



Legal Protection of Ahmadiyah Citizens in Freedom and Belief in Religion

Lalu Goriadi Hartawan; RR.Cahyowati; Zunnuraeni

Master of Law Program, Mataram University, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v6i3.941>

Abstract

Ahmadiyya is a religious movement, founded by Mirza Ghulam Ahmad in Qadian, India, in 1889 M. Ahmadiyya is a revival movement in Islam, international scale, dynamic and rapidly developing. The existence of the Ahmadiyya Organization which is considered contrary to Islam, because it considers Mirza Ghulam Ahmad to be the last prophet. For this reason, their presence has never been accepted and even treated by Muslims. The purpose of this study is to examine and analyze the legal protection of Ahmadiyah citizens in freedom and religious belief. Research method, type of normative research, with a regulatory approach, conceptual approach. Conclusion: Ahmadiyah as a mass organization is still relevant based on Law No. 16 of 2017 concerning Community Organizations. Legal protection against Ahmadiyah citizens in freedom and religious belief is regulated in various laws and regulations by taking into account the restrictions set by the Law with the aim of ensuring recognition and respect for the rights and freedoms of others and to fulfill fair demands in accordance with moral considerations, security, and public order in a democratic society.

Keywords: Legal Protection; Ahmadiyah; Freedom; Religious Belief

Introduction

Ahmadiyya as a religious understanding views Mirza Ghulam Ahmad, who was born in Qadian City, India, 1835 AD, to be Imam Mahdi, Al-Mau'ud, prophet, and apostle (although he did not bring a new Shari'a). Ahmadiyah is a religious movement (Irawan, 2015). Ahmadiyya as a revival movement in Islam, international scale, is dynamic and develops rapidly. Founded in 1889, the current Ahmadiyah has spread to 210 countries with followers of tens of millions. Ahmadis entered on the island of Lombok since the 1970s, many dynamics that occurred. In fact, there are many rejection of the existence of the Ahmadiyya Organization which is considered contrary to the slam, because it considers Mirza Ghulam Ahmad to be the last prophet. For this reason, their presence has never been accepted and even treated by Muslims. Conflicts of differences in religion and belief today often occur, conflicts between religions, ethnicities and understandings of religious teachings in an area in Indonesia, as happened in Pancor, East Lombok Regency, since September 11, 2002. The conflict was the beginning of a massive conflict against the followers of the Ahmadiyya in Lombok.

For 16 years, they were displaced. The ongoing conflict with Ahmadiyah followers in Lombok continues to occur. Lastly in early 2018, on Saturday, May 19, 2018, in Dusun Greneng and Hamlet of

Lauk Eat, Sakra Timur Sub-District, East Lombok Regency, there had been damage to houses of Ahmadiyah followers carried out by a group of 30 people, as a result of the incident. material losses of six houses and their contents were severely damaged and several vehicles belonging to the Ahmadiyya group were damaged. Finally they fled to Mataram and stayed Transito Guesthouse. The number of Ahmadiyah people who live in Wisma Transito is 150 people from 33 family heads, they do not dare to go back to their homeland, because they feel afraid that they will be treated in ways that are not in accordance with humanity and justice by those who are opposite them.

The conflict is ongoing against the Ahmadiyya community which are community organizations such as NU, Muhammadiyah and LDII. Ahmadiyah is not a religion, nor is it a political party. Ahmadiyya is only a place of struggle to revive religion, uphold religion, and win religion above all religions.

From the various explanations, the formulation of the problem in this article is: how is the legal protection of Ahmadiyah citizens in freedom and religious belief.

Method

This type of research is normative legal research. Also called doctrinal research (Soemitro, 1983), using 2 (two) approaches, namely: statute approach, conceptual approach. The sources of legal material needed in this study are: primary legal materials, secondary legal materials, and tertiary legal materials. The technique of collecting legal materials is done through library research, and tracking legal materials through internet media (Fajar & Achmad, 2013). Analysis of legal materials by conducting a study or review of the results of legal material processing is assisted with theories that are used and provides a review that can oppose, criticize, support, add or comment and then draw a conclusion.

Result and Discussion

Status of Ahmadiyah as a Community Organization

Jema'at Ahmadiyah Indonesia (JAI) has been registered as a Legal Entity in the Ministry of Justice with the Decree of the Indonesian Minister of Justice No JA/23/13, dated March 13, 1953 (Additional State Gazette No. 26). Ahmadiyya as a mass organization, based on the provisions of the President of the Republic of Indonesia No.133 of 1953, namely being given the freedom of import duty on the entry of gift items as stipulated in the Decree of the Minister of Finance of the Republic of Indonesia Number: Kep-524/MK/III/8/1970, August 19 1970 (11); Circular of the Office of the Office of Customs and Excise of Jakarta No.IM/IVa7/KB/1/9 dated 16 February 1960, and Letter of the Minister of Religion of the Republic of Indonesia Number MA/099/1970 On 6 March 1970 in which letter the Ahmadiyya Community of Indonesia was also declared registered with the Ministry of Religion of the Republic of Indonesia since March 2, 1970 with Number: 046/J/1970. The marriages of members of the Ahmadiyya Jama'at were recorded in the Office of Religious Affairs as a letter from the Bureau of Religious Affairs of the Jakarta Head Office No.259/B/158 dated September 18, 1958.

The Ahmadiyya Community of Indonesia as a community organization that adheres to laws and regulations has sought to comply with existing and applicable laws and regulations in Indonesia. Therefore the Attorney General's Office of the Republic of Indonesia with its letter dated 11 August 1982 Number R-786 / D. 1/8/1982 concerning the Ahmadiyya Jama'at states that to date there has not been a decision by the Attorney General to ban Ahmadiyah in the entire territory of the Republic of Indonesia (Dartono, 2016).

At first the Ahmadiyya was relatively acceptable to Muslims in Indonesia, the ulamas openly disliked Ahmadiyya after the Rabithah Alam al Islami organization stated that the Ahmadiyya was not Muslim. So the Indonesian Ulema Council (called MUI) issued a heretical fatwa against Ahmadiyya in 1980 which was later strengthened by another fatwa in 2005, which contained that Ahmadiyah is a cult, misleading and has left Islam.

The wave of protests and the fatwa of the MUI also demanded that the Ahmadiyah be dissolved even though the movement was valid as an organization. Ahmadiyya bases have become the target, including private homes, places of worship and even many Ahmadis who have been physically attacked. The impact of the MUI fatwa was accused of triggering 'violence' in the name of religion (Bonasir, 2018).

In 2008, a Joint Ministerial Decree of 3 (three) that came out concerning the prohibition of Ahmadiyah teachings was released in the Ministry of Religion. The Joint Decree was signed by Attorney General Hendarman Supandji, Minister of Home Affairs Mardiyanto and Minister of Religion Maftuh Basyuni. SKB 3 (three) Ministers concerning the Order Against Adherents of the Management of the Ahmadiyya Community of Indonesia contains 6 points, namely: (Detiknews, 2008).

1. Not to mention, interpreting a religion in Indonesia that deviated according to Law No. 1 PNPS 1965 on the prevention of religious defamation.
2. Commemorate and instruct all believers, the members of the Indonesian Ahmadiyah Jemaat (JAI) to adhere to the Islamic religion in order to stop all activities which are incompatible with the interpretation of the Islamic religion in general. Such as the existence of the Prophet after Prophet Muhammad SAW.
3. Communicating and ordering members or managers of JAI to ignore the warning may be subject to witnesses in accordance with the law.
4. Communicate and instruct all citizens to maintain and preserve the lives of religious people and not to commit unlawful acts against the JAI believers.
5. Communicating and ordering citizens who are not aware of the commemoration of orders may be liable to sanction in accordance with applicable laws.
6. To instruct government officials and local governments to take steps to safeguard and monitor the implementation of this joint decision.

In 2018, the Ahmadiyya filed a judicial review of the Law on Prevention and Blasphemy of Religion in 1965, but was rejected by the Constitutional Court on the grounds that the PNPS in 1965 did not contradict the 1945 Constitution of NRI interpretation that does not pay attention to the points of religious teachings by ignoring the interpretation methodology used by experts and the teachings of the religion (Firmansyah, 2018).

Ahmadiyah as a CSO is subject to Law No. 16 of 2017 concerning Community Organizations which require CSO Principles not to conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia (Article 2). Subsequently Article 3 states that CSOs can include certain characteristics that reflect the wishes and ideals of CSOs that do not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia. , 65. In Chapter II concerning the Principle, it was stated that the Ahmadiyya Community of Indonesia was based on Pancasila. In Chapter III concerning Objectives (Article 3):

1. The Ahmadiyya Community in Indonesia lives, practices and secures the Pancasila and the 1945 Constitution
2. The Ahmadiyya Community of Indonesia aims: 1) Developing Islamic Religion, the teachings of the Prophet Muhammad, Saw according to the Qur'an, Sunnah, and Hadith; 2) Fostering and maintaining the unity and unity of the Nation and increasing the ability of its members both in the fields of social, education, culture, nature, devotion and spirituality

Thus Ahmadiyah as a mass organization is still relevant based on Law No. 16 of 2017 concerning Community Organizations.

Legal Protection Against Ahmadis in Religious Freedom and Belief

According to Satjipto Raharjo, defining legal protection is to provide protection for human rights that are harmed by others and the protection is given to the community so that they can enjoy all the rights given by law, whereas according to Philipus M. Hadjon argues that Legal Protection is protection of dignity and dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitration (Legal Thesis, 2014). The essence of the notion of legal protection is protection or protection of human rights based on legal provisions.

Regulations in the context of national law against legal protection against the right to freedom of religion and belief to the Indonesian Ahmadiyah Community are regulated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) and Law No. Number 39 of 1999 concerning Human Rights, while the regulation in international law is regulated in the International Covenant on Human Rights, namely the Universal Declaration of Human Rights (hereinafter abbreviated as DUHAM), and Civil and Political Rights (ICCPR).

National law contains the concept of non derogable rights and state responsibilities in terms of advancing the protection, respect and fulfillment of human rights in terms of the right to freedom of religion and belief and the regulation of the Universal Declaration and ICCPR is different because it only regulates the concept of non derogable rights (Pratama et al., 2016). Arrangements regarding human rights in the 1945 Constitution of the Republic of Indonesia are regulated in Article 28 I paragraph (1) which states that religious rights are rights that cannot be reduced under any circumstances. Article 28I paragraph (4) states that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government.

The regulation of legal protection against the right to freedom of religion and belief is also regulated in Law No. 39 of 1999 concerning Human Rights in Article 4, which states that "the right to religious freedom is a human right that cannot be reduced under any circumstances and by anyone". Furthermore, the concept of state responsibility to promote protection, respect and protection of human rights is regulated in Article 71, namely: "The government is obliged and responsible to respect, protect, enforce and promote human rights as regulated in this law, other laws and regulations, and international law on human rights received by the Republic of Indonesia."

On December 10, 1948, the United Nations General Assembly proclaimed the Universal Declaration of Human Rights (hereinafter abbreviated as Universal Declaration of Human Rights), which contains the basic human rights and basic freedoms, and which is intended as a general reference to the results of achievements for all peoples and nations for the guarantee of recognition and respect for basic rights and freedoms universally and effectively, both among the people of the UN member countries themselves and among the people in regions under their jurisdiction. Because the form is a general

reference, it is necessary to elaborate the contents and meanings of the Universal Declaration into international instruments that are legally binding (SBPN DPN, 2016). In terms of religion and belief, the Universal Declaration regulates and guarantees the rights and freedoms of belief and religion, including the right to freedom to change religion and belief whether done individually or with other people in a group or community.

Regulations on religious freedom and belief are also regulated in Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR). The Covenant further stipulates the right of everyone to freedom of thought, belief and religion and protection of these rights (Article 18).

Thus the legal protection of Ahmadiyah citizens in freedom and religious beliefs is regulated under the Constitution of 1945, Law No.39 of 1999, Universal Declaration of Human Rights (Universal Declaration of Human Rights) and Law No. 12/2005 on Verification In the exercise of his rights and freedoms, each person shall be subject to the limitations stipulated by the Law with a view to ensuring recognition and respect for the rights and freedoms of others and to meet fair demands in accordance with the moral, security, and public order in a democratic society.

Conclusion

Ahmadiyah as a mass organization is still relevant based on Law No. 16 of 2017 concerning Community Organizations. Legal protection against Ahmadiyah citizens in freedom and religious belief is regulated in the 1945 Constitution of the Republic of Indonesia, Law No. 39 of 1999, Universal Declaration of Human Rights (Universal Declaration of Human Rights), and Law No. 12 of 2005 concerning Ratification of International Covenants on Civil and Political Rights (ICCPR). In exercising their rights and freedoms, each person must submit to the restrictions stipulated by the Law with the aim of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, security and public order in a democratic society.

References

- Bonasir,R.2018. *Kenapa Ahmadiyah dianggap bukan Islam: Fakta dan kontroversinya*.Online. <https://www.bbc.com/indonesia/indonesia-42642858>. diunduh Kamis 25 Juli 2019
- Dartono, D. A. 2016 .*LegalitasJemaatAhmadiyah Indonesia*. Online. <https://archive.org/details/LegalitasJemaatAhmadiyahIndonesiaBukuConvertedIntoPdfByDildaar>
- Detiknews.2008. *Ini Dia SKB Pelarangan Ahmadiyah*.Online.<https://news.detik.com/berita/d-953067/ini-dia-skb-pelarangan-ahmadiyah>. diunduh Kamis 25 Juli 2019
- DPN SBMI. 2016. *Belajar Tentang Hak Asasi Manusia Dari HRWG*. Online. <http://sbmi.or.id/2016/12/belajar-tentang-hak-asasi-manusia-dari-hrwg/>. Diunduh Jumat 26 Juli 2019
- Fajar, M & Achmad, Y. 2013. *Dualisme Penelitian Hukum Normatif & Empiris*. Yogyakarta: Pustaka Pelajar

- Firmansyah, T. 2018. *MUI: Putusan MK Tolak Gugatan Ahmadiyah Sudah Tepat*. Online.
<https://www.republika.co.id/berita/dunia-islam/islam-nusantara/18/07/24/pccu8t377-mui-putusan-mk-tolak-gugatan-ahmadiyah-sudah-tepat>. diunduh Kamis 25 Juli 2019
- <https://tesishukum.com/pengertian-perlindungan-hukum-menurut-para-ahli/diunduh> Jumat 26 Juli 2019
- Irawan, Y. 2014. *Mencari Solusi Permasalahan Ahmadiyah di Indonesia*. Online.
<https://slideplayer.info/slide/2746599/dunduh> Kamis 25 Juli 2019
- Pratama, I, M, J, U., Wisanjaya, I, G, P, E., & Arsika, I, M, B. 2016. Penyelesaian Kasus Kekerasan Terhadap Jemaat Ahmadiyah Di Wilayah Cikeusik Indonesia Dalam Perspektif Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik. *Jurnal Kertha Negara*. 4(3). 1-6.
- Soemitro, R. H. 1983. *Metodologi Penelitian Hukum*. Jakarta: Ghalia Indonesia.
- UU No.12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights (ICCPR)
- UU No.16 Tahun 2017 tentang Organisasi Masyarakat.
- UU No.39 Tahun 1999 tentang Hak Asasi Manusia
- UUD NRI Tahun 1945

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal. This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).