

Legal Politics

by I Putu Sastra Wibawa

Submission date: 15-May-2023 11:41AM (UTC+0700)

Submission ID: 2093380953

File name: Legal_Politics.pdf (356.97K)

Word count: 3381

Character count: 18808



Legal Politics of Interreligious Relations within the Pluralism Framework in Indonesia

15

I Putu Sastra Wibawa

Universitas Hindu Indonesia, Denpasar, Indonesia

<sastra@unhi.ac.id>

Abstract

1

Religious diversity contributes to nation building positively. However, it can also be a potential source of conflict. The multi-religious communities in Indonesia face many conflicts that triggered by religion. This problem demands a strategic anticipation, especially in juridical view. Juridical anticipation means the state frames legal policies that regulate the relations between religious communities in Indonesia in order to achieve a harmonious life. The political law of interreligious harmony established by the government in Indonesia will unable to implement properly if indirectly intervene by the community. The public must keep discussing and seeking to maintain inclusive relations between religious communities to achieve religious harmony in Indonesia which is based on tolerance and cooperation in the life of society, nation and state.

Keywords: legal politics, interreligious relations, pluralism

I. Introduction

Indonesian independence is now more than 70 years. Not a young age anymore, but an age that is like a human being has matured with various life's journey. The Indonesian nation is known as a very pluralistic nation, having various nuances of pluralism stemming from primordial

relations within ethnic groups with the distinctiveness of regional language backgrounds, traditions, customs, arts, culture, and religion.

Observing the diversity of the Indonesian people, especially in the field of religion, in addition to officially official religions. Religion which is officially recognized by the government

is based on the Circular of the Minister of the Interior No.477 / 73054/1978 regarding the instructions to fill the religion column on the KTP. Religions officially recognized include: Islam, Christianity, Catholicism, Hinduism and Buddhism, and during the reign of President Abdurahman Wahid, Kong Hu Cu was recognized as the official religion in Indonesia. Even just being legalized on a KTP may include a flow of trust. stipulated by the government, there are still many indigenous religions that are related to their respective regional customs.

This country is like a home for all to share with giving. The only thing needed is to find a way to make diversity valuable and beneficial for all.[1] The Indonesian people live in a pluralistic atmosphere having a slogan agreed upon by the founders of this nation in a famous motto "Unity in Diversity". This pluralism is increasingly supported by the system. Where at present the life of the democratic nation of Indonesia has been more wide open since the fall of the New Order regime in 1998.

But in reality, the application of tolerance values within a plurality frame, one of which is the inclusive relationship between religious communities does not run smoothly. There are several problems in the life of harmony between religious communities, including: the problem of freedom of worship and discrimination.

In fact, physical conflicts have also occurred, both resulting in casualties and material losses. According to the Setara Institute in the 2010 data at least 103 forms of violations of relations between people varied.[2] For example, the cases that arise related to this matter cannot be completely erased. The cases of Cikesik, Ambon, Kupang, Poso and others still have problems. Like a fire in the husk at any time ready to smolder and heat the atmosphere around him.

The existence of a change of era, from the new order era to the era of reform, should increase the awareness of the people of Indonesia of the importance of unity. However, the reality that happened was just the opposite. The wind of reform has had the effect of uncontrolled freedom. This will be very dangerous for a nation with a high level of heterogeneity like Indonesia

Religious diversity, on the one hand, contributes positively to nation building. But on the other hand religious diversity can also be a potential source of conflict. Harmony among religious communities in Indonesia still leaves many problems. Many conflicts involving religion as a trigger demand serious attention to take anticipatory steps, especially from a juridical point of view. Juridical anticipatory steps where the role of the state is needed to form legal policies that regulate relations between religious communities in Indonesia for the achievement of

peace of religious life in Indonesia in the context of national and state development in the fields of politics, economy, security, culture, and other fields that tied by a sense of national unity to build a plural state.

II. Discussion

A. Achieve the Idea of the Nation through Inclusive Relations between Religious Groups in Indonesia

Supposedly, the context of a pluralistic Indonesian society makes the dynamics of religious life unique. The uniqueness is shown by the interaction of various followers of one religion with another side by side in peace with different religious groups.[3]

Indonesia is a country that consists of a variety of primordial backgrounds that are vulnerable to horizontal conflicts. One of the causes of the conflict is due to the development of strong primordialism in the region. One form of primordialism is the nature of upholding the beliefs (religion) of each. To avoid this conflict, a means is needed to be able to change a primordialism society towards a pluralism society. The means of modifying the community in relation to relations between religious communities is by presenting state laws to regulate traffic relations between religious communities. The state can form a major policy line in the legal field.

An inclusive relationship system is needed by maintaining tolerance

between religious communities in order to maintain the unity of Indonesia. The word inclusive comes from inclusive English which means 'including'. Relation to the life of religious people that outside the religion they hold there is also truth. This view needs to be developed in society, and when viewed from the truth of the teachings of each religion.

The view of inclusivism is not contradictory because one still believes that his religion is the best and the right one. However, at the same time they have an attitude of tolerance and friendship with followers of other religions. With the development of inclusive relations framed by tolerance between religious communities, undoubtedly harmony between religious communities in Indonesia will be achieved.

Religious harmony is a condition of interreligious relations based on tolerance, mutual understanding, mutual respect, respect for equality in the practice of religious teachings and cooperation in the life of society, nation and state in the Unitary State of the Republic of Indonesia based on the Pancasila and the Republic of Indonesia Constitution 1945. The understanding of harmony between religions can be seen in the Joint Regulation of the Minister of Religion and the Minister of Home Affairs Number 9 of 2006 / Number 8 of 2006.

Creating an inclusive relationship

between religious communities requires wisdom and maturity among religious communities to maintain a balance between group interests and national interests. To realize this, religious people cannot walk alone. Active interaction between various parties, both between religious groups and between different religions is needed. Relations between religious communities need good management to achieve harmony.

There are several things that need to be considered in managing religious harmony among others:[4]

1. The continuation of the life of this nation is not only applied to adherents of one particular religion, but also the responsibility of all components of the Indonesian nation without exception.
2. Communities should be able to live in harmony even if they embrace religion with different theological teachings because with harmony they provide greater opportunities for them to practice the teachings of their religion completely.
3. People should be aware that this difference is not the same as hostility.
4. Religious people should realize that the practical truth possessed by every religion always has a universal mission and certainly has a humanitarian dimension (inclusive).

Thus, by creating and maintaining an inclusive relationship between religious communities that guarantees harmony among religious communities, the ideals of the Indonesian people to

unite in a plural state frame will be achieved automatically.

B. National Policy and the Constitution: Methods for Guiding Inclusive Relations among Religions in Indonesia

As explained above, maintaining tolerance among religious communities is one of the ideals of the Pancasila Indonesia. The ideals of the Pancasila State were then re-enacted as guidelines for Indonesia's national legal development program. In 2014 by the National Legal Review Agency (BPHN) a national legal development program was prepared for 2015-2019.

Legal development to guarantee tolerance among religious communities is one of the national legal development programs. The existence of a legal development program to guarantee tolerance among religious communities is the direction of Indonesian legal policy to ensure unity among religious communities in Indonesia. The direction of the policy in law is known as legal politics,[5] which should be followed up with the issuance of supporting regulations from both the constitutional level and the rules below.

The state must be present in the creation of harmony among religious communities in Indonesia. The presence of the state in this case the government is done by forming a guiding method to reach harmony among religious people. The government must also act as a fair arbiter to regulate the traffic of the

practice of religious teachings so that relations between religious believers can be realized in harmony.

As for what is used as a guiding method in inter-religious life in Indonesia a¹⁶ the next legal policy direction is the basis of the state and the Indonesian constitution. The basis²² of the state and the constitution (the 1945 Constitution of the Republic of Indonesia) has a very close and inseparable relationship between the two.

The nation's formers and constitutional draftsmen were fully aware that to unite the Indonesian people with various tribes and various religions and beliefs a unanimous agreement was needed regarding the foundations of the Indonesian state as the basis of state life. And the agreement 'falls' on five principles that are not separated from one another, that principle we know as 'Pancasila'.^[6]

The foundation of the Pancasila state as a guiding method for interfaith life is the result of a compromise between secular nationalists and Islamic nationalists on June 22, 1945. The Pancasila was actually the work of the Committee of Nine which had the ideas and was driven by Sukarno by only replacing the precepts of the Godhead with the obligation to run Islamic law for June 22, 1945 its adherents become Godhead. The compromise with the seven-word deletion is a form of awareness that Indonesia is a national

nation that is religious by making religious teachings (not only Islam) as a material basis and a source of material law in the administration of the state, especially life among religious people in Indonesia.^[7]

The seven words that were crossed were from the contents of the Jakarta Charter, which since its birth on June 22, 1945 experienced such intense struggle in various moments. After being successful in the 1945 BPUPKI meeting the Jakarta Charter could⁹ no longer maintain its position in the Preamble and Article 29 of the 1945 Constitution nor put it back in the Indonesian constitution. Be it in the PPKI meeting (1945), the Constituent Assembly (1957-19⁹), the MPRS session (1966), and the first years of the New Order government (1967-1968). Finally, in the reform era that opened the taps of openness and freedom, especially in the 2000 MPR Annual Session and the 2001 MPR Annual Session, the Jakarta Charter also could not be included in the Indonesian Constitution which was undergoing an amendment process to become a modern and democratic constitution.^[8]

This signifies a stronger national understanding of Indonesian unity. The inter-religious life is in an inclusive realm without the need for religion to be prominently featured in the legislation.

The fundamental value of the Supreme God as the first order of Pancasila requires people to develop

respect and co-operation between the different religions and beliefs of the One True God, without imposing one religion and belief on another.[9]

Thus, historically Indonesia's nationality was built on an agreement to unite the various pluralist primordial ties as a national nation. This means that the basic trust for us is to maintain the unity and unity of the principles whose principles have been enshrined in the opening of the Constitution containing the Pancasila and in the articles of the Constitution itself.[10]

Commitment to maintaining integration is under threat from the domestic sphere as political movements and 'exclusive' groups are increasingly present in society that is intolerant of primordial differences, especially religious primordial and political movements.[11] So far, inclusive relationships are very important to develop in the context of religious diversity.

It is interesting to note that Indonesia's religious diversity is not a scary one but is one of the elements of Indonesia's national identity, apart from the social, economic, cultural, ethnic, and geographical diversity that are intertwined with the long process.[12]

It is interesting to note together that the diversity of religions in Indonesia is not a scary thing but is one of the elements forming the Indonesian national identity, in addition to the diversity of social, economic, cultural,

ethnic, and geographical life, which are interrelated which are formed by a long process.[13]

It is also interesting to note the basic values in the 3rd precepts of Pancasila namely: Unity of Indonesia, containing the principle of necessity or demand to conform to the nature of 'one'. The essence of one is intact, cannot be divided, has its own form, stands alone, separate from something else, does not become part of something else.

The realization to fulfill the principle of the three precepts of Pancasila in the personal lives of each person can be different, but it is clear that they should be kept away from spirits in the form of incitement to divide the nation, especially those from SARA issues (Ethnic, Religion, Race and Inter-group), on the contrary we must be united as a nation with Pancasila.

As a concretization of the basic values of the Indonesian state (Pancasila). Not long after, a ⁶te constitution is now known as the 1945 Constitution of the Republic of Indonesia. The constitution is a unifying nation, so in its translation it must recognize, respect and maintain the diversity of these religions in order to create harmony ²³ among religious communities. In the context of Indonesia, the state in this case the government is the institution that is first obliged to guarantee freedom of belief

and everything that is derived from it.

Related to the juridical norms, relations between religious communities in Indonesia can be seen in Article 28E of the 1945 Constitution of the Republic of Indonesia NRI paragraph (1) stating that everyone is free to embrace religion and worship according to their religion, chooses education and teaching, chooses occupation, chooses citizenship, chooses residence in the territory of the country and leave it, and have the right to return. Paragraph (2) states that every person has the right to freedom to believe in beliefs, to express his thoughts and attitudes, in accordance with his conscience. Based on this article, the basic values of freedom of religion and belief can be drawn as the basic rights of every human being.

Furthermore, Article 29 of the 1945 Constitution of the Republic of Indonesia states that paragraph (1) of the state is based on the Almighty God and paragraph (2) states that the state guarantees the independence of each population to embrace their respective religions and to worship according to their religion and belief. So that in the context of relations between religious communities, the state through its legal products provides protection against religious freedom and practice worship and belief. Another understanding, adherents of religion and belief in Indonesia must still maintain their respective teachings.

Once it has established the basic

norms and established the constitution of the Indonesian state as further enactment in the form of legislation it must fulfill one of the basic principles of unity of unity. This means that the legal material load in Indonesia must take into account the diversity of people, religions, tribes and groups, special conditions, and cultures in the lives of people, nations and nations. Thus, the consistency between the basic rules (Pancasila), the constitution (NRI Constitution of 1945) and its interpretation in the form of legislation under the law relating to inter-religious relations to achieve reconciliation leading to Indonesian unity will be achieved.

The country's responsibility for securing peace among the people and ensuring protection and freedom of religion is demonstrated by defining the rule of good governance of the Pancasila and the 1945 NRI Constitution in the form of legislation under it.

Law in the form of laws and regulations in Indonesia as described above cannot be released from the basic principles and constitution as the guiding principle. The rule of law guides in Indonesia sourced from the basis of the Indonesian state namely Pancasila, among others:[14]

1. Indonesian law must aim and guarantee national integration both territorially and ideologically.
2. The law must simultaneously build

democracy and nomocracy.

3. Building social justice.

4. Building religious tolerance and civilization.

Regarding the relationship between religious communities, the first and fourth principles above must be considered, Indonesian law must a¹¹ and guarantee national integration while at the same time building religious tolerance and civilization. The law should not privilege or discriminate against certain groups based on¹¹ the size or small embrace of religion. Indonesia is not⁷ religious state and not a secular state. State law cannot require the implementation of religious law, but the state must facilitate, protect and guarantee its security if its citizens will carry out religious teachings because of their own beliefs and awareness.

The political law of harmony between religious communities formed by the government in Indonesia will not be able to be properly enforced in its implementation if there is no direct interference by the community. The public must not stop discussing and

¹ seeking to maintain inclusive relations between religious communities to achieve religious harmony in Indonesia which is based on tolerance and cooperation in the life of society, nation and state.

III. Conclusion

The conclusions that can be conveyed based on the above discussion are, namely: 1) That inclusive relations between religious communities in Indonesia can be used to reach the ideals of the Indonesian nation, and 2) That the state in this case the Indonesian government has had legal politics in maintaining relations between religious communities towards an inclusive relationship.

The effort to achieve inclusive relations between religious communities in Indonesia needs the community participation as well as the state role. To uphold the political law in manage the relations between religious communities, should carried out regard to the local wisdom except based on written rules only.[]

References

- [1] Badan Pembinaan Hukum Nasional Indonesia, 2014, *Perencanaan Pembangunan Hukum Nasional Tahun 2015-2019*, Jakarta: Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia.
- [2] Kompas, 2014
- [3] Madjid, Nurcholis, dkk, 2004, *Fiqh Lintas Agama: Membangun Masyarakat Inklusif-Pluralis*, Jakarta: Paramadina.
- [4] Tim Pengkajian Hukum Badan Pembinaan Hukum Nasional, 2011, *Perlindungan Hukum Bagi Upaya Menjamin Kerukunan Umat Beragama*, Jakarta: Kementerian Hukum dan

HAM Republik Indonesia.

- [5] Mahfud, M.D, Moh., 2009, Kebebasan Beragama dalam Perspektif Konstitusi, Jakarta: Jurnal Mahkamah Konstitusi.
- [6] Soeprapto, dkk, 1996, Cita Negara Persatuan Indonesia, Jakarta: BP. 7 Pusat.
- [7] Mahfud, M.D, Moh., 2009, Konstitusi dan Hukum dalam Kontroversi Isu, Jakarta: PT. Raja Grafindo Persada.
- [8] Basalim, Umar, 2002, Pro-Kontra Piagam Jakarta Di Era Reformasi, Jakarta: Pustaka Indonesia Satu.
- [9] Mahfud, M.D, Moh., 2009, Kebebasan Beragama dalam Perspektif Konstitusi, Jakarta: Jurnal Mahkamah Konstitusi.
- [10] Mahfud, M.D, Moh., 2009, Kebebasan Beragama dalam Perspektif Konstitusi, Jakarta: Jurnal Mahkamah Konstitusi.
- [11] Mahfud, M.D, Moh., 2009, Kebebasan Beragama dalam Perspektif Konstitusi, Jakarta: Jurnal Mahkamah Konstitusi.
- [12] Kaelan, H., 2013, Negara Kebangsaan Pancasila, Yogyakarta: Paradigma.
- [13] Wreksosuhardjo, Sunarjo, 2005, Pancasila : Menggali Kecerdasan Pikir dan Jiwa Bangsa Indonesia Sebagai Harta Terpendam, Surakarta: Universitas Sebelas Maret Surakarta Press.
- [14] Mahfud, M.D, Moh., 2009, Kebebasan Beragama dalam Perspektif Konstitusi, Jakarta: Jurnal Mahkamah Konstitusi.

Legal Politics

ORIGINALITY REPORT

18%

SIMILARITY INDEX

14%

INTERNET SOURCES

15%

PUBLICATIONS

9%

STUDENT PAPERS

PRIMARY SOURCES

1	millati.iainsalatiga.ac.id Internet Source	3%
2	ijmmu.com Internet Source	2%
3	Hasep Saputra, Nurma Yunita, Ainal Mardhiaturrahman, Wina Purnamasari. "Interpretations of Verses about Islamic Criminal Law and its Polemics in Indonesia's Positive Law", <i>AJIS: Academic Journal of Islamic Studies</i> , 2021 Publication	1%
4	repository.uinsu.ac.id Internet Source	1%
5	Submitted to UIN Syarif Hidayatullah Jakarta Student Paper	1%
6	e-repository.perpus.iainsalatiga.ac.id Internet Source	1%
7	Giantomi Muhammad, Harkit Rahmawati, R. Rofiani, Aan Hasanah, Bambang Samsul Arifin. "Character Building Based on The State Philosophy in The Context of Islamic	1%

Education", AL-ISHLAH: Jurnal Pendidikan,
2022

Publication

8	lppm-unissula.com Internet Source	1 %
9	Arskal Salim. "Challenging the Secular State", Walter de Gruyter GmbH, 2008 Publication	1 %
10	Submitted to Universitas Negeri Surabaya The State University of Surabaya Student Paper	1 %
11	R.E. Elson. "Nationalism, Islam, 'secularism' and the state in contemporary Indonesia", Australian Journal of International Affairs, 2010 Publication	1 %
12	"Research in the Social Scientific Study of Religion, Volume 30", Brill, 2020 Publication	1 %
13	www.coursehero.com Internet Source	1 %
14	Submitted to Hadassah Academic College Student Paper	<1 %
15	Ketut Caturyani Maharni Partyani, I Putu Sastra Wibawa. "PRAKTIK PERJANJIAN NOMINEE DI SEKTOR PARIWISATA", Dharmasmrti: Jurnal Ilmu Agama dan Kebudayaan, 2019 Publication	<1 %

16	Submitted to Nanyang Technological University Student Paper	<1 %
17	repository.uki.ac.id Internet Source	<1 %
18	repo.unhi.ac.id Internet Source	<1 %
19	journal.umpo.ac.id Internet Source	<1 %
20	Submitted to Syntax Corporation Student Paper	<1 %
21	ejournal.uin-malang.ac.id Internet Source	<1 %
22	jih.ejournal.unri.ac.id Internet Source	<1 %
23	macau.uni-kiel.de Internet Source	<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On