

Simulation Game

GBKP Church Case in Jakarta

Each of you will be assigned to a group representing a certain interest in the case given to you. Please discuss your arguments within your group. Each group will then present their arguments in an oral hearing in front of the entire participants and will respond to questions posed by the other groups. A deciding body will be constituted then by one member out of each group chosen by lot who has to assume the role of an independent arbitrator.

Outline

Preparation time for the groups: During the Workshops in Leipzig and Malang.

Presentation time of the arguments for each group: 15 minutes presentation (in total: 60 minutes).

Break: 15 minutes after each group presentation (in total 60 minutes).

Questions & answers: 5 minutes questions (posed by each of the other three groups) (in total: 60 minutes).

Constitution of the deciding body; preparation time for the deciding body: until the next day.

Presentation time of the deciding body: 15 minutes (Possibility of a minority vote: 5-10 minutes).

Feedback and lessons learned regarding the instrument (in form and content): 60 minutes.

Participating Groups: the congregation; the local government of Jakarta; the community surrounding the church; the Forum for Religious Harmony

Case Setting

The case is set in the legal order of a constitutional state under the rule of law with the protection of fundamental human rights, where the right to freedom of religion and worship following their religion is guaranteed and protected by the state. The state is symbiotic, neither a secular state nor a religious state. Conceptually, a symbiotic state means that religion and the state need each other and are reciprocal.

Brief Introduction

The case of intolerance in religious life in Indonesia is still an important issue in many scholarly discussions on the promotion, respect and protection of human rights. The National Commission on Human Rights of the Republic of Indonesia, in 2023, released the results of a study stating that the religious harmony index was still at 68.72 out of a maximum value of 100. Of course, this is "homework" for the Indonesian government and its civil society.

The case of intolerance and violation of the right to freedom of religion chosen in Taking Perspective in 2024 is the legal case of the Batak Karo Protestant Church located in South Jakarta, where this case is referred to as one of the complicated cases and requires the awareness of many parties to sit together and think very clearly to find a solution to uphold the spirit of diversity and brotherhood that is the identity of the Indonesian nation.

The case needs to be seen and analyzed from both the legal and the social side, because there is a normative issue that triggers the problem, namely the joint regulation of 2 ministers (minister of religion and minister of internal affair) that seems to complicate the acquisition of permits to build houses of worship in Indonesia (PMB number 8 and 9 year 2006). The social side also contributes to the complexity of the case because of the primordial nature and arrogance of the majority that is still inherent in some communities in Indonesia, especially in less educated groups of society.

General background of the case:

The Batak Karo Protestant Church (GBKP) is one of the ethnic churches that developed in Indonesia and its congregation is dominated by the Karo ethnicity. One of the locations of GBKP is located at Jalan Tanjung Barat Lama, No. 148 A, Jagakarsa, South Jakarta or better known as GBKP Pasar Minggu. According to the history, GBKP Pasar Minggu carried out its first activity in 1990 to provide services. The existence of this GBKP had caused polemics in the community. One resident stated that the community did not reject the church because of intolerance, but because the church's building permit was not proper. The permit issued to GBKP Pasar Minggu is a permit to build an office building (rukan), not a house of worship. The GBKP management also spoke out on this issue. According to them, since October 27, 2004, the Church Development Committee has applied to the DKI Jakarta provincial government for a permit to build a house of worship. As a result, on February 14, 2005, the Governor of DKI Jakarta issued an IMB No. 01439/IMB/2005 for the construction of new buildings and offices (KUT). The IMB obtained was not in accordance with what was submitted by GBKP Pasar Minggu, which was an IMB for the construction of houses of worship. In 2006, GBKP even had time to relocate and renovate, but was opposed by local residents.

Various efforts were made by the church administration until on July 21, 2016, the congregation assembly submitted letter No. 08/GBKP-PM/JAKBAN/VII/2016 to the head of the Tanjung Barat region regarding the application for a residence permit for the GBKP congregation's place of worship in the Tanjung Barat regency. A few days later, a group of people urged the head of the Tanjung Barat region to stop the worship activities and refuse to grant IMB (building

permit) to GBKP Pasar Minggu. On the advice of the then Jagakarsa Police Chief, the Tanjung Barat District Head ordered GBKP to stop Sunday worship activities. The head of the Tanjung Barat area also said that he could not recommend the need for a place of worship for the GBKP congregation because out of 105 GBKP congregations, only 11 congregations were located in Tanjung Barat Regency. This is not following the PMB number 8 and 9 year 2006 which requires a minimum of 90 local congregations. Then, from 75 local residents who signed the approval for the establishment of houses of worship, only 25 people claimed to agree and the rest did not know the purpose and meaning of the request for signature support.

Group 1: The congregation

The community believes that the establishment of places of worship is their fundamental right, which they can claim anytime and anywhere. The congregation feels that the common ministerial regulation on the procedure for the establishment of places of worship is something that burdens them because the conditions are usually difficult to fulfill by the followers of minority religions.

Group 2: The local government of Jakarta

The local government is in a dilemma because the congregation's application for a permit to build a place of worship is not complete and there is manipulation regarding the address of the congregation's residence, but on the other hand, the local government is still considering how to facilitate the congregation to worship in peace.

Group 3: The community surrounding the church

Residents of different religions believe that worship services held by congregations in a place that has not received a license as a place of worship are illegal acts and disturb public order. The residents feel that the congregation does not respect the law.

Group 4: The Forum for Religious Harmony

The Forum for Religious Harmony is able to try to find a non-legal solution that can make the situation more peaceful.

Brief Summary of the Joint Regulation

To implement Article 29 (2) of the 1945 Constitution, which states that "the State guarantees the freedom of every resident to embrace his or her respective religion and to worship according to his or her religion and beliefs", a Joint Regulation of the Minister of Religious Affairs No. 9 of 2006 and the Minister of Home Affairs No. 8 of 2006 on the Establishment of Places of Worship was issued. The Joint Regulation generally consists of 9 points:

- 1) The central government and local governments are responsible for maintaining religious harmony (Article 2);

- 2) The governor is responsible for this at the provincial level (Art. 3(1), Art. 5);
- 3) The regent or mayor is responsible for this at the regency or city level (Art. 3(2), Art. 6);
- 4) The important role of the Forum for Religious Harmony (FKUB) in the establishment of places of worship and the resolution of disputes arising in such places (Art. 8 - Art. 12);
- 5) The general and special requirements for the establishment of places of worship, including obtaining a building permit (IMB) when such requirements are met (Art. 14(2)(d), Art. 15);
- 6) The use of buildings other than places of worship as temporary places of worship (Art. 18 - Art. 20);
- 7) Settlement of disputes that may arise from the construction of places of worship (Art. 21 - Art. 22);
- 8) Supervision by the Ministry of Religious Affairs of the maintenance of religious harmony carried out by the Governor and Regent/Mayor through their reports (Article 23 - Article 24); and
- 9) The cost of promoting and supervising the maintenance of religious harmony shall be charged to the State Budget (APBN) and distributed to the Provincial Budget (APBD) and Regency/City Budget (APBD) according to the extent of implementation (Article 25 - Article 26).

Administrative requirements for building a house of worship

According to Jakarta Governor Regulation No. 83/2012 (as a derivative of the joint regulation of the two ministers), any construction of a house of worship must first receive approval in principle from the Governor.

The approval in principle is given upon a written request from the management/committee of the construction of a house of worship to the Governor through the Head of the Education and Spiritual Affairs Office after fulfilling:

- a. Administrative requirements;
- b. technical building requirements; and
- c. special requirements.

The establishment of a house of worship must meet the administrative requirements and technical building requirements. In addition, it must also meet special requirements, including:

1. a list of names and Citizen Card's of at least 90 house of worship users approved by local officials according to the level of territorial boundaries;
2. local community support of at least 60 people approved by the village regency/lurah;
3. a written recommendation from the head of city religious affairs office; and
4. a written recommendation from the regency/city religious harmony forum.

Controversial points:

1. the disharmony of the joint regulation of the two ministers mentioned in the description above with the principles of Pancasila (especially the principles of divinity and just and civilized humanity), as well as the disharmony with Article 29 of the Indonesian Constitution regarding the state's obligation to guarantee and protect the rights of every citizen to religion and worship according to their respective religions.
2. the intolerance and non-nurturing attitude of the surrounding community groups.
3. the public services of the local government, which do not provide solutions to the conflicts that arise, and which seem to pay no attention to the impartiality of the local government and its obligations to protect the rights of citizens to worship according to their respective religions.