

# Questioning Indonesia's Commitment on Freedom of Religion: Problem on Establishing Religious Building

I Gst. Putu Agung Trisna G.P

Recently, Indonesia's commitment to guarantee freedom of religion is being questioned by the event that occurred in Sukahurip village, Bekasi Regency. Protests was held by local people, as it appeared to have been triggered by construction of buildings for religious minorities. The protest attracts national and international concern, thus create apprehension by several religious communities and scholars. As a matter of fact, controversy on freedom of house of worship in Indonesia not only occurred in one-or-two religious group, almost all religious groups have experienced such difficulties in regards to the growth of house of worship.

Nevertheless, it is not the only event that happened in Indonesia in regards to the protest against religious place. Based on the research held by SETARA Institute, 331 houses of worship in Indonesia is having difficulties in acquiring building permission. Some are being rejected by the local community, facing disturbance by other group, and in some cases, the place is being burned.<sup>1</sup> Research further elaborated that since the beginning of the 1969, up until the year 2006, there were at least 1000 events relating to the conflict of religious places in Indonesia, with more than half of it are suffered by the Christian communities.<sup>2</sup>

Many believed that the acts of violation of rights against a person and religious group is caused by the never-ending conflict between religion in Indonesia. Regardless the fact that all religion teaches kindness, there are some perspective that perceive exclusivity between religion, resulting in misconception on their behavior.<sup>3</sup> The nation, nevertheless, have promised to guarantee the freedom of religion as stated on the Constitution of Indonesia. As set forth on the Article 29 (2), "*The state guarantees each and every citizen the freedom of religion and of worship in accordance with his religion and belief*". Further, stated by Law No. 39 Year 1999 regarding the Law on Human

Right, specifically on Article 22 (2) which stated "*The state guarantees everyone the freedom to choose and practice his religion and to worship according to his religion and beliefs.*"

However, the action taken in implementing these laws seems pointless, resulting in an opinion that it is nothing more than a myth.<sup>4</sup> Numerous violation against the freedom of religion, mainly the freedom to build houses of worship, still frequently occurred in Indonesia and decay over time. Here we are, questioning, whether it was caused by people's view towards other religion, or the apathy of the nation to put its promise into actions.<sup>5</sup>

In response to critics regarding the implementation of those Law, as well as overcoming the obstacle concerning the violations on religious freedom, the government passes the Joint Decree on Houses of Worship, between Ministers of Religious Affairs and Ministers of Home Affairs (*Peraturan Bersama Menteri Agama dan Menteri dalam Negeri*) number 8 and 9 Year 2006 regarding the regulation of duties of regional head, and deputy in maintaining religious harmony, empowering the forum of religious harmony, and constructing places of worship. The decree encompasses a new regulation, as well as mechanism on dealing with interfaith conflict by establishing religious forum.

Accordingly, the regulation set forth a clear procedure regarding the establishment of a religious places of worship, as follows:

- (1) Religious building must fulfill administrative and technical requirements.
- (2) Besides the requirements listed on (1), the establishment of religious building should also fulfill the specific requirements such as :
  - (a) Name list and resident's id card who gave their concern on the buildup of the religious at least 90 (ninety) individuals, in accordance with the regional level as listed on Article 13 (3), and signed by local authorities

- (b) Local community support, at least 60 (sixty) individuals, signed by the regents in specific area
- (c) Written recommendation addressed to the local department of religion
- (d) Written recommendation addressed to local religious harmony forum
- (e) In the event where the requirements no. A is fulfilled, but the no. B were not fulfilled, the local government have the duty to facilitate the establishment of religious building

Although, the government asserted that the purpose of this decree was to reduce interfaith conflict, it also raise several concern. A few religious organization contends that the decree is unconstitutional, thus, increased the conflict. Aggressive religious organizations tend to apply pressure towards the decree, and became more militant in preventing the construction of house of worship, on the basis that it does not fulfill the requirements. In the case where the requirements are deemed sufficient, some of the groups still shows militancy on resisting the construction, by accusing that the other groups are falsifying the documents, data and signature.<sup>6</sup>

Two years after its issuance, in 2008, report shows that there are 21 cases regarding freedom of religion, which 12 of them are about the rejection from the local communities on the establishment of houses of worship.<sup>7</sup> Other researchers also found that up until the year 2014, more than 375 conflicts relating to the same issue occurred, with 307 of them are disturbance against house of worship, and 68 of them are violations against the establishment of religious buildings.<sup>8</sup> This shows that eventually, no significant changes are being made by the regulation. Notwithstanding the fact that the government has made regulation concerning the issue, sociological supports and participation from the local residents are crucial. In view of the foregoing, many believed that the decree causes more harm than good, where others is of the opinion that it is better than nothing at all.

Pursuant to the *Human Right Watch* report, the regulation are used by several community to prevent other religious groups from establishing their house of worship.<sup>9</sup> Apparently, this leads

to an issue when minorities living in the area of majorities where the minorities are required to have the permission from local residents. Based on the grounds of Article 2(a), the applicant should have at least 90 names of local resident who gave their consent on the construction of house of worship. Similarly, that is what happened with Hindu communities in Bekasi Regency recently, and numerous other cases, such as the Al-Munawwar Mosque in Tapanuli, North Sumatera, and one of the viral cases, the rejection of GKI Church at Jagakarsa, South Jakarta. The rejection by local resident often comes with an aggression. Referring to the protest held by resident of Bekasi towards the construction of Hindu temple, two of the banners stated “We, the people of Sukahurip Village, strongly reject the construction of a temple in this village”, another stated that they are ready to carry on Jihad if the construction still continues. A research conducted by Asroni (2012) has drawn the realization of the Joint Regulation (PBR) that is sometimes full of discrimination that can easily used by radical or militant group to prevent other religious groups from establishing their religious building.<sup>10</sup> Furthermore, research conducted by Pangestu (2013) presents that the Article 14 from the Joint Regulation (PBM) is deemed ineffective, relating to misunderstanding that occurs not only on the people and the regional government, and also the inconsistency showed by the government, and lastly, no sanction were given to those who violates the regulation.<sup>11</sup>

There’s an *adagium* that says *Het Recht Hink Achter De Feiten Aan*, meaning, Law always walk slower than facts. There will always be critics and appreciation towards every regulation made by the government. More often than not, people will keep questioning the state’s commitment to fulfil the rights of the citizen on the freedom of religion. Consequently, as a citizen in very diverse nation, we have to preserve tolerance among us. The government, however, should empower the religious harmony forum, (*Forum Kerukunan Umat Beragama-FKUB*). as the forum declare quite a progress on maintaining the peace and harmony between religious groups, and it appeared to have limit the

militant communities. Moreover, the State must stand firm in defending and protecting the rights of the people. If not, whose right are defended by the state then? The state must manifest the goals as set on the Constitution by giving protection and equal treatment to the people, regardless of majorities and minorities. The people, as well, need to cooperate, upholding tolerance in the midst of diversities, and also intensifying dialogues between religious groups. To that end, tolerance in religion can be achieved.

---

<sup>1</sup> Halili. *Politik Harapan Minim Pembuktian, Laporan Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia*. Jakarta: Pustaka Masyarakat Setara, 2016. Page 47-48.

<sup>2</sup> Ali-Fauzi, Ihsan, dan kawan-kawan. (2011). *Kontroversi Gereja di Jakarta*. Yogyakarta: CRCS Universitas Gajah Mada

<sup>3</sup> Misrawi, Zuhairi. (2010). *Al-Qur'an Kitab Toleransi, Tafsir Tematik Islam Rahmatan lil'Alamin*, Jakarta: Pustaka Oasis;176)

<sup>4</sup> Fidiyan, Rini and Baidhowi. "Legal Development Based on Local Wisdom as the Basis of a Setting for Religious Life in Central Java." *Jurnal Dinamika Hukum* (2015): 278-279.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid, page 58.

<sup>7</sup> The Wahid Institute. (2014). *Laporan Tahunan Kebebasan Beragama/Berkeyakinan dan Intoleransi 2014, "Utang" Warisan Pemerintah Baru*. Jakarta: The Wahid Institute

<sup>8</sup> Halili & Naipospos, Bonar Tigor. (2015). *Dari Stagnasi Menjemput Harapan Baru: Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2014*. Jakarta: Pustaka Masyarakat Setara; page 215.

<sup>9</sup> Human Rights Watch. (2013). *Atas Nama Agama: Pelanggaran terhadap Minoritas Agama di Indonesia*; page 50

<sup>10</sup> Asroni, Ahmad. (2012). Menyeigel "Rumah Tuhan": Menakar Kadar Kemaslahatan Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri No. 9/2006 dan No. 8/2006," dalam *Mereduksi Konflik Pendirian Rumah Ibadat di Indonesia*. *Jurnal Religi*, VIII(1); page 84.

<sup>11</sup> Pangestu, Okky Sandya. *Efektivitas Pasal 14 Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri Nomor 9 Tahun 2006/Nomor 8 Tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Kerukunan Umat Beragama, dan Pendirian Rumah Ibadat Terkait Pendirian Rumah Ibadat: Studi di Pemerintah Kota Bekasi*. Makalah tidak diterbitkan. Malang: Fakultas Hukum Universitas Brawijaya, 2013