

MEASURING RELIGIOUS FREEDOM IN INDONESIA: *The Reconstruction of State's Role, the Revitalisation of Faith's Inclusiveness*

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KEYWORD

Religious freedom,
Islam,
The State,
Religious Pluralism,
Indonesia

ABSTRACT

This paper describes the challenges to nurture religious freedom in Indonesia due to the misrepresentation of the state's roles. It discusses religious freedom based on the spirit of individual rights to practice religion (including not to embrace any religion). An analysis is started by proposing facts about the violence of religious freedom and some actual threats to religious freedom. Then, it is concluded with solution of two levels, namely reconstructing the relation between state and religion (public), and revitalizing the inclusiveness of religious pluralism in the people's consciousness using Islam as its perspective. This is because religious freedom is still a great challenge for Indonesia both in the present and in the future. If we respond to the challenges wisely, the establishment and existence of religious freedom, peace, and inter-religious cooperation in this state is not impossible. Therefore, the prospect of religious freedom in Indonesia relies on the state's and its citizens' readiness to embrace the peaceful and tolerant values as the foundations to live in societies of multi-faiths groups.

INTRODUCTION

... Then, will you want to force people to have the same faith as yours? (Q.S. Yūnus, 10:99)

Is there religious freedom in Indonesia? There is, as it is stated in section 29 of the 1945 constitution, Act No. 39/1999 about human rights and act No. 12/2005 about ratification of international convention on civil and political rights. However, there is not if we see some regulations which generally hurt religious freedom rights such as circular letter from minister of interior No. 477/74054/BA.01.2/4683/95 on 18 November 1978 which acknowledged only five 'official' religions, namely Islam, Catholics, Protestant, Hindu, and Buddha. Moreover, recently, there are a lot violences of religious freedom.

At a certain level, these indirectly become part of 'dark side' for religious pluralism. Through religious pluralism, religion actually does not only propose peace but also violence and destruction. These confirm Sidney Hook's and Wilson's statement. Beyond Marx's idea stating religion is an opium, Hook even considers that religion is more dangerous than opium since it could provoke the rise of violence, war, and killing. In line with him, Wilson says that religion provokes someone to "persecute one another, to exalt their own feelings and opinions above those of others, to claim for themselves a possession of the truth" (Wilson, 1992, p. 1).

It is very tragic when religion does not allow someone to practice other different faiths. This article focuses on the definition of religious freedom based on this spirit, namely the rights to practice religion (including not to embrace any religion). An analysis is started by proposing facts about the violence of religious freedom and some actual threats of religious freedom. Then, it is concluded with solution of two levels, namely reconstructing the relation of state and religion (public) and revitalizing the inclusiveness of religious pluralism in the people's consciousness using Islam as its perspective.

RESULTS AND DISCUSSIONS

Looking at the Facts It should be acknowledged that in some cases the reality of religious freedom in Indonesia tends to be in good trends, especially after the fall of the new order. Some prohibitions for certain religions were cancelled (Kong Huchu in January, 2000), (Jehoveh's Witness in June 2001), and (Baha'i and Rosicrucian in May 2002). There is also no prohibition for Shinto, Tao, Zoroaster, Fahlun Gong, and jews, eventhough they are not acknowledged formally as 'official' religions. Later, some inter-religious institutions were established such as ICRP (Indonesian Conference on Religion and Peace), Dian/Interfidei, Forum Indonesia untuk Perdamaian, MADIA (Masyarakat Dialog Antar-Iman), and GANDI (Gerakan Anti-Diskriminasi Indonesia). Activities of religious mission did not need to get permission from officials such as during the New Order. Also, religious program broadcasted on Tv could be seen massively though they are still dogmatic (Ali, 2003).

However, it does not mean that there is no violence. At certain level, it is potentially stronger. The form of the violence rises significantly and widely. Attacking and destructing religious houses were examples of these such as LDII and Ahmadiyah. For Ahmadiyah, some dramatic cases happened such as in Kuningan Jawa barat, Parung Bogor, Lombok NTB. In Lombok Timur, for instance, people burnt Ahmadiyah's houses on 10-13 September 2002 and it made hundreds people lost their houses. Their houses were attacked in Praya Lombok Tengah on Friday, 17 March 2006, and made them left to police office but after a month on 4 February 2006 similiar case appeared again in Lingsar Lombok Barat so that they left their houses.

Moreover, some discriminative limitations have still existed as can be seen for minority groups such as Syi'i, elements of Darul Islam/Tentara Islam Indonesia, ex-Darul Arqam, Jama'ah Salamullah, the followers of Darul Hadits, and local religions such as Kaharingan, Djawi Sunda, and Islam Wetu Telu. These likely complete cases of religious violences in other places such as the destruction of mosque, temple, church, and other religious facilities. From January 1999 to April 2001, there were at least 327 churches and 254 mosques destructed, particularly in Moluccas (Ali, 2003).

Classical problems however still happen. It can be seen from the followers of Konghucu who face difficulties in putting their religions on their identity cards since Konghucu was not one of 'official' religions. The marriage of different faith is still difficult to be recorded. Besides, some parents get discriminative treatment when they enter their children in educational institutions because they have different faith, ethnic, and races. The difficulty to found religious facilities for minority groups also still happen.

And, last but not least, there are some cases of forcing other people to follow certain religions. Some of these can be seen in the form of theological and intellectual execution such as penalty law, and many others including the application of Islamic law in some provinces (Aceh, Banten, Gorontalo, Maluku Utara, Riau, Kalimantan Selatan, and NTB) which in some cases has become

political commodity hurting justice and pluralism (Ali, 2003). This then is followed by regions in which Christianity becomes the majority to apply it as basis of the local regulation.

We then ask how far government guarantee seriously the principle of religious freedom as stated in section 29 UUD (constitution) 1945. However, these facts are not only related to the state's inconsistency but related to society, particularly their religious understanding. These endanger religious freedom which basically can be seen from two sides of the application of religious understanding.

The Inconsistency of State

The question of whether the state has seriously been guarantee the rights of each citizen to choose and practice his own religion could be answered from how far the state manifest its constitutional messages related to the guarantee of religious freedom. At this level, it seems that the inconsistency of the state is clear.

We face the inconsistency of state's attitude between its rhetoric verbal as seen in its regulations on the one hand and its implementation on the other. As a result, some violences of religious freedom happen as if it is legalized by the state. The guarantee of religious freedom in this country, constitutionally, has been regulated confirmly in the UUD (constitution) 1945 section 29. In verse (1) it is stated that "Negara berdasar atas Ketuhanan Yang Maha Esa" (State is based on belief in one God) and in verse (2) it is confirmed that "Negara menjamin kemerdekaan tiap-tiap penduduk untuk memeluk agamanya masing-masing dan untuk beribadat menurut agamanya dan kepercayaannya itu" (State guarantees the religious freedom of each citizen to practice his own religion and faith). Basically, this guarantee is in line with Universal Declaration of The United Nation in 1948 about Human Rights which, in section 18, states that each person has freedom of thought, expression, and religion including freedom of religious conversion and freedom to express his religion through teaching and practicing his own religion and faith.

However, in its development, government tends to be inconsistent. This inconsistency creates problems, both socially and theologically, for some religious adherents. It can generally be seen from the products of act and other regulations which usually contradict and delegitimate upper regulations. This can be seen from Surat Edaran Menteri Dalam Negeri (Circular Letter of Interior Minister) No. 477/74054/BA.01.2/4683/95 on 18 November 1978 which clearly breaks the spirit of UUD (constitution) 1945 section 29 which guarantees the religious freedom of Indonesian people. In this letter, it is stated that the government only acknowledges five 'official' religions, namely Islam, Catholic-Christianity, Protestant-Christianity, Hindu, and Buddha. Practically, this letter is used as legal reason to abuse other religions and faiths which are out of these 'official' religions. Moreover, the acknowledgement of "official" and "nonofficial" religions also contradict with TAP MPR (decision of consultative's assembly) No. II/MPR/ 1978 which in its explanation states that:

Kebebasan beragama adalah salah satu hak yang paling asasi di antara hak-hak asasi manusia karena kebebasan beragama itu langsung bersumber kepada martabat manusia sebagai makhluk ciptaan Tuhan. Hak kebebasan beragama itu bukan pemberian negara atau golongan.

(Religious freedom is a very basic human rights because it is based on human's dignity as God's creation. This right is not given by state and group of people).

Moreover, there was TAP MPR (Consultative's Assembly's decision) No. II/MPR/1998 about Garis-garis Besar Haluan Negara (State's General Lines). In its explanation on religion and belief in one God, it is confirmed that:

Penganut kepercayaan terhadap TYME dibina dan diarahkan untuk mendukung terpeliharanya suasana kerukunan hidup bermasyarakat... Kepercayaan kepada TYME adalah bukan agama dan oleh karena itu pembinaannya dilakukan agar tidak mengarah pada pembentukan agama baru dan penganutnya diarahkan untuk memeluk salah satu agama yang diakui oleh negara. Pembinaan penganut kepercayaan terhadap TYME merupakan tanggung jawab pemerintah dan masyarakat” (Ali, 2003: 66).

(Those who believe in one God is educated and directed to support the presence of a peaceful religious society....belief in one God is not religion so that its direction is done in order that it is not used for establishing new religion but for conversing into one of official religions. This is a part of responsibility of both government and society). This decision also gives legal reason for the state and society to support (force!) those who embraced belief in one God to converse into ‘true’ religion.

All regulations which support the inconsistency of the state in guaranteeing religious freedom destruct the right of people to choose freely any religion and faith. One of reasons proposed by the government is that it is government’s right to regulate in order that religious freedom could be implemented (Ali, 2003). Unfortunately, this implementation is limited to official religions. It should be avoided since it is a part of state’s intervention beyond its authority.

The state’s inconsistency also could be seen from the absence of guaranteeing religious freedom in interpreting and practicing religion. This can be traced from the issuance of Act No. 1/PNPS/1965 about prevention of Religious Abuses which the was enforced by Act No. 5 1969 about some President’s regulations.

In the first sight, this regulation seems on the track. However, in its development it has implication to the strong abuses of religious freedom in Indonesia. It is used even for legitimization in order to save official religions acknowledged by the state from the violence and abuse from other religions and faiths (Ali, 2003). The different interpretation of state’s regulation sometime provokes the abuse of religious freedom.

Therefore, any interpretation should be given to the most authoritative institutions, namely official religious institutions which are not governmentsponsored organizations. However, any religious interpretation and practice which contradict with the mainstream sometime labelled as incorrect interpretation so that it should be corrected. In fact, this interpretation is a codification. Such codification, according to Arkoun, (Mohamad, 2001), is a control. It stops the difference. Some regulations then are classified, collected and enlisted. Those which are out of the regulations should be deleted. Therefore, codification only could exist under the power which is able to interrogate, decide and punish such as through fatwa or weapon. Without any authoritative institution, codification will lose its power of control. Surprisingly, such institutions, such as the MUI and others, are never asked from which its authority comes. Some religious elites are able to interpret and direct law without understanding that the fatwa, law, and even they themselves are related to historical context. This is because, any interpretation is basically fiqh an sich, it is only reflection of understanding on religious teaching. In this case, it is important to distinguish between authoritative and authoritarian fiqh (El Fadl, 2003).

There are of course victims from the abuse of religious freedom. They could be indigenous religions and minority religions. They are a community of Sunda Wiwitan, Tolotang, Bissu, Kaharingan, Islam Wetu Telu, and a community Lia Eden. In Islamic context, Ahmadiyah, Islam Jama’ah, Darul Hadits, and others have been gotten ‘bad’ treatment from certain Islamic groups which are directly and indirectly connected with the MUI and even legalized by the state through ministry of religious affairs and neglected by state apparatus, Indonesian police.

After the new order, the state’s guarantee to the religious freedom is basically stronger. It can be seen from the issuance of UU (Act) No. 39/1999 about human rights. In this Act, religious

rights are acknowledged as basic human right which can not be deleted. This guarantee is enforced by the issuance of UU (Act) No. 12/2005 about ratification of international convene related to civil and political rights which confirm religious freedom for human beings. However, this is on the normative level. Diametric and different fact can be seen in the reality. In this level, the state's inconsistency in enforcing any regulations cause abuse and violence of religious freedom as seen from the minority religious groups and indigenous religions. In short, these regulations are not implemented corectly since they are not followed by law enforcement. The protection to indiginous religious community is extremely minimal. It seems that crime by omission is done by the state. It is also a form of the state's inconsistency in guaranteeing civil rights to choose and practice his own religion.

Responding the Threats

In future, the prospect of enforcing the principle of religious freedom perhaps will not be promising if we do not respond early actual problematic factors of this issue. The state's inconsistency as stated above is one of those which will make the portrait of religious freedom worse in future. In my identification, there are at least five basic threats of religious freedom.

The first is textual or scriptual religious understanding. Ontologically, such model of religious understanding only lies the truth on the text. The truth of the revelation is gotten through analysis of grammar and semantic in the text only (Baso,1999). In other words, the continues change of the context is neglected or subordinated by the text. Islam then is not revolutionary since its intellectual movement does not produce new interpretation or theory but produce the past interpretation or theory. Past time, when Islam was during the formative era, was put as the single foundation of the truth where Islam should be projected. It means, according to Arkoun, past facts are put as single reference of truth in practicing Islam (Arkoun, 1999). Its followers then are tied by these facts. This kind of understanding provokes easily the rise of exclusive understanding (Abdullah, 2006). The pattern of religious practice also tends to be authoritarian rather than humanistic. This then becomes the source of religious violences.

The revitalisation of textual religious understanding becomes the great threat for social integration and cohesion in a plural and multi-cultural society. People who have exclusive understanding views that their religion is the correct one and other religions should be deleted through any kind of ways, even by violence. This exclusive group generally exists in any religions, including Islam. Its perform is ususallu extreme. Its militant movement in the public sphere causes directly to the difficulties of religious adherentse at least two ways, namely (1) the urgency of reinterpretation, religious doctrines which are used for represive actions. And (2) proposing religious dialogue (Islam) discussing critically modern ideas such as pluralism, multiculturalism, and democracy.

The second is the disfunctioned social-religious institutions. In the perspective of pluralism, people do not live in a peaceful plural society, but a conflict society. In this case, these insttitutions prefer chossing to be a coalition of state's power. This can be seen from the MUI. It usually issues fatwa which provokes social disintegration.

Also, there are educational institutions which support the disfunctioned institutions, particularly religious education. In this context, re-education plays an important role. It emphasizes on redesigning and/or reformatting all educational systems, values, paradigm, epistemology, strategy and methodology. It aims at the existence of educational systems based on pluralism and multiculturalism. Its concrete forms are the redesignation and development of educational curriculum appreciative toward pluralism and multiculturalism (religion, ethnicity, and other cultural elements). It becomes the instrument of socialisation of religious values which are inclusive and tolerant. Therefore, educational institutions (especially religious institutions) are not designed

to be provocative institutions in creating social and religious conflict.

The third is that the inter-religious dialogue is not optimum. Inter religious dialogue tends to be a curative step, not preventive. It is hold when there is religious conflict in a society so that the peace which is tried to establish is not eternal. Therefore, some inter-religious dialogues (ethnic and culture) need to be revitalized continuously. To avoid new discourse, the initiative of grass-root society should be paid great attention by stressing on the mutual help and harmony rather than pseudo-harmony. Through intensive dialogue, it is then developed multireligious, multi-ethnic, and multi-cultural networks based on the collective framework in order to establish “regulation in the public sphere” supporting sustainability of democratic process.

The result of dialogue should be pedagogic dimension. It is not only process which can be run directly but it should be put as the material to learn. It means that it should be responded as perspective which needs to be understood and then internalised in order that it becomes a part of personality so that it supports authentic changes of individual and community. It focuses on the establishment community respecting dialogue and pluralism. In its process, it needs extensive exploration based on basic principles to be common ground for collectiveness and harmony. The aim is the presence or existence of active tolerance based on the spirit of respect, understanding for the plurality of tradition, religion, and faith.

Such dialogue should reflect solid network among people in solving social problems. Poverty, economic exploitation, social discrimination, political conflict, stupidity, and others could only be solved through collective action and agenda based on the principles of mutual understanding between people. Therefore, pluralism which becomes natural phenomenon could be beneficial as social energy to solve social problems.

The fourth is the state’s intervention to religious life of the society. It can be seen in the form of instrumentalisation of religion such as institutionalisation of “official religions”. This causes at least three aspects, (Saidi, 2004: 23-25), namely (1) masification of religion in the context of uniformity so that any form of religion which is regarded out of ‘official religions’ should be corrected. (2) putting ‘official religions’ as represented by the MUI, WALUBI, PGI, KWI and PHDI as subordination of the state provoking religious radicalism and (3) support the colonisation of the majority religions to the indigeneous religions which are minority.

Therefore, religion as private is urgent. Religion is put as free choice for individual. Religious practices should be developed toward the substance of religious values. All forms of religious formalisation should be avoided because it will create distortion of the purity of religion. In this case, it is important to eliminate the policy of official religions which do not tolerate any religious belief (Wahono, 2003). This policy is discriminative and causes many victims.

At least, there are two reasons why religion as privat aspect should be implemented. *The first* is because it minimalizes the state’s intervention. *The second* is because there is social distrust from the public for the ineffectivity of the state in regulating, mediating, and facilitating the social dynamics of the society. Then, the religious tolerance should be realized. The state should run its policy considering democratic policy which is not discriminative. The ministry of religious affairs, for instance, is not necessary to make intervention for certain religious groups. As the state institution, it should be netral promoting religious freedom, tolerance and religious harmony.

The fifth is the ineffectivity of law enforcement. This is crucial to prevent religious conflict. Many religious conflicts are not solved well. Law is not used for solving social and religious problems so that people tend to use mass consideration in which the majority becomes the power. In fact, without law eforcement the state will be weak state in the weak society–because its immaturity–so that it causes social disorder (Migdal, 1988).

Ideal Relation

One of basic threats ofv religious freedom is related to the connection of the state and religion. Therefore, it needs to be reconstruct toward ideal elation. So, how is the ideal relation between the state and religion related to religious freedom in the contemporary Indonesian?

For me, productive relation between them is possible when there is secularization. It is not of course in the rigid form. It means the substance of religious values for the state so that any religious formalisation must be avoided.

Religious formalisation can be seen in the form of Islamic state, Islamic party, and application of islamic law. It seems that the state uses religion as political instrment. In fact, religion is more eternal than society, culture, social stratification, state, and political party. Therefore, religion is indeed more suitable to use political institutions as its instrument. Religious formalisation is not only potential to oppose democratic process but also potential to create chaos and social disintgration.

In Islamic context, the strategy of islamisation which is effective is by enforcing Islamic values for the state. And deformalisatinn is one of its strategy. For the homogeneous society, this strategy is realistic because its political-cost is cheap and relatively is not high risk. It is important to undertand that Islamic formalisation reduces simultaneously the spirit of universal Islam. The concentration of Islamic society will focus on the effort of institutionalisation of Islamic symbols. Without Islamic formalisation, Islamis people can move easily (Schuon, 1993).

Then, how the state takes its role in the context of its relation with the religion (religious community)? In this case, we are able to borrow the concept of philosophy 'civil society' as a persepective. The state is idealized as the institution which contributes the rise of civil society which is able to reconstruct the unbalanced pattern of the relation between the state and religious community (Hikam, 1996).

Reffering to this framework, the state should at least fulfill three aspects. First, it should back to neutral organization. Its task is only to mediate and regulate many interests in the society to avoid social destruction. Beyond this limitation, the state will only create political and religious abuses. The revitalisation of civil society needs the free public sphere, in which communication is freely done by the society including in communicating its own religious choice. With this role, the state is able to become 'the fair referee' in implementing any regulation based on moral values in social contracts.

Related to religious freedom, it should be understood that religion is private and it is not the state affair. The function of the state is just to guarantee and facilitate its citizen to practice his or her religion well, not decide which religion is allowed and forbidden. The state does not have authority to acknowledge a certain religion. It deos not have authority which religion is official or not. It also does not have authority to claim the truth of certain religions. Even, the state does not have authority to define what is religion. This is because it is private. Does it mean that regulation issued by the stated is not necessary?

The state regulation remains necessary. However, this regulation is issued in the context of protection for the citizen, not intervention. It is related to public safety, public order, public health, moral public, and to protect the fundemental rights and freedom of others. To implement these aims, the state needs to decide some regulations in order that each religion does not teach violence and religious abuses.

Second, the state should have tolerance and accommodative toward some critics of the society. The tolerance of the state is an important aspect from civil society to avoid-borrowing Thomas Hobbes' term-Leviathan. Therefore, there will be balanced relation between the state and religion. The state will not actively involve in religious discourse. This does not weaken the state authority. In this case, there is relation of win win situation, namely strong state-strong society, and not strong society-weak state, or conversely strong state-weak society.

Third, the state should enforce the fundamental constitution, namely the fulfillment of justice, equality, accountability, control, and law. If these values are neglected, the state's role will be dominant. From these three aspects, it is clear that in the perspective of civil society and religious community enforcement it is not the deconstruction of the state's role.

Inclusive Religious Understanding

The reconstruction of the ideal role of the state in its relation with religion (religious community) is not enough to guarantee the religious freedom in the society. In this context, the revitalisation of inclusive religious understanding has significance and relevance.

Inclusive religious understanding should be based on the consciousness of pluralism. The understanding of plural religious discourse is started by the introduction of two different entities, namely pluralism and plurality. They have the same root, plural, adopted from English words (Tanja, 1998).

When it is connected with "religion", they have different meaning. The concept of "religious plurality" refers to the reality of plural religions and relation among religious adherents. Religious pluralism, however, emphasizes on the attitude and view which are wise and appreciative toward. The plurality of religions. Philosophically, it confirms a certain theory about the relation of any different religious tradition and some truth claims. (Hick, 1995).

Related to religion, pluralism believes that there are many ways toward the One (Panikkar, 1994). However, there is no one who knows which one is the best way toward Him. The choice to practice certain religion is not used as an instrument to negate other religions and faiths. This consciousness brings religious pluralism into two parts. First is reductive pluralism claiming that all religions basically state the same things related to what is hidden and basic truth. And second is phenomenal pluralism claiming that religions finally are toward the noumenal and transcendent reality, but there are many ways to implement it.

Therefore, religious pluralism, generally can be understood as an ideology about the reality of religious pluralism, including internal religious pluralism. This consciousness guide us to the importance of respecting, and appreciating different religious adherents. Religious pluralism should support mutual respect and harmony toward other religious communities.

This is because the absence of religious tolerance will create religious conflict. In this case, religious dialogue is a must. Responding the religious plurality by violence is not a wise option. In Islam, violence and religious abuses are forbidden. Allah proposes three options in inviting people toward the true way, namely (1) explaining al-ḥikmah (wisdom); (2) proposing good suggestion and guide (al-maw'izah al-ḥasanah); and (3) doing the best al-mujādalah (dialogue). These three options should be run with good ways. Related to religious choice, Islam wants that it is not by force.

Finally, religious freedom is a great challenge for Indonesia now and in future. If we respond it wisely and seriously, the establishment and existence of religious freedom, peace, and inter-religious cooperation in this state is not impossible. So, how is the prospect of religious freedom

in Indonesia in future will depend on our concern and readiness to live together among different religious adherents so that there is a peaceful and tolerant society (Wasim, 2005).

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