

Kunthi TRIDEWIYANTI, Luh Rina APRIANI, Nurul MIQAT

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Secção I

Investigação Científica*

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Indigenous People and Customary Law in Case of Religious Rights: A Taste of Injustice from Karuhun Urang in Indonesia

Povo Indígena e Direito Consuetudinário no Caso dos Direitos Religiosos: Um Paladar de Injustiça dos Karuhun Urang na Indonésia

Kunthi TRIDEWIYANTI¹

Luh Rina APRIANI²

Nurul MIQAT³

ABSTRACT: This study examines Indonesia's Adat Karuhun Urang (AKUR) Community and their religious rights and justice struggles. The study seeks to determine how AKUR perceives and experiences religious justice injustice. This research is ethnographic and descriptive. Participatory observation and in-depth interviews with AKUR members, community leaders, and relevant parties. The project has documented AKUR's religion, culture, and social relationships. AKUR's history and religious rituals are examined in light of customary law and Sunda Wiwitan. Religious discrimination affects identity documents, schooling, and marriage for AKUR. Constitutional Court rulings and government legislation address this injustice, but religious rights and private views remain unsettled. The research examines religious rights justice through Rawls and Nozick's theories. Unfairness against AKUR violates the fundamental right to religious freedom. Nozick's philosophical relationship between religious liberty and self-ownership is also examined. According to the report, the Indonesian constitution provides religious freedom for everybody. However, the legal separation of religion and belief discriminates against AKUR. The study stresses the importance of recognizing belief as a primary religion and protecting Indigenous groups' religious rights, including religious practices and beliefs.

KEYWORDS: Indonesian Indigenous Communities; Adat Karuhun Urang (AKUR); Religious Justice; Customary Law; Sunda Wiwitan; Religious Discrimination; Right to Religious Freedom.

RESUMO: Este estudo examina a Comunidade Adat Karuhun Urang (AKUR) da Indonésia e suas lutas por direitos religiosos e justiça. O estudo procura determinar a forma como a AKUR percebe e experimenta a injustiça da justiça religiosa. Esta pesquisa é etnográfica e descritiva. Observação participativa e entrevistas aprofundadas com membros da AKUR, líderes comunitários e partes relevantes foram conduzidas. O projeto documentou a religião, cultura e relações sociais da AKUR. A história e os rituais religiosos da AKUR são examinados à luz do direito consuetudinário e do Sunda Wiwitan. A discriminação religiosa afeta documentos de identidade, educação e casamento para a AKUR. As decisões do Tribunal Constitucional e a legislação governamental abordam essa injustiça, mas os direitos religiosos e opiniões

¹ Faculty of Law, Universitas Pancasila, Jalan Buku Dikrama No.30, Special Capital District of Jakarta 12640, Indonesia.

² Faculty of Law, Universitas Pancasila, Jalan Buku Dikrama No.30, Special Capital District of Jakarta 12640, Indonesia.

³ Faculty of Law, Universitas Tadulako, Jalan Soekarno Hatta No. 9, Palu City, Central Sulawesi 94148, Indonesia.

privadas permanecem não resolvidos. A pesquisa examina a justiça dos direitos religiosos por meio das teorias de Rawls e Nozick. A injustiça contra a AKUR viola o direito fundamental à liberdade religiosa. A relação filosófica de Nozick entre liberdade religiosa e autodeterminação também é examinada. A constituição indonésia garante a liberdade religiosa para todos, de acordo com o relatório. No entanto, a separação legal entre religião e crença discrimina a AKUR. O estudo destaca a importância de reconhecer a crença como uma religião primária e proteger os direitos religiosos de grupos indígenas, incluindo práticas e crenças religiosas.

PALAVRAS-CHAVE: Comunidades Indígenas Indonésias, Adat Karuhun Urang (AKUR), Justiça Religiosa, Direito Consuetudinário, Sunda Wiwitan, Discriminação Religiosa, Direito à Liberdade Religiosa.

Introduction

For certain persons, religious rights are not strongly linked to human rights, or at the very least, not as strongly linked as the rights to life and fundamental freedoms⁴. They may forget that even if they consider themselves to be agnostic or atheist, the spiritual dimension is still present in the multidimensional life of humans. From a philosophical point of view, being religious is fundamentally in the realm of freedom, guaranteed by fundamental human rights. From a philosophical point of view, Søren Kierkegaard⁵ and Karl Jaspers⁶ offer argumentation underpinnings for religious rights as an inseparable component of human freedom. This is done within the context of the existentialist tradition. *Individual autonomy* is the assumption upon which the logic of religious beliefs is based in the liberal philosophy tradition. This is something that John Locke⁷ and Immanuel Kant⁸ both emphasized. Because the occupied dimension is located far within the abstract regions of human thought, it is necessary to translate religious and belief rights into language that is easier to understand. This can be accomplished by considering their fundamental human rights or human rights.

Human rights, as fundamental rights, also originated when a human being was born⁹. Human rights are nothing more than a consensus of nations worldwide that contains mechanisms that guarantee the implementation of fundamental

⁴ Louis Henkin, "Religion, Religions, and Human Rights," *The Journal of Religious Ethics* 26, no. 2 (1998): 229–39.

⁵ Søren Kierkegaard, *Fear and Trembling* (New York: Start Publishing LLC, 2013).

⁶ Karl Jaspers, "Freedom and Authority," *Diogenes* 1, no. 1 (January 1, 1953): 25–42, <https://doi.org/10.1177/039219215300100103>.

⁷ John Locke, *The Conduct of the Understanding* (London: Scott, Webster, and Geary, 1838).

⁸ Immanuel Kant, *Critique of Pure Reason*, trans. Paul Guyer and Allen W. Wood, The Cambridge Edition of the Works of Immanuel Kant (Cambridge University Press, 1999).

⁹ Michael J. Perry, *Interrogating the Morality of Human Rights*, Elgar Studies in Human Rights (Edward Elgar Publishing, 2023).

human rights in life. These instruments interact to form a constellation that limits discriminatory treatment of humans for any reason, including religion or beliefs, addressed explicitly in Article 18 of the Universal Declaration of Human Rights:

“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.”

Article 18 of the International Covenant on Civil and Political Rights makes it clear that every person has the right to freedom of thought, belief, and religion¹⁰. This guarantees that every person has the right to religious freedom. This freedom can only be regulated and limited by legislation to ensure safety, maintain order, promote health, uphold moral principles, or protect the rights of others. No one can be forced to do anything¹¹.

Even though the public has the impression that religion is constructed through often strict forms, the concept of religious rights cannot be reduced to a single complex term from a philosophical standpoint¹². According to this line of reasoning, religious rights encompass well-established official religions' internalization and externalization processes and the teachings and beliefs widely held by Indigenous people, particularly in civilizations as diverse as Indonesia. Because Indonesia is home to a diverse population in terms of race, culture, and beliefs, it is logical that it would offer justice for religious rights for all its citizens¹³.

“The right to life, the right not to be tortured, the right to personal freedom, thought, and conscience, religious rights, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be sued retroactively are human rights that cannot be reduced under any circumstances and by anyone.”

Even though the constitution of the country includes a normative guarantee of religious rights, the fact of the matter is that these rights, or more specifically, the justice for these rights, are unable to reach the hearts and minds of

¹⁰ Paul M. Taylor, ed., “Article 18: Freedom of Thought, Conscience and Religion,” in *A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee’s Monitoring of ICCPR Rights* (Cambridge: Cambridge University Press, 2020), 499–537, <https://doi.org/10.1017/9781108689458.021>.

¹¹ Kevin Boyle and Juliet Sheen, *Freedom of Religion and Belief: A World Report* (Taylor & Francis, 2013).

¹² Heiner Bielefeldt, “Misperceptions of Freedom of Religion or Belief,” *Human Rights Quarterly* 35, no. 1 (2013): 33–68.

¹³ Jeremy Zefanya Yaka Arvante, Maulana Fuad Nugraha, and Andrew Sergei Rostislav, “A Comparative Study of Religious Freedom Between Indonesia-Russia and Its Limitations,” *Jurnal Scientia Indonesia* 8, no. 2 (October 30, 2022): 197–222, <https://doi.org/10.15294/jsi.v8i2.36203>.

Indigenous populations according to their religious or spiritual beliefs¹⁴. The Indigenous groups, which are considered to be minorities and adhere to religions that are institutionalized, appear to be estranged from the current progress, such as the fact that the national identification card can only accommodate six “recognized” religions¹⁵. Even though the Constitutional Court's Decision Number 97/PUU-XIV/2016, which pertains to the judicial review of the Population Administration Law, allows belief systems to be included in the national ID card, this does not necessarily demonstrate that justice has been established for religious rights¹⁶. This is especially true for a process that may take considerable time.

However, the concept of justice/injustice in the context of customary law and religious rights has a complex and multidimensional meaning. Unlike justice/injustice in state law or personal morality, justice in customary law is defined as balance and harmony between humans and nature, humans and humans, and humans and their ancestors. Injustice refers to violations of customary norms and rules that cause imbalance and disharmony, as explained in the 1945 NRI Law Article 18B paragraph (2) and Article 29 paragraph (2). Apart from that, justice/injustice in the context of customary law and religious rights is also explained in Law Number 39 of 1999 concerning Human Rights in Article 18 paragraph (1) and Article 28E paragraph (1).

Understanding justice/injustice in this context requires more than looking at juridical signs. It also requires considering the temporal, historical, political, and cosmogenic context. Social and political dynamics and cosmological and spiritual beliefs play essential roles in defining and implementing concepts of justice/injustice in Indigenous communities.

In 'Temporal Context,' justice/injustice may change with changing norms and values in Indigenous communities. Customary customs and legal rules can be evolved and adapted to respond to changing times. Meanwhile, in 'Historical

¹⁴ Muwaffiq Jufri and Mukhlis Mukhlis, “Akibat Hukum Pemisahan Hak Beragama dengan Hak Berkepercayaan dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945,” *Jurnal Konstitusi* 16, no. 2 (July 11, 2019): 274–95, <https://doi.org/10.31078/jk1624>.

¹⁵ Nicola Colbran, “Realities and Challenges in Realising Freedom of Religion or Belief in Indonesia,” *The International Journal of Human Rights* 14, no. 5 (September 1, 2010): 678–704, <https://doi.org/10.1080/13642980903155166>.

¹⁶ Greg Fealy and Ronit Ricci, *Contentious Belonging*, Indonesia Update Series (Singapore: ISEAS Publishing, 2019).

Context,' historical experiences, such as colonialism and oppression, can influence Indigenous peoples' understanding of justice/injustice. Past trauma can trigger conflict and human rights violations. Additionally, the 'Political Context,' both local and national, can influence how customary law is applied and enforced. Interactions with governments and non-indigenous actors can trigger tensions and injustice. Lastly is the 'Cosmogenic Context,' which is Indigenous peoples' cosmological and spiritual beliefs playing an essential role in defining justice/injustice. Human relationships with nature and ancestors are respected and maintained through customary norms and rules.

Understanding the complexity of this temporal, historical, political, and cosmogenic context is critical to protecting the rights of Indigenous peoples because this perspective helps understand the complexity of customary legal systems and ensures that the rights of Indigenous peoples are respected and protected. In addition to promoting dialogue and understanding, this perspective encourages better dialogue and understanding between indigenous peoples, governments, and non-indigenous actors. Then, the writer aims to achieve sustainable justice because this perspective helps formulate fair and sustainable solutions to resolve disputes and conflicts related to religious rights and Indigenous communities.

Not only does the restriction of religious liberties consist of restricting the religious activities of those who adhere to it, but it can also take the shape of a variety of other forms of discrimination, such as denying access to public services and denying a good standard of living¹⁷. To illustrate this point, there have been allegations that at one point in time, a job seeker who happened to be a follower of a belief system was confronted with inquiries regarding his religion or belief (which was most definitely not a “recognized” religion) throughout a job interview conversation. Consequently, this turned out to be a factor that contributed to his inability to obtain the position, as if Articles 28E Paragraph (1) and 29 Paragraph (2) of the Constitution of 1945 and Article 4 of Law Number 39 of 1999 respecting Human Rights had never been in existence. Undoubtedly, the “interviewer” is to blame for this situation; nonetheless, isn't this a phenomenon demonstrating that

¹⁷ A. A. A. Nanda Saraswati et al., “Restrictions of the Rights of Freedom of Religions: Comparison of Law Between Indonesia and Germany,” *Indonesia Law Review* 8, no. 3 (December 31, 2018): 256–76, <https://doi.org/10.15742/ilrev.v8n3.510>.

Injustice has occurred? Notably, the right to freedom of religion has been shown to manifest itself in the form of other discriminatory acts, particularly toward adherents of beliefs or cultures that are not considered to be religions. One example is the Sunda Wiwitan, practiced by the Sundanese community and called Karuhun Urang (rough translation: our ancestors)¹⁸.

The Karuhun Urang society is a community that adheres to customary law¹⁹. Their opinions on religious magic in daily life are highly conservative, and they consider Sunda Wiwitan their ancestral religion and belief system. Even though its adherents consider their belief a religion rather than merely a “cultural product,” the general public does not hold the same perspective²⁰. They argue that religion is an organized collection of beliefs, cultural systems, and worldviews that include narratives, symbols, and sacred history intended to explain the meaning of life and the origin of life or the universe²¹. Humans can derive morality, ethics, law, religion, or favoured lifestyles from their beliefs about the cosmos and humanity's nature. These beliefs can establish a pattern of repetition and order within a community, which is why religion is simultaneously considered one of the components of culture.

The Ministry of Education and Culture regulates the empowerment of religion and culture through the Ministry of Religion and Beliefs/Culture. This ministry is responsible for regulating the sector. By this law, Indonesian nationals who subscribe to religions or belief systems considered “ancestral” are permitted to participate in the Group of Inspirators of Believers in the One Almighty God since the year²². This group of people who can inspire others is dispersed from the central level to the branch level, and it is present in at least 24 provinces, with a total The organization that initiated the project has a membership of 8.821.724

¹⁸ Lilawati Kurnia, “‘Seren Taun’ between Hegemony and Culture Industry Reading a Sundanese Ritual of Harvest in Cigugur, West Java,” *Wacana, Journal of the Humanities of Indonesia* 15, no. 2 (July 1, 2015): 300–313, <https://doi.org/10.17510/wacana.v15i2.405>.

¹⁹ Kunthi Tridewiyanti et al., “Participation of Women From Indigenous Peoples in the Formation of National Law,” *SASI* 29, no. 2 (April 19, 2023): 269–76, <https://doi.org/10.47268/sasi.v29i2.1229>.

²⁰ Muwaffiq Jufri, “Regulation Model of Religious Rights and Freedoms for Local Religious Believers in the Majapahit Constitution,” *Jurnal HAM* 13, no. 3 (December 22, 2022): 539–56, <https://doi.org/10.30641/ham.2022.13.539-556>.

²¹ Nsama Jonathan Simuziya, “A Conceptual Analysis of How Science, Religion, and Culture Interact and Influence Each Other in Politics,” *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2084892, <https://doi.org/10.1080/23311886.2022.2084892>.

²² Dicky Sofjan, ed., *Religion, Public Policy and Social Transformation in Southeast Asia* (Yogyakarta, Indonesia: ICRS, 2016).

individuals. On the other hand, the organization that initiated the project has yet to accept Indonesia's different belief systems or faiths. This becomes a contradiction when confronted with Presidential Decree Number 1 of 1965 related to preventing abuse and blasphemy of religion. This decree contains an explicit prohibition on Sufi and spiritualistic streams, which places belief systems associated with spiritualism under the regime that is prohibited by the law. One example is the Adat Karuhun Urang (AKUR) community, which is not included in the Group of Inspirators of Believers in the One Almighty God. According to the findings of the National Commission on Violence Against Women and Women's Monitoring in 2013-2016 concerning the legal identity of the AKUR community, this has implications for the discriminatory actions that are experienced by people who still adhere to ancestral religions or original religions. Additionally, this has consequences for the AKUR community. This scenario unquestionably impacts individuals' civil, political, economic, and social rights.

The disagreement persists until it is brought to light in several legal regulations, such as Law Number 23 of 2006 concerning Population Administration and its changes implemented by Law Number 24 of 2013. According to the law described before, the name "Kelompok Orang Inspiratif" (Inspirational People Group or Believers Group) is introduced, and every major event that occurs in their life must be acknowledged and protected administratively. The recognition is limited to "administrative" acknowledgment, which, in a substantive sense, does not fully reflect the principles of religious justice for the community that adheres to these belief systems. This is the case despite the subsequent decision of the Constitutional Court Number 97/PUU-XIV/2016 regarding the judicial review of the Population Administration Law, which grants "belief systems" status equivalent to that of recognized significant religions²³.

The AKUR community is confronted with a pretty exceptional situation when considering the scale of this belief system compared to others dispersed across Indonesia. However, this fact does not change or eradicate the discriminatory behaviours that they are subjected to, particularly when it comes to obtaining

²³ Tonny Pangihutan Situmorang and Fikarwin Zuska, "Accessibility of Citizens With Parmalim Beliefs to Civil Rights in Indonesia," *Pharos Journal of Theology* 104, no. 2 (2023): 1–11, <https://doi.org/10.46222/pharosjot.104.222>.

religious justice, which they are entitled to get. This research will primarily concentrate on determining the extent to which the AKUR community is subjected to injustice in terms of religious justice and how the AKUR community understands the concept of spiritual justice.

Research Methods

This ethnographic research has utilized a descriptive technique to document and analyse the phenomenon of religious justice that the Adat Karuhun Urang (AKUR) community in Indonesia is confronted with. When doing this research, the first thing to do is engage in participatory observation. This means that the researchers have involved themselves in the day-to-day activities of members of the AKUR community. The researcher has documented several different religious practices, cultural norms, and social interactions that include members of the AKUR group while doing the observation.

Following this, the research has conducted in-depth interviews with members of AKUR, community leaders, and other parties pertinent to the issues. The purpose of the interviews is to gain an awareness of the attitude that members of the AKUR community have regarding religious justice, how they are subjected to prejudice, and how they comprehend the concept of religious justice in their everyday lives.

In addition, a document analysis has been carried out on government regulations affecting religious rights, particularly those legislation involving the recognition and protection of communities that hold non-traditional religious beliefs, such as AKUR. This contains an examination of Law Number 23 of 2006, which applies to the administration of the population, as well as the revisions made by Law Number 24 of 2013.

When conducting ethnographic research, it is necessary to have a comprehensive understanding of the cultural and social environment in which the AKUR community is located. Consequently, the interpretation of the cultural environment, religious beliefs, and perceptions of religious justice from the point of view of the AKUR community will be a part of the data analysis process.

The final phase of this research initiative involves creating an ethnographic report summarizing the most important findings. This study has presented a complete review of how the AKUR community encounters injustice in the

framework of religious justice and how they respond to this situation in their culture and social life.

The findings of this study are anticipated to contribute to our comprehension of the actual state of religious justice in Indonesia, particularly regarding communities that adhere to non-traditional religious beliefs such as AKUR.

Karuhun Urang Community and Sunda Wiwitan

Karuhun Urang, as a belief system, cannot be separated from the widely spread Sundanese Wiwitan belief that thrives in West Java, specifically in the land of Pasundan (spoken by those who talk to Sundanese)²⁴. The core teachings of this belief system, rooted in Sundanese Wiwitan, believe in the supreme power held by Sang Hiyang Keresas (the Almighty) or Nu Ngersakeun (the Desired). It is also referred to as Batara Tunggal (the One God), Batara Jagad (the Ruler of the Universe), and Batara Seda Nisakala (the Unseen). In its cosmological concept, the Sundanese Wiwitan belief system embraces the concept originating from three main realms: buana larang (hell), buana panca tengah (the dwelling place of humans and other beings), and buana nyungcung (the realm of Sang Hiyang Keresas). The concept of pikukuh telu, known as the three pillars in life, explains that the adherents of the principle follow in realizing the essence of humanity, as delineated by Sang Hyan Keresas. The orientation, concept, and religious practices are directed towards pikukuh to enhance the well-being of life in the mahpar world (the bustling world). Pikukuh tilu (tri tangtu) encompasses three elements in human life that are understood in values²⁵:

1. Tri tangtu dina raga (or intention, speech, and behaviour);
2. Tri tangtu di nagara (values in the land, nation, and state); and
3. Tri tangtu buana (encompassing humans, nature, and God or Eka Cipta Karsa).

These three aspects elucidate how the relationship between humans' spiritual and physical elements must always be present for the common good

²⁴ Enjang AS et al., "Sunda Wiwitan: The Belief System of Baduy Indigenous Community, Banten, Indonesia," *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya* 5, no. 1 (June 30, 2020): 77–95, <https://doi.org/10.15575/jw.v5i1.8069>.

²⁵ Abdurrahman Misno, "Sunda Wiwitan on Parahyang Land," *AL ALBAB - Borneo Journal of Religious Studies (BJRS)* 3, no. 1 (June 1, 2014): 77–90, <https://doi.org/10.24260/alalbab.v3i1.96>.

without neglecting their interaction with nature and God. The cosmological concept in Sundanese Wiwitan belief is illustrated as follows:



Figure 1. Illustration of the Cosmology of the Three Realms in the Sundanese Wiwitan Belief

The Sunda Wiwitan community believes that human beings are comprised of two dimensions: the physical and the spiritual. What is meant by the term “physical dimension” is how humans are endowed with the five senses, which allow them to experience the natural world around them and engage with both the environment and other people. During this time, the spiritual component is closely connected to *sir*, which refers to instinct or desire; *rasa*, which relates to conscience; and *pikir*, which refers to reason. According to one interpretation, *sir* is a form of instinct or desire, *rasa* is a form of conscience, and *pikir* is the capacity for reason. In its entirety, these three components constitute the notion that is commonly referred to as *tri tangtu* or *pikukuh tilu*. They believe that God, people, and nature all share a unified or united essence, which does not mean that they become one but interact with each other and are always present in one another. This belief is about the cosmological notion and teachings of Sunda Wiwitan. In general, the beliefs of Sunda Wiwitan encourage living a life that is in harmony with nature and God. The *tri tangtu* is the primary behavioural reference to ensure this interaction is realized. According to this point of view, humans are viewed as the guardians of nature; nature satisfies the requirements of humans, and God defends and satisfies both requirements²⁶.

People who belong to the indigenous community of Karuhun Urang and subscribe to the Sunda Wiwitan belief system consider humankind's dual

²⁶ Ira Indrawardana, “Berketuhanan dalam Perspektif Kepercayaan Sunda Wiwitan,” *MELINTAS* 30, no. 1 (April 1, 2014): 105–18, <https://doi.org/10.26593/mel.v30i1.1284.105-118>.

dimension. According to linguistics, the word Sunda Wiwitan has two syllables, *sunda* and *wiwitan*. “Sunda” refers to the “original” ethnic group in the West Java region. On the other hand, the word “*wiwitan*” originates from the phrases “*wit-wit-an*” or “trees,” which leads to the interpretation that humans are comparable to trees that grow in tandem with nature. *Wiwitan* can also be read as “beginning” or “origin”²⁷. Regarding the religious practices and identities of the Sundanese group, Indonesian anthropologists consider Sunda Wiwitan to be one of the religious systems. Embah Jaya Wiguna, Abah Jangkung, Ma Emupuh, and Abah Ratma Wijaya, together referred to as Abah Wiratma, are the four *karuhun* or primary ancestors who are responsible for the initiation of the *atikan daya sampurna*, which includes the teaching of complete power. The beliefs of the Karuhun Urang community may be traced back to the beginning of this teaching. The *atikan daya sampurna* is essentially constructed on the cosmological foundation of Sunda Wiwitan, and the belief system that the Karuhun Urang community adheres to is essentially the Sunda Wiwitan belief system that is based on the idea of *pikukuh tilu* or *tri tangtu*. His actions were concentrated at Dayeuh Maneuh Karang Pamidangan in Cigugur Kuningan. Madrais was the founder of the Karuhun Urang belief framework. In the Cigugur sub-district, a community known as Masyarakat Adat Karuhun Urang (AKUR) Sunda Wiwitan emerged from the indigenous community that P. Sadewa Madrais Alibassa created²⁸. Alibassa was the one who delivered the teachings of *Igama Djawa Pasoendan*, which were accepted by the Netherlands in the year 1885. There is a manuscript or *Nawala* that Madrais authored that documents the concept of communal ownership in the AKUR group's social structure²⁹.

According to the explanations provided above, the indigenous community of Karuhun Urang (AKUR) in Cigugur adheres to the teachings of Sunda Wiwitan. This group's presence raises problems in various respects, including its relationship to the religious rights of its adherents³⁰. The AKUR community has

²⁷ Ibid.

²⁸ Agung Basuki Prasetyo, “Penyelesaian Sengketa Tanah Masyarakat Adat Karuhun Urang (AKUR) Di Desa Cigugur Kuningan Melalui Lembaga Peradilan,” *Law, Development and Justice Review* 2, no. 1 (May 29, 2019): 72–84, <https://doi.org/10.14710/ldjr.v2i1.5003>.

²⁹ Gamin and Fati Lazira, “Penyelesaian Sengketa Ruang Hidup Masyarakat Sunda Wiwitan Di Kabupaten Kuningan,” *Jurnal Sosiologi Pendidikan Humanis* 2, no. 1 (July 1, 2017): 1–8, <https://doi.org/10.17977/um021v2i12017p001>.

³⁰ Nopiyanti Wulandari, Rudy Gunawan, and Desvian Bandarsyah, “Keberadaan Komunitas Masyarakat Adat Karuhun Urang (AKUR) dalam Pelestarian Budaya Sunda Wiwitan: Studi Kasus

its social structure, which performs the function of an instrument that assists them in maintaining the principles that are central to the Sunda Wiwitan ideology. Additional notions, such as communal ownership and the interaction between humans and nature, share significant similarities with other indigenous societies or belief systems. These concepts include the concept of communal ownership. In their cultural values and beliefs, substituting personal ownership with communal interests is vital. It supports constructing and developing their spiritual relationship with Sang Hyang Keresas, also known as the Almighty God³¹.

The Customary Law Community of Karuhun Urang (PAKCU) was the previous name for the AKUR community, which is currently led by Prince Djatikusuma, who succeeded Prince Tedjabuwana Alibassa and Prince Madrais. The PAKCU community was officially acknowledged and registered by the Ministry of Education and Culture of the Republic of Indonesia by Decree Number I.192/F.3/II.1/1981, which the Compiler Team of Almighty God issued on March 31, 1981. To put it another way, President Abdurrahman Wahid had overruled the decree issued by the Chief Prosecutor of West Java, which was numbered Kep-44/K.2.3/8/1982, and it concerned the prohibition of the belief group known as "Customary Law Community of Karuhun Urang Method (PACKU)." In the years that followed, the PAKCU community eventually transformed into the AKUR community, as was indicated earlier. In this particular setting, the ideas that the AKUR group holds are still considered cultural artifacts rather than a religious system, in contrast to the major faiths practiced in Indonesia. *Pikukuh tilu* represents qualities and principles of spirituality that are particularly valued by the AKUR community³².

Preserving their ancestors' customs and traditions is how society can achieve its fundamental goal of maintaining the equilibrium between humans and nature. There is a practice that the AKUR group still follows, and that is the management of rice fields, which is accompanied by rituals. These rituals reflect *tatali paranti karuhun*, the cultural heritage of ancestors. These rituals carry

di Cigugur, Kuningan," *Chronologia* 1, no. 2 (November 5, 2019): 84–104, <https://doi.org/10.22236/jhe.v1i2.4720>.

³¹ Jagat Rayana, Ahmad Hapidin, and Hisam Ahyani, "Tatanan Keyakinan Masyarakat Sunda Wiwitan Di Era 4.0," *Al-Tsaqafa: Jurnal Ilmiah Peradaban Islam* 18, no. 1 (2021): 1–12, <https://doi.org/10.15575/al-tsaqafa.v18i1.12331>.

³² Wulandari, Gunawan, and Bandarsyah, "Keberadaan Komunitas Masyarakat Adat Karuhun Urang (AKUR) dalam Pelestarian Budaya Sunda Wiwitan."

significant implications for preserving the environment surrounding them. One hundred and fifty members of the AKUR community footnote call the Paseban Tri Panca Tunggal building, a traditional structure, their home. The AKUR community has at least five hundred members. The AKUR community eventually acquired ownership of this building, which was founded by Kyai Madrais and is now considered joint property. Pupuhu Adat, also known as the Chief of Customs, is a member of the AKUR community's structure, characteristic of a society based on customs. Each of the leaders of the customary has a unique set of responsibilities that include organizing and managing everything that is associated with the structures of the customary, carrying out their duties and functions in an organized manner, and making sure that every member plays a part in both general activities and activities that are related to the customary and spiritual activities.

The AKUR group has no particular “worship” rites regarding religious practices. Even so, several activities are carried out regularly, such as the Seren Taun ceremony during the harvest. In addition to being a “spiritual” aspect of the AKUR community, this event indicates harmonious contact with the surrounding community, regardless of the surrounding community's beliefs. During the Seren Taun ceremony, members of the AKUR community participate in the ceremony and share the harvest with members of the general public who are also present. Considering that the Seren Taun ceremony is a voluntary activity, this generally suggests that the AKUR community does not conflict with the public interests of the community surrounding them in their day-to-day existence. This is especially true when they do not impose their views on the surrounding community.

Karuhun Urang Longing for Religious Right Justice

Despite the noble values they aim to introduce, the concepts of religious values outlined above are ultimately only recognized as cultural elements passed down through generations³³. The acknowledgment of these concepts is limited to faith movements through the “Group of Inspirators of Believers in the One Almighty God” under the Ministry of Education and Culture. Regardless of its

³³ Linda Groff and Paul Smoker, “Spirituality, Religion, Culture, and Peace: Exploring the Foundations for Inner-Outer Peace in the Twenty-First Century,” *International Journal of Peace Studies* 1, no. 1 (1996): 57–113.

articulation, such placement is regarded as unsuitable compared to the recognized religions. This raises the question of the causes and criteria responsible for the fact that these belief systems do not have a position or are not “acknowledged” in the same way that the significant recognized religions are.

Regarding “cosmology,” the Sunda Wiwitan belief system of the AKUR group has a cosmological framework that is “almost” comparable to what is embraced in the Hindu and Buddhist religions. This is the case even though Hinduism and Buddhism significantly influenced the formation of Sunda Wiwitan. The AKUR community, also known as Sunda Wiwitan, is known to have a life book or written verses that serve as a guide for the lives of its members. This is because the AKUR community is believed to have religious texts or instructions for life. Because the freedom to practice one's religion is fundamentally a fundamental human right, adherents of belief systems such as the AKUR community, which adheres to the Sunda Wiwitan belief system, should properly obtain recognition comparable to that of the major religions in Indonesia. This is the case regardless of any arguments that may be offered.

It is possible to immediately view the placing of belief systems as cultural products as an imposition of injustice on the religious rights of those who belong to those belief systems. Until now, the AKUR group has only been perceived as a community that clings to ideas as a single component of the culture that they inherit, reduced to nothing more than routines or traditions that have been handed down from their ancestors. This has repercussions, as some members of the AKUR group are subjected to discriminatory treatment because of their beliefs, which impacts other aspects of their lives. When it comes to education, children from the AKUR group who are enrolled in public schools are required to take religious classes that are restricted to the six major religions that are recognized internationally in Indonesia. Especially when pupils are “forced” to assimilate ideals from the main faiths, this violates the right of those who adhere to belief systems to receive an education that is appropriate for them. It is beyond a doubt that this phenomenon is a violation of the right to practice religion that the AKUR group, which adheres to the Sunda Wiwitan belief system, possesses.

When it comes to the issue of discrimination against adherents of the Sunda Wiwitan belief system or other belief systems, the fundamental cause may be linked back to the civil rights aspect that these belief systems possess. Many

implications may be easily seen, including the fact that the identity card serves as “access” to various other parts of life. According to Article 26 of the Constitution of 1945, every citizen possesses the right to legal identity, including the AKUR community's right to freedom of religion and distinctive beliefs. This right is the duty of the state. It is regulated in Article 1 Number 1 of Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration (Population Administration Law), which states that every legal identity of Indonesian citizens, including the identity of the Customary Law Community based on its religion, must be included in the Identity Card, Family Certificate, and other valid documents. This is the law that governs the implementation of the law. However, their religious or philosophical beliefs are written as blank or a hyphen (-). This condition makes things more problematic for them because it is impossible to avoid all of the events that are associated with the population as well as other significant events that the AKUR community goes through (such as birth, death, marriage, divorce, name changes, changes in citizenship status, and the recognition, approval, and adoption of children). In addition, this is the reason why members of the AKUR community or adherents of other belief systems in Indonesia receive unequal treatment in comparison to those who subscribe to the significantly recognized faiths.

In the Identity Card, Family Card, and other documents, the reason for marking an empty or hyphen (-) column is primarily because these documents adhere to the Sunda Wiwitan belief system, which Madrais has taught politically since 1965. Some of them convert to either Catholicism or Islam, even though they continue to practice Sunda Wiwitan rituals in their day-to-day lives. The existence of Law Number 1/PNPS of 1965 is deemed to be a deviant belief. In her statement before the Constitutional Court on February 2, 2017, Dewi Kanti, the youngest daughter of Prince Djatikusuma, indicated that many individuals are oblivious to the injustice they are subjected to. While renewing her identification card in 2010, Dewi recalled that the religion section, which had been left blank since the previous year, was filled with Islam without her permission. Despite Dewi's objections and requests for an alternative option such as “others,” her identification card was issued with “belief” rather than the option that she had selected, which leaves her open to the possibility of being associated with communism or other forms of extremist ideology.

There is also an injustice on the legal side, particularly in the proceedings that take place in court. Because the court only provides oaths when religious authorities conduct them from six recognized religions, members of the AKUR community with a religion column on their identification cards that is either blank or has a hyphen (-) have a tough time taking oaths in court during trials. According to Dewi Kanti, their statements are considered to be unreliable because they need to take an appropriate oath. The Inspirational People Group was finally subject to regulation due to the Administrative Law passed in 2006. Despite this, disagreements continue to arise, particularly from a marital standpoint. By Law Number 1 of 1974 regulating marriage, the legality of marriages is contingent upon the religious and philosophical beliefs of the couple. AKUR members need help legalizing their weddings since they depend on Law Number 1/PNPS of 1965. If they do not adhere to or are compelled to embrace an official religion, they cannot legally marry. The consequence is that members need to be recognized as married in official records, depriving them and their children of fundamental rights associated with ownership of citizenship.

Because discrimination against the AKUR group extends to social and cultural aspects, it is clear that the right to religious freedom encompasses more than just “spiritual” issues. The experiences of the AKUR group shed insight into their susceptibility to injustice, which in turn impedes their fundamental human and citizenship rights. In essence, constitutional rights are at the heart of the issues that arise about the state's commitment to guarantee access to justice in terms of religious rights for Indigenous people, which includes the AKUR community. The existence of Constitutional Court Decision Number 97/PUU-XIV/2016 on the judicial review of the Population Administration Law has made it possible for followers of belief systems to list their beliefs on their Family Cards and Electronic Identity Cards under the Inspirator Group within the Ministry of Education and Culture³⁴. This decision pertains to religious rights issues that are affecting followers of belief systems in Indonesia. Even though the Inspirator Group offers some relief from this injustice, the fundamental problems that

³⁴ Shandy Harsyahwardhana, “Akibat Hukum Putusan MK No. 97/PUU-XIV/2016 Tentang Judicial Review UU Administrasi Kependudukan Terhadap Penghayat Aliran Kepercayaan,” *Arena Hukum* 13, no. 2 (August 31, 2020): 369–87, <https://doi.org/10.21776/ub.arenahukum.2020.01302.10>.

adherents of belief systems, particularly members of the AKUR group, are confronted with have not been adequately addressed. This encompasses the acknowledgment and preservation of the rights of religious groups as well as the protection of the beliefs of individuals. This circumstance continues to exist, particularly when contemplating the restrictions that can be placed on religious freedom through legislation. By examining Constitutional Court Decision Number 56/PUU-XV/2017 concerning Articles 1, 2, and 3 of Law Number 1/PNPS of 1965 concerning the Prevention of Abuse and Blasphemy of Religion, in conjunction with Law Number 5 of 1969 regarding the Determination of Various Presidential Decisions and Regulations in Law³⁵, it is possible to observe the restrictions on religious rights that cause injustice to those who adhere to a particular belief system, particularly the AKUR community. The government of Indonesia can prohibit deviant interpretations of religion from officially recognized religions in Indonesia since these regulations are deemed to be the basis for this prohibition. Three primary injustices need to be rectified even though the AKUR community and other belief followers have been subjected to discriminatory behaviours. These injustices are the recognition and protection of religious rights, the protection of individual beliefs, and limitations on religious freedoms. These characteristics serve as the basis for investigating the injustices that have been suffered by the AKUR community as well as other denominations.

Justice in Terms of Religious Right: What it means?

There is a connection between the issues that need to be addressed regarding religious rights and human rights instruments, highlighting the importance of respecting and protecting the right to freedom of religion³⁶. Regarding the fact that religious rights that are associated with internal processes (individual beliefs) should in no way be weakened or curtailed under any circumstances. It is only possible to restrict religious activities concerning

³⁵ Martin Ramstedt, "Politics of Taxonomy in Postcolonial Indonesia: Ethnic Traditions between Religionisation and Secularisation," *Historical Social Research / Historische Sozialforschung* 44, no. 3 (169) (2019): 264–89.

³⁶ Göran Gunner, "Religious Freedom as a Human Right" (Leiden, The Netherlands: Brill | Nijhoff, 2023), 79–100, https://doi.org/10.1163/9789004504967_006.

religious rights through laws if it is genuinely essential to preserve public interests or even the fundamental liberties of other individuals³⁷.

When considering the fairness of religious rights, these three characteristics form the primary instruments that can be employed in the discussion. According to John Rawls's³⁸ theory of justice, the protection and acceptance of religious liberties appear as a tribute to human dignity as moral persons who are intelligent, enjoy freedom, and are on an equal footing with others. His perspective on self-ownership can be related to concerns of justice in religious rights that are closely tied to an individual's self-authority, even though Robert Nozick³⁹ does not directly address the topic of justice about religious rights.

John Rawls strongly focuses on voluntary acceptance and compliance with existing social conditions as a foundation for fairness. This highlights the significance of having a relatively well-organized society. In his discussion of the social conditions that govern community life, Rawls concentrates on formulating principles that regulate the distribution of rights and obligations among all members of society. In his argument, Rawls argues that it is essential for all members to reach fair agreements with one another because only fair agreements can encourage social cooperation. According to Rawls, the only way to get fair contracts is through methods that demonstrate impartiality. To ensure that justice principles are formulated relatively and impartially, people involved in the process of formulating justice principles require a fair and unbiased procedure.

Rawls strongly emphasizes the significance of all parties actively participating in the negotiation to select justice principles in an "original position." The argument forth by Rawls is that all parties involved in the first position must be in a state of "ignorance." Through the concept of "original position," Rawls wishes to underline that individuals in the original position must not know numerous alternatives that could influence them in formulating and selecting the

³⁷ Tarunabh Khaitan and Jane Calderwood Norton, "The Right to Freedom of Religion and the Right against Religious Discrimination: Theoretical Distinctions," *International Journal of Constitutional Law* 17, no. 4 (December 31, 2019): 1125–45, <https://doi.org/10.1093/icon/moz087>.

³⁸ John Rawls, *A Theory of Justice: Revised Edition* (United States: Harvard University Press, 1971).

³⁹ Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.

first principles of justice. This is a fundamental prerequisite for guaranteeing that fairness is maintained.

Rawls says that individuals in the initial position will have rational views or attitudes that tend to agree with the principles of justice being presented. Therefore, given these two ideas, it is possible to create at least two principles of justice, which are as follows: Everyone should have an equal right to the broadest essential freedom, which should be compatible with similar liberty for all; Social and economic inequalities should be arranged in such a way that they are expected to be to the most significant benefit of the least advantaged, and positions and offices should be open to everyone.

According to Rawls, these values cannot be exchanged for economic or social gains since they are connected to individuals' fundamental right to freedom. In light of this, the second principle of justice can only be implemented and utilized if the first principle of justice has been satisfied. To put it another way, the implementation and execution of the second principle of justice must not conflict with the first principle of justice. Consequently, in this conception of justice, fundamental liberties and rights are given precedence over the advantages accruing to society and the economy. In essence, restrictions on rights and freedoms are only permitted to the extent that they are carried out to safeguard and guarantee the exercise of such freedoms. This is done to ensure that the implementation of freedom does not risk the liberty that is the right of every single person⁴⁰.

To reject agreements on principles that ultimately violate the right to religious freedom, one must put oneself in Rawls's original position and imagine what it would be like to be in that first position. This is because an individual would be completely unaware of another individual's religious or philosophical beliefs. Even the knowledge that one individual's religion, belief, or faith dominates is not something that the individual in the initial position possessed. Therefore, within the context of Rawls' Theory of Justice, it is easy to place the right to religious freedom as one of the fundamental liberties included in the First Principle of Justice. Consequently, everyone has the same wish to have their right to religious freedom respected and protected. It denies humanity's fundamental nature or the

⁴⁰ Raphael Cohen-Almagor, *Liberal Democracy and the Limits of Tolerance: Essays in Honor and Memory of Yitzhak Rabin* (Michigan: University of Michigan Press, 2009).

individual as a rational and moral creature for any action or principle to interfere with this desire from being fulfilled.

On the other hand, accepting an individual's right to religious freedom, regardless of whether an individual or a community holds it, indicates that the individual has been acknowledged as a moral person who is rational, accessible, and equal⁴¹. One of the essential aspects of this acknowledgment is the Recognition of fundamental rights that need to be preserved. When it comes to the protection and preservation of fundamental religious liberties, a state that “fails” to do so can be considered unjust.

When viewed through the lens of self-ownership within Nozick's paradigm, the concept of inequity about religious rights can be construed as an attempt to legitimate a free market without government interference. It is only through a free market that Nozick believes it is possible to respect and safeguard the self-ownership of every single person. In a free market, individuals can acquire what they require using resources they have produced. Nozick contends that these rights should be respected by society because doing so reflects the Kantian idea that every individual is always an end in themselves. According to this principle, individuals should not be sacrificed or used to attain other purposes without their agreement. In this context, there is a limitation that self-ownership resides in the internal dimension of an individual, which absolutely should not and cannot be interfered with, just like the freedom of religion or belief. This constraint places self-ownership in a position unlike any other. This is in contrast to the outward qualities of an individual, which are relative or not absolute, such as the possession of tangible objects or the availability of resources that can be transferred.

Even though Nozick's primary argument is that self-ownership is a tool for legitimizing individual freedom and that a free market is a container for individuals to willingly deal with other persons who are also free, both of these arguments are nevertheless pertinent to the issue of religious rights. As a result of this line of reasoning, it is possible to assert that, on the basis that every person has the right to themselves, every person has the freedom to think, adopt, or believe

⁴¹ Khansadhia Afifah Wardana, Rahayu, and Sukirno, “Freedom of Religion and Gender Equality in Sustainable Development Agenda,” *Sriwijaya Law Review* 6, no. 1 (2022): 163–73, <https://doi.org/10.28946/slrev.Vol6.Iss1.1567.pp163-173>.

anything they choose. In extreme words, characterizing those whose freedom (religious rights) is infringed as “slaves” who do not have ownership of themselves is an example of a violation of this freedom. This is because it constitutes a denial of the reality that every person fundamentally owns themselves. On the other hand, respect for the right to religious freedom demonstrates justice because it places value on the freedom of self-ownership that other people maintain regarding their religious or philosophical convictions⁴².

Regarding limiting religious rights (external activities), Rawls contends that such restrictions can only be justified for reasons beneficial to the general public. Considering the reasons presented by Nozick⁴³, the liberties subject to restriction would interfere with other people's freedoms. Nevertheless, Rawls and Nozick both point out that constraints have to be imposed while taking into account the following factors: There is a recognition that the interests of the constrained individual are not prioritized over the interests of the community; the realization that religious concerns are not straightforward and are always in conflict with the interests of the community; It is impossible to justify restrictions on internal individual freedoms in every circumstance because of the relationship between liberty and self-ownership. The situation is different when individuals try to impose self-ownership on others. Generally speaking, the essential things that can be prohibited are restrictions on the manifestation or externalization of a person's religion or beliefs in public spaces. Whenever someone engages in such manifestations, there is the possibility that they will violate the rights of other people, particularly when it comes to matters concerning the common good and the freedoms of different people. To put it another way, limits can only be justifiable in situations when the exercise of these rights interferes with or causes harm to the rights of other organizations or individuals.

Taking into consideration the discriminatory treatment that the AKUR community has been subjected to in terms of recognition (in the form of identification cards), leading a decent life (in the form of marriage certificates), and access to education (in the form of mandatory religious education), it is clear that the AKUR community has been subjected to injustice, with the state being

⁴² Gidon Sapir and Daniel Statman, “Why Freedom of Religion Does Not Include Freedom from Religion,” *Law and Philosophy* 24, no. 5 (2005): 467–508.

⁴³ Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.

the primary perpetrator. An additional interpretation of this injustice is that it constitutes a type of restriction on the religious liberties of those who are members of the AKUR group.

It is impossible to find a single reason that can adequately justify the unfairness that the AKUR community and other belief groups in Indonesia are dealing with. In the case of the AKUR community, it has been determined that there is no instance in which the manifestation of religious liberties overlaps with the common good or the rights of other individuals, let alone the freedoms of different individuals within the community. Instead, they are subjected to a violation of their freedom as followers of Sunda Wiwitan. The most critical issue that needs to be addressed is the significance of self-identity as a guarantee for access to a decent life. This is because it has implications for various aspects of the life of the AKUR community, such as their employment status, the rights they should have, and their marriage status, which can affect their children and grandchildren. Furthermore, members of the AKUR community will be subjected to discriminatory behaviours by members of the general public who are not “enlightened.” One example of this occurrence is when an individual who is a believer attempting to find employment is unsuccessful simply because the employer believes that the individual's belief is a false religion.

Especially when it has ramifications for other fundamental rights that individuals hold as human beings, the primary problem is how the state can provide enough instruments to get recognition and protection for their religious rights. Given the responsibility that the state has, this is the fundamental issue. With this in mind, it is essential to have a solid comprehension of the fact that injustices concerning religious rights in a society that is rich in diversity can develop into fundamental human rights issues and are not restricted to matters pertaining simply to religious and spiritual matters.

Access of Justice for Karuhun Urang as Religious People

On Thursday, February 2, 2017, the AKUR community conveyed the injustice they experienced, particularly regarding their legal identity and civil rights, to the Constitutional Court. This occurred in a phenomenal case when Nggay Mehang Tana, the petitioner, filed a Judicial Review with the Constitutional Court with Case Number 97/PUU-XIV/2016. The case concerned filling the religious column in Article 61, Paragraphs 1

and 2, and Article 64 of Law Number 23 of 2006, amended by Law Number 24 of 2013. A glimmer of optimism emerged due to this, mainly because the Constitutional Court allowed the petition and declared that the existence of the AKUR community does not contradict the Constitution ratified in 1945. Nevertheless, the Indonesian Ulema Council (MUI) disapproved of this ruling about Case 97/PPU-XIV/2016. They believed that the decision made by the court was incorrect and that it caused harm to the sensibilities of religious communities, particularly within the Indonesian Muslim community. In other words, the decision aligned the religious perspective with that of the Believers Inspirational Collective.

This event is consistent with Rawls⁴⁴ statement that justice, particularly regarding religious rights, can only be accomplished when all individuals are in the initial position beneath the veil of ignorance. The state must establish laws to respect and preserve religious rights, yet it has failed to carry out this duty, which is the fundamental cause of the injustice. The verdict made by the Constitutional Court brought attention to three critical points:

The phrase “Ketuhanan Yang Maha Esa” (which translates to “The One and Only God”) is written in the religion column on the Electronic Identification Card. According to the Minister of Home Affairs, this was not a recognition of a new religion. Bonnie Nugraha Permana, the chairman of the Bandung City Presidium, stated that not all demographic and civil registration officers working in sub-district offices knew the rules governing identifying cards for inspiring groups. With that being said, this objection was not pursued further;

Recognition of “Marriage of the Inspirational Belief in the One Almighty God.” President Joko Widodo issued Government Regulation Number 40 of 2019 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration, amended by Law Number 24 of 2013, regarding changes to Law Number 23 of 2006 concerning Population Administration. One of them is mentioned in the first paragraph of Article 39, and it is the marriage of the Inspirational Leader of the One Almighty God⁴⁵. This marriage is carried out by the leader appointed by the organization of Inspirational Believers in the One Almighty God, and the organization determines it. No, later than sixty days after

⁴⁴ John Rawls, *A Theory of Justice: Revised Edition* (United States: Harvard University Press, 1971).

⁴⁵ Rafiqqa Sari, Tiara Ramadhani, and Darwance, “Marriage Appreciation Trust Viewed From Indonesian Positive Law,” *Kosmik Hukum* 23, no. 2 (May 11, 2023): 150-57, <https://doi.org/10.30595/kosmikhukum.v23i2.17343>.

the marriage is performed by the Head of the Inspirational Leader of the One Almighty God, the marriage registration is carried out at the Civil Registration and Population Office of the Regency/City or the Technical Implementation Unit Civil Registration and Population Office of the Regency/City⁴⁶. This is according to Article 40, Paragraph 1 of the Constitution. This rule places an additional emphasis on the authorization of marriages within the Inspirational Group. However, regarding the groups mentioned above, there has yet to be a substantial change in Presidential Legislation 37 of 2007. This is because the legislation continues to mandate that organizations registered under the relevant ministry must maintain their registration with the Ministry of Education and Culture. To provide teachers and instructional materials for children who are members of Inspirational Groups, the Ministry of Education and Culture is currently formulating policies specifically for these children.

It is possible to trace the failure of the state to present recognition and protection of the right to religion back to the fundamental issue that differentiates belief systems from religion on a basic level. To provide a universal awareness that the two are not comparable, it is impossible to deny the reality that beliefs are viewed as cultural “products.” Because beliefs are believed to be merely cultural artifacts, discriminatory action against adherents of beliefs is not automatically perceived to be prejudiced based on religion. When discussing the right to religion in the Constitution of 1945, there is a fundamental right. This right is the separation of rules between the right to religion and the right to believe inside the Constitution. Taking into consideration the formulation of the Constitution in 1945 (both before and after modifications), the distinction between religion and belief is made through the following means: By the provisions of Article 28E Paragraph (1) of the Constitution of 1945, which states that “Every person has the right to freedom of religion and worship according to their religion...”, it is acknowledged that every individual is free to choose or adhere to their religion and to engage in religious activities within it.

It is emphasized in Article 28E Paragraph (2) of the Constitution of 1945 that “Every person has the right to freedom of belief, express thoughts and attitudes,

⁴⁶ Ratih Dwi Pangestu and Dedy Muharman, “Misalignment of Legal Rules for Recording Marriages between Religious Couples in Indonesia,” *The International Journal of Politics and Sociology Research* 10, no. 4 (2023): 231-41, <https://doi.org/10.35335/ijopsor.v10i4.78>.

by their conscience." This provision demonstrates that the Constitution treats the distinction between religion and belief, including matters within them.

In the Constitution of 1945, Article 29 Paragraph 2 contains the provision that states, "The state guarantees the freedom of every inhabitant to embrace their respective religions and to worship according to their religion and beliefs." Even though this provision mentions religion and belief in the same article, using two different words leaves the impression that belief is distinct from religion.

Ultimately, the discussion of religion and belief leads to the realization that the two distinct concepts are distinct. When referring to the core of religion as a belief system, it is essential to use a single term encompassing the significant faiths and existing beliefs⁴⁷. There are four primary definitions of religion: religion as a god or religion that explains the relationship between humans and entities that are beyond them and have greater power; religion as a way of life (as in the beliefs of Hindus and Buddhists); religion as a tradition or custom that is derived from sacred scriptures; and religion that has the essence of siding with the truth as a system; and religion that is interpreted as a belief or awareness of the existence of the One Almighty God with its omnipotence. In general, religion can be defined as a "guide" in life owned by its adherents⁴⁸. This "guidance" might be taken from the revelation of God through messengers and sacred writings, or it can be derived from the culture of the community that adherents of the religion belong to. Suppose religion is defined as a collection of ideas, values, practices, and rituals designed to provide followers with moral and spiritual guidance⁴⁹. In that case, there is no room for the construction of an awareness that belief systems are not religions in the sense that the definition was presented earlier. With belief systems being treated only as products of religion, the separation between religion and belief has legal consequences⁵⁰. This implies that the state recognizes major religions differently than belief systems, which can be

⁴⁷ Muwaffiq Jufri, "Potensi Penyetaraan Agama Dengan Aliran Kepercayaan Di Indonesia," *Jurnal Yudisial* 13, no. 1 (September 7, 2020): 21–36, <https://doi.org/10.29123/jy.v13i1.360>.

⁴⁸ Yanti Haryani, *Kontribusi Ajaran Islam Tentang Hak Politik Perempuan* (Palembang: Bening Media Publishing, 2021); Corine Hyman and Paul J. Handal, "Definitions and Evaluation of Religion and Spirituality Items by Religious Professionals: A Pilot Study," *Journal of Religion and Health* 45, no. 2 (2006): 264–82.

⁴⁹ Bosudha Bandyopadhyay, *Understanding Religion: Some Approaches and Attitudes* (Uttar Pradesh: Blue Rose Publishers, 2023).

⁵⁰ Jonathan Fox and Shmuel Sandler, "Separation of Religion and State in the Twenty-First Century: Comparing the Middle East and Western Democracies," *Comparative Politics* 37, no. 3 (2005): 317–35, <https://doi.org/10.2307/20072892>.

considered ancestral or the original religions of Indonesian society. As a result, the separation between religion and belief has legal consequences.

Even though it does not stem from divine revelation through scriptures and messengers, Sunda Wiwitan, a “belief” adopted by the AKUR community, is not fundamentally different from what is characterized as a religion. Despite this, members of the AKUR community are aware of creatures that exist beyond themselves and possess power that is without limit (Sang Hiyang Keres). Moreover, the believed stream is essentially a moral guideline containing principles and values that the AKUR community uses as a guide in living their lives with three main pillars or “pikukuh tilu,” explained as divinity, humanity, and nature, with the ultimate goal of realizing a harmonious relationship among the three. Taking this into consideration, the existence of legislative restrictions that distinguish between religion and belief ultimately leads to discriminatory acts being taken against members of the AKUR group, as was illustrated in the part that came before this one. It must be noted that, in contrast to being viewed as a religion, the belief held by the AKUR community (Sunda Wiwitan) is merely considered to be a cultural product. It must be conceded that this has been a source of the discriminatory treatment they have been subjected to.

In a broader sense, religion occupies a position of spiritualism within human beings that is not different from what exists in the beliefs of indigenous tribes⁵¹, particularly the AKUR community. The state recognizes and safeguards Indigenous communities' rights to engage in spiritual activities. These rights are inherent to the persons who are a part of the community. The registration of indigenous peoples' spiritual rights as the identity of the indigenous community is one method by which the state protects the rights of indigenous peoples to carry out their spiritual practices. This registration is the foundation for the Indigenous community's inclusion in population administration and public administration by the provisions of legal regulations. The following are some of the rights that Indigenous Peoples have regarding their spirituality:

1. The right to worship by Ancestral Religion;
2. The right to establish and maintain places of worship;

⁵¹ Mariam Rawan Abdulla, “Culture, Religion, and Freedom of Religion or Belief,” *The Review of Faith & International Affairs* 16, no. 4 (October 2, 2018): 102–15, <https://doi.org/10.1080/15570274.2018.1535033>.

3. The right to construct and maintain charitable or humanitarian institutions by Ancestral Religion;
4. The right to create, obtain, and use literature related to rituals or customs of Ancestral Religion;
5. The right to teach Ancestral Religion to its followers;
6. The right to request and receive financial contributions and voluntary contributions from individuals and institutions;
7. The right to train, appoint, or select leaders of Ancestral Religion by the provisions regulated in Ancestral Religion and
8. The right to observe religious holidays to conduct spiritual ceremonies by the teachings of Ancestral Religion.

On the other hand, the right to religion or spirituality is not simply depicted as the eight rights described above; rather, it must be understood more comprehensively until it is realized that the right to religion is connected to other fundamental human rights. This realization is based on the experiences of the AKUR community. In a country as diverse as Indonesia, the recognition and protection of the right to religion are of the utmost importance, particularly in terms of ensuring that its residents, including indigenous communities, are not subjected to discrimination. A crucial step must be taken to respect and defend the right to religion: to treat belief systems as principal religions. Restrictions on the freedom of religion can only be justified through legislation, and their justification is limited to situations in which the activities of those who practice the religion in question impair public interests or the rights of others to practice their faith.

Conclusions

This study reveals the injustices experienced by the AKUR community in Indonesia. Despite having rich traditions and beliefs, such as Seren Taun and holistic rice field management, AKUR is not recognized by the government as an official religion. This results in discrimination in various aspects of life, such as education, identity, law, and access to other fundamental rights.

The injustice experienced by AKUR is rooted in social prejudice, racism, and colonialism. The erroneous perception that Sunda Wiwitan is only a culture, not a religion, has triggered discrimination and human rights violations. This

shows that Indonesia still has a lot of homework to do in realizing an inclusive and fair society for all its citizens.

Concrete and comprehensive steps are needed to overcome this injustice. The official recognition of Sunda Wiwitan as a religion is essential to overturning colonial prejudices and giving AKUR equal status with other religions in Indonesia. Human rights guarantees for faith communities, such as freedom to perform rituals, equal identity registration, and recognition of oaths in court, must also be upheld.

Multicultural education must be included in the curriculum to increase tolerance and understanding of the diversity of religions and beliefs. Encouraging accurate research and publication about Sunda Wiwitan and other local beliefs is also essential to combat stereotypes and prejudice.

Building an inclusive and just society requires commitment from all parties, including government, academics, and civil society. By understanding the root of the problem and taking appropriate action, we can create an Indonesia that respects the diversity of religions and beliefs and upholds human rights for all its citizens.

The official recognition of Sunda Wiwitan and guarantee of human rights for faith communities like AKUR is not only a matter of justice for AKUR but is also an essential step towards building a more just and inclusive Indonesia for all. In this way, we can realize the ideals of Indonesian independence that respect diversity and uphold human rights.

REFERENCES

Abdulla, Mariam Rawan. "Culture, Religion, and Freedom of Religion or Belief." *The Review of Faith & International Affairs* 16, no. 4 (October 2, 2018): 102–15. <https://doi.org/10.1080/15570274.2018.1535033>.

Arvante, Jeremy Zefanya Yaka, Maulana Fuad Nugraha, and Andrew Sergei Rostislav. "A Comparative Study of Religious Freedom Between Indonesia-Russia and Its Limitations." *Jurnal Scientia Indonesia* 8, no. 2 (October 30, 2022): 197–222. <https://doi.org/10.15294/jsi.v8i2.36203>.

AS, Enjang, Mukhlis Aliyudin, Farid Nurdin, Muhibudin Wijaya Laksana, Sitta Muslimah, and Widodo Azis. "Sunda Wiwitan: The Belief System of Baduy Indigenous Community, Banten, Indonesia." *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya* 5, no. 1 (June 30, 2020): 77–95. <https://doi.org/10.15575/jw.v5i1.8069>.

Bandyopadhyay, Bosudha. *Understanding Religion: Some Approaches and Attitudes*. Uttar Pradesh: Blue Rose Publishers, 2023.

- Bielefeldt, Heiner. "Misperceptions of Freedom of Religion or Belief." *Human Rights Quarterly* 35, no. 1 (2013): 33–68.
- Boyle, Kevin, and Juliet Sheen. *Freedom of Religion and Belief: A World Report*. Taylor & Francis, 2013.
- Cohen-Almagor, Raphael. *Liberal Democracy and the Limits of Tolerance: Essays in Honor and Memory of Yitzhak Rabin*. Michigan: University of Michigan Press, 2009.
- Colbran, Nicola. "Realities and Challenges in Realising Freedom of Religion or Belief in Indonesia." *The International Journal of Human Rights* 14, no. 5 (September 1, 2010): 678–704. <https://doi.org/10.1080/13642980903155166>.
- Fealy, Greg, and Ronit Ricci. *Contentious Belonging*. Indonesia Update Series. Singapore: ISEAS Publishing, 2019.
- Fox, Jonathan, and Shmuel Sandler. "Separation of Religion and State in the Twenty-First Century: Comparing the Middle East and Western Democracies." *Comparative Politics* 37, no. 3 (2005): 317–35. <https://doi.org/10.2307/20072892>.
- Gamin, and Fati Lazira. "Penyelesaian Sengketa Ruang Hidup Masyarakat Sunda Wiwitan Di Kabupaten Kuningan." *Jurnal Sosiologi Pendidikan Humanis* 2, no. 1 (July 1, 2017): 1–8. <https://doi.org/10.17977/um021v2i12017p001>.
- Groff, Linda, and Paul Smoker. "Spirituality, Religion, Culture, and Peace: Exploring the Foundations for Inner-Outer Peace in the Twenty-First Century." *International Journal of Peace Studies* 1, no. 1 (1996): 57–113.
- Gunner, Göran. "Religious Freedom as a Human Right," 79–100. Leiden, The Netherlands: Brill | Nijhoff, 2023. https://doi.org/10.1163/9789004504967_006.
- Harsyahwardhana, Shandy. "Akibat Hukum Putusan MK No. 97/PUU-XIV/2016 Tentang Judicial Review UU Administrasi Kependudukan Terhadap Penghayat Aliran Kepercayaan." *Arena Hukum* 13, no. 2 (August 31, 2020): 369–87. <https://doi.org/10.21776/ub.arenahukum.2020.01302.10>.
- Haryani, Yanti. *Kontribusi Ajaran Islam Tentang Hak Politik Perempuan*. Palembang: Bening Media Publishing, 2021.
- Henkin, Louis. "Religion, Religions, and Human Rights." *The Journal of Religious Ethics* 26, no. 2 (1998): 229–39.
- Hyman, Corine, and Paul J. Handal. "Definitions and Evaluation of Religion and Spirituality Items by Religious Professionals: A Pilot Study." *Journal of Religion and Health* 45, no. 2 (2006): 264–82.
- Indrawardana, Ira. "Berketuhanan dalam Perspektif Kepercayaan Sunda Wiwitan." *MELINTAS* 30, no. 1 (April 1, 2014): 105–18. <https://doi.org/10.26593/mel.v30i1.1284.105-118>.
- Jaspers, Karl. "Freedom and Authority." *Diogenes* 1, no. 1 (January 1, 1953): 25–42. <https://doi.org/10.1177/039219215300100103>.
- Jufri, Muwaffiq. "Potensi Penyetaraan Agama Dengan Aliran Kepercayaan Di Indonesia." *Jurnal Yudisial* 13, no. 1 (September 7, 2020): 21–36. <https://doi.org/10.29123/jy.v13i1.360>.

Jufri, Muwaffiq. "Regulation Model of Religious Rights and Freedoms for Local Religious Believers in the Majapahit Constitution." *Jurnal HAM* 13, no. 3 (December 22, 2022): 539–56. <https://doi.org/10.30641/ham.2022.13.539-556>.

Jufri, Muwaffiq, and Mukhlis Mukhlis. "Akibat Hukum Pemisahan Hak Beragama dengan Hak Berkepercayaan dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." *Jurnal Konstitusi* 16, no. 2 (July 11, 2019): 274–95. <https://doi.org/10.31078/jk1624>.

Kant, Immanuel. *Critique of Pure Reason*. Translated by Paul Guyer and Allen W. Wood. The Cambridge Edition of the Works of Immanuel Kant. Cambridge University Press, 1999.

Khaitan, Tarunabh, and Jane Calderwood Norton. "The Right to Freedom of Religion and the Right against Religious Discrimination: Theoretical Distinctions." *International Journal of Constitutional Law* 17, no. 4 (December 31, 2019): 1125–45. <https://doi.org/10.1093/icon/moz087>.

Kierkegaard, Søren. *Fear and Trembling*. New York: Start Publishing LLC, 2013.

Kurnia, Lilawati. "'Seren Taun' between Hegemony and Culture Industry Reading a Sundanese Ritual of Harvest in Cigugur, West Java." *Wacana, Journal of the Humanities of Indonesia* 15, no. 2 (July 1, 2015): 300–313. <https://doi.org/10.17510/wacana.v15i2.405>.

Locke, John. *The Conduct of the Understanding*. London: Scott, Webster, and Geary, 1838.

Misno, Abdurrahman. "Sunda Wiwitan on Parahyang Land." *AL ALBAB - Borneo Journal of Religious Studies (BJRS)* 3, no. 1 (June 1, 2014): 77–90. <https://doi.org/10.24260/alalbab.v3i1.96>.

Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.

Pangestu, Ratih Dwi, and Dedy Muharman. "Misalignment of Legal Rules for Recording Marriages between Religious Couples in Indonesia." *The International Journal of Politics and Sociology Research* 10, no. 4 (2023): 231–41. <https://doi.org/10.35335/ijopsor.v10i4.78>.

Perry, Michael J. *Interrogating the Morality of Human Rights*. Elgar Studies in Human Rights. Edward Elgar Publishing, 2023.

Prasetyo, Agung Basuki. "Penyelesaian Sengketa Tanah Masyarakat Adat Karuhun Urang (AKUR) Di Desa Cigugur Kuningan Melalui Lembaga Peradilan." *Law, Development and Justice Review* 2, no. 1 (May 29, 2019): 72–84. <https://doi.org/10.14710/ldjr.v2i1.5003>.

Ramstedt, Martin. "Politics of Taxonomy in Postcolonial Indonesia: Ethnic Traditions between Religionisation and Secularisation." *Historical Social Research / Historische Sozialforschung* 44, no. 3 (169) (2019): 264–89.

Rawls, John. *A Theory of Justice: Revised Edition*. United States: Harvard University Press, 1971.

Rayana, Jagat, Ahmad Hapidin, and Hisam Ahyani. "Tatanan Keyakinan Masyarakat Sunda Wiwitan Di Era 4.0." *Al-Tsaqafa: Jurnal Ilmiah Peradaban Islam* 18, no. 1 (2021): 1–12. <https://doi.org/10.15575/al-tsaqafa.v18i1.12331>.

Sapir, Gidon, and Daniel Statman. "Why Freedom of Religion Does Not Include Freedom from Religion." *Law and Philosophy* 24, no. 5 (2005): 467–508.

Saraswati, A. A. A. Nanda, Setiawan Wicaksono, Ranitya Ganindha, and M. Choirul Hidayat. "Restrictions of the Rights of Freedom of Religions: Comparison of Law Between Indonesia and Germany." *Indonesia Law Review* 8, no. 3 (December 31, 2018): 256–76. <https://doi.org/10.15742/ilrev.v8n3.510>.

Sari, Rafiq, Tiara Ramadhani, and Darwance. "Marriage Appreciation Trust Viewed From Indonesian Positive Law." *Kosmik Hukum* 23, no. 2 (May 11, 2023): 150–57. <https://doi.org/10.30595/kosmikhukum.v23i2.17343>.

Simuziya, Nsama Jonathan. "A Conceptual Analysis of How Science, Religion, and Culture Interact and Influence Each Other in Politics." *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2084892. <https://doi.org/10.1080/23311886.2022.2084892>.

Situmorang, Tonny Pangihutan, and Fikarwin Zuska. "Accessibility of Citizens With Parmalim Beliefs to Civil Rights in Indonesia." *Pharos Journal of Theology* 104, no. 2 (2023): 1–11. <https://doi.org/10.46222/pharosjot.104.222>.

Sofjan, Dicky, ed. *Religion, Public Policy and Social Transformation in Southeast Asia*. Yogyakarta, Indonesia: ICRS, 2016.

Taylor, Paul M., ed. "Article 18: Freedom of Thought, Conscience and Religion." In *A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights*, 499–537. Cambridge: Cambridge University Press, 2020. <https://doi.org/10.1017/9781108689458.021>.

Tridewiyanti, Kunthi, Ricca Anggraeni, Suryanto Siyo, and Henri Christian Pattinaja. "Participation of Women From Indigenous Peoples in the Formation of National Law." *SASI* 29, no. 2 (April 19, 2023): 269–76. <https://doi.org/10.47268/sasi.v29i2.1229>.

Tyson, Adam. "Blasphemy and Judicial Legitimacy in Indonesia." *Politics and Religion* 14, no. 1 (2021): 182–205. <https://doi.org/10.1017/S1755048319000427>.

Wardana, Khansadhia Afifah, Rahayu, and Sukirno. "Freedom of Religion and Gender Equality in Sustainable Development Agenda." *Sriwijaya Law Review* 6, no. 1 (2022): 163–73. <https://doi.org/10.28946/slrev.Vol6.Iss1.1567.pp163-173>.

Wulandari, Nopiyanti, Rudy Gunawan, and Desvian Bandarsyah. "Keberadaan Komunitas Masyarakat Adat Karuhun Urang (AKUR) dalam Pelestarian Budaya Sunda Wiwitan: Studi Kasus di Cigugur, Kuningan." *Chronologia* 1, no. 2 (November 5, 2019): 84–104. <https://doi.org/10.22236/jhe.v1i2.4720>.

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Rua Dr. António Bernardino de Almeida, 541 - 4200-072 Porto

Email: upt@upt.pt