**Vigilante Justice Over Blasphemy Allegations in Indonesia:**

**A Failure of Anti-Blasphemy Law Enforcement to Preserve Justice**

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**ABSTRACT**

In recent years, scholars have conducted extensive research to investigate how Indonesia's Anti-Blasphemy Law has hindered individuals' freedom of religion and expression, specifically as it pertains to International Human Rights Laws. Despite the law's enforcement, public disorder has continued to escalate, manifesting in acts of vigilante justice. The purpose of this socio-legal study is to answer three critical questions regarding blasphemy in Indonesia. These include: (1) How does vigilante justice persist despite the enforcement of blasphemy law? (2) To what extent vigilantism actions shaped the court decisions? (3) Why has the continued enforcement of the Anti-Blasphemy Law not led to ensuring justice? The research examines interview data, case studies, and court rulings. The study's results demonstrate that the claim of enforcing the Anti-Blasphemy Law with the aim of maintaining public order is not substantiated by evidence. Instead, the neglectful and ambiguous enforcement of the law has depleted trust in Indonesia's legal system, resulting in social injustice. Additionally, instances of blasphemy in Indonesia have often led to acts of vigilante justice, which are legitimized by the law. Among many factors, the study points to the rising Islamic populism in Indonesia as a major contributor to such behavior. Continuing to enforce the Anti-Blasphemy Law disregards the democratic foundations and the rule of law, making social justice unattainable. This study stresses the need to rethink the role of the Anti-Blasphemy Law in Indonesia to ensure due protection of human rights and promote social justice. By exposing the multiple factors that perpetuate vigilante justice, the study advocates for reassessing the limitations and challenges of law enforcement in the context of religious intolerance. Ultimately, the study's findings may be valuable for policymakers and legislators seeking to promote a fair and just society in Indonesia.

**ABOUT THE SPEAKER**

Cekli Setya Pratiwi is an associate professor of law at Law Faculty Universitas Muhammadiyah Malang (UMM). She is a PhD candidate in Human Rights and Peace Studies and a tutor of Human Rights Standard and Mechanism of the Master Program on Human Rights and Democratisation at the IHRP Mahidol University. She hold the master degree in Comparative Law from the J.R. Reuben Clark Law School, Brigham Young University and the LLM degree in International and European Protection of Human Rights from School of Law Utrecht University. Pratiwi has done various research and published peer reviewed articles on the subject of law, religious law and human rights law, including Blasphemy Law as Structural Violence (Muslim World Journal of Human Rights 2020), Rethinking the Constitutionality of Anti-Blasphemy Law (Constitutional Review 2021), and Indonesia's Legal Policies Amidst Covid-19: Balancing Public Health and Religious Freedom (Journal of Southeast Asian Human Rights Journal, 2022). From 2011 to 2021 she has become one of the resource person of the Master Course on Shariah and Human Rights organised by UMM, the ICLRS and the Norwegian Center for Human Rights and an editor-in-chief and one of authors of two languages book with the title Shari'a and Human Rights: A Coursebook (Mizan Publisher 2022) and the main author A Study of the second amendment of the Bill of Informatic and Electronic Transaction in Indonesia concerning the threat of violation the right to Freedom of Expression (KOMNAS-HAM 2022).

**INTRODUCTION**

In contemporary times, as many modern democratic nations repeal their anti-blasphemy laws due to allegations of infringement upon freedom of religion and expression, Indonesia stands out as one of the few countries that has retained such laws. Various scholars have stated that Indonesia's Anti-Blasphemy Law is substantially flawed for two reasons. Firstly, the language of the law provides no clear definition of what constitutes religious blasphemy, leading to interpretations that are highly dependent on the interpreter's personal background and sentiments. Secondly, the law only threatens minority religious groups since it aims to protect only the religions practiced in Indonesia, which include Islam, Christianity, Catholicism, Hinduism, Buddhism, and Kong Hu Chu. Furthermore, recent developments suggest that the legal status of anti-blasphemy laws in Indonesia has become even stronger, as the Constitutional Court has refused to overturn them. The Court believes that upholding the Anti-Blasphemy Law is crucial for maintaining religious tolerance and avoiding potential conflicts between different religious communities.

It appears that the reality is far different from what the law suggests. In many cases, the enforcement of the Anti-Blasphemy Law is followed by vigilante justice against minority religious groups, who are accused of deviancy. According to Setara Institute's research, between 1965 and 2017, there were 97 cases of blasphemy; 42 of these cases involved vigilante groups. Of the total cases, 76 were resolved through "pro justicia," with 47 cases receiving sentences ranging from one to 4.5 years in prison, 5 cases resulting in sentences of over 4.5 years, and 8 cases leading to less than a year in prison (Nalle, 2021). The vigilante groups are mostly comprised of Islamic hardliners who employ hate spin strategies, portraying themselves as victims of hate from minority religious groups, with the underlying claim that these groups have blasphemed against Islam. These hate spin tactics have been successful in mobilizing protesters to pressure the MUI into issuing a fatwa, and the courts into punishing the accused. Minority religious groups not only have to undergo a legal trial, but also suffer from attacks by vigilante groups that damage their places of worship and carry out various discriminatory acts.

It is important to note that many individuals and organizations have criticized the enforcement of anti-blasphemy laws in Indonesia, as they are prone to misuse and abuse. Such laws have been used to persecute individuals based on their religion or beliefs, without any actual offense. They have also contributed to the suppression of free speech and expression. With a focus on post-constitutional court decisions, this study aims to gain a deeper understanding of the occurrence of vigilantism despite the enforcement of the anti-blasphemy law, investigate how far vigilantism affects judiciary independence in deciding blasphemy cases, and explore why the continued use of the anti-blasphemy law has failed to preserve justice.

The findings of this study will contribute important insights into the challenges and limitations of law enforcement against religious intolerance in Indonesia. It emphasizes the need to balance the preservation of religious values with the values of democracy, the rule of law, and human rights. Such an approach is critical for promoting social harmony and justice in Indonesia.

**RESEARCH METHODOLOGY**

Numerous studies have analysed the Anti-Blasphemy Law in Indonesia, primarily focusing on normative evaluations of the law's substance and its non-conformity with international human rights standards (Bielefeldt, 2012; Pratiwi, 2021). Other studies have examined public perceptions of the law through empirical legal analysis utilizing a socio-legal approach to explore the gap between ideal legal norms and the reality of law's implementation in society (Banakar, 2019; Bedner & Vel, 2010). This study has gathered a wide array of data, including case studies, statutory analysis, and in-depth interviews with experts, judges, religious followers, members of religious groups, and minority religious groups.

The research has looked into at least three cases, with the first being the case of Meiliana, a Buddhist woman from Medan who criticized the loudness of the adhan call to prayer, exemplifying how the enforcement of blasphemy laws has often resulted in intolerance and discrimination against religious minorities. She was subjected to hateful incitement, accused of blasphemy against Islam, leading to the burning and damaging of several Buddhist temples in her area, despite undergoing trial, which resulted in a sentence of 1 year and 8 months.

The second and third cases are the experiences of the Ahmadiyya and Gafatar groups, highlighting the dangers of vigilantism in response to blasphemy law enforcement. Thus, it is crucial to re-evaluate the role of the law, ensuring that its enforcement upholds human rights principles and promotes religious tolerance, while sternly condemning acts of vigilantism aimed at harming minorities in Indonesia.

Subsequently, the collected data is assessed, selected, and inventoried to address the research questions. A critical legal study approach is utilized to derive conclusions from the analysed data. The anticipated outcomes of this research are expected to provide valuable insights into the practical applications of the Anti-Blasphemy Law in Indonesia and its impact on the rights of religious minorities.

By evaluating the gap between the theoretical and practical implementation of the law, the study may provide recommendations and possible solutions that promote the preservation of human rights and social harmony in Indonesia.

**THEORETICAL FRAMEWORK AND LITERATURE REVIEW**

This study departs from the theories of the Rule of Law and justice that are essential for creating fair and equitable societies (Bellamy, 2017; Merkel, 2012). The enforcement of the law is a manifestation of the Rule of Law, where the community is expected to use legal channels to address problems, rather than resorting to vigilantism or other illegal means to mete out justice (Scheuerman, 2022). The court system exists to ensure that the enforcement of the law is carried out correctly, based on clear and specific laws, convincing evidence, and respect for proper legal procedures, where every individual is treated equally. Ultimately, upholding the Rule of Law in law enforcement will guarantee the creation of a fair judicial decision for all parties and society.

The presence of clear and unambiguous laws is essential for judges to qualify someone's behaviour as wrong (Beckett et al., 2018). On the other hand, ambiguous laws can make it difficult for the court to qualify whether someone's behaviour is prohibited. Ambiguous laws can cause the court to subjectively interpret criminal behaviour. In such a context, judges can easily be influenced by external factors. (Malle & Nelson, 2003).

Therefore, this study will provide substantial insights into the critical role that the Rule of Law plays in ensuring justice for all in the Indonesian context. In particular, the study will examine how the Rule of Law affects the enforcement of Anti-Blasphemy Law and the role of the court system in upholding justice, especially for minority religious groups.

Fischer (2021) stated that out of the 164 observations of anti-blasphemy law enforcement in different countries in 2020, 76 of them were accompanied by mass mobilization activities, threats of violence, and actual violence. Vigilante justice, also known as *Main Hakim Sendiri* in Indonesia, is generally considered illegal and occurs spontaneously as a result of public anger over criminal offenses or immoral behaviour that is caught red-handed. However, in cases of blasphemy, *Main Hakim Sendiri* has shifted from spontaneous action to more structured and even state-sponsored actions. Pratiwi & Sunaryo, (2021) contend that vigilante violence surrounding accusations of blasphemy in countries like Pakistan, Malaysia, and Indonesia cannot be separated from structural violence created by the states through discriminatory laws such as anti-blasphemy laws.

*Main Hakim Sendiri* is generally defined as attempting to convict someone who is accused of guilt without a proper judicial process or taking the law into one's own hands. According to Manan (2013), *Main Hakim Sendiri* can also be interpreted as vigilante acts or arbitrary exercise of power based on one's own will without the consent of the concerned party. In other words, *Main Hakim Sendiri* refers to the implementation of sanctions by individuals.

The court serves as the final option for those seeking justice. Therefore, it is crucial that the court acts professionally in enforcing the law and treats every individual equally. A person suspected of a crime must be considered innocent until proven guilty by the judge. Therefore, every defendant has the right to defend themselves and present evidence that could prove their innocence. In cases of criminal offenses, the element of intention is vital; a person must be acquitted of any suspicion in the absence of intent. Having said that, in practice, the determination of blasphemy actions is ultimately based on various considerations by judges and factors outside of the court.

Research conducted by George Cherian (2016) indicates that hate spin is a contributing factor that supports the enforcement of the blasphemy law. According to Cherian, hate spin has become an instrument of political campaigning, planned as a sophisticated instrument designed to paralyse political opponents through identity concerns. Cherian elaborates that hate spin tactics involve "manufactured vilification or anger employed as a political technique". This tactic of hate spin is disseminated in a way that opportunistic or hardliner groups exploit sentiments of the dominant religious group to seek extensive support, aided by online communication mediums that travel swiftly and unfiltered.

The Anti-Blasphemy Law is a remnant of the old order that has been maintained until today. Several studies have indicated that the law has two main weaknesses. The first weakness is that the law no longer aligns with human rights law development. The law prohibits individuals who hold beliefs or teachings that differ from officially recognized religions in Indonesia. Consequently, minority religious teachings can be deemed heretical, and freedom of religion or belief can be violated. The second weakness is that the law contains normative provisions that are ambiguous and open to interpretation. When enforced, subjectivity in interpretation could lead to discrimination against religious minority groups. If used as the basis for court rulings, it could result in discriminatory decisions against minority religious groups.

**RESULT, DISCUSSION AND ANALYSIS**

**VIGILANTE JUSTICE ON BLASPHEMY CASES**

The enactment of vigilante justice or "Main Hakim Sendiri," against religious minority groups is prevalent amid the enforcement of the Anti-Blasphemy Law. Merujuk Hate spin theory yang dikemukakan oleh Josh Cherian, meningkatnya vigilante justice ini dipengaruhi oleh strategi putaran kebencian yang dilakukan oleh kelompok Islam garis keras dimana…… One of the prominent minority groups that experienced acts of vigilantism is Ahmadiyya. Ahmadiyya is a legally recognized entity in Indonesia that was established by the Indonesian Islamic Community and approved by the Ministry of Law in 1953. In 2017, a new case emerged that saw the criminalization of five members of the Fajar Nusantara Movement (Gafatar) accused of using their organization to resume the heretical teachings of Ajaran Millah Abraham.

Table 1. Incidents Related to the Interreligious Harmony in Indonesia[[1]](#footnote-1)

|  |  |
| --- | --- |
| Year | Number of Incidents |
| 2017 | 17 |
| 2018 | 20 |
| 2019 | 31 |
| 2020 | 24 |
| 2021 | 44 |
| 2022 (Jan-Sep) | 32 |

Source:(SETARA Institute, 2022)

Ahok case

Vigilante justice: Kasus Ahok juga mengalami tekanan masa, dimana Ormas Islam mengeluarkan Aksi 212, menuntut Ahok ditanam karena menyatakan Agama. Demo 414 pada 16 November 2016 untuk rasa memprotes ucapan Ahok yang menyinggung Al-Maidah Ayat 51 soal pemimpin non-Muslim kepada konstituennya di Kepulaun Seribu. Belajar Islam 55 dengan melakukan long March dari Masjid Istiglal menuju Gedung HMahkamah Konstitusi.

Hate Spin Strategy: Dengan memberikan Tajuk gerakan memprotes Ahok sebagai aksi bela Islam memberikan I syarat bahwa Ahok telah menyerang Islam, sehingga gerakan protes dan tekanan masa dimaksudkan sebagai Aksi membalas kepentingan Islam yang telah diserang oleh kebencian Ahok. Sekalipun apa yang dilakukan Ahok tidak membuat umat Islam terganggu dalam menjalankan hak keberagamaannya, namun demikian kritik yang disampaikan oleh Ahok dimana Surat Akkadian ayat 51 yang sering dijadikan alat bagi alat kampanye untuk melawan calon candidate non Muslim telah dipandang sebagai menodai Islam.

*Strategi putaran kebencian yang dilakukan oleh Budi Yang dengan melakukan editing terhadap video Ahok dan menambahkan narasi dengan turunan Ahok menghina Islam telah berhasil menjadi strategi putaran kebencian.*

*Meiliana case*

*Vigilante justice:* The Meiliana case highlights the issue of vigilantism against religious minority groups in Indonesia. Meiliana is a Buddhist woman who was sentenced to one year and eight months in prison for allegedly insulting the Islamic religion when she criticized the loudness of the adzan, the Islamic call to prayer. During the legal proceedings, vigilante groups burned several Buddhist places of worship, destroyed Meiliana's home, and forced her to leave her house.

*Hate spin strategy*:

*Ahmadiyya case*

*Vigilante justice:* Since 1980, Ahmadiyya has been declared heretical by the Indonesian Council of Ulama (MUI) through a series of fatwas. Since then, Ahmadiyya adherents in various regions of Indonesia, such as Lombok, West Nusa Tenggara, Tangerang, Bogor, and East Java, have often become victims of vigilantism.. Violence committed during vigilantism against Ahmadiyya adherents resulted in damaged houses of worship and buildings, minor and severe injuries, deaths, and the expulsion of Ahmadiyya followers from their homes. It is crucial to address such violence and promote tolerance and understanding among different religious groups in Indonesia.

*Hate spin strategy*: The MUI considers Ahmadiyya a heretical religion due to their beliefs that Mirza Gulam Ahmad was the last prophet and that they have a holy book other than the Qur'an. However, Ahmadiyya adherents deny mainstream Muslims' understanding of their beliefs and practices, which they attribute to a misunderstanding among Muslims. This disagreement has caused ongoing tensions and has led to violent acts of vigilante justice against Ahmadiyya adherents. The MUI's solution of recommending Ahmadiyya to leave Islam has not solved the problem, and it will be difficult to accept as Ahmadiyya adherents practice Islamic teachings. Despite their religious practices being largely similar to mainstream Islamic practices, Ahmadiyya has been rejected in many countries, such as Pakistan, Malaysia, and among members of the Organization of Islamic Cooperation (OIC).

*Gafatar case -* The accusations led to acts of vigilantism carried out by two villages, Moton Panjang Village and Tanjung Pasir Village, in East Mempawah District, Mempawah Regency, West Kalimantan. Gafatar is a legal entity established in January 2012 with its headquarters in Jakarta, boasting a membership of 55,000 and branches in 34 provinces across Indonesia. The organization received permission from the Ministry of Home Affairs; however, in 2015, their permit extension was rejected, leading to its management's disbandment.

Vigilante Justice against Gafatar: Human Rights Watch reported that 2,422 families, a total of 7,916 individuals including children, were expelled from West and East Kalimantan from January to the end of February. The Indonesian government detained more than 6,000 Gafatar members who were forcibly expelled from Kalimantan to six illegal detention centers in Jakarta, Yogyakarta, Bekasi, Boyolali and Surabaya. They were then evacuated at the supplies and transportation complex of the Tanjungpura Military Command XII in Pontianak, West Kalimantan. The former chairman of Gafatar, Mahful M Tumanurung stated that: "We, ex-Gafatar members, deeply regret and strongly condemn actions in the form of systematic forced evictions, destruction of fires and looting of assets on land that we legally own."

Hate spin strategy against Gafatar: The declaration of Gafatar as a heretical movement caused undue burden and harm to its followers, who had become victims of vigilantism, resulting in displacement, property damage, and severe injuries.

**FACTORS AND ACTORS INFLUENCE THE ACT OF *MAIN HAKIM SENDIRI***

This section describes various factors and actors that have contributed to the rise of hardline Islamic groups taking vigilante justice against religious groups deemed 'deviant.' These factors can be categorized into three main areas: legal factors, political factors, and social factors.

Gambar diagram 1.

Legal factor (the existing flawed anti blasphemy law) – Legislative body and Constitutional Court prolong the constitutionality of anti blasphemy law.

Ideology factor (the Truth monopoly) – the Government only recognised the Six official religions

Structural Factor (State Institution interfere) – MUI followed by Central and Local Government release various policies of deviant religions against Ahmadiyya, Gafatar, Meiliana, Ahok etc.

Social Factor (Populism of Islam) – the Hardline Islamic Groups gains public support by politicking blasphemy cases.

Legal factors are primarily related to the increasing strength of anti-blasphemy laws. The Anti-Blasphemy Law is a multifaceted law that remains open to interpretation and has yet to be revised. Despite discussions on replacing or amending the law, Constitutional Court judgements have consistently upheld its constitutionality.

the Constitutional Court also acknowledged that the Anti Blasphemy Law had multiple interpretations. This was also conveyed by one of the judges of the Republic of Indonesia who stated that:

*“The Constitutional Court, as explained in its Decision Number 140/PUU-VII/2009, states that the substance of the Law on the Prevention of Blasphemy of Religion is in line with and does not conflict with the constitution, but in terms of the form of regulation, formulation, legal rules need to be improved.”*

The MKRI judge in the interview also admitted that in various decisions related to the judicial review of the Anti-Defamation Law, the MKRI indicated that the law had multiple interpretations. In this case, the Constitutional Court Judge is of the view that:

*“Regarding the existence of multiple interpretations of the UUAPA [Anti-Blasphemy Law] because the law is a product of the past that still uses terminology at the time the product was formed. However, this does not mean that the UUAPA material is unconstitutional. It remains only to encourage lawmakers to hasten changes to the UUAPA in accordance with the development of current needs”.*

The ambiguity of the Constitutional Court's decision has made the legislative body, the House of Representatives of the Republic of Indonesia, not feel it is important to amend the Anti-Defamation Law. So that since the Constitutional Court's decision Number 140/PUU-VII/2009 or for a decade and a half until now, there has been no attempt by the DPR to make immediate changes to the Anti-Defamation Law. The impact is that the Ahok case that occurred in 2016 and the Meiliana case that occurred in 2017, both occurred after the Constitutional Court's decision, criminalization of both still occurred.

This has further cemented the view that reporting and stigmatizing non-orthodox religious groups is not unconstitutional. However, law enforcement agencies do not always follow through with legal actions initiated by hardline Islamic groups. In some instances, cases such as Meiliana's and Ahok's have been delayed or ignored, highlighting the inconsistency in enforcing the Anti-Blasphemy Law. This inconsistency and ambiguity have fueled the public's surge of provocative actions to take matters into their own hands and seek vigilante justice against those who they perceive to have committed blasphemy offenses.

The second factor is ideology factor. Underpinning of Godly Nationalism manufactures the prolong enforcement of the anti-blasphemy law that applaud the presence of mob violence or public protest. Menchik (2014) in his study argues that Godly nationalism that is upheld in Indonesia produces religious intolerance. Menchik views that the value of God Almighty is the core of the First Sila of Pancasila “Believe in One God the Almighty”, where every citizen is given an inherent moral obligation to protect religion and that is part of protecting the country itself. In this view, insulting, blaspheming, blaspheming religion or inviting people to have no religion is an act that is contrary to Godly Nationalism. Telle (2022, p. 26-29) who argues that current political dynamics creates the increasing trend of law enforcement against blasphemy in Indonesia since Indonesia uphold Godly Nationalism since it is presented to ward off atheism, protect the 'orthodox' religion from 'deviant' religious teachings, and to protect established religions from intolerant actions or statements that insult their sacredness. the 1965 Anti-Defamation Law, stating that:

“Every person shall be prohibited from deliberately before the public telling, encouraging, or soliciting public support for making an interpretation of a religion adhered to in Indonesia or performing religious activities resembling the activities of such religion when the interpretation and activities are deviant from the principal teachings of such religion.”

According to the Constitutional Court of Godly Nationalism is reflected in the Pancasila Sila I "Belief in One God" which is embodied in the 1945 Constitution in Article 29 and then reaffirmed by the Constitutional Court in its ratio decidendi of judicial review decision when examining the constitutionality of the 1965 Anti-blasphemy Law.

The General Chairperson of the Muhammadiyah Leadership of Moderate Islamic Organizations, Profesor Haedar Nasir believes that Indonesia is not a secular country, but Indonesia is a country that believes in God Almighty, so that as a country that adheres to religion, it certainly has values ​​that cannot be equated with a secular state.

People’s understanding of Godly Nationalism contributes to hardline Islamic groups' actions is their view that other religious teachings are false due to their differing doctrines from orthodox Islam, as outlined by UU Anti-Penodaan Agama's articles one and four. This allows them to legitimise the use of vigilante justice against those suspected of deviant beliefs, promoting a simplistic view that non-orthodox teachings are 'heretic.' a study conducted by (Barton et al., 2021) states that Front Defender of Islam (FPI) is a hard-liner Islamic organization, where under the leadership of Rizieq Shihab (RS) its activities are always characterized by vigilante action. “Thus, a core part of FPI’s activities has been vigilantism (p.8). RS uses hate narratives to antagonize those outside its group, including politicians and the government, and encourages its followers to take vigilante action against all forms of action that are contrary to Islamic values (p.8-10). RS used his popularity to influence FPI in various anti-Ahok protests accused of tarnishing Islam, under the pretext of defending Islam (Action of Defending Islam) (p.12). When there are accusations of blasphemy against a person or group of people, the action of *Main Hakim Sendiri* accompanies it which FPI is often involved in.

The third factor is structural factor in which the Government interfere toward religion. This study found that the hardline Islamic groups receive legitimacy from various public actors who disseminate policies that define specific religious groups as deviants. In doing so, hardline Islamic groups view vigilante actions as a way to circumvent public justice while public trust in the legal system further deteriorates.

1. the issuance of a Joint Decree of the Three Ministers Year 2008 declaring Ahmadiyya to be a heretical religion and calls for Ahmadiyya to return to Islamic teachings and prohibits their adherents from carrying out religious activities that lead to the spread of Ahmadiyya.
2. FPI continues to urge the local government to ban the worship activities of the Ahmadiyya group, so that various local government policies are issued, namely:
3. Joint Decree Number 3 of 2008 and Number 199 of 2008 concerning Sealing of the Ahmadiyya Mosque
4. Governor Regulation Number 12 of 2011 concerning the Prohibition of Activities of the Indonesian Ahmadiyya Congregation in West Java
5. Depok Regional Regulation Depok Regional Regulation Number 9 of 2004 concerning Civil Investigating Officers, and Depok Mayor Regulation Number 9 of 2011 concerning the Prohibition of the Indonesian Ahmadiyya Congregation in Depok.

In the case of Gafatar, on January 14, Home Affairs Minister, Tjahjo Kumolo instructed the local government to close all Gafatar offices. On March 24, Attorney General Muhammad Prasetyo announced a Joint Decree (SKB), signed together with Minister of Religion, Lukman Saifuddin and Minister of Home Affairs, Tjahjo Kumolo, warning that “former members and administrators of Gafatar” to get involved “… dissemination, interpretation and activities that deviate from the main teachings of Islam and the punishment for this violation is a maximum of five years in prison, based on the 1965 blasphemy crime article."

The facts above show Ahok, Meiliana, the folloers of Ahmadiyya and Gafatar continue to be persecuted and banned from exercising their freedom to worship or organize because of the government's failure to present a fair public policy. The government instead of protecting their freedom to choose, exercise their freedom to religion and worship, but with the power they have, public officials continue to issue regulations to seal their houses of worship, prohibit their religious activities, freeze their organizations, and threaten the leaders of these groups with prison sentence.

public trust is compounded by the existence of UU and public policies that justify blasphemy as an illegal act. Government inaction is perpetuating the conviction of hardline Islamic groups that they can continue taking matters into their own hands through vigilante justice. This further erodes public trust in the court system as proceedings become trivialized, often issuing guilty verdicts based on public policy recommendations rather than concrete evidence.

Fourt factor is sociology factor in which monopoly of religious truth from certain groups is the root of intolerance was also conveyed by two great Indonesian scholars, namely Gus Mus (Nahdathul Ulama) and Quraish Shihab (an expert of Qur'anic Exegesis).

Shihab in a national program on television stated that:

"God never asks what is five plus five because there will be only one answer. What God asks is, what makes 10? It cn be seven plus three or eight plus two and etc. Therefore, truth is diverse. Don't think that what you believe is the truth that one believed on others would trigger social friction, a situation with which Indonesia was currently strugelling."

Gus Mus (Ulama from NU) similarly said that:

"Imposing an interpretation of the Qur'an is really dangerous, especially by those who refer to themselves as ulama, or not as ordinary people.

Thus, when Meiliana challenged the sound of the Adhan which was too loud, and then said that Meiliana had tarnished religion, then such an attitude was an example of the monopoly of truth that understands religion (Islam) without reason, conscience, and science. Likewise in the case of Ahmadiyah and Gafatar. The attitude of the Indonesian Ulema Council which issued a heretical fatwa against the Ahmadiyya and Gafatar groups was based solely on a one-sided truth claim, did not give Ahmadiyya room for freedom to believe in their choice of belief, or at least provided room for Ahmadiyya to be heard for their explanations. Then Gafatar, which admits that it is not a religious organization and never committed blasphemy as alleged in the MUI fatwa of heretical. The MUI truth claims made with close eyes, ears and minds from the real facts. Truth claims followed by false statements, bans, and disbandment of an organization are no longer just truth claims, but have stimulated public anger in the form of vigilante action.

Furthermore, the Ahmadiyya is not a new religious organization. It has existed for a long time and the Ahmadiyya have long lived side by side with other Muslims. However, public policies that say Ahmadiyya are "perverted", that's when vigilantism occurs, even repeated. Likewise with Gafatar, as an organization that has a license, Gafatar has various work programs and collaborates with various state institutions. Before there was a deviant fatwa, people did not consider this organization a deviant organization. Pressure on the Ahmadiyya adherents has occurred since 1980 when the MUI issued a Fatwa on Ahmadiyyah Qadiyan (a result of the second National Conference, 26 May – 1 June 1980) a recommendation that the Indonesian government ban the dissemination of Ahmadiyah in Indonesia through the national working meeting . In total, there have been three decrees of the MUI on Ahmadiyah; two fatwas issued in 1980 and 2005 and one recommendation issued in 1984 which declared the Ahmadiyya as heretical and did not practice Islamic teachings properly. MUI not only issued a deviant fatwa to Ahmadiyya, but also to Gafatar and Meiliana. Meiliana's actions against the call to prayer were also declared by MUI as blasphemy. All acts of persecution against Ahmadiyya, Gafatar and Meiliana followers took place after the MUI Fatwa was issued.

Ultimately, taking the law into one's own hands to deliver 'justice' undermines the rule of law and democratic principles that Indonesia upholds. Robust legal frameworks and their implementation are essential to protect individual rights while promoting a tolerant and inclusive society. Allowing hardline Islamic groups to take actions that contravene the law in the name of religion will only lead Indonesia down a dangerous path that undermines its national identity and democratic foundations.

**THE RISING HATE SPIN STRATEGY FOLLOWING ISLAMIC POPULISM**

As evidenced by the cases described above, the ambiguity of legal norms can be easily misinterpreted by society. Those who criticize Islamic teachings, criticize religious practices, or hold different religious beliefs are all at risk of being accused of "defiling Islam." This interpretation is often strengthened by public policies, such as ministerial circulars, governor regulations, and city regulations. Accusations of blasphemy or deviating from "true" Islamic teachings continue to be manufactured through social media to garner support and stoke public outrage.

In such cases, hardline Islamic groups mobilize mass demonstrations to demand justice, which often results in the enactment of vigilante justice. In the cases of Ahok and Meiliana, hatred was orchestrated effectively, leading to their convictions for perceived offenses towards Islam. Similarly, with the Ahmadiyya and Gafatar cases, the public viewed their religious teachings as deviating from "true" Islam and not respecting Islamic norms. This sentiment fueled propaganda to spread hatred towards these groups and contribute to the public's vigilante actions against them.

The twisting of facts and the spread of misinformation through social media and other channels is a serious concern in Indonesia. Therefore, it is necessary to educate citizens about the importance of respecting religious diversity and the rule of law. The government must also take measures to ensure that legal norms are clear and unambiguous to prevent them from being misinterpreted. Promoting interfaith dialogue and mutual respect for different religious beliefs can also help foster a more tolerant and inclusive society.

The politicization of religion through the enforcement of anti-blasphemy laws has become increasingly prevalent in the cases of Ahok and Meiliana. The court system has been used as a tool to prosecute political opponents in the pursuit of political victory. The dynamics of politics in Indonesia function within the context of the nation's religious majority, which further exacerbates the tendency for religion to be politicized. Ahok, in particular, was targeted with accusations of blasphemy during his run for re-election as governor of Jakarta. His political opponent, Anies Baswedan, benefited from an environment where the law against blasphemy was being used to assert political power.

Indonesia's direct voting system requires candidates to garner as many public votes as possible, which means that the majority's voice, often the Islamic community, can determine election results. The public, which initially supported Ahok as a clean leader during his tenure as mayor, turned against him after the politicization of his statements, which have been edited and misconstrued by various groups. The manipulation of information has successfully sparked hatred towards Ahok, and the ubiquitous accusation that he disrespected Islam.

The intersection between politics and religion is a complicated issue, especially in a context where religion is the foundation of the majority's identity. However, the rule of law must take precedence over any political agenda or divisive ideology in order to safeguard the rights and well-being of all citizens. Therefore, it is crucial to uphold legal norms and to prevent the misuse of laws to assert political agendas. Promoting transparency and accountability in governance can also help reduce the potential for political exploitation of religious differences.

MAIN HAKIM SENDIRI DISTURBING INDEPENDENCY OF THE COURT

Mahkamah Agung pada tahun 1964 mengeluarkan Surat Edaran Nomor 11 Tahun 1964 yang pada intinya memerintahkan Pengadilan di bawah jajarannya untuk menghukum Berat pelaku Penodaan Agama. Sekalipun Surat Edaran ini sudah ketinggalan jaman sering dengan berbagai kritik atas ke kelemahan UU anti Penodaan Agama, nyatanya, para hakim yang memutus perkara Penodaan Agama masih memegang teguh dan menerapkannya. Misalnya, Ketua Majelis Hakim kasus Gafatar, Mohammad Said menyatakan: “Secara yuridis Majelis Hakim harus mentaati Surat Edaran Mahkamah Agung.” Juru bicara Mahkamah Agung pula menegaskan: “…dan ini (baca Surat Edaran Mahkamah Agung Nomor 11 Tahun 1964) secara formal memang tidak pernah dicabut.[ Dikutip dari…..]. According to Adam, a member of Gafatar, in an interview, the organization is not religious in nature. Instead, they focus on farming and making Kalimantan a national food barn, equipping their members with food sovereignty. It is important to recognize and respect the legal entities' rights and uphold the rule of law to prevent vigilantism and safeguard the safety and well-being of religious minority groups.

Sedangkan dalam kasus Meiliana, sedikitnya ada tiga alasan yang menyebabkan independents i pengadilan dalam kasus Meiliana terganggu. Pertama, Majelis hakim tidak sungguh sungguh memeriksa keterangan saksi yang dihadirkan dimana keterangan nya berbeda antara satu dengan yang lain. Majelis hakim justru menguatkan keterangan saksi yang substansinya dibantah oleh Terdakwa. Kedua, Majelis hakim tidak mampu membuktikan unsur kesengajaan bahwa Meiliana “mengeluarkan perasaan atau perbuatan yang pada pokok ya bersifat permusuhan, punya lah gunakan, atau Penodaan terhadap Agama yang dianut di Indonesia. Pemberitaan viral atas kasus tersebut telah dimaknai oleh hakim sebagai sesuatu yang bersifat permusuhan. Hal ini Tentu bertentangan dengan makna “permusuhan” dalam Hukum HAM Internasional. Ketiga, penetapan Meiliana atas desakan MUI Tanjung Balai yang menyatakan khawatir atas penetapan 12 tersangka pelaku vigilantism terhadap kuliah budhe di sekitar rumah Meiliana sementara Meiliana masih berstatus sebagai saksi dan upaya-upaya MUI menjumpai Kepala Kepolisian Resot Tanjung Balai supaya status Meiliana dinaikan sebagai Tersangka merupakan bentuk te kanan terhadap penegak hukum. Keempat, Majelis Hakim yang hanya mengikuti pertimbangan MUI Tanjung Balai yang di rumusan ke dalam fatwa MUI Propinsi Sumatra Utara No. 001/KF/MUI-SUI/I/2017 yang menyatakan bahwa Meiliana telah menodai Islam, tetapi mengabaikan semu lah keterangan ahli yang dihadirkan di persidangan merupakan bentuk ke tidak mandiriku majelis hakim dalam memutus perkara. [Hasil Wawancara Tim Komisi Nasional Perempuan pada tanggal …..lihat pula Hasil Eksaminasi Publik Putusan Pengadilan Negeri Medan Nomor: 1612/PID B/2018/PN Medan pada Selasa 21 Agustus 2018 terhadap Kasus Pemidanaan Meiliana. Komisi Nasional Anti Kekerasan Terhadap Perempuan, 2019].

Sementara itu, dalam kasus Ahmadiyyah, terjadi pola yang sama sebagaimana kasus Gafatar dan Meiliana. Dimana vigilante jaustice yang mendahului proses persidangan di pengadilan dijadikan rujukan hakim dalam memutus perkara. The one-sided truth claim by the MUI was also corroborated by the Court. This can be seen in the sentencing decision handed down by the South Jakarta District Court and confirmed by the High Court decision in Jakarta, which stated that Mahful Muis and Ahmad Musaddeq were perpetrators of blasphemy who violated Article 165a of the Criminal Code. In an interview with the former Head of YLBHI, who is also the legal adviser to the two defendants, Asfinawati, she stated that:

*“(1) [……] (2). The Appellant strongly agrees with the legal considerations of the East Jakarta District Court according to the facts that the trial has not proven at all the charges of the two public prosecutors and acquitted the defendants of the second indictment; (3) That the appellant strongly objected to this decision in which the defendants were declared legally and convincingly proven to have committed blasphemy and were sentenced to prison terms because there was not a single witness or piece of evidence that could corroborate or prove the public prosecutor's first charge.”*

In the Ahmadiyya case, both the court of first instance and the high court shared the belief that a person who has religious teachings that are different from the religion adhered to in Indonesia is prohibited from being the perpetrator of religious blasphemy. The emphasis given by the court to Ahmadiyya adherents was “**intentionally committing an act publicly that is basically blasphemy against a religion adhered to in Indonesia**.” This means that Ahmadiyya followers can't preach their religion in Indonesia if it goes against the mainstream Islam, which is the main religion there.

In some court rulings, it was found that Meiliana did not intend to insult Islam. She acknowledged that she had conveyed to the mosque caretaker that the adzan sounds were too loud, and she was unable to rest. However, this statement was twisted, leading the officials to tell the mosque management that Meiliana was angry and disturbed by the adzan sounds. The manipulation of facts fueled hatred and resulted in a miscarriage of justice.

This incident illustrates that vigilante actions against religious minority groups cannot be justified and have grave consequences for the targeted individuals and communities. Upholding the principle of the rule of law is critical in combating such vigilantism and protecting the rights and well-being of citizens of different religious affiliations.

The failure of blasphemy enforcement to preserve justice

Mempertahankan hukum anti Penodaan Agama faktanya tidak menjamin toleransi antar umat beragama meningkat. Tetapi justru sebaliknya, kelompok Agama mayoritas memanfaatkan UU anti Penodaan Agama yang cacat untuk mendapatkan perlindungan yang lebih dibandingkan kelompok minoritas Agama lainnya. Belajar dari kasus Meiliana, Ahmadiyya dan Gafatar memberikan petunjuk bahwa penghukuman terhadap Meiliana serta para pemimpin Ahmadiyya dan Gafatar tidak mampu mencegah kelompok Islam garis keras untuk melakukan vigilante justice.

Putusan Pengadilan dalam kasus Meiliana, Ahmadiyya, dan Gafatar gagal menyediakan keadilan pertama bagi Meiliana dan para pemimpin Gafatar dan Ahmadiyya karena mereka harus menjalankan hukuman pidana tanpa due proses of law. Kegagalan hakim dalam membuktikan unsur “kesengajaan” para terdakwa untuk menodai Islam menunjukan bahwa Pengadilan mengabaikan kelemahan substansial dari UU Anti Penodaan Agama serta memaksa kan menghukum para terdakwa hanya karena keputusan yang dijatuhkan oleh masyarakat melalui peradilan jalan. Sikap Pengadilan yang memaksakan menghukum para terdakwa dengan UU yang cacat merupakan bentuk kegagalan pengadilan menghadirkan keadilan substansial. Kedua, minimnya bukti yang dihadirkan Pengadilan untuk membuktikan kesalahan para Terdakwa menjadi penanda bahwa Pengadilan gagal menghasilkan keadilan prosedural. Misalnya, dalam kasus Meiliana…..lalu dalam Kasus z Ahmadiyya …….dalam kasus Gafatar…..

Pola Penegakan Hukum kasus Penodaan Agama yang gagal menghasilkan keadilan prosedural dan substansial akan terus terulang pada kasus-kasus yang serupa.

**CONCLUSION**

In contrast to vigilantism in ordinary crimes, which generally aims to punish perpetrators of crimes caught red-handed or for crimes that continue to occur where law enforcement fails to apprehend the perpetrators, vigilantism in cases of blasphemy is not solely motivated by the existence of crime in society, but by the monopoly of religious truth by established religions, viewing different religious teachings as crimes. The narrow definition of "Godly Nationalism" contradicts the right to freedom of religion and belief guaranteed in the Indonesian Constitution. Articles 29 and 28E expressly respect the right of everyone to choose and embrace their own religion or belief and worship according to that religion or belief.

The findings of the study negate the argument put forward by the Constitutional Court that abolishing the Anti-Blasphemy Law would pose a threat to society in the event of horizontal conflicts between religions. The reality is quite the opposite; from the cases of Ahok, Meiliana, Gafatar, and Ahmadiyya, all trigger the emergence of vigilante justice. Maintaining a flawed Anti-Blasphemy Law not only provides a justification for hard-line Islamic groups to pursue hate spin strategies but also significantly hinders the courts from delivering fair and just judgement.

Through the hate spin strategy, the flawed anti-blasphemy laws can easily be manipulated and interpreted such that criticism of religious manipulation or intolerance or preaching of different religions can be construed as blasphemy against the primary religions professed in Indonesia. This strategy has succeeded in garnering significant support, legitimizing vigilante justice even before the actual trial.

Secondly, structural factors, through the roles played by the MUI and the central and regional governments that support the declaration of heretical religions, provide the foundations for the legitimization of vigilante groups to continue exerting pressure. Thirdly, the monopolization of truth claimed by orthodox religions overtly denies space for other beliefs or minority religions to freely embrace and practice their religion as per Article 29 of the Indonesian Constitution. Fourth, Muslim populism via the advocacy of hardliner Islam obtains widespread support.

It is essential for lawmakers and law enforcers to reconsider the importance of rectifying the existing flaws in the Anti-Blasphemy Law and to refrain from enforcing this law, so that violations of the rights to freedom of religion and belief for minority groups do not continue. It is vital to ensure that social justice is upheld and that a law is created that is equal to the principles of the rule of law and human rights.

**The following is a preferred format, which you are able to use for your full paper (draft).**

* Between 4,000 – 5,000 words in length including bibliography.
* Submitted as an electronic file in MS Word (.doc /.docx) to Ms Tay Minghua at [minghua.tay@nus.edu.sg](mailto:minghua.tay@nus.edu.sg) by **31 May 2023**.

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1. However, it is important to emphasize that the majority of mosques targeted for disruption are Ahmadiyya mosques and other mosques that differ from the mainstream Muslim groups. [↑](#footnote-ref-1)