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Third Essay
Religious Freedom and Mediation: Some Notes on Three New Initiatives in Indonesia

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Abstract

In recent years, Indonesia has experienced a decline in religious freedom. An increasingly popular strategy in dealing with this issue is mediation, which is perceived to be less costly, less divisive, and more lasting. While mediation has opened up new opportunities for strengthening religious freedom, it also has its own challenges. This article evaluates three initiatives in this direction. The first is the efforts of the local government to mediate disputes about houses of worship as evident in the recent case of the Yasmin Christian Church in Bogor City (West Java). Although the two conflicting parties finally agreed to relocate the church, both its process and end result leave behind potential legal issues that could emerge in the future. The second is the use of mediation by the Indonesia National Commission of Human Rights to resolve religious conflicts. While the Commission is relatively successful in pushing the local government to mediate the conflicts, the solutions it has achieved are not necessarily effective. The third is attempts at the institutionalization of interfaith mediation through the Interreligious Harmony Forum. Although the central government has supported these attempts, some structural problems continue to limit its progress.

Keywords
mediation, conflict transformation, interest-based approach, Indonesia National Commission of Human Rights, Interreligious Harmony Forum

Introduction

Understanding freedom of religion or belief (FORB) as a legal entitlement is a common perception among human rights practitioners, including those in Indonesia. Many believe that the protection of such rights must be enforced

through legal means. In cases of religious conflict, however, especially those considered horizontal conflicts (i.e., occurring between different groups within society), legal mechanisms do not always solve problems and may even worsen social relations between the conflicting parties.

Non-legal, interest-based approaches are an increasingly popular strategy among Indonesian government and civil society groups dealing with violations of FORB rights. Non-legal mechanisms of conflict resolution are perceived to be less costly, less divisive, and more sustainable in the future (Panggabean 2014; Lewicki, Barry, and Saunders 2016). While non-legal mechanisms such as mediation have opened up new opportunities for strengthening religious freedom in the country, they are also associated with challenges, and, as such, they have invited skepticism.

Can conflicts that involve a violation of human rights be mediated? Are not human rights absolute, whereas mediation necessitates exchanges between the conflicting parties? Tensions between the two are acknowledged in the literature on human rights, conflict resolution, and peace studies. Michelle Parlevliet (2010) identifies four dimensions of these tensions: *strategies and approaches* (adversarial vs. cooperative; principled vs. pragmatic; rigid vs. flexible; an emphasis on outcome vs. an emphasis on process; prescriptive vs. facilitative); *objectives pursued* (justice vs. peace; justice vs. reconciliation; human rights protection as a prerequisite for establishing peace or vice versa); *roles played* (advocate, investigator, monitor vs. facilitator, mediator, convenor); and *principles guiding the actions* (speaking out on injustice and attributing responsibility vs. remaining impartial with respect to all parties, being even-handed and non-judgmental) (Parlevliet 2020: 4). Later discussions on this topic have shown how the tensions may be addressed conceptually and in practice. This paper describes and evaluates three Indonesian initiatives that show how horizontal/community conflicts related to FORB are dealt with by mediation, with different degrees of success, and the remaining problems that invite further reflection.

Case I: The Yasmin Christian Church in Bogor City, West Java

First, the case of the Yasmin Christian Church in Bogor City presents an example of the local government's efforts to de-escalate disputes over a house of worship. This case was resolved when the current mayor of Bogor, Bima Arya, and the official representatives of Indonesian Christian Church (Gereja Kristen Indonesia, GKI) agreed to move the location of the church to a new area. The land for the new location itself was donated by the Bogor City government on 13 June 2021. Based on that agreement, a new church building permit was issued on 8 August 2021, and the construction of the

church began in a ceremony attended by, among others, representatives of the National Commission of Human Rights (Komisi Nasional Hak Asasi Manusia or Komnas HAM), the local Indonesian Ulema Council (Majelis Ulama Indonesia or MUI), and our institution, PUSAD Paramadina.

This case has a very long and complex history. In early 2007, the construction of the church had already begun at the previous location, about 1 kilometer from the current spot. Construction followed the previous building permit, issued on 19 July 2006 by Diani Budiarto, then mayor of Bogor. As the construction progressed, several objections emerged from residents who opposed the construction. Together with several Islamic organizations, the local residents took to the streets to express their opposition to the construction. In response, the city government issued a letter freezing the church's permit. Representatives of the church at the State Administrative Court of Bandung then sued the city government, and the church won in court. But the Bogor city government chose to file an appeal with the Supreme Court, which ultimately rejected the request (Decision No. 127 PK/TUN/2009, dated 9 December 2010).

After the above-mentioned process, which lasted approximately three years, the dispute became even more complicated. Instead of following the Supreme Court's decision, the mayor of Bogor issued Decree Number 645.45-137 of 2011 concerning the Revocation of GKI Yasmin's permit. The mayor's reason for going against the Supreme Court's decision was grounded in allegations of signature forgery on the church's 2006 permit application; allegations were made by the head of the local neighborhood association, Munir Karta. On another level, the dispute escalated when a group of people acting on behalf of Bogor residents started to intimidate, provoke, and block congregation members on the road to the church, making it difficult for the congregation to worship at GKI Yasmin.

When he was elected mayor of Bogor City in 2013, Bima Arya committed himself to resolving the conflict between the residents and the GKI congregation. But it took about eight years for him and the local government to negotiate the case so that construction of the church could begin in the new location as stated above. According to Bima, about 30 formal meetings and 100 informal meetings were held to reach the agreement.

Although the two conflicting parties finally agreed to relocate the church, the negotiation process and end result have left behind potential legal issues, which could later emerge in either Bogor or in broader Indonesia. With respect to the process, the agreement (negotiation results) took place only between the Bogor city government and the official representative of the GKI, without involving certain GKI members who played an important role in the initial plan for construction of the church. These members, who

are not the official representative of the GKI, are to this date still dissatisfied with the relocation plan. This dissatisfaction among congregants leaves the door open for another legal case that might be taken up with the intention of cancelling the original agreement. Meanwhile, on the whole, it is feared that this high-profile case will set a bad precedent for law enforcement in Indonesia, where court decisions can be ignored by the regional government without any penalties.

Case II: The Mediatory Role of the Indonesia National Commission of Human Rights

Our second case analysis focuses on the Indonesia National Commission of Human Rights' use of mediation to resolve religious conflicts. Although the mandate to mediate has existed since the Commission was revitalized after the fall of Suharto in Indonesia (1998), it was not until 2010 that the Commission defined a special procedure for mediation (the procedure was updated in 2011). Moreover, from 2012–2017, the Commission had a rapporteur for issues of freedom of religion or belief, a post that has been eliminated before the writing of this article (2022).

We conducted an in-depth analysis of this case by tracing all the instances of religious conflict mediated by the Commission between 2013 and 2020 and provide our conclusions below (Ali-Fauzi and Darningtyas forthcoming). First, the steps taken by the Commission to mediate religious conflicts generally received a positive response from the local governments, even though the mediation process did not guarantee a peaceful agreement between parties or the resolution of the case. This is clearly related to the Commission's strong mandate as the highest state institution for human rights affairs in Indonesia, a mandate that other institutions do not have. The experience of the Commission serving as a community mediator and effectively resolving religious conflicts provides evidence that the strategy of community mediation is indeed working and needs to be applied broadly to religious conflicts throughout Indonesia.

Second, the number of religious conflicts mediated by the Commission is very small compared to other cases such as agrarian, eviction, or labor conflicts. Between 2013 and 2020, the three most prominent cases were conflicts related to land, eviction, and labor. In the same period, there was an average of three religious conflict cases mediated per year, with the highest number of cases reaching nine in 2016. These cases were also almost entirely submitted by the public to the Commission.

Given the popularity of the public complaint mechanism, it is clear that the public needs to actively report cases of FORB violations that they

experience or become aware of. Without public reporting, the Commission may never be exposed to such information, let alone have the opportunity to do something about it. Although reporting the cases to the Commission may not guarantee that these cases will be resolved, the act of complaining itself can be an important promotion of FORB, opening up the possibility of resolution. Consequently, capacity building among (potential) victims of violations must be pursued to ensure that citizens are able to properly file a complaint or request for mediation. Another barrier here is the lack of awareness that the Commission has a mediation division—so the Commission needs to publicize this mechanism more.

Third, most of the religious conflicts mediated by the Commission took the form of conflicts over houses of worship, particularly those related to churches in Muslim majority areas and mosques in Christian-majority areas and sectarian conflicts involving the Ahmadiyya community. This trend indicates a very weak national cohesion amongst Indonesian citizens, as dominant religious groups repeatedly constrain and oppress the religious rights of minority religious groups. The large number of such cases and the protracted nature of the conflicts is caused by the existence of two controversial regulations: the 2006 Joint Ministerial Decree on Houses of Worship (Peraturan Bersama Meneteri, PBM) and the 2008 Three Ministries Joint Decree (Surat Keputusan Bersama, SKB) on Ahmadiyya. These two regulations form a structural obstacle for the Commission to mediate cases of religious conflict, and this has likely contributed to the deterioration of national cohesion. Thus, it is imperative that Indonesia take the necessary steps to either revise these regulations or abolish them altogether.

Fourth, mediation on the cases related to houses of worship were generally more successful compared to the mediation of sectarian conflicts because of two reasons: (1) the political costs, including the impact on public opinion, of religious and sectarian issues are different, with the former being less costly, and (2) the conflicts related to Ahmadiyya are harder to mediate. (This was successful only in the case of the provision of identity card).

Fifth, the Commission's existing mediation procedure contains an internal contradiction that must be resolved. While the standards laid out in the procedure might strengthen the agency's activism as a community mediator, it may also hinder its progress. This is because, although the definition of mediation is very broad, the prerequisite that a mediator must be a commissioner of the Commission might limit the effectivity of the mediation. The Commission must address this problem immediately because its role as a community mediator of religious conflicts is very strategic and, in comparison to non-governmental agencies, has more legitimacy in the eyes of the local population. In addition to strengthening the infrastructure

for mediation, the Commission would be well advised to cooperate with existing interfaith forums, such as the Interreligious Harmony Forum (Forum Kerukunan Umat Berafama or FKUB), in order to build the capacity to mediate religious conflicts from a human rights perspective (Ali-Fauzi 2019).

Case III: The Institutionalization of Interfaith Mediation

Lastly, it is important to explore civil society organizations' attempts to institutionalize interfaith mediation, particularly through FKUB, which exists in all provinces and cities/regencies across Indonesia. This initiative has not yet been captured by the literature on interreligious conflict. But below we describe several initiatives in depth that were done by PUSAD Paramadina.

PUSAD Paramadina's initiatives on interfaith mediation, particularly as they were reported in Ali-Fauzi et al. (2011) and Panggabean and Ali-Fauzi (2015), are highly relevant to this study. Despite the fact that FORB is supported in the Indonesian constitution, the protection of those rights is not always successful because of the dominance of a conservative interpretation of Islam in Indonesia. For instance, this conservative interpretation caused the police to succumb to the demand of the Muslim majority group (the Sunni) in multiple cases involving Muslim minority groups such as the Ahmadiyya. In this situation, advocacy for FORB that uses the interest-based approach is more effective than a rights-based approach. This is because of the interest-based approach's emphasis on finding common ground between all people. On a theoretical level, this approach recognizes all people as equal citizens of Indonesia. On a more practical level, it acknowledges that all people need basic public services, such as an identity card and the opportunity to open a bank account. For these reasons, we have undertaken multiple initiatives aimed at strengthening capacity and expanding knowledge of mediation and the interest-based approach, particularly among human rights activists who are advocating for a more inclusive FORB.

In October 2017, for example, we conducted a workshop called "Institutionalization of Interfaith Mediation," which was attended by thirty participants who were nationally selected FORB activists. The workshop was led by Imam Muhammad Ashafa and Pastor James Wuye, who are Muslim and Christian leaders in their respective communities in Nigeria. Notably, these religious figures were previously hostile to one another during the Nigerian religious conflicts of the 1980s. After they reconciled, they became close friends and decided to establish the Interfaith Mediation Center (IMC). In the last three decades, IMC has been engaged in peace building, conflict resolution, and promoting inclusive governance. Using a faith-based approach

for interventions, IMC is now a significant local and global player in the fields of human rights and conflict resolution (Hayward 2012).

Additionally, in 2019 we began conducting training and workshops on mediating religious conflicts in Indonesia. The participants were mostly members of FKUB, and we intentionally included local FORB activists. The goal of this involvement was to spark collaboration between local government officials—particularly from the Ministry of Religious Affairs and the Ministry of Home Affairs—and civic society. For this specific purpose, seven of our staff were trained and certified as professional mediators at the National Mediation Center (Pusat Mediasi Nasional, PMN).

In conducting the training, we also invited experts from PMN as resource persons. The materials for the training included the following sections: (1) an introduction to mediation; (2) stages of mediation; (3) skills in mediation (listen, repeat, ask); (3) best alternative to a negotiated agreement (BATNA); (4) simulation or mediation and pre-mediation; (5) negotiation; (6) common ground and problem definition; (7) power, rights, and interest-based approaches to conflict resolution; and (8) good and bad practices in mediation. Please note that aside from talking about conflict resolution in general, we also emphasized practical skills in mediation.

Partly inspired by our initiatives, the Center of Religious Harmony (Pusat Kerukunan Umat Beragama or PKUB) has started to conduct similar trainings. PKUB is a section within the Ministry of Religious Affairs (MORA) which is in charge of strengthening religious harmony in Indonesia. One of their pivotal tasks is supervising all FKUBs in Indonesia. We have partnered with PKUB for some time, especially since the early development of our FKUB database. In 2022, PKUB plans to conduct mediation training in 10 areas with 30 participants in each training. The training will be led by Walisongo Mediation Centre and facilitated by PKUB. As of the time of this writing, the training is intended to encapsulate four modules, namely: (1) understanding conflict; (2) conflict analysis; (3) negotiation; and (4) conflict resolution.

Although the central government has supported some attempts to strengthen the ability of FKUB members to lead and participate in mediation, it has had limited progress due to structural problems with the relationship between local government and FKUBs. The most important structural problem is the lack of support for local KKUBs offered by local governments, which in turn limits their capacity to educate themselves through participation in the kind of training mentioned above.

Final Notes

Utilization of interest-based approaches or non-legal mechanisms to resolve religious conflicts in Indonesia has opened up new opportunities for strengthening religious freedom in the country. As suggested by the discussion above, however, it has its own challenges. We have mentioned some of those challenges previously, but here we wanted to end with two additional challenges.

First, mediation is often misunderstood and misused as a way to force the minority to succumb to the majority's demands. This happens when "mediation" is held, for example, by the police under the pressure and intense scrutiny of the majority group. As a result, the more vulnerable group is forced to agree with the (quasi) "peace settlement."

Second, mediation is often understood as a way to suppress violent conflicts instead of preventing them. Therefore, the process of mediation is often pursued belatedly, after the conflict has turned violent. Similarly, there is a common misperception among Indonesians that conflict is a bad thing that needs to be avoided at all costs. Generally speaking, Indonesian culture can be "allergic" to the word "conflict," due in part to the New Order regime that denied conflict as an inevitable event that could be peacefully managed. In sum, this essay makes the case that mediation is an important mechanism that can be used to peacefully manage conflict.

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