-going and deepening process of globalization which undermines internationally recognized human rights, labor rights and environmental standards; the continued insulation from human rights accountability of non-state actors, ranging from transnational corporations and international financial institutions to fundamentalist civil society organizations and criminal syndicates; an upsurge of violence, militarism and armed conflict; the increase and growth of authoritarian regimes; and the fact that human rights defenders continue to be highly vulnerable targets of repression in many areas of the globe”<sup>7</sup>.

In front of the violations of human rights, we can ask to ourselves: “what must we do”. The **US Department of the State**, every year publish their report on the violations of human rights cover more than two hundreds countries. The **Amnesty International** every year also published the annual report on the situation of human rights in the world. The other organization, that is **Human Rights Watch** observed and published their research on human rights in many

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<sup>6</sup>Cf. *We the Peoples Millennium Forum: Declaration and Agenda for Action*, Strengthening the United Nations for the 21st Century, have gathered at the United Nations (UN) Headquarters in New York from 22 – 26 May 2000 or *Millenium Declaration*, part D. about “Human Rights”. In This meeting there are 1,350 representatives of over 1,000 non-governmental organizations (NGOs) and other civil society organizations from more than 100 countries.

<sup>7</sup> Idem

countries of the world. There are many other organizations, Faculty of Law and international center study of human rights, which have concern on inherent human person value that is human rights and published them for the public. There are violations against the human rights, human person and his integrity. On the book, with title: *Crimes of War*<sup>8</sup>, we can observe how is terrible to be victims of war. In the war situations, there are violations of human rights and the value of human person collapses.

The violations of human rights are not only in the war situations, but also in all situations, although in the normal one. On October 2001 in Rome gathered a Synod of catholic Bishops from all over the world. In the final document of the Synod, we can read that they aware the situations in the world today. They wrote: “During this Synod, we could not close our eyes to many other collective tragedies. It is both urgent and necessary to keep also in mind what Pope John Paul II has spoken of as “the structures of sin”, if we want to point new ways forward for the world. According to reliable economic experts, 80% of the population of our planet survives on only 20% of its income and one billion two hundred million people “live” on less than one dollar a day! A drastic moral change is required. Today the social teaching of the Church has a relevance, which we cannot overemphasize. As bishops, we commit ourselves to making this teaching better known in our local churches”<sup>9</sup>. The bishops showed us that some endemic evils, when they are too long ignored, can produce despair in entire populations. How can we keep silent when confronted by the enduring drama of hunger and extreme poverty, in an age where humanity, more than ever, has the capacity for a just sharing of resources? We also must express our solidarity with the flood of refugees and immigrants, who, because of war, political oppression or economic discrimination, are forced to flee their homeland, in search of employment or in the hope of finding peace. The ravages of malaria, the spread of AIDS, illiteracy, the hopelessness of so many children and youth abandoned to life on the streets, the exploitation of women, pornography, intolerance, the scandalous perversion of religion for violent purposes, drug trafficking and the sale of arms ... the list is not exhaustive!<sup>10</sup> The

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<sup>8</sup> Roy Gutman and David Rieff (eds), *Crimes of War* (W. W. New York 1999).

<sup>9</sup> The final document approved on 10<sup>th</sup> Assembly, October 25, 2001, nr. 10. Cf. Giorgio Filibeck (ed), *The Human Rights in the Teaching of the Church: from John XXIII to John Paul II* (Libreria Editrice Vaticana, Vatican City 1994).

<sup>10</sup> The Final Document, nr. 11. In the following number, the Synod express their concern on the human life, as they said: “Perhaps what most upsets us as pastors is the contempt for human life, from conception to death, as well as the breakdown of the family. The Church’s “No” to abortion and euthanasia is a “Yes” to life, a “Yes” to the fundamental goodness of creation, a “Yes” which can move every person in the depths of his conscience, a “Yes” to the family, the most basic community of hope which so pleases God that he calls it to become a “domestic Church”.

violations of human rights spread in all over the world, especially in the crisis situations. All the people must respect the value of human person. With this reason, the promotion and protection of human rights must have a priority in every country.

## **5. Promotion and Protection of Human Rights Create the World More Democratic, harmony and Peaceful**

The relations between the promotion-protection of human rights and democracy today arise a question: “What is the meaning of democracy?” Kurt Tudyka in his research<sup>11</sup> wrote that democracy essentially means rule of the people, in other words the sovereignty of the people: ‘Rule of the people by the people for the people’. All rule derives from the principle of the sovereignty of the people. The will of the people is equally binding on all citizens. Conversely, political decisions are only legitimate if they rest on the expression of the will of all citizens. Ideally these citizens form a homogenous society. Individual political actions do not have a quality of their own but are only the emanation of the one, inalienable sovereign power. Thus the subject-object relationships of the traditional rule become an indivisible, permanent relationship between equal rights in the action and interaction of the government of their polity<sup>12</sup>.

The democracy is an ideal opinion, ideal situation and ideal hope, which mean the rule of the people by the people and for the people. In reality this ideal democracy is far from the real situation of the country. Daw Aung San Suu Kyi to the Community of Democracies Ministerial Conference<sup>13</sup>, gave a Statement that building a world founded on democratic values, which in turn are founded on basic human rights. What we all want is basic human rights, rights that will give us the right balance between freedom and security. I think it has been proven that, of all the imperfect systems that exist in our world today, democracy is the best for the people at large. It may not be the best for governments, but this is not our main aim, to find out what is best for governments. Our main aim is to find out what is best for the peoples of our world<sup>14</sup>. The democracy for Aung San Suu Kyi has an important value of her life, it’s because she combats against the dictatorial regims or military. Aung San Suu Kyi in her Statement continues: “As somebody from a country deprived of democratic values, I understand very well

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<sup>11</sup> Kurt Tudyka, “The Meaning of Democracy Today”, in: *Concilium* (5/1992) 4-13.

<sup>12</sup> *Idem*, p.3-4.

<sup>13</sup> Transcript of the Statement by Daw Aung San Suu Kyi to the Community of Democracies Ministerial Conference, in Warsaw, Poland, on June 27, 2000.

<sup>14</sup> Cf. *Idem*

the value that we speak of. For us, democratic values are not values on paper. Democratic values are what we are lacking in our everyday life. It is because of the lack of democratic values that we have to question how many of our friends have been arrested from day to day; how many of our friends are suffering from ill health in prison; how many more of our friends are in danger of arrest, imprisonment, torture, and other violations of human rights. So for us who are still aspiring towards democratic institutions, the most important thing is basic human rights. Democracy is not based on governments. There are many governments in this world today which pretend that they are democracies or that they're working for democratic values, but in fact they are not. Unless the people are allowed to be heard, unless the people are allowed not just freedom of speech and freedom of association, but, as somebody very pertinently pointed out, freedom after speech and freedom after association, we shall not be able to build up the democratic institutions"<sup>15</sup>.

The democracy is based on the people power, the rule of the people by the people and for the people; and the democracy is never based on governments. According to the Vienna Declaration that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. In the context of the above, the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world<sup>16</sup>.

The problem is how and which conditions to create the democratic situations, so the promotion and protection of human rights achieve on possibility to realize them, and to create this world more fraternal and peaceful. Every government must give possibility to create a condition that the protection and promotion of human rights towards this world more democratic, fraternal, harmony and peaceful. All the people in every country hope that the world where they live more democratic, fraternal, harmony and peaceful.

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<sup>15</sup> Idem

<sup>16</sup> The Vienna Declaration, 8.