

CIVIL SOCIETY AND LAW ENFORCEMENT IN INDONESIA

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Abstract

Purpose of Study: This research aims to 1). Knowing the spirit of civil society emergence in law enforcement in case of defamation of religion in Indonesia. 2) To know the implications of civil society influence in law enforcement justice in Indonesia.

Methodology: The study used a qualitative approach, using case study method of law enforcement in case of religious defamation done by Jakarta Capital City Governor, Basuki Tjahaya Purnama (Ahok) in the year 2016 ago.

Results: The results showed that the polarization of civil society forces occurred in this case. So that causes good civil society and bad civil society when seen from the indicator of civil society value. Good Civil Society is based on the spirit of transcendence tends to be relatively more successful in consolidating the movement that many won the sympathy of collective action because of its obedience to the rule of law.

Implications/Applications: Implication of civil society in law enforcement, demands law enforcers to stand independently, to promote truth and fair law. Civil society pressure is part of a democratic society that is seen as a social fact and as long as good civil society is accommodated, the law enforced will also be equitable.

Keywords: *Case Study, Civil Society, Law Enforcement, Indonesia*

INTRODUCTION

At the end of 2016, we were presented with a case of religious defamation because of the mention of "lied to use Qur'an Surah Al Maidah verse 51" conducted by the governor of DKI Jakarta, Basuki Tjahaya Purnama, otherwise called Ahok. This highly tendentious speech has the potential to cause conflict and division. In fact, The Chief of Youth Muhammadiyah said, Ahok's words that tear our diversity as a pluralistic nation and respect the differences (<http://sangpencerah.id/2016/10/dahnil-anzar-ahok-telah-menghina-keberagaman-dan-pancasila-bukan-cuma-umat-islam/>).

The reaction of Muslims throughout Indonesia responds to the disparagement in various communities. However, when closely observed the majority of Muslims expressed their concern and criticized Ahok's actions. Moreover, the Indonesian Ulema Council (MUI) delivered a fatwa that the sentence delivered by Ahok is a form of blasphemy against Islam.

There is concern from the public that the blasphemy case will stop on the way because Ahok at that time is an incumbent governor who will run as a candidate for governor supported by the government ruling party. The strength of Muslims through the National Movement of Fatwa Guards (GNPF) MUI emerged as a civil society movement that dared to deal with the interests of the government to secure its political interests.

Law enforcement in political nuances encounters a dilemma. This is evident from the several times the trial that was held not go to the judge's decision. After a delayed prosecution of the public prosecutor due to a second-round election. Until finally the judge ruled Ahok's conviction guilty to two years in prison.

This provides a lesson on the importance of law enforcement and its relationship with the civil society movement. Civil Society as a civil society movement that organizes itself as a principled force in self-reliance, self-reliance, volunteerism against the interests of the state can be seen as appearing in its role to demand strict law enforcement against perpetrators of blasphemy.

Therefore, the new phenomenon of the power of civil society after the overthrow of the new order in the 1998 event, this time is repeated with different cases namely the demand for religious blasphemy. Uniquely, the new forces in this new phenomenon are more specific in law enforcement, not just on the political purpose of power alone so that it can walk peacefully without violence, without any blood being spilled.

Meanwhile, law enforcement must remain committed to justice, order and independence must be upheld for social justice. So free from the political intervention of power (read: state) and pressure of civil society pressure at the same time should be placed in the right proportion, seen as a social fact, not just a demand that must be met.

Departing from the background of the problem above, this article will describe two things: first, Is the spirit of civil society emergence in law enforcement in case of defamation of religion in Indonesia. Second, how is the implication of civil society influence in law enforcement justice.

METHOD

This research is qualitative, using the case study method of law, that is the case of defamation by the Governor (Non-Active) of DKI Jakarta Province, Basuki Tjahaya Purnama. With data collection method through document study and literature study. Then the analysis uses direct interpretation, giving meaning to the case under investigation directly (Afriyani et al., 2018; Creswell, 1998).

DISCUSSION AND RESULTS

Civil Society and the 1945 Constitution of the Republic of Indonesia

Civil Society as a concept has been clearly defined in the 1945 Constitution as the basic law of the state constitution of Indonesia. The Government of Indonesia is in line with the mandate as specified in the Preamble of the Constitution Basis of the Republic of Indonesia Year 1945 that is protect the whole Indonesian nation and the entire blood of Indonesia, promote the common prosperity, educate life nation and participate in maintaining the order of the world based on independence and lasting peace and justice social, obliged to protect its citizens from every threats of crime whether national, transnational, or otherwise is international.

The government is also obliged to maintaining sovereignty and maintaining wholeness and the national integrity of any kind of threat that comes from outside or from inside. For that, it is absolutely necessary for law enforcement and orders consistently and continuous. There are several articles in the Indonesian Constitution 1945 relating to Civil Society namely:

Article 27 (1) Anything with respect to law and government and shall uphold such law and government shall not be excluded.

Article 28 Freedom of association and assembly, issuing thought by word of mouth and written by law (Golkar et al., 2014; Isworo, 2013; Muyambiri and Chabaefe, 2018).

These two chapters serve as a foundation for the realization of democracy and civil society in Indonesia. Because talking about democracy also cannot be separated from civil society, established interconnected with each other. In a democracy we can say there is civil society, on the contrary in civil society, there are values contained in the principle of democracy itself. If civil society is strong then democracy will continue, the democratization of empowerment is the empowerment of civil society, for example, togetherness and efforts to apply all forms of systems in accordance with existing laws and mechanisms (Latuconsina, 2013).

Civil Society in Islam

If civil society conforms to the principles of democracy and the constitutional basis of Indonesia, Civil Society also conforms to the Islamic principles that have been taught in the practice of the Prophet Muhammad's society. Many academics who claim the concept of Medina Society can be understood as civil society, according to Nurcholis Madjid, in Islam, the realization of a society built by Prophet Muhammad with the principle set forth in the "Medina Charter" which has six main features. ; (1). Egalitarianism; (2). Appreciation of people with achievement; (3). Openness; (4). Justice; (5). Tolerance and Plurality; (6). Discussion.

Observing the contents of the Medina charter, the charter contains a clear definition of the rights and duties of the people among themselves, as well as rights and duties among Muslims and Jews, and the Jews accepted the agreement safely between them. it is all given to God and His apostle in the following terms "If among those who win this agreement there is a feared dispute that will cause harm, then its place. he returned to Allah and to Allah's Messenger and Allah with this patient and faithful person.

Islam as perfect teaching has taught our standards are right and wrong. The truth is not relative, thus making a Muslim doubtful of his beliefs. How could Islam command its people to establish the truth if the standard of truth is not taught to

the ummah. We clearly see in the Charter Madinah stated that if a dispute should be restored to Allah and His Messenger. The occurrence of disputes between humans denotes unrighteousness in the community. So it must be returned to God and His Apostle as the source of that truth. So even if an Islamic society has the values of openness then intended is the incapacity of the truth that it comes from Allah and His Apostle, not from others. While in relation with social supervision, then that is an *amar ma'ruf nahi munkar* from society to society and country.

In law enforcement and justice. This is pretty obvious and is contained in the Medina Charter which reads "That people the faithful and the pious must fight against the one who commits a crime among themselves, or a liking person committing acts of persecution, crime, hostility or acts damage among the believers themselves and they must together against it even against the children themselves.

And then tolerance and plurality and deliberation- democracy is actually a basic constituent Civil Society. According to Nur-cholis Madjid, Civil Society is a symbol of a democratic society which was awakened by establishing musyawarah (Sukardi, 2010).

It is on this basis that orderly, peaceful and peaceful order of life can be realized that it must be preserved in the present life. Therefore, when the prosecution of diversity is torn by blemishes, civil society movements to enforce it will emerge as a struggle for civil society.

The Spirit of Transcendental Civil Society as a Pillar of Democracy

The power of civil society according to Philippe Schmitter states must have four kinds of values: autonomy, collective action, not pretending to power (as political parties), and civil (subject to the rules of law and rules of the game) (Hadiwinata, 2006).

The above four values are good civil society prerequisites. However, on the contrary, if not fulfilled the preconditions above and tend to show the way of violence and coercion of will through terror for example. Thus, civil society will face bad (bad civil society/uncivil society).

Hikam said that civil society is defined as an area of social life organized with the characteristics of volunteerism, self-reliance, self-sufficiency, and independence with the state, togetherness, trust, responsibility, tolerance, equality, independence, and so on are the essence of civil society. Independent and strong (Jurdi, 2011; Waldman et al., 2018).

All of these traits are illustrated by the movement of the Ummah through the GNPf MUI which the participant come from all corners of the country come to Jakarta independently and voluntarily. It originally stemmed from the tone of protest through social media, then continued to provoke a massive reaction through massive Islamic Defense Action to demand punishment for Ahok who was considered to have harassed the verse of Qur'an Surah Al Maidah verse 51.

The discourse of social media discourse indicates the risk of new technology (internet) as the basis of democratic conversation becomes the real feature of information and communication exchange (Wilhelm, 2003). The movement of civil society including the movement of Indonesian Muslims currently using social media as a new public space perceived to have widespread access.

From the movement of social media that then continues to the real action that shows the movement of the civil society organized. At least as many as six times Muslims perform massive Islamic Defense Action centered in Jakarta and followed simultaneously the action was held in various other areas in several other big cities. First, Action on 14 October 2016, then second, Action 4 November 2016 (411) and third, action 212 on 2 December 2016 then, fourth Action 112 on 11 December 2016. And the fifth, Action 212 Volume II on 21 February 2017. No fewer than hundreds of thousands and even millions of Muslims are involved in the action.

The six actions are generally peaceful, although in the second action there is a small ripple due to the provocation of certain parties that leads to chaos although ultimately can be controlled by the security forces. Moreover, many people believe that Indonesian Muslims have given a cool and polite democracy. Where the mobilization of hundreds of thousands to millions of people in mass action can run smoothly and remain within the corridor of applicable rules.

The massive Islamic Defense Action provided a concrete picture that the consolidation of Muslims is actually a necessity to build a religious spirit while simultaneously demonstrating the power of civil society. Why is that? Because in each of these actions, all mass-based Islamic community organizations, boarding schools with diverse backgrounds, scholars with various backgrounds of understanding and flow, are all united with the ultimate motivation of a strong (transcendental) faith.

All the elements with full awareness there is no overly self-assertive as the only group that most play and determine all things. All egalitarian, equal, balanced, standing equally high, sitting equally low. There is even a call for all mass-based Islamic community organizations not to fly their flags followed by discipline and only the flag of Indonesia and the flag of action as a banner of struggle that should only be raised. In addition, the form of discipline that also comes with the team cleaning garbage every action done. And at the time of Action 112 colored by participants of the Islamic Guard actions escorted the bride and groom who married in the cathedral around the action location (<http://news.okezone.com/read/2017/02/11/338/1615655/ketika-massa-aksi-112-mengawal-pasangan-pengantin-ke-gereja-katedral>). Because of the attitude that upholds the norm of decency and culture is then feasible when called as good civil society.

The spirit of Islam as energy demands change and demands law enforcement at the same time denied allegations that religion is only the opium of society according to Karl Marx in his communist ideology. The religious thesis as a factor driving this change as well as resurrection has actually been analyzed for a long time by Islamic theologian Ali Shariati who says Islam as Liberation theology. Islam as theology in its estuary is the ideology of unity of God (Tawheed). Tawheed has the essence as an idea that works for justice, solidarity, and liberation (Sabara, 2016). Tawheed brings a moral message to fight every oppression and various forms of tyranny committed by the ruler who wants to perpetuate his power in a way that justifies all the ways and blindly in doing large-scale exploitation.

In law enforcement that occurred, the pull in the case of blasphemy Ahok made a negative public assessment of the government. While in other cases such as Arswendo's case, Lia Eden and Gafatar the previous government tended to be pro-active on the side of enforcing a firm and fair sentence.

In addition, the government because of being in the same political party camp with Ahok considered not neutral because it does not disable Ahok status as governor of DKI Jakarta despite being a defendant. This treatment is considered special because the head of another area is usually directly disabled from office even though still a suspect status.

Because the case is full of political nuance because, in the run-up to the election of the Governor of DKI Jakarta, the civil society groups that arise are also in the two camps, which demands strict punishment to Ahok, on the one hand, there is a pro-Ahok group that demands freedom of punishment for Ahok.

The polarization of this civil society occurred was marked by the demonstration of two camps during the convening of the trial in case of defamation of this religion. And also in the conversation and debate in social media feels quite hot, even emerging conflict between supporters that cannot be inevitable in social media. Such as the occurrence of tweet war, meme war, and arguments about who is the most correct and most appropriate opinion.

Civil Society Implications In Justice Enforcement

From the phenomenon of law enforcement in the case of religious defamation inspired by the power of civil society based on transcendence as described above, it can be seen that the civil society has a good face by looking at the fact that there is no violent path passed by this movement. Although, due to the contestation of new governor election in DKI Jakarta Province, in many assessments, the political nuance cannot be overlooked. At least, visible from the support of candidates for Ahok's governor Agus Harimurti and Anis Baswedan are supporters of the mass action.

However, in the case of the ongoing law, judicial independence can be seen as being neutral. By looking at the facts, despite such strong pressure to drop the verdict firmly and quickly, in the public interest and not affecting the outcome of the election of the governor, the court schedules the session with the prosecution's agenda. In addition, the strength of the pressure does not mean that the prosecutor makes a weight suit. The Prosecutor only charges Ahok a year in prison with two-year probation. This verdict then caused a new controversy where the aspirations of Muslims through the civil society movement are considered not accommodated properly.

The movement of civil society to demand justice is fair - it just keeps going peacefully. There is no reaction in the form of violence from the civil society movement pro-law enforcement, and this is what causes the appreciation of many parties. Submission to the law remains guarded by the movement of Muslims. So many people call it a good civil society. The cons of the prosecutor's verdict are voiced both from GNPf MUI and from Islamic Organizations such as Muhammadiyah, Nahdhatul Ulama (NU) and others. A spokesman for MUI, Ikhsan (2017) said the prosecutor's actions in his demand raised the issue because:

First, it does not create criminal law enforcement, causing public distrust to the law enforcement process. The prosecutor's

demands are fouling and injuring the criminal court in Indonesia.

Secondly, the prosecutor is also considered to delegitimize religious opinion related to Ahok alleged blasphemy case. Not only the MUI legitimized its religious views, but also the NU and Muhammadiyah that during the verification process, prosecutors presented experts who came from the NU and Muhammadiyah.

Thirdly, during the prosecution process, the prosecutor tried to establish the demands of article 156 letter an of the Criminal Code concerning religious blasphemy, not article 156 of the Criminal Code concerning contempt for certain or some groups. However, when the demands, the prosecutor instead chose alternative charges, namely article 156 of the Criminal Code (<http://megapolitan.kompas.com/read/2017/04/29/15185041/tuntutan.jaksa.terhadap.ahok.dianggap.timbulkan.ketidakpercayaan.publik>; Sabara, 2016; Saeidi and Prasad, 2014).

Pros counter prosecutors demands continue to color social media talks. While peaceful rallies continue to be peaceful and polite. Upon the judge's verdict on May 9, 2017, the judge convicted Ahok guilty of tarnishing the religion and the sentence of two years in prison. This judge's verdict was heavier than the previous Public Prosecutor's.

The relatively successful organizational of civil society in consolidating the movement is fruitful, a firm legal decision against the perpetrators of defamation in Indonesia. Civil society as a double-faced movement is also seen in this case. Where after the verdict of the judge who convicted Ahok two years in prison, still raises a polemic in the community. The civil society group that escorted the case and was in a pro-Ahok position staged an action against the judge's verdict.

Pro Ahok masses on behalf of civil society also became a pressure group that emerged from the awareness of the arbitrary authority of judges. However, it seems that this civil society movement lacks the sympathy of the public because it has to fight a legitimate court ruling. In addition, the group failed to consolidate the movement so that it only appeared briefly, seen only as a reactionary action. Moreover, the actions carried out were colored by violence such as pushing the prison gate where Ahok was imprisoned, and the lack of post-action guarded from the garbage of the action participants made the assessment of bad civil society attached to this group.

Because of this pressure does not then change the judge's position in the verdict of the perpetrators of blasphemy in Indonesia and continue to run in a corridor of law that is neutral, independent, uphold the truth and justice.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

In the case of religious blasphemy committed by Jakarta's non-active governor, Basuki Tjahaya Purnama (Ahok) caused the polarization of civil society groups that were pro and contra. This case colored the political contestation of the election of the Governor of DKI Jakarta, where Ahok became one of the candidates who advanced in the contestation.

Polarization of civil society support both pros and cons raises perceptions of good civil society and bad civil society, seen with indicators of civil society value according to Schmitter which should have four values; Autonomy, collective action, no pretensions for power, and truly civil movements, subject to the rule of law and the prevailing rules of the game.

The power of civil society that demands law enforcement as firmly as Ahok can be said to be in the value of good civil society when judged from the value of autonomy where the transcendental spirit to defend its religion is dominantly inflated. The guarantee of no political nuance of its pesetas attendance comes voluntarily and surging from all corners of the homeland, its collective action is also framed in a race of unity and respect for the law in force so that the order of law and order is well observed and orderly.

However, on the other hand, there is a bad civil society appraisal pinned to the group when the spirit of action is merely the eyes of the political interests of power, the failure to consolidate the movement peacefully, violently, disobey the rules and ignore the cleanliness of the environment post-action.

The pressure of these two civil societies is directed to law enforcement or the ongoing judiciary of that time. But the pressure is seen as a social fact that is seen in clear litigation. Not just accommodate the voice of civil society the strongest or the most. Moreover, the control of civil society in accordance with the applicable legal norms will be able to contribute to law enforcement that is fair and put forward the truth.

The support of civil society has been relatively successful in bringing the courts out of the political pressure of power which tends to protect or not provide firm sanctions against the perpetrators of religious blasphemy because they are in the same political party camp. So the truth of the legal fact remains the highest position in law enforcement not because of pressure

from any side.

RECOMMENDATIONS

For Civil Society of Indonesia

The spirit of transcendence in building the collective spirit in civil society must be kept clear and not for short-term political interests. But as a spirit of a movement that maintains a relatively long consolidation of breath. In addition, it should be in civil society to put forward the value of laws and rules that apply so that the wider community can be achieved. So that good civil society is also created well

For Indonesian Law Enforcement.

Law enforcement with pro-contra related to a legal case often creates pressure from civil society for the court in law enforcement. Therefore, the stewardship must be neutral and not easily influenced by public pressure, especially the pressure that is loaded with the political power of power. However, as long as the civil society pressure in the corridors of the rule of law prevails and in accordance with the truth of legal facts, accommodating them will result in justice enforcement

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