

Worship Restrictions In Democratic States: Religious Freedom VS Religious Harmony in Indonesian Reform Era¹

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Abstract

Although democracy and human rights are inseparable, the practices of human rights' promotion and protection in some democratic states, like in Indonesia, perform a reality that is far from ideal. The international community and national authorities have a comprehensive and legal basis for the promotion and protection of human rights, including the religious freedom. Nonetheless, as reported by the international organizations and non governmental organizations, the implementation remains problematic. Apparently, there is a gap between the international treaties, the policy made by central government and the implementation by local governments. To understand this gap and how to find solutions, this article deeply elaborates the violation of religious freedom in Indonesia by looking at the cases of worship restriction that significantly increased after the political transition in 1998, especially those addressed to Christian groups. By utilizing the concept of human rights protection this study analyzes the different perspective between the international communities and the Indonesian government with regards to the issue of worship restrictions. While the former focusses on the issue of religious freedom, the later uses the approach of religious harmony.

Keywords: worship restriction, religious freedom, religious harmony, democratic states.

Introduction

Religious intolerance and worship restriction, which happened in the current Indonesia, perform a reality that a democratic state has yet to experience religious freedom. The Indonesian government that underwent a change of political system from authoritarian to democracy in late 1990s seems likely to encounter difficulties in facilitating a range of individual's rights, including the religious freedom and right to worship practices. Based on Annual Report of Religious Intolerance and Church Restrictions from Christian Forum of Jakarta 1945-2014, in thirty-two years of authoritarian New Order era under Soeharto about four hundred and fifty churches had been destroyed, closed and banned by the government. This number drastically increased in Indonesian Reform Era as nearly six hundred and fifty churches and other Christian institutions have been destroyed, closed and banned from 1998 to 2015. (Wahid Institute Reports, 2009-2016, Setara Intitute Reports, 2007-2011, PGI Reports 2004-2011, Forum Komunikasi Kristiani Jakarta Report

¹ This article is adopted from the author's dissertation that is submitted to University Sains Malaysia, Penang in 2017.

1945-2015) This is not to mention the twenty-four incidents of bombing explosion by terrorist group against churches in some areas of Indonesia on Christmas Eve in 2000, (Gunawan, 2006) and socio-religious conflicts that occurred in Poso and Ambon, in which almost two hundred churches and twenty-eight mosques had been attacked between 1998 and 2002. (Kampschulte, 2001; Damanik, 2003; Pieris, 2004, Lay 2009)

The implementation of religious freedom in Indonesia becomes complicated when it involves the issue of majority and minority groups. The alleged favorable policies from government to support majority in order to get their votes in return exaggerates the problematic situation. Local government in Bekasi and Bogor, for example, are objected with a number of Christian churches conducting their religious activities after some Islamic movements and/or local residents openly performed their rejection against some churches and other Christian institutions. Even in some cases, although central government through the Supreme Court has allowed the practice of church activities, the local governments refused to comply. The cases are relevant to HKBP (Batak Christian Protestant Church) Filadelfia in Bekasi and GKI (Indonesia Christian Church) Yasmin in Bogor. (Human Rights Watch World Report, 2015)

The relationship between Muslims and Christians as well as worship restrictions in Indonesia, particularly those applied to Christians and their worship places in Bandung, Bekasi and Bogor, have also drawn international attention. As reported by Human Rights Watch Group (HRWG) published in 2015, Indonesian government has failed to protect the religious freedom of the congregation of GKI Yasmin, Bogor and HKBP Filadelfia, Bekasi as they continue to worship in private houses and lately in front of *Istana Merdeka* (Merdeka Palace) Jakarta. The congregations worship at this place as the local governments refused to obey the Supreme Court's decisions ordering them to issue worship permits to the congregations.

By looking at these facts, this article will mainly discuss the discord between religious freedom and religious harmony in Indonesia. To explain the detail, this article will be divided into five parts, starting from describing the religious life and worship restriction in current Indonesia and then followed by explaining the national legal framework of religious freedom and religious harmony. To understand about the role of Indonesian government, this article will elaborate the role of central and local government, which in turn creates more problems in religious affairs. Eventually, this article will discuss the different perspective of worship restriction between the international communities and Indonesian government and then concluded with a recommendation.

Using the qualitative methodology, particularly the case study approach, this article tries to comprehensively describe the cases of worship restriction in Indonesia as well as to discuss the realization of religious freedom from legal perspective and decentralization practices. To gain a comprehensive primary and secondary data, the author conducted interviews with the officers from Indonesian Ministry of Religious Affairs and collected various literatures such as reports, documents, regulations and international conventions. In addition, using the indicators of democracy and democratic government, this paper elaborates the 2006 Joint Ministerial Decree to explain the role of central and regional governments in dealing with religious freedom.

Religious Life and Worship Restrictions in Indonesia

Indonesia is a multi-cultural and multi-religion state. By now, according to President Decree No. 6/2000, the Indonesian government recognizes six (6) religions namely Islam, Catholic, Protestant, Buddhism, Hinduism and Confucianism. The 1945 Indonesian Constitution has also confirmed that the state has responsibility to guarantee the freedom of the citizen to embrace these recognized religions and to practice their faiths according to their religion and belief. (Art. 29) Such diversities, on one hand can build an inter-religious and tolerance communities covered with nationalism and the practice of local wisdom. Many inter-faith groups supported by local governments utilize their local wisdom to promote religious harmony such as those happened in society of Javanese and Ambonese. The common feeling as part of the community of Javanese ethnic group and a strong tie of friendship based on common culture also known as "*pela*" in Ambon regardless of their religions has put a strong basis for inter-faiths community. (Judohusodo, 2005)

On the other hand, as confirmed by Choirul Fuad (2013), there are also potential religious conflicts particularly between Indonesian Muslims and Christians during the transition of Reform Era in some regions. This situation mainly came from mutual distrust and historical tension between Muslim and Christian communities. Muslims are suspicious of the Christianization program coming from the massive establishment of Christians' worship places while the Christian communities dislike the implementation of the enactment of Islamic law in some regions and the rise of radical Islamic groups. (Effendy, 2003; Damayanti, 2017) Local government and religious leaders in some regions, such as in Maluku, North Sumatera and Central Java can manage the tension well and avoid further conflict. Yet, in West Java, particularly in cities and districts in Bandung, Bekasi and Bogor, such tension develops into religious intolerance and worship restrictions.

In general, the majority of Indonesian people remain believe that religious tolerance is vital, as it serves as a prerequisite for peace and harmony in multi-ethnic society. The youth from across religious followers never take into account their religious background to build their friendship and cooperation. According to survey by Saiful Mujani, more than ninety percent (91.7%) Muslims are happy living with their non-Muslim neighbors and less than nine percent of Muslims are not. For this reason, many international and political leaders such as Barrack Obama, Hillary Clinton and Ban Ki Moon gave credits to Indonesia's religious tolerance. (Landler, 2009; Teresia, 2014, Ki Moon, 2014)

Nonetheless, if the degree of tolerance is measured by the acceptance of a non-Muslim to become president or local leaders such as to become governor, and the Christian service held in their neighborhood as well as the construction of church building in their neighborhood, the level of tolerance of Indonesian Muslims is considered as low. More than sixty percent (62.4%) Muslims do not want their president from non-Muslim, more than fifty percent (55.3%) Muslims are not happy with the Christian services held in their neighborhood and fifty one point six percent (51.6%) surveyed Muslim will not allow the building of church in their surroundings. (Burhanudin, 2007)

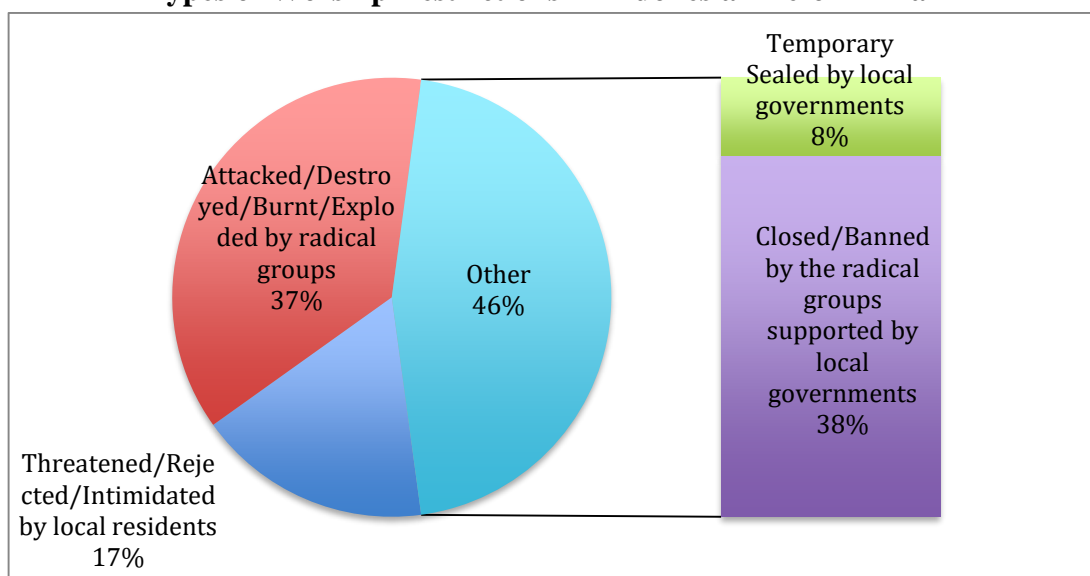
Similarly, another survey conducted by Pusat Pengkajian Islam dan Masyarakat (PPIM) in 2016 in Aceh Besar, Pidie, Garut, Tasikmalaya, Ciamis, Solo, Mataram, Lombok Timur, Makasar, Maros and Bulukumba, showed that eighty seven percent (87%) of respondents disagree if a non-Muslim becomes a principal in public schools, eighty nine percent (89%) disagree if a non-Muslim becomes a head of local government and eighty one percent (81%) disagree to approve the establishment of worship places of other religions in their neighborhood. (PPIM, 2016)

A report from National Commission of Human Rights in 2015 (Komnas HAM, 2015) recorded that in 2015 the abuse against the right of religious freedom and faith practices took the forms of banning, blocking, destroying worship places and stopping religious activities not only targeted to the Christian communities but also to other minority groups such as Ahmadiyah and Shi'ite. This fact proved that even until 2015, the rights to practice religious belief and faith in Indonesia has yet guaranteed regardless of constitutional mandate. Data collected from Persekutuan Gereja-gereja di Indonesia (PGI) or the Council of Churches in Indonesia, Forum Komunikasi Kristiani Jakarta (FKKJ) and Wahid Institute also disclose that during Indonesian Reform Era, from June 1998 to December 2015, worship restrictions across areas in Indonesia have been experienced by at least six hundred forty-three churches from various denominations. These numbers excluded the

worship places destroyed in Poso, Palu and Maluku during socio-religious conflicts from late 1990's to mid 2000 in which more than one hundred ninety churches and twenty-eight mosques were destroyed (Kampschulte, 2001; FKKJ 1998-2004).

Worship restrictions towards Christian's churches in this study is categorized into four activities with detail as follows: (1) churches that were threatened, intimidated or rejected by local residents and neighborhoods with various reasons but mostly were due to no worship permit and misuse of buildings (= 111 churches), (2) churches that were attacked, destroyed, burnt and exploded by radical groups or radical mass (= 238 churches), (3) churches that were temporarily sealed by local leaders to avoid further attacks from society or militant groups (= 53 churches) and (4) churches that were closed and banned from their worship activities by local people and radical groups, which were also backed by the local leaders and/or local government through their policies and/or actions (= 241 churches).

Figure 1
Types of Worship Restrictions in Indonesian Reform Era



Interestingly, in some region, most of the restrictions come from the regional government itself. In Bandung for example, 67% of church restrictions perpetrated by local government, while the rest are conducted by local residents and militant groups such as Islamic Defender Front (FPI), *Aliansi Gerakan Anti Permurtadan* (AGAP/Alliance of Anti Apostate Agencies) and *Gerakan Reformis Islam* (GARIS). The worship restriction by local government takes the forms of: (1) reluctant to give permit for the construction of worship places, (2) giving instruction to close or ban churches with or without support from local residents and hardline groups, and (3) letting the violence and religious

intolerance conducted by local residents and militant groups without facilitating the congregations to conduct their worship services. (Damayanti, 2017)

National Legal Framework Problem: Religious Freedom vs Religious Harmony

Aside from its pluralistic and religious character, since 1998 Indonesia has transformed into a democratic state with more concern on the promotion of human rights and decentralization system. The foundation of this transformation was formulated in the Law No 39/1999 regarding the Human Rights and Law No. 22/1999 regarding Regional Autonomy. While the former focus on the embodiment of Universal Declaration of Human Rights and other international instruments on human rights ratified by Indonesian government, the later focus on the greater role of regional governments in government affairs. This part will initially explain about the legal framework of religious freedom and the following part will elaborates the delegation of authority from central to local government with regards to religious affairs.

The National Constitution or UUD 1945 clearly addresses the ideological standing of the Indonesian government to promote human rights. Article 27 to 29 of this constitution stipulates the obligation of the state to fulfill the components of human rights such as the right to have equal position before law, right to have a feasible job, freedom of expression, speech and union, right to education and the freedom of belief and right to conduct its practices. The mandate is then regulated in detail in the Law Number 39/1999 on the Human Rights and Law No 12/2005 on the Ratification of International Convention of Civil and Political Rights (ICCPR). In the consideration part, the law recognizes that human rights serve as God's blessing to ensure human existence, dignity and harmony with the environment. The rights are naturally attached to human and are subject to respects, protection and must not be derogated, wrestled and ignored.

To seriously apply and monitor the implementation of this mandate, particularly the religious freedom, the Indonesian government established Ministry of Religious Affairs as part of its public services, which officially admits six religions, namely: Islam, Roman Catholics, Protestant, Buddhism, Hinduism and Confucianism. Other beliefs not officially admitted by the Ministry of Religious Affairs may register as social organizations in the Ministry of Culture. It is worthy to note that the visions of the Ministry of Religious Affairs are achieving harmonious, pious, smart, and self-reliant religious life, in which the ministry put efforts to improve the quality of religious life as well as the harmony of religious followers. (The Decree of Minister of Religious Affairs No. 2/2010)

The development of religious harmony and religious tolerance continues in the Jokowi Administration. The administration categorizes the principle of tolerance along with mutual help (*gotong-royong*) and secure feeling of the people as a new target of national development in *Indeks Pembangunan Masyarakat* (IPMAS) or People Development Index as indicated in the Government Work Plan 2015-2019. The principle of tolerance here refers to the level of people's tolerance in accepting other's religious activities in neighboring areas. Its policy direction has prioritized the management and function of worship places, improved the harmony of religious followers by: (1) conducting interfaith dialog in the regional and village levels, (2) strengthening the function of Forum of Inter-religions Harmony (FKUB) in the provincial, regional and city levels, and (3) facilitating the villages which are aware of religious harmony. (Bappenas, 2016)

Interestingly, in order to promote religious harmony, the Indonesian government has also enforced some policies addressing the limitation and restrictions, which somehow reduce religious freedom, as mentioned in the 2006 Joint Decree between the Minister of Religious Affairs and Minister of Internal Affairs regarding the Establishment of Worship Places. Such restriction is actually in line with the principle of the International Covenant on Civil and Political Rights (ICCPR) and ratified by the Law No. 12/2005, stating that *"Freedom to practice religion and belief may be of limitation by law which is necessary to promote security, order, health and morality or protect the rights and fundamental freedom of others."* (Article 18, Verse 3) This is in addition to the Article 28 J of the 1945 Constitution, *"In conducting his/her rights and freedom, everybody subjects to limitations stipulated by the Law in order to guarantee and to respect others' rights and freedom in fulfilling the demand of fairness according to moral considerations, religious values, security and public order in the democratic societies."* (Art. 28, verse 2)

It is clear that the current Indonesian government, on one hand respects and promotes the freedom of religion as well as its worship practices for the sake of democratic principals. On the other hand, they apply certain restrictions both for the majority and minority groups for several reasons, but mainly to avoid violent and religious harassment conducted towards minorities or allegedly deviant religious groups. This is in addition to religious harmony and public order reasons, which becomes indicators for prevailing government as recorded in Government Work Plan for Medium Term (2015-2019). To discuss about the worship restriction, we also need to understand the role of government as the spirit of decentralization after Reform Era distinguishes the role of central and regional governments in Indonesia. The following part will further elaborate about the issue.

The Ambiguity Between the Role of Central and Local Governments

Despite the transfer of authorities from central to local governments in the decentralization system of Indonesian Reform Era, religious affairs remained in the domain of the central government. The Law No. 32/2004, regarding the Local Governments, clearly stipulates that the central government has the authority to regulate religious affairs along with other five government affairs.

“Urusan pemerintahan yang menjadi urusan Pemerintah sebagaimana di maksud pada ayat (1) meliputi: politik luar negeri, pertahanan, keamanan, yustisi, monete dan fiskal nasional dan agama.” (Chapter III, Article 10 (3), Law No. 32 /2004)

(“Government affairs, which become the responsibility of central government, as stipulated in verse 1 are: foreign affairs, defense, security, law, national monetary and fiscal, and religion.”)

The role of local government in managing religious affairs, though, has its legal foundation in the verse 4 of the Law, which says:

“Dalam menyelenggarakan urusan pemerintahan sebagaimana dimaksud pada ayat (3), Pemerintah menyelenggarakan sendiri atau dapat melimpahkan sebagian urusan pemerintahan kepada perangkat Pemerintah atau wakil Pemerintah di daerah atau dapat menugaskan kepada pemerintahan daerah dan/atau pemerintahan desa.” (Chapter III, Article 10 (4), Law No. 32/2004)

(“In implementing government affairs as stipulated in verse 3, central government can carry out the affairs itself, delegate parts of the affairs to government apparatus or representative of the central government in the local areas or assign to local government and/or village government.”)

The role of provincial and regional government in the context of religious affairs is in line with its general role, as stipulated in Law No. 32/2004 Chapter IV, Article 27 (c) stating that the head of local government and its vice has the obligation to maintain security and order of the people.

However, the reform era has triggered a significant impact on the disharmony of regulations which causes more problems in obtaining permits to establish worship places particularly for Christian churches and indicates failures of the government in protecting the minority groups while practicing their worship services. With the spirit of decentralization, in 2006 President Yudhoyono instructed the Minister of Religious Affairs, Maftuh Basyuni and Minister of Internal Affairs, Moh. Ma’ruf to lead a team to amend Joint Decree 1969 regarding The Establishment of Worship Places with Joint Ministerial Decree 2006. The decree was also known as *Peraturan Bersama Menteri*

(PBM) No 8 & 9, titled “Guide for Head of Regional Leaders in Implementing Their Function in Maintaining Religious Harmony, Empowering the Forum of Religious Harmony and the Establishment of Worship Places.”

Similar to the former decree, the 2006 joint decree or PBM/2006 gives mandate to the regional leaders to issue permits on the establishment of worship places and to ensure the order and the smoothness of the religious and belief practices. On top of that, the consideration part of this joint ministerial decree also stipulates the function of the regional government to provide guidance, serve the people and promote harmony, order, and conducive situation for religious followers in practising their worship services. By this decree, the current role of regional leaders is modified and enlarged, as described in detail in Article 4, Verses 1 and 2 of PBM No. 8 and 9/2006. It is mentioned that the maintainance of the harmony of religious followers in provincial and regional areas becomes the obligation of the regent or mayor. (Verse 1) In conducting such functions, regent or mayor is assisted by Regional Office of Ministry of Religious Affairs (Verse 2) as the deconcentration representative of the Ministry of Religious Affairs in the provincial and regional level.

A greater role of the regional government as stipulated in PBM/2006, to some extents, provokes many critiques on its implementation. There are at least four critical issues appear due to the implementation of PBM/2006. *First*, PBM/2006 puts an uneven consideration on the role of the head of local government in promoting the Human Rights, particularly the religious and worship freedom. As an inseparable part of religious and worship freedom, the principle of the establishment of worship places is seen more from the perspective of order and security, not from the perspective of promoting religious freedom as one of the fundamental human rights. Many rejections from local people against churches in their areas have pushed accordingly the local government either to ban the construction or to stop the activities of those churches. From this point of view, the regional government has seemingly ignored the fundamental freedom of religion adherents to conduct worship activities, for which they need worship places.

Secondly, PBM No. 8 and 9/2006 is more complicated than SKB No 01/BER/mdn-mag/1969 and in some ways are believed to limit religious freedom more than promote or protect it. It requires the proposal from ninety (90) users and consent from sixty (60) members of community surrounding the location (Article 14) while SKB No. 01/BER/mdn-mag/1969 simply requires permit from the head of local government with advices from local head of ministry of religious affairs, organization and religious leader,

without requiring proposal from at least ninety users nor sixty people of surrounding community. Yet, according to an officer from Ministry of Religious Affairs, Zainudin Daulay, the requirement to gain 90 signatures of its adult member is to prove that the worship place is really used by the congregations and 60 signatures of its neighbor is to confirm the community's consent for the establishment of the worship place.

Thirdly, PBM No. 8 and 9/2006, which initially aimed at reducing discrimination, in its implementation creates otherwise. Formerly the establishment of worship places needed no special permit. It required only a regular permit like the one in establishment of regular building without sixty consent signatures of people living in its surroundings. The role of the government was simply to check the feasibility, the ownership and the security of the building. Yet, the enactment of PBM/2006 inspires the local people whether to agree or disagree with the establishment of the church and in turn provokes protests as well as rejection to church buildings.

Regarding this, Human Right Watch (HRW) confirms that SKB/1969 and PBM/2006 created "unnecessary restriction" for building worship places. (HRW, 2013, p. 32) The two decrees have discriminated Christian community living in Muslim majority areas as well as minority Muslims who live in majority Christian mainly in the eastern part of Indonesia. The regulation on the establishment of worship places somehow reflects the hegemony of the majority population over the minority and contradicts with a constitutional mandate of the religious freedom (HRW, 2013, p. 50) The substantial contents of the PBM No. 8 & 9/2006 pertain to the requirements to obtain ninety proposals and sixty agreements from the people against the idea of religious freedom. Instead of using city plans considerations for example, the government uses people's consent to deliver permission on building the worship places.

Fourthly, the PBM/2006 fails to solve the problem of worship restrictions at the grass-roots level. Difficulties in obtaining the permit for the establishment of worship places resume and in the worst situation become the justification for violence and intimidation. In such situation, the regional government coupled with its security apparatus often failed to protect Christians and other minority believers in practicing their adherence and belief. The PBM/2006 also fails to provide a legal and security guarantee to the building of worship places used by minority groups. As noted by Center for Religious and Cross-cultural Studies (CRCS) in its annual report, the government and security officers remain hesitant to provide security and to protect the building of worship places, even with the

legal permit ones. (CRCS Annual Report, 2008, p. 3 and 17)

This happened for example in the case of Filadelfia Church in Bekasi where the regional government of Bekasi failed to protect the members of HKBP Filadelfia in exercising their right. The congregations of the Filadelfia Church received intimidation from the people who disagreed with the establishment of the church. Likewise, instead of dealing with the demonstrators, the security officers did nothing to them, but advised the Filadelfia committee and congregations to accept the situation. Consequently, under the pressure from the protesters, members of Filadelfia forcefully signed an agreement that they will worship in the location three times more before they stop worshiping in the location where they legally belongs to. (Wahid Institute, 2012)

Different Perspectives: International Communities Vs Indonesian Government

By now, Indonesia has ratified ten international instruments on the Human Rights. They are: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984, Convention of the Rights of the Child (CRC) in 1990, Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) in 1998, International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1999, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified in 2006. In 2011 Indonesia ratified the Convention of the Rights of Persons with Disabilities (CRPD) and after its second Universal Periodic Review on human rights in 2012, Indonesia has ratified International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICRCMW) coupled with two optional protocols to the Convention on the Rights of the Child (CRC).

The freedom of Religious is specifically addressed in the instruments of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). Now, as the Indonesian government has ratified those three conventions, United Nations Human Rights Council (UNHRC) and its member-states shall ensure whether the policies and actions conducted by the Indonesian government in tackling the religious freedom and intolerance issues are in accordance with the international norms.

UNHRC has praised Indonesian government for its efforts to promote dialog and consultation on the religious intolerance amongst national stakeholders involving government officials, religious leaders, NGO representatives, members of parliament, and inter-religious groups through the mechanism of Inter-Religious Harmony Forum or also known as *Forum Kerukunan Umat Beragama* (FKUB). (Report of the Working Group on the UPR of Indonesia, 2012; UNHRC National Report of Indonesia, 2017) Nevertheless, in implementing the spirit of the Declaration on The Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, some UNHRC member-states considered Indonesia as having bad records in protecting religious tolerance in general and worship restrictions in particular.

In the report of the Working Group on the Universal Periodic Review published by UN Human Rights Council No A/HRC/21/7 in 2012, at least eighteen delegates from Argentina, Austria, Australia, Canada, France, Italy, Japan, Netherlands, New Zealand, Norway, Republic of Korea, Switzerland, Sweden, Slovakia, Spain, Timor Leste, the United States and Ukraine raised their concerns over restrictions on religious freedom and incidences of religious intolerance in Indonesia. This is to mention violence against the member of the minority religious groups such as Ahmadiyah, Shi'ites, Hindus, and Christians in particular, and other human rights abuses in general.

Such evaluation was in line with that raised by Navanethem (Navy) Pillay, the UN High Commissioner of Human Rights, who strongly criticized violent attacks, forced resettlement, rejection of identification and other discriminative treatments to minority religious groups taking place in Indonesia. She confirms that Indonesia can lose its history of diversity and tolerance if firm action is not taken by the government to address increasing levels of violence and hatred towards religious minorities as well as the narrow and extremist-interpretations of Islam. (UN News Centre, 2012) Negative evaluation continued and not only state actors criticized the Indonesian government, but also some relevant non-government organizations (NGOs). In February 2017, the Christian Solidarity Worldwide (CSW) and Alliance Defending Freedom International (ADF) specifically appointed the 2006 Joint Decree of the Minister of Religious Affairs and the Minister of Home Affairs No. 8 and 9/2006 on the construction of places of worship as a concern. (A/HRC/WG.6/27/IDN/3, 2017, p. 6)

In response to the above critiques and protests, the Indonesian government asserts its commitments to the protection and promotion of human rights through legislation and administrative actions. Through its report to UNHRC, the government confirms that its

current legal frameworks regarding religious freedom have fitted with those of the International standards. (A/HRC/WG.6/27/IDN/1, 2017) Further, the Indonesian laws as allowed by the international conventions authorize the state to impose restrictions on religious freedom for the sake of the right of the followers of other religions and public safety, order, health or morals. (ICCPR, Art. 18.3) Therefore, using the laws and regulations, the Indonesian government takes position and functions mainly as a regulator to avoid conflicts amongst religious communities.

As confirmed by Adlin Sitorus and Zainuddin Daulay (2016), cultural aspects and communal harmony are the main reason for Indonesian governments to impose restriction and regulation on the establishment of worship places. To explain this, Adlin Sitorus says:

“For example, in Bali, where Hindu communities are the majority. Hindu community objected to the construction of a mosque, as proposed by Muslim communities. They only allowed if the Muslim community built a *mushala* or small mosque. For the sake of religious harmony, Muslim communities chose to build *mushalas* although such *mushala* could not be used for Friday prayer for it is too small. Likewise, the Christians in Tolikara, Papua, refused the reconstruction of burnt mosques in 2016 and allowed only one *mushala* to be constructed, not in the same location, but inside the rayon military command area.” (Interview with Adlin Sitorus, Jakarta, 2016)

By the principle of “Bhinneka Tunggal Ika,” or Unity in Diversity, the Indonesian government prioritizes the religious harmony to avoid conflicts amongst religious communities. In other words, the Indonesian government places the communal rights above the individual rights. It not necessarily means that the government ignores someone’s individual rights, but it is rather to put the communal rights in advance before fulfilling the individual rights.

As far as religious harmony and cultural aspect are concerned, the Indonesian government continuously develops a culture of mutual understanding, tolerance and respect, through Inter-Religious Harmony Forum as a platform of dialogues or interfaith dialogues, and hold seminars on freedom of religion in the context of Unity in Diversity at national level as well as international level in cooperation with partner countries. The Government has also approached religious leaders and held several trainings on human rights for them since 2015. Moreover, the Government encourages more provinces/cities in Indonesia to learn from Purwakarta as one of the internationally recognized most tolerant regencies in Indonesia. (A/HRC/WG.6/27/IDN/1, pg. 15-16) Through the Regent’s Circular No. 450/2621/Kesra published in 2015, Dedi Mulyadi, the Regent of Purwakarta, Central Java, guarantees the religious communities to commit their worship

services as long as it does not violate the public order. Essentially, public order becomes the prerequisite to uphold the religious freedom in Indonesia. Nonetheless, it needs political willingness from the central and local governments to clearly define the public order and maintain it so that religious freedom can be protected, promoted and respected by the government.

The last but not the least, the Indonesian government continues to review the laws, regulations and policies, which are not in line with the spirit of freedom of religion and culture of tolerance, including the PBM No. 8 & 9/2006. This is to mention the making of the draft of Undang-undang Perlindungan Umat Beragama (PUB) or the Law on the Protection of Religious Followers by the Ministry of the Religious Affairs, which reflects the government's commitment to the promotion of freedom of religion and religious groups. The making of the draft has been planned since 2015 and recorded in 2015-2019 National Legislation Program as well as the Law No. 17/2007 regarding the Plan of National Long-term Development in the year 2005-2025. By now the draft is still on progress.

Conclusion

In sum international communities criticize the Indonesian government with three issues: (1) the government commits religious violence acts to minority groups through worship restrictions which limited the freedom of religion and right to practice the religious faith and put severe restrictions against the construction of places of worship; (2) the government omits its responsibilities to respect, protect, and fulfill the freedom of religions by letting intolerance acts perpetrated by alleged hardline groups occurred without further firm actions of the laws infringement. This is in addition to the waiver of freedom of worship of the minorities and the construction of their worship places; (3) the government publishes the regulations to complicate the minorities groups to gain the letter of permit and therefore they are hardly to construct their worship places.

From the above explanation, we might say that worship restrictions materialized in the difficulties of gaining permit for the construction of worship places and the closing of a number of existing worship places in Indonesian Reform Era occurred mainly due to an excess of democratic government. In a conceptual framework, a democratic government shall promote, protect and respect human rights, including the freedom of religion and worship activities, coupled with a set of codes and policies to support the implementation

of its human-rights promotion and protection programs. In reality, the decentralization system of democratic government in Indonesia leads to the so-called worship restriction problems at the regional level, which is also backed by the regulation as the regional government has modified and widened authority in issuing the permit for the construction of worship places.

As a member of United Nations, Indonesia has the obligation to adjust its national law with international principles, however as an independent and sovereign state, it has also the right to adjust the international principle with its national culture and local wisdom. This is to mention the preference to religious harmony and communal rights coupled with public order, rather than the religious freedom *per se*. Nonetheless it is important for the Indonesian government to continuously develop a culture of mutual understanding, tolerance, and respect through education, seminars, and inter-faith dialogues as well as firmly take action through its legislations and administrative actions towards religious intolerance and worship restriction mainly perpetrated by hardline groups and regional government. Further the central government should establish a mechanism to control and monitor the implementation of government affairs that are delegated from central to regional government, mainly that related to human rights. Therefore, the draft of Law of the Protection of Religious Followers should be immediately resolved and carefully implemented in order to uphold the religious harmony and public order without ignoring the religious freedom and rights to worship, particularly in the regional and local level.

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