

LEGAL IMPLICATIONS OF JOINT REGULATION OF THE MINISTER OF RELIGIOUS AFFAIRS AND THE MINISTER OF HOME AFFAIRS No. 9 OF 2006 ON FREEDOM OF RELIGION IN THE PERSPEKTIVE OF ARTICLE 29 OF THE 1945 CONSTITUTION

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Abstract

Legal implications of Joint Regulation of the Minister of Religious Affairs and the Minister of Home Affairs No. 9 of 2006 on freedom of religion in the perspective of Article 29 of the 1945 Constitution. This regulation, which should guarantee freedom of religion, often becomes a tool of discrimination against religions such as Catholicism, Christianity, Hinduism, Buddhism, and Confucianism. This discrimination is exacerbated by the anarchic actions of radical groups and the absence of the government in enforcing the law, which results in unrest and arbitrariness by certain individuals. This journal highlights the importance of wise solutions to achieve harmony between religious communities and implement the mandate of the 1945 Constitution. By analyzing cases of discrimination and anarchic actions, it offers policy recommendations that can strengthen the protection of religious freedom and encourage the active role of the government in maintaining harmony between religious communities.

Keywords: religious freedom, religious harmony, role of government.

1. INTRODUCTION

Freedom of religion is one of the fundamental human rights and is widely recognized in various international and national legal instruments. In Indonesia, freedom of religion is guaranteed by Article 29 of the 1945 Constitution (UUD 1945), which emphasizes that the state is based on the One Almighty God and guarantees the freedom of each resident to embrace their respective religions and worship according to their religion and beliefs. This article emphasizes that divine values are the moral and ethical basis for state administration, while also guaranteeing religious freedom for all citizens without any coercion or discrimination.

Article 29 paragraph (1) of the 1945 Constitution states that "The State is based on the One Almighty God", which means that the state recognizes and upholds divine values as the basis of the state. This shows that religious values and beliefs play an important role in national and state life. The state recognizes the existence of God as the creator of the universe and makes divine values the moral and ethical basis for state administration. However, Indonesia also guarantees religious freedom for all citizens.

Article 29 paragraph (2) of the 1945 Constitution further guarantees the freedom of every citizen to embrace a religion and worship according to their respective beliefs. This means that every citizen is free to choose the religion and belief that they consider correct, and to practice their worship according to the teachings of that religion. The state is obliged to protect and respect this religious freedom, as well as prevent coercion or discrimination in practicing religious beliefs. Tolerance between religious communities is very important in this context, because religious diversity is part of the wealth of the Indonesian nation.

As an example of its application, Article 29 paragraph (1) can be seen from the government's policy of determining religious holidays as national holidays, the existence of religious educational institutions, and the existence of places of worship for various religions. Meanwhile, Article 29 paragraph (2) guarantees that every citizen is free to choose the religion they believe in, establish a place of worship, and carry out worship according to the teachings of their religion without any coercion.

However, in practice, religious freedom in Indonesia often faces challenges, especially when faced with regulations or policies that can limit this right. One relevant regulation is the Joint Regulation of the Minister of Religion and the Minister of Home Affairs No. 9 of 2006, which regulates the establishment of places of worship. This regulation is often a source of controversy because it is considered to be able to limit religious freedom, especially in terms of establishing places of worship for minority religious groups.

One of the main requirements is the support of at least 90 users from the local community and written approval from the village head or local official. In addition, there must be a written recommendation from the local Ministry of Religion office.

This provision is often considered to hamper religious freedom because the process is long and requires approval from various parties, which is sometimes difficult to obtain in areas with high religious diversity.

This paper aims to analyze the legal implications of Joint Regulation No. 9 of 2006 on religious freedom from the perspective of Article 29 of the 1945 Constitution. By understanding how this regulation is implemented and its impact on religious freedom, it is hoped that it can provide deeper insight into the relationship between law and religious freedom in Indonesia. This study will also explore how the principles of religious freedom can be effectively enforced within the framework of national law, and how the state can ensure that the policies implemented do not conflict with human rights guaranteed by the constitution.

2. METHOD

The approach is carried out by examining the situation and conditions and principles related to those discussed in this journal. Data Source The material is obtained from Secondary Data, namely from Library Research. Data Collection Technique The technique used in this study is the document study technique, namely data obtained from relevant literature. Analysis Technique All data that has been obtained will be analyzed Qualitatively or known as Qualitative Descriptive Analysis. Where all data collected will be analyzed systematically

3. RESULTS AND DISCUSSION

The Joint Ministerial Regulation (Perber) issued by the Minister of Religion and the Minister of Home Affairs aims to maintain religious harmony in Indonesia. This Perber regulates the establishment of houses of worship and aims to ensure that every religion can practice its worship peacefully and without disturbance. However, in practice, the implementation of the Perber often creates various obstacles that actually disrupt religious harmony.

1. Obstacles Caused by the Perber

a. Complicated Bureaucracy

One of the main obstacles to the implementation of the Perber is the complicated bureaucracy. The licensing process to establish a house of worship often requires approval from various parties, including the local government and the surrounding community. This process is not only time-consuming, but is also often marked by various administrative obstacles that hinder the establishment of a house of worship.

Discriminatory bureaucracy against religions is one of the main issues in the implementation of religious freedom in Indonesia. The complicated and often non-transparent

licensing process creates difficulties for the above religions in establishing houses of worship. For example, in some areas, the minimum number of congregations required to establish a house of worship is often unrealistic, thus hampering the right to worship for non-Muslims. Data from Human Rights Watch shows that more than 60% of applications to establish a house of worship by non-Muslim religions were rejected in the period 2015-2020 (Human Rights Watch, 2021).

b. Closure of Houses of Worship Based on Setara Institute Data

According to data from the Setara Institute, during the period 2018-2020, there were 90 cases of closure of houses of worship carried out by local governments on the grounds that they did not meet administrative requirements. These cases are spread across various regions in Indonesia, including Aceh and West Java. These closures are often carried out without constructive dialogue between the government, the community, and religious leaders, which should be an important part of the decision-making process.

c. Discrimination in the Licensing Process for Houses of Worship

In addition to the complicated bureaucracy, there are also reports that the licensing process for establishing houses of worship for Catholics, Christians, Hindus, Buddhists, and Confucians is often more complicated than for Muslims. This reflects systemic discrimination that hinders freedom of religion and worship. Many religious people feel oppressed and marginalized as a result of this policy. Research from the Indonesian Survey Institute (LSI) shows that 40% of respondents from the Catholic, Christian, Hindu, Buddhist, and Confucian religious groups admitted to feeling discriminated against in terms of freedom of worship (LSI, 2021). Therefore, reforms are needed in bureaucratic policies and procedures to be fairer and more transparent, and to consider the needs of all religious people.

2. Cases of Closure of Houses of Worship

a. Case Examples in Aceh and West Java

In Aceh, church closures often occur on the grounds that they do not have complete permits. For example, in 2019, a church in Aceh Singkil was closed by the local government on the grounds that it did not meet administrative requirements. In West Java, a similar case also occurred, where several churches were closed because they were considered not to have valid permits.

b. Social Impact of Closing Houses of Worship

The closure of these houses of worship not only impacts religious freedom, but also creates tension and division among the community. Dissatisfaction and distrust of the government increases, and relations between religious communities become tense. This should have been avoided with a more inclusive approach and constructive dialogue.

C. When radicals carry out anarchic actions, the wider community often sees an inadequate response from the security forces and the government.

In many cases, acts of violence against Catholics, Christians, Hindus, Buddhists, and Confucians are left alone, while repressive actions are taken against those who demand the rights to freedom of religion and worship according to their respective beliefs and the state is obliged to protect this right and ensure that there is no discrimination in religion according to the 1945 Constitution. For example, incidents of church burning in several areas, such as in North Sumatra, show that the government is not always present to protect the rights of religious communities that are threatened (Komnas HAM, 2021).

3. Analysis of Systemic Discrimination in Licensing of Houses of Worship

Systemic discrimination in licensing of houses of worship reflects the inequality in the treatment of various religions in Indonesia. Although Indonesia is known as a country with religious diversity, this discriminatory practice shows that there are still major challenges in realizing true religious freedom. There needs to be a comprehensive evaluation of existing policies and practices to ensure that all religions are treated fairly and equally.

This injustice is exacerbated by the discriminatory practices carried out by government officials. In some cases, local officials tend to be more supportive of the establishment of houses of worship for Islam, while ignoring the aspirations and needs of other religious communities. For example, in Central Java, there were reports of the local government rejecting the establishment of a church even though it had met all administrative requirements. This shows injustice in the treatment of people of different religions.

According to data from the National Counterterrorism Agency (BNPT), there has been an increase in the number of religious-based conflicts in Indonesia, with more than 30% of them being caused by dissatisfaction with government policies (BNPT, 2021).

A real example of this division can be seen in incidents in several areas where Muslims and Christians were involved in clashes due to the closure of places of worship. Dissatisfaction

with government decisions often leads to violent acts that harm both parties. The Perber, which should be a solution, has the potential to become a source of new problems.

4. Evaluation and Recommendations

a. The Importance of Constructive Dialogue

To overcome the obstacles caused by the Perber, it is important to prioritize constructive dialogue between the government, society, and religious leaders. This dialogue must be based on the principle of mutual respect and understanding, and aims to find solutions that benefit all parties.

b. Revise the Perber to Comply with Article 29 of the 1945 Constitution

The Perber needs to be evaluated and revised to comply with the spirit of Article 29 of the 1945 Constitution which guarantees freedom of religion. This revision must include simplifying the licensing process, eliminating systemic discrimination, and emphasizing the importance of dialogue and cooperation between religious communities.

The government should be present as a fair authority in inter-religious conflicts. However, in many cases, it appears to be more biased towards radical groups or individuals. This creates distrust among the community, which in turn worsens the situation. A survey by the Pew Research Center showed that 65% of respondents felt that the government did not adequately protect the rights of Catholics, Christians, Hindus, Buddhists, and Confucians (Pew Research Center, 2020).

5. Conclusion

The implementation of the Perber which aims to maintain religious harmony in Indonesia often faces obstacles such as complicated bureaucracy, the closure of houses of worship, and discrimination in licensing. A re-evaluation of the Perber is needed to prioritize an inclusive and dialogical approach, so that all religious communities can worship peacefully in accordance with Article 29 of the 1945 Constitution. The government must improve regulations to be fairer and more transparent, simplify the process of licensing houses of worship, and consider the local context and needs of diverse religious communities. Tolerance education must be the main focus in schools, introducing the values of tolerance and mutual respect from an early age to prevent religious conflict. Training for security forces and the government in handling religious issues sensitively is also very important. With these steps, it

is hoped that religious harmony can be better maintained.

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