Jeopardizing Transition: Freedom of Worship, the Power of Local Government, and Democratization in Indonesia

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Abstract

Protection of minority rights has always been a serious challenge to the consolidation of democracy in transitioning countries. Indonesia has been experienced significant progress in democratization since the 1998, but still faces issues related to the low progress of political culture, pluralism, respect to freedom, and human rights. The situation has been impact on the waiver of the rights of minority groups to worship.

In 2006, Major of Bogor City, in West Java Provinces, revoked the license of Church construction in his respective area. By analyzing the case, the author would like to explain how the weakness of democratic political culture after decentralization policy implemented has been threatening religious freedom of minorities. The central government and the legal institutions even in the highest level could not control local government in such issue. The case currently appears in international forum attention since 2011.

I argue that such kind of case is caused by the lack of democratic political culture in respect to minority rights and the rights of worship to any different religious. Both minority and majority groups, as well as local and central government, tend to rely on the legal process, but not all of parties intent to obey the court decision.

Key words: Indonesia, religious freedom, minority rights, democratization, decentralization

(Women in Nigeria): “My security is only in the name of the Lord who has made heaven and earth. I feel secure because I am at liberty to worship whom I like, how I like, and also because I can pray for all the people and for peace all over the country”.

Introduction

Democratization is a significant movement of the 20th century which has prompted changes in the various sectors of economic, political, and social culture in different parts of the world. Apart from debate about the spread of the democracy, it is a tangible reality that democracy is an option for many countries to be accepted in the international arena. The movement toward democracy has many challenges. One of the problems faced by countries in transition is how to ensure confidence in democracy as “the only game in town” (Diamond, 1997:3) as instruments for managing order, meet public expectations, and protect the minority..

1 UNDP, 1994 Human Development Report, United Nation Development Programme, p. 23
The common situation which usually occurs during the transition process is encountered political power struggle between groups in society. Since the majority predomination is somehow the logic of democracy, then the position of minority groups threatened. Even when a country has enjoyed the stage of a consolidated democracy, such kind of threat is still appear.

The majority and the minority in a society could be identified by quantitative criteria. Conceptually, the concept of majority and minority refers to the sociological term which was later adopted in the social and political frame. Wirth (1945:347) defines minority as “a group of people who, because of their physical or cultural characteristic, are singled out from others in the society in which they live for differential and unequal treatment and who therefore regard themselves as objects of collective discrimination.”

Ideally, once a country reaches the stage of consolidated democracy, the political and social order should provide more space to minorities to express themselves according to the equal rights principles. However, the symptoms of discrimination, particularly based on religious differences, tended to increase lately, just when more and more countries in the world move to democracy.

The annual report by the U.S. Department of State on religious freedom around the world showed that religious minorities are the most likely group pressure around the world through 2011. This report focuses on the transitional countries such as in the Middle East and North Africa, as well as Asia. However, if we look at the news media, the discrimination against religious minorities still occur even in the established democracies like the U.S. and Europe though.

In Indonesia, the situations of discrimination appear in sync with what happened worldwide. Of course it will be too early to justify such kind of phenomenon as a failure of the transition. However, the transition to democracy in Indonesia has spawned an increasingly powerful political institutionalization, the power relations can be managed to restrict the possibility for the formation of re-authoritarian regime. Civil society is also increasingly demonstrate the role and function as a powerful watchdog to oversee the implementation of political power.

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Undoubtedly, Indonesia faces the reality of the majority and minority relations in the context of religious diversity. According to the 2010 census, the population of Indonesia amounted to 237,641,326 inhabitant which 87.18% (equal to 207,176,162 inhabitants) are Moslems. The remain 12.82% distributed to other 5 religious believer, consist of 6.96% or 16,528,513 embraced Protestant Christianity, 2.91% or 6,907,873 are Catholicism believer, 1.69% or 4,012,116 are Hinduism believer, 0.72% or 1,703,254 are Buddhism believer, 0.05% or 117,091 are adherents of Confucianism, and about 0.13% or 299,617 people adhere to other religions (including traditional cult).³

The existence of minority in the structure of society is undeniable. Moslem adherents claim the privileges attached, even though the Constitution expressly and various regulations adopted asserted that Indonesia is a pluralistic nation, based on “Belief in God Almighty” and national unity. As a consequence of such demographic structure, it is not surprising that most of the policy makers, appointed and elected public officials, a variety of key positions in national and local government, dominated by Moslem.

Such kinds of reality will not become problem, if the social and political contestation provides equal opportunity for citizen with different religious believe to express their self. In fact, during the transition period (1998 until now) there are facts that some minority groups suffer from the discrimination, particularly to their freedom of worship.

The reports of Setara Institute describe that freedom of religion, freedom of worship, and protection to religious minority in Indonesia still become an exist problem. For instance, during January to June 2012 there were 129 cases which threatened the freedom of religion from 179 discrimination action. The actions are spread at 22 provinces (of 33 provinces in Indonesia). The highest frequency occur in West Java (36 cases), East Java (20), Central Java (17), Aceh (12), and South Sulawesi (8).⁴

Setara Institute also recorded that 68 cases were promoted or done by public servant or state official, which 58 of them are active action by state, including 19 cases of closure by force of churches, and 16 cases of ignorance.⁵ During 2010 to 2011, discrimination

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³ The 2010 Indonesian National Cencus may be accessed at http://sp2010.bps.go.id.
⁵ Ibid
occurs not only between different faiths, but also within the majority itself. Ahmadiyya and Shia (sub group within Islam) violated and attacks by other groups in Islam.  

Human Security, Democracy and Freedom of Religion

In daily life, people in Indonesia with different religion could enjoy living side by side without any worries. Generally, there is no conflict among people from different religion. For instance, social interaction between neighbor, interaction in the market, public transportation, and so forth take places in peace, also in the regards to public service, education, health service, and relations of citizen and government. Tolerance in daily life is well guaranteed without any discrimination by different religion.

However, the events of discrimination found in the aspects related to worship. Various cases mentioned above, all relating to the restrictions of worship, in the running places of worship, and many cases of closing churches, which often goes with violence. In many cases, state authority involved in such kind of violence, or at least just let it happened without any proper action to protect the minority. Sometimes, the action doing by state authority is violating the right of the minority. In this context, there is clear facts that the minority become unprotected and lose their security to worship as one of fundamental human rights.

The concept of human security initially introduced by United Nations Development Program (UNDP) trough 1994 Human Development Report. Definitions provided by UNDP consist of 7 aspects of human security, including: economic security, food security, health security, environmental security, personal security, community security, and political security (UNDP, 1994:24-25). The approach provided is such kind of new perspective in order to understand the concept of and threat to security, which is different from the neo-realist perspective which was broadly adopted by international relations scholars. Security, in this context, is defined not only based on “threat to national sovereignty” but more broaden to “threat to safety of individual citizen”.

Ramcharan (2004:40) described that: “security is a condition or feeling safety, of being protected. International human rights norms define the meaning of human security. The Universal Declaration of Human Rights and the wider body of human rights instruments

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6 The latest case happened on August 26th, 2012, when Shia village was burned by Sunni majority in Madura, East Java.
are all meant to make human beings secure in freedom, in dignity, with equality, through the protection of their basic human rights”. In this context, human security is closely related to human rights. Normatively, protection to human rights is the important tools to human security. It is also relevant to the conception adopted and developed by UNDP related to political security as an integral part of human security, through the elaboration of political security dimension as: “One of the most important aspects of human security is that people should be able to live in a society that honors their basic human rights” (UNDP, 1994:32).

Tabel 1. State versus human-centered security compared

<table>
<thead>
<tr>
<th>Security referent (object)</th>
<th>State-centered security (a neo-realist vision)</th>
<th>Human-centered security</th>
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<tbody>
<tr>
<td></td>
<td>In a Hobbesian world, the state is the primary provider of security: if the state is secure, then those who live within it are also secure;</td>
<td>Individuals are co-equal with the state. State security is the means, not the end.</td>
</tr>
<tr>
<td>Security value</td>
<td>Sovereignty, power, territorial integrity, national independence.</td>
<td>Personal safety, well-being and individual freedom: 1. Physical safety and provision for basic needs; 2. Personal freedom (liberty of association); 3. Human rights; economic and social rights.</td>
</tr>
<tr>
<td>Security threats</td>
<td>Direct organized violence from other states, violence and coercion by other states and from non-state actors.</td>
<td>Direct violence: death, drugs, dehumanization, discrimination, international disputes, WMD; gendered violence. Indirect violence: deprivation, disease, natural disasters, underdevelopment, population displacement, environmental degradation, poverty, inequality, ethnic/sectarian oppression. Threats from identifiable sources (such as states or non-state actors) or from structural sources (relations of power ranging from family to the global economy).</td>
</tr>
<tr>
<td>By what means</td>
<td>Retaliatory force or threats of its use, balance of power, military means, strengthening of economic might, little attention paid to respect for law or institutions.</td>
<td>Promoting human development: basic needs plus equity, sustainability, and greater democratization and participation at all levels. Promoting human rights. Promoting political development: global norms and institutions plus collective use of force as well as sanctions in case of genocide, cooperation between states, reliance on international institutions, networks and coalitions, and international organizations.</td>
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The table indicated that the concept of human centered security more oriented to the protection of personal and individual security through human development, empowering human rights, and political development. Thus, when a country is in the transition to
democracy, at the same time there should be more extensive guarantees to provide security for its citizens.

The contemporary studies related to human security and democracy are not widely implemented. Most of the literatures in this intersection issue focused on the phenomenon of human security in the context of post conflict transitional states, which mostly violence conflicts (see: Shurke, 1999; Huliaras and Tzifakis, 2007; McDonald, 2010). In facts, there are several countries move to democracy, particularly in the post-cold war era, perform the transition without conflict. Such kind of countries establish consolidated democracy trough transforming the political institutions, and sometime by replacing the old one with new agencies.

Democracy consolidation itself could be meant as (process) of some democratic elements fusion in order to integrally facilitate political democracy. The main elements of democracy consolidation is political institutions, such as political party, political elites, interest groups, as well as political society (O’Donnel and Schmitter, 1993:24, in Nugroho, 2001:27).

Linz and Stepan (1996:3) argued that “a democratic transition is complete when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the direct result of a free and popular vote, when this government de facto has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies de jure.”

Some parts of consolidated democracies variables exist in Indonesia political system nowadays. Government, both at national and local level, are resulted through a fair and accountable direct elections. Every legislatives body (House of Representatives), executive agencies, and judicial power share independent authority formally. Although there are some lack the practical arena, but improvement are established and promote from time to time. Even, some analysts agree that Indonesia currently become a model to democracy (The Jakarta Post, May 4th, 2009).

International IDEA (2006:40) describe that “many of the democratic transitions of the late 1980’s and 1990’s were the result of closed negotiations among elites. Only those
which have managed to broaden support for democracy beyond the elites have successfully sustained democracy and dissatisfaction with democracy have much to do with the undemocratic way in which political change has occurred”.

Table 2: Human Security and Democracy: an Overview

<table>
<thead>
<tr>
<th>Human Security Dimensions</th>
<th>Conflict Concerns</th>
<th>Democratic Practice</th>
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<tbody>
<tr>
<td>Immediate human security crises</td>
<td>Political processes to achieve the termination of the war through ceasefire. Stopping and preventing further war crimes and crimes against humanity. Agreements by parties to respect civilian life. Provision of immediate humanitarian relief.</td>
<td>Emphasis on fundamental human rights. Ensuring equitable distribution of humanitarian relief and empowering local actors in its fair distribution to civilians in need. Defining a transition to inclusive democracy as a pathway to peace.</td>
</tr>
<tr>
<td>Intermediate-term transition from war to peace</td>
<td>Facilitating negotiation processes that allow for settlements that define the transition path and the outcome of the transition. Managing political violence and potential spoilers. Ensuring the demobilization of factions and community security. Providing for immediate benefits of peace, such as economic revival.</td>
<td>Designing and implementing a comprehensive plan for supplementing peace process negotiations with institutionalized bargaining structure, such as power-sharing executives, parliaments, and local councils. Ensuring that the transition is something experienced by people on the ground and not just a process of change negotiated by elites.</td>
</tr>
<tr>
<td>Long-term human development</td>
<td>Ameliorating the underlying root causes of conflict through an appropriate and sustained programme of socio-economic development. Sustainable political institutions that can process social conflict over the long term.</td>
<td>Creating conditions – such as literacy and health – through which people are empowered to be able to participate. Ensuring through the political process that resources, income and opportunities are fairly shared among all social groups.</td>
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The above table shows that there is a demand to ensure that human security and democracy process have an intersection at the ideas of protection to human rights trough inclusive mechanism to fulfill the expectation of whole society. The problem is many transitional countries are “trapped” into procedural assumptions, as if implemented democracy procedures means that the democracy will implemented. In fact, there are several conditions where the country already doing many democratic instrument but still occur the lack of fulfilling the expectation of the society.

International IDEA (2006:77) clearly identified that: “It is important to consider the invisible social and cultural barriers, as well as legal ones, that may hinder inclusion along group identity or gender lines, so that access to agenda-setting and decision-making may be furthered. Historical and cultural factors will influence effective
Democratic institutional design, but the principle of power sharing, political equality, representation, and participation are keys to democratic practice.” Newman (2001) imply that the emergence of the concept of human security—as broad, multifaceted, and evolving conception of security—reflects the impact of values and norms on international relations.

According to the conventional theory of democratic governance, political decision and public policy should reflect the will of majority. In practical, there are two mainstream situations maybe appear: the majority rule tends to ignore (and even violate) the minority rights; or it could be happened where the minority will dominate the public policy. The first situations may be happened because of the lack of comprehensive pluralism. Bishin (2009:70) identifies that the second situation may be caused by incentive enjoy by the politician when they follow the minority will.

This theory holds that most citizens know very little and care even less about most political developments. Because of this apathy and ignorance, politicians are basically free to ignore the majority will in favor of the preferences of more intensely committed minorities who reside within their state of district (Fredrick, 2011:154).

The politician played significant role to implement the protection of minority rights. In many transitional countries, power politics is merely becomes the main concern of politician. Some of them worry to lose power, otherwise the follow the majority will. Since many public positions in government is decided through direct election, then the issues of popularity and acceptability of politician as individual become crucial in the process of decision making and gaining support from constituencies.

**Freedom of Worship: The Case of Yasmin Church in Bogor, Indonesia**

According to Crouch (2007:96-116), one of the factors which promote the closure of house of worship in Indonesia is the changes of regulation, from Ministry of Religion Decree Number 1/1969 (old decree) to Joint Ministerial Regulations Number 8 and 9/2006 on the Implementation of the Task of the District Head/Representative of the District Head to maintain religious harmony, equip the Religious Harmony Forum, and to regulate the building of places of worship). Crouch clearly argued that the new regulation do not protect the freedom of religion rights, particularly to minority religion.
To understand how such kind of trends in the context of Moslem majority and minority relations around the frame of law and domestic political structure, the case of a church construction planned by Indonesian Christian Church (Gereja Kristen Indonesia or GKI) located in an area called Taman Yasmin in Bogor, Indonesia, provided in the following.

Bogor is a city of West Java with 92.78% (equal to 950,334 inhabitants) Moslem and 3.84% (equal to 36,506 people) Christian followers. In 2002, the GKI planned to build a church in Taman Yasmin (more popular as GKI Taman Yasmin). According to regulation, the requirements to obtain government permit to build a new house of worship are:

1. There are at least 90 populations living in the respective area will use the house.
2. Should be approved by at least 60 people of others religions at the surrounding area.
3. Written approval from the Office of Regional Religion Affairs in the respective area.
4. Should be approved by Religious Adherent Harmonious Forum (Forum Kerukunan Umat Beragama or FKUB) at the city level.
5. When the requirement number (1) and (2) could not be fulfilled, the city government must facilitate to provide other location to enable the construction of house.

In 2006, GKI was able to fulfill the requirements. In July 13th, City Government of Bogor issued the Building Construction Permit to build the proposed church. Because of the budget limitation, the progress of construction was slow. Until 2008, the construction was not finished. Even though, the followers of GKI started to do worship regularly in temporary building without wall.

Moslems people in the surrounding area started to protest in 2008. According to the protesters, there were not enough Christian inhabitants living in the area. They suspected that the church construction was intended to support proselytization program of the Christian and it potentially threat Moslem community. Moslem inhabitants also denied that they have ever approved. Even, in January 2006, they sent a letter of

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7 National Population Cencus 2010, can be accessed at [http://sp2010.bps.go.id](http://sp2010.bps.go.id)
8 Stated in article 4 of Joint Ministerial Regulations Number 8 and 9/2006.
9 FKUB is a forum of the local leader or public figure from different religious, established independently by citizen. See Article 8 of Joint Ministerial Regulations Number 8 and 9/2006.
10 Most of the data provided in this part is take from the document of court decision, as stated in Supreme Court Decree Number 127 PK/TUN/2009, unless mentioned specifically.
rejection to local authority. They accused that the GKI had falsify documents of inhabitants’ approval. That is why, they ask city government to cancel the permit.11

The protest was occurred intensively and involving hundreds of Moslem inhabitant. They were not only come to city government, but also provoked and intimidated the Christian who did worship in the construction area. In order to avoid more violent action, in February 14th, 2008 Government of Bogor fulfill the will of Moslem inhabitants by deciding “to freeze” (temporary cancelation) the constructions permit. City government also instructed security apparatus to seal the location of construction, prohibit the Christian to do worship in the area, and evict them if they still come to do worship.

The GKI objected the decision and sued the government through the administrative court. After several hearing and decisions (from the first level of court to the Supreme Court as a highest decision maker), the court stated that the policy of city government to temporarily cancel the permit was violation of law.

Each party has different interpretation to the court decision. According to GKI, it is the official statement to support their right to continue the construction. In the regard of the facts that majority Moslem surrounding rejects, it should become the responsibility of government to protect the church. In the other hand, City Major of Bogor interpreted that the decision to temporarily cancel the permit is violate the law because such kind of mechanism is not recognized in the law system, but the Building Construction Permit itself still become the authority of city government to decide.

On March 8th, 2011 Major of Bogor revoked the temporary cancelation of the permit which was issued earlier. By doing this, Major argued that he already comply with court decision. But, three days later (March 11th, 2011) the Major announce another new decision stated “permanent cancelation of Building Construction Permit”.

Following the decision, Major of Bogor offered to relocate the church, and guarantee that it will be accepted by inhabitant surrounding. The GKI declined the offer, because the alternate place located too far, and difficult to access. Otherwise, the GKI argue that Major of Bogor did not need to find solution, because the solution already provided by

11 See the official website of Indonesian Moslem Communication Forum (Forum Komunikasi Muslim Indonesia or FORKAMI) http://forkami.com/berita-149-kronologi-singkat-soal-gki-yasmin-bogor.html
the court. What should Major did is just implement the decision of the court and protect the minority to do their right.\textsuperscript{12}

The clash between the GKI and the Major of Bogor continues. By his political power, Major of Bogor forced his decision to be implemented. In some occasion, Major of Bogor openly suspected that the GKI intentionally looking for trouble and tend to spread bad information about his administration by: “manipulated the facts related to the church construction polemic”.\textsuperscript{13}

Realizing that they were subordinated compared to the Major, the GKI established public campaign to gain support nationally and internationally. They submit a report to National Commission of Human Rights, bring the case to National Ombudsman, inviting the involvement of Presidential Advisory Council, and bring the case to international level through United Nations Human Rights Council. Interestingly, all of the entities support the GKI and ask the Major to obey the court decision. But, Major rejected to obey, and no sanction for that.\textsuperscript{14}

The GKI always come back to the sealed construction area to do worship. Mostly, they do worship in the sidewalk of street because they are prohibited to enter the area. This activity provoked surrounding Moslem inhabitant and government security apparatus. It caused to several clashes occurred since 2008. Even in 2010, the GKI worshipers celebrated the Christmas Eve in the pavement, under suppressed and intimidation by inhabitant surrounding the location.\textsuperscript{15}

This case happened in a city with 950,334 populations (compare to 237,641,326 of total Indonesia). But the characteristic, methods, pattern of discrimination, the role of local government and security apparatus, and the capacity of central government to solve the problem is almost same with all of the identically cases in Indonesian nationwide. Several factors which could be identified involved in the case including:

\textsuperscript{12} Interview with GKI Taman Yasmins spoke person and lawyer, Bona Sinagilingging, July 16\textsuperscript{th}, 2012.
\textsuperscript{15} The Jakarta Post, December 25\textsuperscript{th}, 2012, “Banser NU guard GKI Yasmin Christmas Mass”, accessed on September 1\textsuperscript{st}, 2012 at 13:31, shortened url: \url{http://bit.ly/u3bRtE}
- There is a difference perception between the Moslem majority and Christian minority regarding to the construction of church.
- There is one single regulation used by each party, but interpreted differently.
- The majority tends to rely on their demand by coercive tools, like demonstration and sometimes intimidation.
- The power of local authority could not be controlled by central government, and at the same time there is a reluctance of central government to involve more deeply in finding solutions.
- Security apparatus tends to support one side, particularly the majority, based on ideas to give priority to stability and common will (which is simply interpreted as the will of the majority).

**Conclusion: Threat to Transition?**

This situation could harm citizen expectation to the ability of democratic mechanism in order to secure people interest. Diamond (2008:37) clearly identified that “if democracies do not more effectively contain crime and corruption, generate economic growth, relieve economic inequality, and secure freedom and the rule of law, people will eventually lose faith and turn to authoritarian alternatives”.

Democratic transition in Indonesia had been successfully establish significant changes, particularly in the context building new political institutions in order to maintain state and society relations, promote freedom in many aspects. But, there is still a lack in the protection of religious minority right to do worship. In the other hand, some politicians sometimes consider to use religion issues to gain support from constituencies. This situation could reduce people’s confidence to democracy as the ideal mechanism to promote their right and to protect them.

In this context, Chirs (2012:97) imply that “there is no issue or incident that is only about religious freedom. Especially in restrictive environments, it is imperative to understand religious freedom in the context of: global trends; the geo-politics of the region; the national narrative; ethnic majority-minority relations; economic and educational development policies (especially for ethno- and/or religious minorities); and how the culture and majority religion historically and currently understands the “other”.

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The paper also showed that there is still an “empty space” in the new Indonesian political system which have not maintained by the transition process yet. It is including the mechanism for effective control of local government political authority, particularly in the issues related to universal and global attention, such as human security issues. Such kind of control mechanism is needed due to the absence of democratic political culture at the society level in order to promote pluralism. For some reasons, trust building in the grass root societies, both among societies itself as well as between society and government/politician still not well established in order to perform an ideal democratic political culture. Indonesia, however, already take a right path to democracy, walking in the right track of the process. But, somehow, such kind of threat to the failure of the transition must be anticipated.

Bibliography:


