

Hukum Penodaan Agama dan Implikasinya Terhadap Negara Demokrasi Indonesia = Blasphemy Law and Its Implications Towards the Democratic State in Indonesia

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Abstrak

Indonesia sejak pasca reformasi telah memasuki babak baru dalam mengimplementasikan nilai-nilai demokrasi dan negara hukum. Hak sipil berupa Hak menganut agama, hak berekspresi dan mengungkapkan pendapat di muka umum telah dijamin di dalam UUD 1945. Kendati demikian, dewasa ini sering dijumpai pelanggaran terhadap hak-hak sipil ini lewat berbagai instrument hukum penodaan agama, baik itu dari UU PNPS No. 1 tahun 1965, Pasal 156 a KUHP, dan pasal-pasal lainnya seperti pasal 28 ayat (2) UU ITE. Pada dasarnya secara substansial pasal-pasal ini memiliki kecacatan pada level materil yang pada akhirnya menghasilkan kecacatan dalam penerapannya pula dengan banyaknya ancaman kriminalisasi dan persekusi sepihak tokoh-tokoh hingga warga biasa. Tentu hal ini bertentangan dengan cita-cita negara Indonesia yang menuju negara hukum dengan menerapkan kepastian hukum. Juga menghinai cita-cita pencerdasan bangsa yang diredam lewat ancaman-ancaman terhadap diskursus teologis yang non populer.

.....Since the post-reform era, Indonesia has entered a new phase in implementing the values of democracy and the rule of law. Civil rights in the form of the right to adhere to religion, the right to express him/herself and express opinions in public have been guaranteed in the 1945 Constitution. Nevertheless, today there are often violations of these civil rights through various instruments of blasphemy law, both from PNPS Law No. 1 of 1965, Article 156 a KUHP, and other articles such as article 28 paragraph (2) of the ITE Law. Basically, these articles have substantial flaws at the material level, which in turn results in imperfections in their applications as well as the one-sided threats of criminalization and persecution to both public figures and ordinary citizens. Of course this is contrary to the ideals of the Indonesian state towards a state of law by applying legal certainty. It also betrays the ideals of national intelligence which are muted through threats to the non-popular theological discourse.