

## **Renegotiating Indonesian Secularity: Socio-legal study of the Indonesian Blasphemy Law**

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If 'secularism' is merely the decline of the role of religion in public spheres or making religion a private matter, it would be difficult to apply the term 'secular' to Indonesian history. *Ketuhanan Yang Maha Esa*, the principle of the 'divine' in the Indonesian state ideology *Pancasila*, has been the basis for religionization and the rejection of references to secularism in Indonesian law, state institutions and other public spheres. At the same time, Indonesia has never aspired to become an Islamic state or adopt a theocratic state model. It adopted the Western notion of the rule of law and a democratic political system. Indonesia thus appears to present a paradoxical situation that conflicts with both the strict concept of an Islamic state and that of secularism. One might also suggest that Indonesia constitutes a unique combination of religion and modernity, reflecting the country's history.

The role of the Muslim majority in Indonesia is key to understanding Indonesian secularity in terms of both political and cultural power in the course of the development of a national ideology and constitution as the basis for liberating the Indonesian archipelago (*Nusantara*) after three centuries of Dutch colonialism. Although Islam is the dominant religion, there is considerable internal plurality along social, cultural and ideological lines. To some extent, this plurality has resulted in discord over religious and political issues. This discord can be seen in the division of the Masyumi Party in 1950s.

The Masyumi Party combined four prominent Islamic organizations (Nahdlatul Ulama, Muhammadiyah, PUI, PUUI). It was established in 1945 in response to the minority position of the Muslim nationalists (20%) compared to the (secular) nationalists (80%) within the 'Investigating Body for the Preparation of Indonesian Independence'. The Masyumi Party was unsuccessful in establishing Islam as a state ideology over Sukarno's concept of *Pancasila* (a Buddhist term). In the general election of 1955, the Islamic parties gained about 39% of votes while the secular nationalists (PNI (*Indonesian National Party*) and PKI (*Indonesian Communist Party*)) gained 38% of votes. The political significance of Islam reached a low point during the Soeharto administration (1968-1998) despite Islamic groups supporting Soeharto's presidency and helping to subdue Communism in 1965. In the transition period after 1998, Islamic parties continued to be subordinate to the nationalist (secular) party. All this raises a number of questions: Was the fact that the majority of the Indonesian population was Muslim of any significance given that Islamic groups lacked political superiority? Did this weak position influence how Muslim groups approached religious minorities and blasphemy cases? What are the guiding ideas behind how Muslims in Indonesia view secularity?

The blasphemy law, established through Presidential Decree No.1/PNPS/1965, is the application of article 29 of the 1945 Constitution. Echoing the state ideology *Pancasila*, article 29 states that "the state shall be based on the divine" (*Ketuhanan Yang Maha Esa*) and "the state shall guarantee the freedom of its people to embrace their respective religions and to worship according to their respective religions and beliefs". In practice, the blasphemy

law has been used to prevent behavior that misuses and insults recognized religions in Indonesia. The state prosecutor, the Ministry of Religious Affairs, and the Ministry of Home Affairs serve a supervisory function with the power to dissolve religious groups that persist in not complying with the law.

While article 156a of the Indonesian Criminal Code also serves a preventive function, this article of criminal law can be applied separately to the supervisory mechanism outlined in Blasphemy Law No.1/PNPS/1965. A key problem with article 156a is the lack of clear criteria to define words or behaviors that count as ‘hostility’, ‘misuse’, or ‘insult’. This allows recognized religions in Indonesia to determine the boundaries of what should be considered deviant and what should be considered a valid interpretation of religion. When it comes to deciding blasphemy cases, there is a kind of formal and informal power-sharing between the state and recognized religions under the administrative and criminal justice systems. According to the Elucidation<sup>1</sup> to the Blasphemy Law, the intention of the law is to protect recognized religions in Indonesia from any hatred, misuse, or insult from members of mystical belief organizations (*Aliran Kepercayaan*). The precedent for applying article 156a independently of the blasphemy law has resulted in a shift in how religious groups apply the law. The blasphemy law’s initial purpose was to protect the authenticity of recognized religions and shield members of recognized religions from proselytization by members of mystical groups and communists. Religious groups have exploited article 156a to their own political ends. There have been numerous cases where the article has been applied independently of the supervisory mechanism mentioned above. One such case is that of Ahok, the Chinese Christian governor of Jakarta. Another is the case of Tajul Mulik (Shi’a minority) on Madura Island. This case underlines how cultural and economic sentiment, as well as local political rivalry, can be exploited when applying the blasphemy law. The more progressive interpretation of the blasphemy law, provided by Indonesia’s Constitutional Court following its judicial review in 2009, has not resulted in significant change in the application of the law.

The liberal rights movement has also shaped public debate on the blasphemy law with legal and political demands from the international community and Indonesian activists in light of Indonesia’s involvement in the United Nations human rights system, which calls for state neutrality and more space for the right to freedom of religion or belief. There have been diverse public debates on the blasphemy law with many different interest groups involved. This has resulted in some agreement on how religion should be considered in social, political, economic and cultural contexts.

In my research, I intend to explore the diverse perspectives on Indonesian secularity by looking at how the blasphemy law developed and was interpreted over the course of modern Indonesian history. Indonesian secularity was first negotiated as the country moved towards independence in 1945. It has subsequently been renegotiated multiply in light of developments in politics, business, law and culture. The blasphemy law will be used to interpret how various actors in Indonesian history have constructed their concept of state and religion and how these two notions overlap. On the basis of extensive reading and analysis, I will outline any evidence of a unique Indonesian secularization, which may support the notion of multiple secularities.

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<sup>1</sup> An ‘Elucidation’ is a guide to the interpretation of a law that may be issued by the legislature at the time the law is passed.