

The relationship between Religion and State according to the Constitution of the Republic of Indonesia 1945

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Submission date: 21-Feb-2024 03:36PM (UTC+0700)

Submission ID: 2300453067

File name: 17._JURNAL_IJICC_ICOA_VOL.10,_NO.1,_2019_1_1.pdf (235.88K)

Word count: 4745

Character count: 24953



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The relationship between religion and state is an interesting topic to study because each nation has its own rules and principles in understanding and applying it. The existence of religion in Indonesia is guaranteed by its inclusion in the state ideology of 'Belief in the one and only God' in the first principle of Pancasila. Nevertheless, Indonesia is not a religious state with the understanding based on certain religions. Therefore, religious law must have a proper place to continue to grow and develop in society. The purpose of this study is to determine the relationship between religion and state according to the 1945 Constitution of the Republic of Indonesia. This type of research is normative legal research and uses secondary data. Based on the results it can be concluded that in Indonesia religious life is guaranteed by the state as stipulated in Article 29 of the 1945 Constitution. The relationship between religion and state is mutual, religion needs the state for the development of its religion and the state needs religion for moral national enhancement. As a consequence of the relationship between religion and the state, we should no longer define ourselves as a "non-religious state" and a "non-secular state" as occurred in the New Order era. The statement "non-religious state" has degraded the position of "State based Belief in the one and only God." While "non-secular state" is not strong or explicit enough or less explicit than "Belief in the one and only God" as the basis of the state. Therefore, in the future it is necessary to state that Indonesia is a religious country. A religious state is a country that places a Godhead as the foundation of the life of the nation and state.

Key words: Relationship, Religion, State, The 1945 Constitution of the Republic of Indonesia.



Introduction

In a nation we find religious vocabulary and what is meant by the word of the State which can be examined from any correlation of laws that apply in the country, and Muslims themselves have a philosophy of life, an ideology in the same way that Christians, fascists or communists have a philosophy of life and ideology. . What is the Muslim ideology and how is it understood? (Natsir, 2001).

¹ The relationship between religion and state in Indonesia has been clarified in several articles in the 1945 Constitution including Article 28E stating that: "Everyone is free to embrace religion and worship according to their religion ..." and Article 29 paragraph (1) which maintains that "the State is based on the Divine Almighty "and Article 29 paragraph (2): " the State guarantees the independence of each resident to embrace their respective religions and to worship according to their religion and beliefs. "Based on Article 29 of the 1945 Constitution and its interpretation, the government is obliged to regulate life religions in Indonesia. As the implementation of Article 29 paragraph (2) of the 1945 Constitution, the government issues Law No. 1 / PNPS / 1965 regarding the Prevention of Misuse and / or Blasphemy of Religion which is confirmed by Law No. 5 of 1969 concerning the Declaration of Various Presidential Decrees as Law. The form of government participation in religious matters recognises several religions in Indonesia. This recognition appears in the form of the issue of the Minister of Home Affairs Circular No. 477/74054/1978 which states that the following religions are recognised by the government: Islam, Christianity / Protestantism, Hinduism, Buddhism, and Khong Hu Cu. (Budiyono, 2014).

With so many rules governing religious life showing us the participation of the government in regulating religious life in Indonesia and the consequences of religious and state relations, it is no longer sufficient to define ourselves as a "non-religious state" and a "non- secular state" as during the New Order, as the statement "non- religious state" has degraded the position of "the State based on the Almighty God." At the same time, "non-secular state" is less explicit to position "the Almighty God" as the basis of the state. For this reason, in the future we need to state that Indonesia is a religious country. A religious state is a country that places a Godhead as the foundation in the life of the nation and state. Discourse about the pattern of relations between the state and religion actually takes place in a long historical reality, and has become a serious subject from the middle ages to the present. In the Islamic political-state treasury (Fiqh Al-Siyasah) there are at least 3 paradigms about the relationship between religion and state. (Din, 2000).

First, the view between religion (Islam) and the state is one (*integrated*) and cannot be separated, the state is a political and religious institution as well. The state government is held



on the basis of "*Divine Sovereignty*" because indeed sovereignty originates and is in the hands of God. Islamic leaders who embrace this include Hasan Al-Banna, Sayyid Qutb, and Abu A'la Al-Maududi.

Second, viewing religion and the state in a symbiotic-interdependent way that is interrelated and influential. In this case religion requires the state because state religion can develop through it. Conversely the state needs religion, because an ethical and moral framework can develop within state religion. Muslim intellectuals in this group include Mohammad Husein Haikal, Al-Mawardi, Fazlur Rahman, and Qamaruddin Khan.

Third, it is secular. This paradigm rejects interdependent, integrated and symbiotic relationships. In other words, there is no relationship at all between religion and state and no determination of Islam into a particular form of country. One of the initiators of this paradigm is Ali Abd. Al-Raziq then followed by Thana Husein.

Of the three paradigms mentioned above, the author maintains that there are differences in perspective or methodology in understanding the reality in finding relationships between Religion and the State so that it affects state administration in Indonesia (Muntaha, 1988).

Research Methods

This research uses the normative legal research method by means of a literature study. The data used include secondary data which consists of the 1945 Constitution of the Republic of Indonesia, journals, books and related legislation.

Data analysis was carried out in a qualitative descriptive manner. The analysis phase starts from data collection, this data is then presented by selecting, systematically classifying and juridically finding out the specific picture related to the problem in the research. Subsequently, the writer interprets and compares theories and concepts from secondary data consisting of scientific books, journals, and related legislation as well as the opinions of legal experts.

Discussion

In the 1945 Constitution, the relationship between religion and the State is not separated and this can be seen in the first precepts of the Pancasila and Chapter XI of the 1945 Constitution which embraces religion. The relationship between state and religion as described above often becomes "complicated". Religion is frequently used for conflict with the government or the government is often used as a force to suppress religion. Political discourse and state administration as well as interrelated religions are still debated and studied both in the (state)



West and in the (state) East. In order for the relationship between religion and state to remain harmonious amidst the dynamics of political, economic and cultural life, we need to have continuous discussion, so that we come to an understanding that religion and state are like two sides of the same coin, in that the two are different but inseparable because they need one another (Lukman, 2009).

The tension between religion and state occurs when between the two there is no symbiotic-mutualistic relationship and *checks and balances* between the two. In such a relationship, for example, when the state does not provide freedom to its citizens to worship according to their respective religions, or vice versa religion considers the state to be closed to religious values so that the state order runs contrary to religious values. In such a situation, open opportunities for religion tend to try to influence state instruments without regard to the principles of democracy or the state to repress its citizens excluding religious teachings relating to justice and equality before God.

That occurs in many countries in the world when the state is unable to accommodate religious values in a religion. James M. Lutz and Brenda J. Lutz raised religious-related tensions in a book called "Global Terrorism." It explores the way all religious values, from Judaism, Christianity to Islam, can be distorted into a terrorist force that destroys the state order. [6]. The conflict has been ongoing for thousands of years, a good example is the case of the Jewish community in Judea Province during the Roman Empire which occurred in 66 to 71 BC. The community tried to rebel against the Roman kingdom based on religion. Conflict in India was driven by the Sikh religious community in 1970 in India, Aum Shinrikyo in Japan, Islam in Algeria (1950-1960s), and many other religions around the world. Tensions between countries can be caused by religion and become a crisis that is difficult to stop as what occurred between Palestine and Israel (James and Brenda, 2004).

The vast Indonesian state is inhabited by a pluralistic people, consisting of various ethnic groups, customs and regional languages. Several religions are included reflecting Indonesia's diversity, but under the 1945 constitution only one was listed as Pancasila. The highly pluralistic Indonesian nation politically, formed and fostered a unity of life based on the 1945 Constitution. The political text of the 1945 Constitution was the result of a compromise of different views about the basis of the Indonesian State. With a broad view and profound understanding, Indonesian Muslims accepted the 1945 Constitution, especially the Pancasila which was listed at its opening as a unitary Republic of Indonesia. According to H. Alamsjah Ratu Prawiranegara, Muslim acceptance of Pancasila according to its belief system incorporating compromise, is a "gift" for Indonesian Muslims for national unity and Indonesian independence. (Alamsjah, 1987).

The entire text of the 1945 Constitution consists of the Preamble, the Body, and the Explanation of the Body containing 37 articles, 4 articles of the Transitional Rules, and 2



paragraphs of Additional Rules. When Indonesia became the United Republic of Indonesia (December 27, 1949 to August 17, 1950), the 1945 Constitution only applied to Indonesia in parts . With the adoption of the 1950 Provisional Act (UUDS), the 1945 Constitution did not apply to the entire territory of the Republic of Indonesia, and by president Soekarno's decree on July 5, 1959, it was declared valid again in all regions of the Republic of Indonesia.

It is stated within the preamble of the decree that we believe that the Jakarta Charter on June 22, 1945 activates the 1945 Constitution and forms a series of unity with the constitution. These considerations should have influenced the realisation of the Pancasila and the 1945 Constitution. The history and process of the formation of the 1945 Constitution proved that the figures of the Indonesian people who designed, composed and implemented the 1945 Constitution were mostly Muslims. Some are known as scholars, some as nationalists and some as nationalist Muslims However, they agreed with all Muslims from all Indonesian people (Ahmad, 2012).

Islam and the State

Islam is a religion for the sake of the world and the hereafter. It not only contains guidance on faith and worship, but also provides legal and political principles. The Qur'an guides humanity to create benefit for Muslims in particular, and humans in general. (Muhammad, n.d).

The legal verses relating to social life and state or government are few in number. They are only about 3.5% of the verses of the Qur'an. What is understood to be related to government is only about 25 verses. The small number of verses of the law certainly does not cover all human activities in detail. Meanwhile human activities are always developing, because human life is dynamic. Therefore, it is necessary to have the policies of leaders to regulate human life that is varied and developing. This was also needed at the time of Muhammad S. A.W, in whose era, at the beginning of his life in Medina, the verses of the Qur'an had not yet come down (Muhammad, n.d).

In the development of Islamic civilization, the prophet Muhammad seen as a religious and state leader recognized both Muslim intellectuals and western intellectuals. At that time, the prophet Muhammad established a country called Medina with the State Constitution named the Medina Charter or the Medina Constitution. The Medina constitution is an embodiment of social contracts in the form of written laws of various religions and ethnicities which contain the basics of religious freedom, inter-group relations, religions and obligations to preserve life. Even the experts themselves said that the Medina Constitution was the first written document in the world that laid the foundations of a fundamental state administration.



The struggle between east and west that has occurred up to now is about the issue of the relationship between religion and the State. According to the view of eastern civilization (Islam) life in the state cannot be separated from religion and vice versa. Every religious affair will be regulated by the state and it must be based on religious values. While western civilization maintains that religious and state affairs are separated absolutely, religion must not be distorted by authority which tends to maintain power under the pretext of religion. The difference between the two poles of civilization is due to differences from social, political, and historical points of view.

Secularism, secularization and the Secular State

Secularism is an understanding that wants to separate or neutralize all fields of life such as politics and state, economy, law, social-culture and science-technology from the influence of religion or the supernatural. This term itself comes from the word *saeculum* which means century. Secularism is a term intended to mean that spiritual life must be separated from the state.

Secularisation is the efforts or process that leads to secular conditions or the process of neutralization from any religious influence and occult things. Secular is an adjective that refers to a condition that separates worldly life from the influence of religion or supernatural things, so that there is a dichotomy between profane and sacred life, for instance, between state life and religion as now experienced by western nations.

A secular state does not give a role to religion in the life of the state. Religion has been alienated from state life in various sectors. The most prominent feature of a secular state is the abolition of religious education in public schools (Muhammad, n.d). Of course, such understanding is not in accordance with the beliefs adopted by the Indonesian state which is based on Pancasila and in accordance with the values of the Indonesian people.

Sukarno and M. Natsir's Debate on the Relationship between State and Religion

History has noted that the concept of the separation of religion and state has been discussed since 1938 or before Indonesia's independence. If you read M.Natsir's writing in his book "*Capita Selecta*", there is a lot of debate between Sukarno and M. Natsir on this issue. On the one hand, Sukarno argument was greatly inspired by Kemal Pasya's politics from Turkey, and according to rumours at that time Kemal Pasya once told the Turkish Muslims: "Don't be angry, we don't throw our religion, we just give religion to the people again, apart from state affairs so that religion can become fertile ". Based on this, according to M. Natsir, Sukarno gave a representative study, including once saying: "There is no scholarship about religion and the state must unite". Then Sukarno cited the words of Mahmud Essay Bey, even though that was his own perception: "If religion is used for the government, it is always used as a



tool to punish in the hands of kings, tyrannical people and iron fist people" Sukarno also referred to religious experts as "scholars are fiqh [illegible] who do not know religion." "Kyai Sontoloyo", and many more designations to corner the religion (Islam) and its people. (Jazim and Husnu Abadi, 2001). On the other hand, M. Natsir countered many of Sukarno's opinions which were kemalist.

Since then, the opinions of two groups have emerged, on the one hand they support Sukarno's opinion and on the other the establishment of M. Natsir, until the independence of the Republic of Indonesia. As in the Preparatory Text of the 1945 Constitution volume I prepared by Muhammad Yamin the most important speeches representing secular nationalists included Muhammad Yamin's speech on 29 May 1945, Soepomo's speech on 31 May 1945 and Sukarno's speech on 1 June 1945 (often known as the birth day of the Pancasila). Meanwhile none of the speeches of members of Islamic nationalists were published (Jazim and Husnu Abadi, 2001).

M. Natsir wrote a great deal about this issue in the Panji Islam and Al Mannar magazines. The debate arose when Sukarno wrote an article entitled "What Causes Turkey to Separate Religion and State". In his writings, Sukarno referred to the secularisation carried out by Kemal Attaturk in Turkey namely the separation of religion from the state as the "most modern" and "most radical" step. Sukarno stated: "Religion is made an individual matter. Not that Islam was abolished by Turkey, but Islam was left to Turkish people themselves, and not to the state. Therefore, it is wrong for us to say that Turkey is anti-religion, anti-Islam. It is our fault, if we equate Turkey with, for example, Russia. According to Sukarno, what Turkey did was the same as what Western countries did (Budiyono, 2014). In Western countries, religious affairs are left to individual adherents, religion becomes a private matter, and is not used as a state affair. Therefore, Sukarno's conclusion, for the safety of the world and for the fertility of religion is not to kill religion, world affairs are given to the government, and religious affairs are given to those who work on religion (Budiyono, 2014).

M. Natsir strongly criticized Sukarno's view of the separation of religion from the state. M. Natsir believes in the need to build a country that is inspired by Islamic religious values. Muslims, said M. Natsir, have their own philosophies and ideologies as well as other religions or understandings. Therefore, all Muslim activities for the nation and state must be aimed at devotion to Allah, which is certainly different from the goal of those who are neutral in religion. For this reason, God gives various kinds of rules regarding relations with God and rules regarding relationships between fellow creatures in the form of rules concerning rights and obligations. That is actually what people now call "state affairs". What people often forget is that the notion of "religion" according to Islam is not only a matter of "worship", but includes all the rules and hudud in muamalah in society. Everything is listed in the Qur'an and As-Sunnah. (Natsir, 2001).



To keep all regulations carried out properly, we need a force in the association of life in the form of power in the state, because as with other law books, the Qur'an cannot do anything by itself. Reading the ideas of Sukarno and M. Natsir illustrates the sharp conflict of ideas between the two figures. Based on an analysis of historical development, Sukarno concluded that religion and the state could not be united, the two must be separate. Meanwhile, M. Natsir considered that religion and the state can and must be united, because Islam unlike other religions, is a religion that is all-encompassing (comprehensive). The issue of state is basically part of and regulated by Islam.

The Relationship between the State and Religion in Pancasila and the 1945 Constitution

Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "the State is based on a Godhead" (The 1945 Constitution of the Republic of Indonesia). Furthermore, the placement of "Belief in the one and only God" as the first precept in Pancasila has several meanings:

First, Pancasila was born in an atmosphere of mysticism to fight colonialism and imperialism, so that unity and brotherhood among the nation's components were needed. The first precepts in the Pancasila " Belief in the one and only God " become an important factor for strengthening unity and brotherhood, because the history of the Indonesian people is full of respect for the values of the " Belief in the one and only God."

The willingness of Islamic leaders to erase the sentence "with the obligation to carry out Islamic law for their adherents" after " Belief in the one and only God " during the ratification of the Constitution on August 18, 1945, was not free from the aspiration that the Pancasila must be able to maintain unity and brotherhood between all components of the nation. This means, the Islamic figures who were the founders of the Indonesian nation made unity and brotherhood the main objectives among the nation's components which had to be placed above other primordial interests.

Secondly, the 1st Pancasila Seminar in 1959 in Yogyakarta concluded that the precepts of the " Belief in the one and only God " were the first cause or causa prima and the precepts of "populism led by wisdom in deliberation / representation" were the people's power in the life of the nation and state for carrying out the mandate of the state from the people, the state for the people, and the state by the people. This means that: "Belief in the one and only God " must be the foundation for carrying out the management of the state from the people, the state for the people, and the state by the people.



Third, the 1st 1959 Pancasila Seminar in Yogyakarta also concluded that the precepts of "belief in the one and only God" must be read as a whole with the other precepts in Pancasila as a whole. This is confirmed by number 8 of the seminar: Pancasila is (1) Belief in the one and only God, humanity that is just and civilized, which unites Indonesia (nationality) which is populist and socially just; (2) Just and Civilized Humanity, having belief in the one and only God, having Indonesian unity (nationality), having socialism and having social justice; (3) Indonesian Unity (nationality) with belief in the one and only God, who is just and civilized, with humanity and social justice; (4) People, who have the Almighty God, who are fair and civilized, who are united in Indonesia (national) and socially just; (5) Social justice, having belief in the one and only God, humanity that is just and civilized, which is united in Indonesia (nationally) and popular. This means that the other precepts in Pancasila must be charged with belief in the one and only God and vice versa, belief in the one and only God must be able to manifest in matters of nationality (unity), justice, humanity, and people.

Fourth, the statement "Belief in the one and only God" must also be interpreted so that the state prohibits teachings or understandings that openly reject belief in the one and only God, such as communism and atheism. Therefore, MPRS Decree No. XXV of 1966 concerning the Prohibition of Every Activity to Spread or Develop Communist / Marxist Understanding or Marxism Leninism is still relevant and contextual. (Satya, 1997). Article 29 paragraph 2 of the Constitution stating that "the State guarantees the independence of each population to embrace their respective religions ..." means that the state only guarantees freedom of religion. Conversely, the state does not guarantee freedom of non-religion (atheism). The word "no guarantee" is very close to the notion of "not allowing", especially if atheism is not only personally adopted, but also preached to others.

Conclusion

The relationship between religion and state is an interesting area to study because each country has different ways of understanding and applying it. The existence of religion in Indonesia is guaranteed by its inclusion in the state ideology of 'Belief in the one and only God' in the first principle of Pancasila and Article 29 of the 1945 Constitution. Nevertheless, the Indonesian state is not a religious state with an understanding based on a particular religion. Therefore, religious law must have a more appropriate place to continue to grow and develop in society. Differences in understanding related to the relationship between religion and the state in a democratic country are natural, but these differences should not cause turmoil and the government must be sensitive to this situation, because the issue of religion is the most basic of every individual community in a country. The relationship between religion and state is based on mutual need as religion requires the state to develop its religion and the state needs religion to improve the morals of the nation. The state must actively and dynamically continue to encourage and facilitate each individual so that the



creation of religious harmony and ideal relationship is expected by the founder of this country and the fighters who have struggled to maintain independence. If there is a sense of security and peace and the soul of *Bhinneka Tunggal Ika* is inherent in the lives of the Indonesian people, the country's goals will be easy to achieve.



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