P-ISSN | E-ISSN
AL-ADYAN
Journal of Religious Studies

Right of Religious Freedom and Belief (Case Studi Al-Zaytun Islamic Boarding School in Indramayu)

Martalia*
UIN Imam Bonjol Padang
martalia845@gmail.com

Anjali Sabna
UIN Imam Bonjol Padang
sabnaanjali@gmail.com

Abstract
Freedom of religion and belief is a reality of life, where everyone is free to choose their religion or belief. However, this remains an unresolved issue in Indonesia. This article aims to examine the application and boundaries of the internal and external forums regarding freedom of religion and belief in Indonesia, highlighting the case of Al-Zaytun Islamic boarding school. The research employs a literature review method, followed by descriptive analysis of related studies. The findings indicate potential discrepancies in the implementation with principles outlined in internationally ratified covenants by Indonesia. Referring to the provisions of the International Covenant on Civil and Political Rights (ICCPR), there exists freedom within internal and external forums. The internal forum pertains to the realm within an individual's mind or consciousness, acknowledging personal beliefs and religion as internal matters. Meanwhile, the external forum represents a dimension where freedom is manifested in actions and practiced collectively with others or in public spaces. Ratification by the state aims to uphold human rights and ensure fair legal protection for every individual.

Keywords: Religious Freeedom and Belief; Al-Zaytun Islamic Boarding School; International Covenant.

Abstrak
Kebebasan beragama dan berkeyakinan merupakan realitas kehidupan, dan setiap orang bebas memilih agama atau keyakinannya. Namun, ini masih menjadi persoalan yang belum terselesaikan di Indonesia. Tulisan ini bertujuan untuk melihat penerapan serta batasan forum internum dan eksternum tentang kebebasan beragama dan berkeyakinan di Indonesia dengan menyoroti kasus Pondok pesantren Al-Zaytun. Penelitian ini dilakukan menggunakan metode literature review yang kemudian dianalisis secara deskriptif melalui data kajian yang berkaitan. Hasil studi ini menunjukkan dari kasus yang terjadi pada pondok pesantren Al-Zaytun, adanya potensi ketidaksesuaian penerapan dengan prinsip-prinsip yang diatur dalam kovenan internasional yang telah di ratifikasi oleh Negara Indonesia. Merujuk pada ketetapan Kovenan Internasional Hak Sipil dan Politik (KIHSP) terdapat kebebasan dalam forum internal dan eksternal. Forum internal berada pada ruang yang ada dalam pikiran atau kesadaran individu. Forum ini mengakui keyakinan, dan agama yang merupakan urusan internal sifat pribadi seseorang. Sementara Forum eksternal merupakan suatu dimensi di mana

*Correspondence

kebebasan telah diwujudkan dalam tindakan dan dilaksanakan bersama-sama dengan orang lain atau di ruang publik. Pengesahan dari negara ini bertujuan untuk menjunjung tinggi hak asasi manusia serta perlindungan hukum yang adil bagi setiap individu.

Keywords*: Kebebasan Beragama dan Berkeyakinan, Pondok Pesantren Al-Zaytun, Kovenan Internasional.*

1. INTRODUCTION

In the International Covenant on Civil and Political Rights (ICCPR) asserts that everyone has the right to freedom of thought, conscience, and religion, which includes the freedom to manifest their religion or belief in worship, observance, practice, and teaching, either individually or collectively, in public or private (ICCPR, 1966). This agreement has been ratified by Indonesia through Law No. 12 of 2005. However, the reality is that the right to freedom of religion and belief remains a major unresolved issue in Indonesia. The situation worsens when the state allows room for interpretations of religious teachings and rights according to individual understandings. As a result, the regulation of religious affairs in Indonesia is often misused by a significant portion of society and the state to discriminate or even criminalize behaviors deemed to threaten religious orthodoxy, disrupt inter-religious relations, or undermine social stability (Saraswati, 2020).

To this day, there are still many cases that justify the ambiguity of beliefs and religious rights in Indonesia. Religion is supposed to be used to legitimize the actions of his embrace in interacting, but it actually has an interpretative conflict that ends in conflict (Zulhidayat, 2021). Recently, similar cases have returned to public debate, where the religious teachings and practices applied in the Pondok Pesantren Al-Zaytun are judged contrary to the Shariah and the teachings of Islam. Various views have emerged on this issue. Some argue that the case is about freedom of expression of belief, but so far the view that "interrupting, insulting, deviating, even misleading" still dominates state policy, so the impact of violations of religious and belief rights in Indonesia is increasing.

Studies related to freedom of religion and belief have been widely discussed, including research by Pratiwi (2012), which indicates that the number of religious corruption cases terminated by courts in Indonesia has drastically increased in the last decade. The Indonesian government enforces laws against religious corruption that violate freedom of expression according to the UN. As a member of the International Covenant on Civil and Political Rights (ICCPR), courts in Indonesia often do not adhere to the standards set forth in the treaty. The restrictions imposed by the courts lack legal certainty and a sense of justice. The study Yunazwardi & Nabila's study states that although Indonesia has guaranteed freedom of religion and belief (UN) and ratified the International Covenant on Civil and Political Rights (ICCPR), violations of UN principles have continued to occur after 2015. There are differences between Indonesian positive law governing UN principles and international standards such as Article 18 of the ICCPR. Additionally, demographic, religious, and cultural characteristics of

Indonesian society influence the implementation of UN principles (Yunazwardi & Nabila, 2021).

Nasution's study asserts that freedom of religion and belief is a right granted to every individual and guaranteed by the 1945 Constitution of Indonesia (Nasution, 2018). However, Situmorang shows that violations of religious freedom still frequently occur in Indonesia, contravening Article 22 of the Human Rights Act No. 39 of 1999. Situmorang highlights the need for improvements in law enforcement and public education to address intolerance and discrimination (Situmorang, 2019). Further elaborated by Putra, the role of the National Human Rights Commission (Komnas HAM) in protecting the right to freedom of religion and belief according to the Universal Declaration of Human Rights (UDHR) underscores that the state must protect religious freedom without interfering with specific religious doctrines. Despite numerous studies on the right to freedom of religion in Indonesia, this article focuses on the case study of Al-Zaytun Islamic Boarding School, examining the implementation of these rights in Indonesia and posing questions regarding the regulation and boundaries between internal and external forums of freedom of religion and belief (Putra, 2019).

From various existing studies still discussing violations of freedom of religion and efforts to improve law enforcement to address intolerance and discrimination. Meanwhile, this study highlights the case of Al-Zaytun Islamic boarding school and the implementation of regulations regarding freedom of religion and belief. This study argues that freedom of religion is a fundamental right of every citizen that cannot be restricted in any form. Through the case of Al-Zaytun Islamic boarding school, it illustrates discrepancies between implementation and the provisions of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Indonesian government in 2005 through Law No. 12. This research employs a qualitative method with a literature review approach. Data is collected through journals, news articles, and legal documents related to the issue under discussion. The collected data is then analyzed descriptively to delve deeper into the concept of freedom of religion and belief globally through its concepts.

2. RESULTS AND DISCUSSION

2.1. Profile of Al-Zaytun Islamic Boarding School

Pondok Pesantren Al-Zaytun, founded by Indonesians who were united in the Indonesian Pondot Foundation (YPI) on June 1, 1993, coincides with 10 Dzulhijjah 1413 H. Construction of Al-Zaytun began on August 13, 1996. Started studies on July 1, 1999, and was officially inaugurated on August 27 by the third President of RI, Prof. Dr. Ing. B.J. Habibie. The motto of the event is "Al-Zaytun: Educational Centre for the Development of a Culture of Tolerance and Peace towards a Healthy, Intelligent, and Human Society." The goal is to prepare students to have a strong belief in God and His charity, unite in tauhid, noble morality, wide knowledge, and have high skills, so that they are ready and able to live dynamically in their country and in the international community with prosperity and happiness both in the world and the hereafter. Ma'had Al-Zaytun has implemented the One Pipe Education System, which is a comprehensive

education system ranging from early childhood education to college (Tabroni, 2019).

One of the main advantages of the Pondok Pesantren Al-Zaytun in Indramayu is its holistic approach to Islamic education. In addition to focusing on religious teaching, the training also puts great emphasis on the development of academic and non-academic skills in the clergy. The modern and high-quality educational facilities that this training facility has, such as a complete library, a science laboratory, comfortable classrooms, and advanced technology, enable students to learn and thrive in science and technology. This quality training curriculum focuses on teaching moral and ethical values such as honesty, justice, hard work, and tolerance. In an environment of respect and solidarity, are encouraged to form a good personality, which will benefit themselves and the community around them (Haeruniswah, 2023).

The Al-Zaytun Islamic Boarding School in Indramayu plays an important role in shaping a responsible and highly integrated young generation. The challenges facing these trainees, such as expanding more inclusive curricula and improving support facilities, can be overcome through collaboration between institutions, parents, and the community. By continuing to improve itself, the Al-Zaytun Hostel in Indramayu can make a greater contribution to education in the region. It should be remembered that religious understanding is subjective and can vary between individuals. Each religious educational institution has its own approach to and interpretation of religious teachings. Therefore, the negative perception of the Al-Zaytun Hostel may derive from different religious interpretations. It is important to understand and appreciate the diversity of religious beliefs and approaches (Haeruniswah, 2023).

The Al-Zaytun Islamic Boarding School as the leading Islamic educational institution in Indonesia, has been the center of attention and controversy in recent years. This is due not only to his reputation as a great and exclusive coach but also to the involvement of his founder, Panji Gumilang, in some controversial cases that affected the image of the coach. In 2011, Panji Gumilang was associated with the NII (Islamic State of Indonesia) group of the District 9 Command, which reaped public arrogance because NII had been declared a prohibited organization by the government because of its activities considered to threaten the sovereignty of the state. Although Panji Gumilang affirmed that he was neither involved nor affiliated with the group, the allegations remain controversial. Not only that, Panji Gumilang was also involved in a case of counterfeiting documents in the same year, which attracted media and law enforcement attention. As a result, he was sentenced to 10 months in prison by the Indramayu State Court in May 2012. In addition, Panji Gumilang was also involved in conflict with the teachers at the Al-Zaytun Training House. In 2017, teachers reported him to the police for alleged insults and harassment after he issued rules that were not approved by teachers regarding teaching applications in the new school year. Teachers' painful statements are also part of the controversy. Although it still has loyal followers, the controversy has affected the image of the party and raised questions about the transparency and integrity of educational institutions among the public. Therefore, it is important for the parties involved to find a good and transparent solution to

address the emerging problems so that public confidence in the Al-Zaytun Hostel can be restored (Syahira, 2023).

However, in an article of the Ministry of Religion, the Minister of Religious Affairs, Suryadharma Ali, reaffirmed that the allegations about the existence of Islamic doctrine misconduct passed to the Pondok Pesantreno Al-Zaytun, Indramayu, West Java, are unfounded. According to him, the curriculum taught in the hostel did not deviate from the true teachings of Islam. "I would like to make it clear that the Al-Zaytun Hostel has been very good. Suryadharma Ali, after launching the Maghrib Movement (Gemmar) and the Opening of the Tilawatil Quran (MTQ) to the eighth level of Banten Province, in Tangerang South, said. This statement of the Minister of Religion reaffirms the quality and compatibility of the curriculum of the Al-Zaytun Hostel with the true teachings of Islam and encourages the public to choose the hostel as a place of education for their children without hesitation.

The Minister of Religious Affairs of Suryadharma Ali stated that the Al-Zaytun Hostel cannot be called an educational institution that teaches hardline or radical thinking. Instead, according to him, this training is suitable as an example of an educational model that integrates with the natural environment and is friendly. During his visit to Al Zaytun's Pondok Pesantren in Haurgeulis, Indramayu, West Java, Menag affirmed that the training was clearly different from the image of hardline training. He exemplifies the diversity of music and poetry presented there as proof. According to him, the media accusations about the harsh tendencies and ideology of the Islamic State of Indonesia in the exercise are wrong. Suryadharma Ali also affirmed that he is opposed to the dissemination of information that undermines the event. He called Al Zaytun an outstanding trainer who gave his sister-in-law a thorough education. Menag also proposed that the training should be a center of activity for scholars to study the management of modern training, along with the existence of the scholar's alms there (Kemenag, 2012).

2.2. Al-Zaytun Polemic

A number of views respond to the issues that have emerged from the leadership of the Al-Zaytun Hostel, including from the MUI High Commissioner for Law and Human Rights, Ikhsan Abdullah, who considers that the issue is not only related to violations of religious principles but has also involved aspects of criminal crime. He therefore expects the judiciary to act in accordance with the legal procedure to deal with this matter in a fair and firm manner (Sinambela, 2023). MUI has conducted a series of research and studies, and the results have been published on MUI's website. One of the findings of the study is that the initiative undertaken by Panji Gumilang showed an inappropriate tendency. The results of this study were conducted in 2002. In addition, Leni Siregar, one of the guardians of the Al-Zaytun, who was also a former member of the NII, was highlighted in the media for his response, which was seen as evidence of the child's testimony and change of attitude during their learning at the training. Leni Siregar stated that there were no significant changes in her children, and the perceived misery was more related to the social aspect than to the religious aspect.

For example, he insulted the alleged sexual harassment by the senior at the Al-Zaytun Hostel (Amirullah, 2023).

Muhammad Shofan, Director of the Ma'arif Program, responded to this issue by stressing that as long as there are no acts that are unlawful, as well as no views or thoughts that are clearly harmful or criminal in nature, we should not consider someone's opinion or belief as deviating. According to him, the most important thing is to note that any opinion, as long as it remains within the limits of individual minds and beliefs, should not be considered misguided. Therefore, the charges against Panji Gumilang are considered a violation of the right to freedom of religion and belief. Shofan stressed that Indonesia, with all its diversity, faces the challenge of managing diversity and preserving diversity. According to him, Panji Gumilang is a very nationalist figure, and the religious expression he shows should not be regarded as misguided.An academic, Rocky Gerung, also gave his point of view on the issue. Unlike some previous figures, he believes Panji Gumilang's actions are a form of expression in his internal religious forum. According to him, the most fundamental internal forum is the individual's beliefs, guaranteed by the right to be expressed. According to Gerung, the judgment by various figures that this is a deviation is a violation of the right to freedom of religion and belief, unless the expression is used to deceive or insult, as described in the sociological concept of the state. A religious constitution is a right, which means it can be used or not, because Indonesia is not a religious state, so religion is not an obligation but an individual's ethical choice (Fadly, 2023).

2.3. Al-Zaytun is Reviewed in the Internal and External Documents on Religious Freedom

The existence of religious freedom as a fundamental right that cannot be denied in any form is being tested in Indonesia. Recently, cases related to violations of freedom of expression of religion and belief have become a serious debate, especially the controversy involving the Al-Zaytun Penthouse under the leadership of Panji Gumilang. Until now, the case is still in a conflict phase in the narrative realm, and there is a possibility that it will end in anarchist actions by the opposing parties. In response to such cases, knowledge and understanding of the right to freedom of religion and belief in accordance with human rights principles and norms are essential. One of the foundations of this writing is Article 18 of the International Covenant on Civil and Political Rights (ICCPR) on the right to freedom of religion and/or belief, which was ratified by the Indonesian Government in 2005 through Act No. 12 on the ratification of the International Covenants on civil and political rights.

The right to religion and belief can be divided into two dimensions: the internal and the external. The internal forum refers to the domain in which an individual personally acknowledges beliefs, beliefs, and religion, which are internal affairs of a person's personal nature (Nainggolan, 2021). The individual dimension is reflected in the protection of a person's spiritual existence. It includes the right to choose, replace, adopt, and embrace religions and beliefs according to the individual's will (Rahmat, 2021). This individual dimension also involves the practice of religious worship in a personal environment. If further

analyzed, freedom of thought, conscience, religion, and belief as set out in Article 18, Paragraph 1, of the International Covenant on Civil and Political Rights (ICCPR) is covered in the referred internship forum. In this domain, individuals have the right to possess and adhere to a religion and/or belief of their own choice. This means that any religion and/or belief that is chosen, followed, or established can only be determined by the individual. It makes freedom of religion and/or belief a very fundamental principle in the protection of the civil right to religion or belief. Internal forums include domains that are free from any restrictions or external pressures that may exist and may reduce the autonomy of individuals. Any form of coercion that comes from outside to choose or abandon religion and belief becomes impossible to do. Nowaks states that freedom of religion and/or belief in an international forum is passive, which means that other parties, including the state, are not allowed to interfere or intervene in any form whatsoever. In other words, the principle that should be emphasized in an internum forum is that nothing can limit such rights, not even the state, and every individual has an absolute right to an intern without exception.

Citizens are given guarantees not only to maintain their faith in the international forum but also to update it in both private and public spaces, in accordance with the International Covenant on Civil and Political Affairs, which has been ratified by the Government of Indonesia through Law No. 12 of 2005. This means that each individual or group has legal guarantees to practice their religion and/or beliefs both individually (privately) and collectively. An external forum is a dimension in which the freedom given has been manifested in individual actions and attitudes. It is said to be an external forum when such freedom is exercised together with others or in public spaces. The collective dimension is reflected in the protection of the individual's ability to expose and maintain his spiritual existence in public. This category of external forums is a manifestation of belief in real life and may be subject to the restrictions laid down in Article 18, Paragraph 3, of the International Covenant on Civil and Political Rights. Rights in this category can be reduced (non-derogated) selectively and very strictly. States can restrict external forums by meeting two conditions. First, there must be a law governing such restrictions. Second, the grounds for restrictions must be related to the protection of public health, public safety, public order, public morality, or the fundamental rights and freedoms of others (Sumaryanto, 2012).

Unlike passive internal forums, freedom of religion and/or belief in external forums is proactive, where individuals or groups actively practice their religion or belief both personally and in a public environment. When individuals engage in religious practices and/or beliefs together with other on and (or) belief within public spaces. Consequently, the question arises whether such deliberate religious manifestations and beliefs will interfere with the safety, public order, health, morality, or fundamental rights of others related to the public interest. In this context, religious practices and convictions require the involvement of other entities that have sovereignty in the public space and act as third parties capable of addressing various issues. This entity is the state, which has a mandate to regulate life together. Therefore, in principle, such practices can be mixed up or regulated

by the state. States have the authority to impose restrictions on freedom of religion and/or belief. However, such restrictions should be applied carefully, bearing in mind that what can be restricted is the practice that occurs in external forums, not internal forums (Nainggolan, 2021).

Restrictions on freedom of religion and belief (UNRWA) mainly follow the definitions and religious values derived from the UNRWA Act No. 1 of 1965 on the Prevention of Religious Disobedience and Abuse. Politically, the UN restrictions are regulated in Article 28 of UNRW 1945, which states: "Everyone is obliged to respect the human rights of others in the order of social, national, and national life" (Konstitusi, 2009). Restriction on freedoms of religion or belief in Indonesia refers to the formula of the International Covenant on Civil and Political Rights (ICCPR), which states that the UN can be restricted, as listed in Article 18: "Freedom to express one's religion or beliefs may be limited only by provisions based on the law, and if necessary to protect security, order, health, morals, or the rights and fundamental freedoms of others" (Law No.12 of 2005). There is a difference between restrictions permitted by the International Covenant on Civil and Political Rights (ICCPR) and restrictions on freedom of religion and belief (UN) regulated in Article 28 J UUD 1945 in Indonesia. As previously explained, UN restrictions in Article 28 J include religious values, while in ICCPR there is no mention of religious values. Thus, UN restrictions in Indonesia, as laid down in Article 28 J, identify religious values as restrictions on human rights in the country (Manese, 2021).

Pursuant to Article 18, Paragraph 3, of the International Covenant on Civil and Political Rights (ICCPR), Nowak sets out three general conditions relating to restrictions on freedom of religion or belief. First, restrictions must be based on existing laws. Secondly, they must be structured in accordance with the public interest, involving the legislative and executive bodies in drafting the laws governing such restrictions. Thirdly, the restrictions should be made for reasons of security, public order, health, morality, or the fundamental rights of others. The manner of restrictions chosen must be proportionate to the objective of the restriction to be achieved, with proportionality assessed on the basis of the needs of society as a whole. Nowak identified three aspects related to the manifestation or practice of religion. The first is the aspect of dogma, which covers religious doctrines that require religious rituals such as worship, rituals, and religious teachings. The second is the practical aspect, which involves daily activities influenced by religious values or beliefs but not included in the category of rituals. Activities such as the dissemination of religion through missions or preaching are included in this aspect. The third is the deliberate denial of obligations imposed by states, such as obligations military. This third aspect is relevant in the context of states that impose obligations military on their citizens. Nowak argues that protection for citizens who refuse obligations military service can be excluded if the state establishes it in the framework of a broader public interest (Manfred Nowak, 2005).

Thomas Onggo Sumaryanto, in his study entitled "The misconceptions between religious freedom and religious disobedience in Indonesian public spaces," criticized the Constitutional Court (MK) for its unclearness in defining

the boundary between the intern forum and the external forum. According to Sumaryanto, the MK statement regarding Law No. 1/PNPS/1965 on the Prevention of Religious Abuse or Delusion is contradictory and can be interpreted in a variety of ways, leading to arbitrary practices in its implementation. The law is no longer in line with the current context of diversity in Indonesia, as at the time of its creation it was more driven by the urge of some religious organizations to emphasize the suppression of the perverse streams. Sumaryanto argues that Act No. 1/PNPS/1965 fails to take into account the clear concept between the internal and external forums. For instance, the case of Meliana shows how the law was used unfairly, where she merely submitted a request to reduce the volume of votes without intentionally insulting a particular religion, but she was still unjustly punished by the law. The researchers also highlighted that the law could be used to discriminate against minorities and create injustice. Furthermore, Act No. 1/PNPS/1965 also shows the ambiguity of separating private, informal, and formal public spaces, which contradicts Jurgen Habermas's idea of a clear separation between informal and formal (Sumaryanto, 2012).

If all these concepts are put together, the practice of discrimination seems to be supported by the state. Kelen argues that the regulation reflects the excessive interference of the government in the religious affairs of its citizens. The state needs to have a firm view of the restrictions on rights in public spaces. Indonesian public spaces reflect diversity. Law No. 1/PNPS/1965 is not compatible with such diversity. According to Jurgen Habermas, religion must contribute universal values to the public space. All religions in an area must live side by side in the public space (Habermas, 2006). The attitude of openness and learning shows that Indonesia is a genuine Pancasila country. Many cases of religious disobedience seem unfair if analyzed logically and ethically. Implementation of Act No. 1/PNPS/1965 can be considered a pathology in the public space of Indonesia. This pathology is a disease that interferes with the sanctity of religious public spaces as a place to learn and respect each other. Public spaces are supposed to be common spaces that have been ruined by fundamentalists. These groups can threaten freedom of speech and belief and even use violence to oppress the weak and helpless. The state must remain neutral in guaranteeing fundamental rights. This is a principle emphasized by John Rawls and Jurgen Habermas. State neutrality is essential to achieving distributive justice in fundamental human rights. Moreover, government agencies must be able to build a constitution that is anti-discriminatory. On the one hand, Indonesia has laws to guarantee religious freedom, but with the existence of Law No. 1/PNPS/1965, that guarantee is not clearly visible.

Currently, the controversy surrounding the Al-Zaytun Hostel has not been clearly linked to which violations of the law may have occurred. This case is still a heated issue of debate in various spheres, especially in the public space of the media. Much coverage is still subjective without a clear legal basis. Nevertheless, the government has responded to previous similar cases by issuing regulations relating to the right to freedom of religion and belief. However, with the existence of Act No. 1/PNPS/1965, the guarantees are not clearly visible, as is the case in this case. To this day, there is still uncertainty about the legal body's response to

cases of this kind. The concept of religious falsification has not been clearly defined and is often misunderstood by hate speech. In this context, the state can only protect the rights of its people in the public space, while the rights in the private space are the absolute freedoms of the people themselves (Latipah, 2017).

Amongst society, knowledge of these two dimensions of the right to religion and belief is still lacking, so often both dimensions are misunderstood and mixed up, which can ultimately result in discriminatory acts. Similar cases happening lately are an important reason for the state to adopt policies that regulate the scope of freedom of religion and belief.

3. CONCLUSION

Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which clarifies the right to freedom of religion and/or belief, was ratified by the Indonesian government in 2005 through Law No. 12. However, this regulation has not been well implemented, especially in the case of the Al-Zaytun Islamic Boarding School, which is the focus of this study. Speaking of freedom of religion and belief, there are internal and external dimensions. The internal dimension refers to the domain where an individual adheres to beliefs and religion, which is a personal internal matter. This individual dimension is reflected in the protection of a person's spiritual existence. It includes the right to choose, change, adopt, and embrace religion and beliefs according to individual will. Unlike the passive internal forum, the freedom of religion and/or belief in the external forum is proactive, meaning that individuals or groups actively practice their religion or belief both privately and in public space.

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