

Political Discrimination Against Non-Muslims in Contemporary Indonesia

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Abstract—This article charts the political discourse amongst Islamic leaders regarding political discrimination against non-Muslim minorities in contemporary Indonesia. The focus is about the possibility of a non-Muslim to become political leaders such as president, head of parliament, governor, and other prominent positions in Indonesia, the world's most populated Muslim state. Recently, classical Islamic discourse on this issue, which has generally rejected this possibility, had tended to be trapped in a normative model of analysis which today seems intolerant and rigid. This article contends that this discourse, to some extent, does not properly appreciate the complex social, cultural, historical and political realities of the Muslim community today. Indeed, many other contemporary scholars view this mode of discourse as failing to respond to the current social-political dynamic, especially those scholars coming at it from a multicultural democratic perspective. Perhaps most importantly, the legal reality, even though there is a reasonable degree of controversy surrounding it, which is that there is no criterion that the President has to be Muslim, is also rejected by this discourse. The result reveals that theoretically, there is no political discrimination against non-Muslim in Republic of Indonesia because the rights for political participation in Indonesia had been equally granted for Muslims and non-Muslims and had become a basis of the democratic mechanism of electing political leaders such as president, head of parliament and other prominent positions.

Keywords—Political discrimination; Non-Muslim Minorities; God's Authority; Jakarta Charter.

I. INTRODUCTION

This article discusses the possibility of a Non-Muslim in becoming political leaders such as president, head of parliament and other prominent positions in Indonesia. From a theological point of view, this is a difficult issue because both the Qur'an and Sunnah, the two main sources of Islamic Law, contain both arguments that forbid Muslims from choosing Non-Muslim leaders and arguments that allow it.

At the moment, there is still skepticism regarding the possibility of a non-Muslim President conceptually, and discomfort of the prospect in practice. This is no wonder, as the regulations regarding this matter in Muslim majority countries are different to those in other countries. Most Muslim majority countries, including Tunisia, Algeria, Egypt, Syria, Pakistan, Bangladesh, Iran, Jordan and Malaysia, all apply regulations that the President or the head of state of the country must be a Muslim. Up until now, there have only been

three Muslim majority countries that have been led by non-Muslim Presidents: Senegal, Nigeria and Lebanon. Although roughly 94% of its population is Muslim, from 1980 to 1988 Senegal was led by a Catholic President, Leopold Sedar Senghor. Nigeria, whose population also has more Muslims than it has Christians, saw Olusegun Obasanjo, who is Christian, serving as President of the country not just once but for three terms: 1976 to 1979, 1999 to 2004, and most recently from 2004 to 2007.

The most striking example, however, is Lebanon. In spite of an estimated 64% of its population being Muslim, Lebanon has been led by Christian Presidents since 1943. The reason for this is fairly simple; it has to do with *al-Mitsâq al-Wathani*, the national pact established that year that says that the Lebanese President must be a Maronite Christian, the Prime Minister must be a Sunni Muslim, the House speaker must be a Shiite Muslim, the Defense Minister must be Druze Muslim, and the Foreign Affairs Minister must be Greek Orthodox Christian. This pact has been in effect and adhered to since 1943, so during this time the Lebanese President has never been a Maronite Christian.

Contemporary opinion among Muslims, either in Indonesia or in other Muslim majority countries which still oppose non-Muslim Presidents, is in line with or influenced by a classical concept: that a country should be based on Islamic theology. In classical Sunni literature this country concept is called a caliphate, the head of state of which, the caliph, has two main tasks: firstly to maintain religion and secondly to manage the world (*hirâsah al-dîn wa siyâsah al-dun-yâ*).

However, while the social-political conditions now are far different to those of the classical era, it is the latter upon which contemporary opinion among Muslims about non-Muslim Presidency is based, even though such an era no longer reflects the current social-political situation. Therefore, if this opinion were to be based on a contemporary context, rather than a classical one, the question of whether or not a non-Muslim should be allowed to be able to become their President can be reconsidered.

II. DISCUSSION

A. The Rules about Political Discrimination against Non-Muslims in Indonesia

Discourse about political discrimination against non-Muslim formally began during the writing of Indonesian constitution in 1945, the second session of BPUPKI (*Dokuritsu Zyunbi Tyosaka*, a Japanese-organized committee for granting independence to Indonesia) held on July 10-16, 1945. During this session, both nationalist and Islamic groups agreed to a consensus that in the future Indonesia's freedom would be based on the basic principle of "Deity with an obligation to perform Islamic laws for its adherents". In addition, they also accepted Islam as the state religion, and that the Indonesian President must be a Muslim. They also accepted all Islamic sentences written both in the preamble and the body of 1945 Constitution bills.

It should be noted, however, that it seemed the consensus was not built in strong foundations. On August 18, 1945, one day after the Indonesian independence was proclaimed; this consensus was revisited by the members of the Indonesian Independence Preparation Committee (PPKI), which had been established on August 7, 1945, chaired by Sukarno. They held a meeting to discuss some important amendments in the Preamble and the Constitution.

During the meeting, deputy chairman of PPKI Mohammad Hatta, extended four proposals for amendment as follows: (1) The word "Mukaddimah" was replaced by "Pembukaan"; (2) In the Preamble to the Constitution, a subordinate sentence, "Based on the Deity, with obligation to perform Islamic laws for its adherents" was replaced by "Based on a belief in the One and Only God"; (3) In Article 6 clause (1), "The President is a native Indonesian and Muslim," the words "and Muslim" were omitted; (4) Along with the second amendment above, Article 29 clause (1) became "The State is based on a belief of the one and only God", to replace "The State is based on the Deity and obligation to perform Islamic laws for its adherents". These proposals were meant to unite all Indonesians.

The story goes that the advice of a young Kaigun (Japanese Navy) officer, whose name is forgotten, especially influenced this decision. His message was that unless some of the Islamic elements on the Jakarta Charter, such as the obligation to perform Islamic law for its adherents, Islam as the state official religion and the requirement that Indonesian President must be a Muslim, were amended, the Protestant and Catholic adherents, many of whom lived in the eastern part of Indonesia, would establish a new state.

Although since August 18, 1945, the requirement that the Indonesian President be Muslim has never actually been in place. Constitutionally speaking, non-Muslim citizens in Indonesia have the same political right to become a President as Muslim citizens. However, after the issuing of the Presidential Decree on July 5, 1959, the issue of whether or not a non-Muslim could become the President has been the subject of bitter debate amongst politicians and Islamic leaders.

Historically in Indonesia there have been two groups contesting this debate. The first group believes that the Presidential Decree of July 5, 1959 explicitly states that only Muslims can become Indonesian President while the second group disagrees and therefore believe that non-Muslims are also entitled to become President.

B. The History of Political Discrimination against Non-Muslims in Indonesia

The potential of the country having a non-Muslim as President became a very real prospect and a hot topic of conversation amongst the public in the 1980s when it was reported that Benny Moerdani, a Catholic General and the Indonesian Armed Forces Commander at that time, was aspiring to become President. At first, only a small number of Moerdani's contemporaries knew of this aspiration. In the military, the first person to find out was Prabowo Subianto, President Suharto's son-in law who was also a special staff member of Moerdani's at the time. When Suharto himself learnt of Benny's ambition, through Subianto, he initially did not believe him, but eventually changed his mind after receiving further confirmation from other sources. Moerdani was so angry at Subianto that he discharged him from Kopassus (the Army's Special Forces unit) and made him a military district commander (Kodim) of a far-flung location a long way from Jakarta.

One of the first people from outside the military to know of this aspiration was Moerdani's close ally, Abdurrahman Wahid, known simply as Gus Dur, who was asked specifically by Benny for his opinion on the matter. Moerdani's relationship with Gus Dur later became the subject of controversy when Gus Dur, speaking at a seminar titled "Political Development in Indonesia" held at Monash University in Australia, was asked whether a non-Muslim could become Indonesian President, and who he thought the most appropriate future leader for the country was. In response, Gus Dur said that according to the Indonesian Constitution, a non-Muslim could become President, and one of the most appropriate future leaders would be Moerdani. This answer, to a very provocative question for Indonesian Muslims, caused a number of different reactions. While some saw the response as perfectly reasonable, since, as Gus Dur had said, the 1945 Constitution does state that a non-Muslim can become President in the future, others were angry at Gus Dur just for canvassing the idea. Others claimed that the comment was evidence that he had formed a coalition with Benny Moerdani and planned to nominate him as the Indonesian President. Others accused him of being non-Muslim henchman.

Later on, prior to the 1993 election, in addition to the United Development Party (PPP), four members of the Indonesian Muslim Scholars Association (ICMI), Ismail Sunny, Nurcholish Madjid, Sri Edi Swasono, and Muslimin Nasution, frequently condemned Gus Dur's support of Moerdani's to replace Soeharto as President. During a private discussion with a US diplomat, when these four were asked for their opinion on the prospect of Moerdani becoming the next President, Nurcholish said that even though Gus Dur, a

prominent Muslim, seemed to approve his candidacy, he still thought that Muslims would not accept it. Nurcholish's opinion on this matter was gotten hold of by the media when Sunny leaked it to them soon after.

As usual, in facing these reports Gus Dur was very calm in front of the media. According to Gus Dur, certain people, including Lukman Harun of Muhammadiyah, who had contributed to the rumor about his support for Moerdani, had simply misunderstood him. His statement in Australia about Benny did not necessarily mean that he wanted him to supplant Suharto as President. Rather, it was merely meant to educate an Australian audience about Indonesian politics, and that constitutionally speaking Moerdani, as a non-Muslim, had equal rights to the Presidency as a Muslim. Besides, the fact that the pair was already colleagues meant that his support for Moerdani was perfectly understandable.

In 1998, early on in the reform era, the press reignited the issue of non-Muslim Presidency with the circulation of a photograph picturing Megawati devotedly engaged in Hindu ritual. A.M. Saefuddin, the then Minister of Food and Horticulture, utilized this image to suggest that since Megawati was presumably Hindu, given Indonesia's Muslim majority population he would be a better choice as President. Afterwards, Saefuddin said in a press conference that he did not mean to offend non-Muslim Indonesians, yet this did not stop the Balinese Hindus from being furious at him. In a demonstration broadcast on television, Balinese Hindus were seen hanging Saefuddin's dummy, insisting he apologize and resign from his position.

Even though he did not resign from his position, Saefuddin did have to apologize to the Hindus for his controversial remarks, which were deemed to have humiliated them by downgrading them to second class citizens. Megawati, for her part, aimed to get her candidacy as Indonesian President back on track with what was dubbed a "political hajj pilgrimage". Six years later, the issue re-emerged when, for the first time in modern Indonesian history, the General Chairman of Partai Damai Sejahtera, Ruyandi Hutasoit, a Christian, ran for President in the 2004 Presidential Election.

C. Scholarship about Political Discrimination against Non-Muslims in Indonesia

The requirement which states that the Indonesian President must be Muslim was removed from the Constitution on August 18, 1945, as mentioned earlier. Nevertheless, there is still difference of opinion amongst political leaders as to whether or not a non-Muslim Indonesian can become President. Amongst those who oppose non-Muslims from becoming President, there are at least two reasons that underpin this stance. The first reason, as advocated by Anshari and Ali Yafie, is that the Jakarta Charter (*Piagam Jakarta*) states that the Indonesian President must be Muslim, and since the 1945 Constitution is inspired by the Jakarta Charter, so it follows that this is a legitimate basis for the President having to be Muslim[1].

The second reason, as put forth by Prof. Ibrahim Hosen, is that the Republic of Indonesia actually belongs to an Islamic

State (*Darul Islam*), due to its predominantly Muslim population. In an Islamic State (*Darul Islam*), Hosen argues that a *waliyyul amri* (President) and his vice must be good Muslims. Hosen's view is in line with and influenced by the concept that the state should be based on classical Islamic ideology, rather than any other ideology, such as nationalism. But today, according to Munawir Sjadzali, this classical thinking is no longer relevant, as the state is mostly sustained by national principles rather than religious ones[2]. According to Robert N. Bellah, if there is an appropriate Islamic model for a nation state today it is the Medina Charter, the social-political order established by Prophet Muhammad in Medina and developed by al-Khulafa al-Rasyidun. Munawir calls on Muslims in this current contemporary era to subscribe to this charter, as it guarantees equal rights and obligation between the citizens and the state regardless of religion.

Those in favor of non-Muslims being able to become President are non-Muslim scholars like J.T.C. Simorangkir (Protestant) and B. Mang Rey Say (Catholic) and some Muslims like Hasyim Muzadi, Ahmad Syafi'i Ma'arif and Gus Dur. They pointed out at least two main reasons as to why a non-Muslim should be able to become Indonesian President. The first reason, as drawn upon by Simorangkir and Mang Rey Say, is that the Jakarta Charter is not its binding legal source. Furthermore, Ruyandi Hutasoit adds that just because the Jakarta Charter was mentioned again in the Preamble to the July 5, 1959 Presidential Decree, does not mean that the requirement that the President must be Muslim was suddenly automatically revived [3]. If we accept this reason, then we have to accept that the Jakarta Charter, which at one point, though not anymore, said that the President had to be Muslim, does not affect the prevailing 1945 Constitution, even though there is currently nothing in there specifically saying that the President does not have to be Muslim.

Similarly, Ahmad Syafi'i Ma'arif states that although most Indonesians are Muslim, this does not mean that minority groups do not have the right to be President [4]. As long as a candidate from a minority group is able to win a democratic Presidential election, it is possible for them to become President. However, if we look at the United States of America, where the majority of its population is Protestant, it has seldom seen a citizen from a minority religion be elected as President. An exception to this rule, John F. Kennedy, a Catholic who became President in 1960, was killed before he had ended his term in office in 1963. Ma'arif says that India, with a majority Hindu population, is the exception, with some Presidents from the Muslim minority. So far none of them have been killed in office.

Saefuddin says that the probability of a non-Muslim becoming Indonesian President is about the same as that of a Muslim becoming US President, which, after 230 years of democracy, has yet to happen, even though the US unambiguously separates church and state and the US constitution does not forbid Muslims or anyone of any other religion from becoming President.

The second argument as to why theoretically a non-Muslim can become President is because Indonesia is not an

Islamic State and in the Constitution there is nothing prohibiting a non-Muslim from becoming one. As Gus Dur points out, Article 6 clause (1) of the Constitution stipulates that every Indonesian citizen, regardless of their religion, has the same right to become President. While it is understandable that most of the time the President will be Muslim, this does not change the constitutional fact that there is always the possibility that he or she will belong to a different religion. Again, in the case of the US, while it is unlikely that a Muslim will become President, their right to this title is shared by every other American, whatever their ethnicity, religion or sex, and American Muslims welcome this fact.

However, unlike Saefuddin and Hafidhuddin, Gus Dur predicts that a non-Muslim Indonesian President is not outside the realm of possibility in the future. Ruyandi Hutasoit, Theo L Sambuaga, and Muchtar Pakpahan agree. Hutasoit, for instance, says that a time will come when this happens in Indonesia, as it has in both the recent past and the distant past. The recent Christian Presidency in Nigeria, and the example of the Prophet Yusuf in Egypt, a non-Egyptian native and from a minority group, succeeding the King Pharaoh as the country's ruler, shows that nothing is impossible with God's permission.

D. Political Discrimination against Non-Muslims within Jakarta Gubernatorial Election, 2017

In response to the candidacy of the incumbent, Basuki Tjahaja Purnama (Ahok) for the second period of the Jakarta gubernatorial election, 2017, there are two opinions among Indonesian Ulema. Habib Rizieq Shihab, the leader of hardline Islamic group, Islam Defenders Front (FPI), opposes his leadership because he is a non-Muslim [5]. In contrast to that opinion, Salim Osman reported that Indonesian Ulema Council (MUI) chief Amidhan Shaberah said, "If the (non-Muslim) candidate has been proven to be a just person, then (Muslims) can vote for a non-Muslim. The Republic of Indonesia is a democratic nation, not an Islamic nation." He appears to be bucking the trend of conservatives who oppose non-Muslims as leaders. His remarks could mean an endorsement of non-Muslim participation in regional elections for the post of governor, deputy governor, regent and mayor. It may also mean that a window of opportunity is now open to a non-Muslim candidate's entry in the presidential contest [6].

Ahok's defeat over his strongest rival, Anies Baswedan, according to Mario Rustan, is due in a de facto way, in Indonesia in general and in Jakarta in particular, there is political discrimination against non-Muslim Minorities. Mario Rustan argues that most countries now define citizenship by law, not by blood. Most countries do not actually allow a naturalized citizen to hold a powerful political position, but theoretically all citizens stand an equal chance to become a director, the captain of a national team; or the head of government. But, in fact, the privilege is reserved for members of the majority ethnicity or religion and some minority groups seem to be barred from such important positions [7].

Therefore, it is not surprising that Ahok, a Christian of Chinese descent, lost to his toughest rival, Anies Baswedan

in the 2017 Jakarta Gubernatorial election. In contrast to Mario Rustan, Siti Ruhaini Dzuhayatin argue, rights for political participation in Indonesia had been equally granted between Muslims and non-Muslims and had become a basis of the democratic mechanism of electing political leaders such as president, head of parliament and other prominent positions. Siti Ruhaini Dzuhayatin added that if the majority of the Indonesian people who notably are Muslim vote to elect a Muslim president, it should not be understood as discriminatory. Rather, it should be seen as freedom of choice or represent the majority [8].

III. CONCLUSION

To conclude, theoretically, there is no political discrimination against non-Muslim in Republic of Indonesia. Because, the rights for political participation in Indonesia had been equally granted between Muslims and non-Muslims and had become a basis of the democratic mechanism of electing political leaders such as president, head of parliament, governor, and other prominent positions. Therefore, if the majority of the Indonesian people who notably are Muslim vote to elect a Muslim president, governor, mayor, and other prominent positions, should not be understood as political discrimination. But, it should be seen as freedom of choice or represent the majority.

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