Point Right Link Religious Freedom: Citizen’s Rights Religious Freedom

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Abstract

Indonesia has ratified on freedom of religion, in the international convention on the Universal Declaration and the International Covenant on Civil Rights and Political through Law No. 12 Year 2005. In the Act of 1945 Section 28 E, 28 I (I), 28J 29 of the Constitution of the Republic of Indonesia in 1945. And article 22 of Law No. 39 of 1999 on Human Rights. With the above, the Indonesian legal basis should provide freedom of religion as mandated by law. But freedom was slightly tarnished by issuing Fatwa Indonesian Ulama Council (MUI) East Java Province No. Kep - 01 / SKF - MUI / JTM / I / 2012 on the Shiite doctrine heresy. In the fatwa mentions that the Syia community is forbidden to embrace the teachings they believe over the years. Fatwa MUI is certainly contrary to the sound of legislation guaranteeing freedom of religion in Indonesia.

Keywords: Indonesian Ulama Council, Fatwa, Cult

1. Introduction

Already 69 years of the Republic of Indonesia's independence, but there are still many problems that affect this country, especially the enforcement of human rights. Messy human rights enforcement in Indonesia is complex. However, the discussion of human rights in the field of religious freedom. As we know, both in electronic media and print media we often see friction between religious communities and even to cause casualties.

Talking about of the right to freedom of religion (HAM) which can not be separated from the religion of Islam. Both of these subjects are not foreign to our ears. Often the two are at odds with each other. Many institutions and others who claimed himself the right, straight even say heretical above God. They have assessments that must be adhered to, and if not adhered to then the group will be forced to abide by the use of force.

Efforts to kill freedom of religion with violence often occurs. There have been many violations in this country, but that is quite a concern these days is the release of East Java MUI fatwa about the ”cult of the Shia” No. Kep-01 / SKF- MUI / JTM / I / 2012 that could attract the attention of many people and the community in Indonesia. The exit of the fatwa then impact on banning the Shia groups in carrying worship, conducted by a group of people around, even they got burned homes and places of worship Shia community.
The rights and freedom of worship for minorities in Indonesia again threatened. After Ahmadis and Christians, Shias now experiencing the same threat. Pesantren Misbahul Huda who became the religious center of Shias in the village Nangkrenang, Karanggayam village, district. Ombe, Kab. Sampang, Madura burnt to the ground. Due to the mass burning claiming to be from the group of Ahlus Sunnah wal pilgrims, household goods was not saved and not left at all [1].

Course of action and anarchism prohibition is not justified in the legal system in Indonesia. Because in the existing constitution in Indonesia has set out clearly that every individual is given the freedom to profess and practice his worship according to beliefs that he holds. Based on the above authors are interested to examine more deeply about freedom of worship among religions that exist in Indonesian society. So based on her background on the author tried to lift a title: Citizen's Rights Religious Freedom Shia Sampang?

2. Design Research

Research "normative juridical", the research focused on assessing the implementation of the rules or norms of the positive law. The approach used in this study is the approach of legislation (statute approach)[2]. The approach is based on the assessment carried legislation dealing with the Indonesian Ulema Council fatwa Prop. East Java on Shiite heresy against religious freedom in Indonesia. It also uses the approach case (case approach)[2],which is studying the norms or rules of law which is done in the practice of law. Especially regarding the case or matter which is the focus of this study.

3. Materials and Methods

By using the method of approach: 1). The approach used in this study is the approach of legislation (statute approach). The approach is based on the assessment carried legislation dealing with the Indonesian Ulema Council fatwa Prop. East Java on Shiite heresy against religious freedom in Indonesia. 2). Case approach (case approach), which studied the norms or rules of law which is done in the practice of law. Especially regarding cases or cases that are the focus of this study.

4. Data and Findings

4.1. An overview of the right to religious freedom

Indonesia idealized and aspired by the founding fathers as a legal state (Rechtsstaat / The Rule of Law). In Article 1 (3) NRI Constitution in 1945, asserted that "Indonesia is a State of Law". In a state of law, the state recognizes and protects the human rights of every individual regardless of his background, so that everyone has the right to be treated equally before the law (equality before the law) [3].

Human rights issues are often spawned debate and controversy is the right to religious freedom (freedom of religion or belief). Neither Shari'ah of Islam and universal human rights recognize the right of religious freedom as the most basic and fundamental rights of man. Religion is something that is metaphysical, because it should not be one has the right to
impose a religion or belief to others[4].

There are several international documents on human rights and the protection calls on religious freedom. Religious freedom is the freedom to profess religion based on human free will (in accordance with the wishes of conscience), no one can be forced to worship what he wanted to worship or what he did not want to worship. Rights Religious Freedom is a right that must be respected by all men it is expressly stated in Article 18 of the Universal Declaration of Human Rights (UDHR), as well as article 18 of the International Covenant of Civil and political Rights (ICCPR).

Freedom of religion is a human rights that must be protected and must be respected among fellow human beings. As stated in article Article 28E Paragraph (1 and 2), Article 28I (1), and Article 29 paragraph (2) of the Constitution of the In other words, that every person is different despite ethnicity, race, religion, gender, color, culture and nationality, religious minorities is part of Human Rights. They still have those rights. This is the universal nature of human rights. Above rights can not be revoked, in other words even though the followers of a religion that has particularly little, they still have these rights, because at any time until these rights can be held as a gift from God Almighty.

So with the above constitutional recognition, giving obligations to the state, especially the government to provide protection to anyone who feels threatened beragamanya freedom rights as mandated by law.

4.2. Based on the discussion of the results of this study concluded that:

1) “Fatwa” Indonesian Ulema Council (MUI) East Java Province No. Kep-01 / SKF-MUI / JTM / I / 2012 on the Shiite [5] doctrine heresy against the rights of religious freedom in Indonesia, MUI Fatwa on Cult is likely to bring anxiety among Muslims. With the existence of the fatwa, the flow of which is considered heretical feel cornered and feel the religious freedom been deprived because of suppression and experienced violence perpetrated by other Muslims groups. Loss of mutual respect will trap any party to the attitude of fanaticism that will lead to action to destroy each other or even toed resulted in fatalities. Everyone is different though ethnicity, race, religion, gender, color, culture and nationality, religious minorities is part of Human Rights. They still have those rights. This is the universal nature of human rights. Above rights can not be revoked, in other words even though the followers of a religion that has particularly little, they still have these rights, because at any time until these rights can be held as a gift from God Almighty. Such fatwas tend to restrict the rights of religious freedom in Sampang Shia group, whereas in the legislation right to religious freedom has been guaranteed and should not be limited at all. In the Indonesian national law, NRI 1945 Section 28E Constitution, Article 28 and Article 29. The right to freedom of religion is also regulated in Law Number 39 Year 1999 on Human Rights, Article (4) and Article 22 paragraph (1) and (2), Indonesian Presidential Regulation No. 1 of 1965 on the Prevention of Abuse and / or blasphemy, Article 2, international legal instruments that have been ratified in the nationallaw, article 18, 26, 29 UDHR, Article 18 paragraph (1) legislation No. 12 of 2005 on (ICCPR). The point is about the MUI Fatwa Cult incompatible with the protection of religious freedom in the laws and regulations in Indonesia. MUI is not right to mislead a particular stream. If there are deviations against a religion, MUI can provide input to the government through the Minister of Religious Affairs, Attorney General and Minister of the Interior. Government has the right to resolve the
deviation against a religion. In accordance with the President of the Republic of Indonesia Regulation No. 1 of 1965 on the Prevention of Abuse and/or blasphemy.

2) Fatwa about this cult is fatwa related to the social life of a person or group within the Islamic community. Issuing the edict is making people think and morally formed a negative stigma in the community. With the label directly or indirectly, will have an impact on the Shia followers, but followers of Shi‘ite been convinced by his choice to embrace or understand the teachings of the Shia, in addition stikma memorable astray will negatively impact upon carry out worship, people who do not like to Shia would have exclude, prohibit or force not to worship, there is even a place of worship burned syiah.Padahal fatwa implementation of this cult have an impact on human rights. Contextually, the contents of the MUI fatwa about cult invites Muslims in the community to stay away from streams that are considered heretical. Resulting in highly visible social gap between segments of society. MUI Fatwa on Cult also cause horizontal conflict violence and hostility directed against the flow heretical. Indirectly, the rise of violence arises because of the fatwa about the cult. The horizontal conflict happens because most people favor with the fatwa, partly reject any such fatwa. Finally split occurred among Muslims. In addition, in the case of the Shia, groups that do not like to Shia to attack and destruction of their homes and places of worship Shia, all of this is a heinous act and violate the rights to freedom of religion and not justified by law. Cases of omission, attacks on the Shia community government must respond by giving sanction to anyone both individuals and groups who commit violence against Shia flow. This is one form of protection from the government over the arbitrariness golongann majority (in Islam). Actually, in Islam itself has been explained about the various streams of Islam. But Islam also forbids violence and abuses against a particular stream.

Reference