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## Indonesia's Blasphemy Law: Bleak Outlook for Minority Religions

BY MELISSA CROUCH

**Melissa Crouch**, Research Fellow at the University of Melbourne Law School, discusses Indonesia's "Blasphemy Law" ruling which she asserts "casts a bleak outlook for so-called 'deviant' groups, leaving religious minorities vulnerable to convictions for blasphemy and the risk of violence in the future."

One of the major challenges for any government is how to manage religious diversity, and how to provide for religious minorities in particular. In Indonesia there are six officially recognized religions: Islam, Protestantism, Catholicism, Buddhism, Hinduism and Confucianism. In addition, a wide range of other indigenous religions and beliefs exist outside of these groups. While Indonesia's transition to democracy in 1998 brought about greater freedoms for all religious groups, there has also been a dramatic increase in convictions of "deviant" groups for blasphemy.

A Presidential Instruction enacted in 1965 inserted Article 156(A) into the Indonesian Criminal Code, which makes it a criminal offense to misuse or disgrace one of the six officially recognized religions. This is commonly referred to in Indonesia as the "Blasphemy Law." This offense was rarely prosecuted prior to 1998, with less than ten recorded convictions. After 1998, however, there have been at least 47 cases, or 120 people, convicted for insulting a religion under this provision.

A significant number of the accused identify as "Muslim," although most are leaders or members of minority religious groups. Almost all of the accused have been convicted for blaspheming Islam. Among those convicted have been the leaders and followers of minority religious groups and sects that are considered to be "deviant" or "unorthodox." These have also included a large number of Christians and, more recently, two foreigners—a German and an American—living in Indonesia.

Due to growing concerns over misuse of the Blasphemy Law, in October 2009, a coalition of non-governmental organizations (NGOs) coordinated by the Indonesian Legal Aid Foundation lodged an application for judicial review with the Indonesian Constitutional Court. Their primary argument was that the Blasphemy Law should be repealed because it contravened the right to religious freedom guaranteed by the Indonesian constitution. This case was opposed by government representatives from the Ministry of Religion and the Ministry of Law and Human Rights. Submissions and oral testimony in favor of retaining the Blasphemy Law were made by a wide range of Islamic religious leaders, including hard-line (*garis keras*) Islamic groups such as Hizbut Tahrir Indonesia and the Islamic Defenders Front.

The main argument advanced in support of retaining the Blasphemy Law was that it was seen as vital to the maintenance of social order and peace. For example, the chairperson of Nahdlatul Ulama, the largest Islamic organization in Indonesia, expressed concerns that the Blasphemy Law was necessary to prevent religious conflict and anarchy.

Another argument was that the Blasphemy Law was a permissible and necessary limitation on the right to freedom of religion in the interests of public order, as allowed under the constitution. Muhammadiyah, the largest modernist Islamic organization in



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Indonesia, echoed this idea that religious freedom is not absolute freedom without limits.

Similarly, the Indonesian Ulama Council, the national body that claims to represent the entire Islamic community in Indonesia, emphasized what it perceived to be the difference between conceptions of human rights in Islam compared to those in “the West.” It argued that the Western concept of human rights is often unlimited and narrowly focused on individual rights. In its opinion, this was in contrast to human rights in Islam, and therefore in majority-Muslim Indonesia, which it argued places equal emphasis on the responsibilities of individuals within society. Submissions to the court in support of the applicants’ case to repeal the Blasphemy Law were made by many religious minorities. Their central argument was that the Blasphemy Law was a breach of the right to religious freedom because it allowed the religious majority to effectively criminalize the teachings of religious minorities. They appealed to the national state ideology, the Pancasila, which upholds belief in Almighty God and is therefore seen as providing broad support to all religions.

The extent to which religious minorities and NGOs were free to voice their concerns in this case, however, is questionable. Vulnerable religious minorities with the most at stake—Ahmadiyah, an Islamic sect—did not make a submission or give testimony in court. This is despite the fact that the coalition had invited them to do so. This may have been out of fear, and these concerns were not eased as members of the Islamic Defenders Front continually disrupted court proceedings and vandalized the office of the Indonesian Legal Aid Foundation.

The Constitutional Court, in April 2010, ruled that the Blasphemy Law was valid and that it did not contravene the constitutional right to freedom of religion. In its judgment, the court emphasized the “Indonesianness” (*Keiindonesiaan*) of the right to religious freedom in Indonesia. It stated that “Indonesia is a country with a ‘belief in God’ (*bertuhan*), not an atheist country.” This, the court held, means that Indonesia is a compromise between a secular state and an Islamic state. While acknowledging Indonesia’s international obligations, the court interpreted the constitutional limitation on the right to freedom of religion in the interests of public order broadly.

One positive outcome, according to Ulil Abshar-Abdullah of the Liberal Islamic Network, is that a debate on politically sensitive issues such as religion—a forbidden topic of conversation under the New Order 1966-1998—can now be argued in court without major incidents of violence between religions.

This does not, however, reduce the potential negative consequences for religious minorities. There have been at least seven court cases of blasphemy since the ruling. This includes the conviction of a 16-year-old Christian high school student from West Java who was found guilty of insulting Islam after a picture of him stepping on a Qur’an circulated on the Internet. Another case occurred in Central Java, where a Christian man was convicted for distributing books that insulted Islam. The most concerning aspect of this case was that the crowd of hard-line Muslims present at the trial expressed dissatisfaction at the five-year jail sentence—despite the fact that this is the maximum sentence for this crime—by burning down several churches in the area.

There were also several other disturbing incidents of religious violence in Indonesia in 2011, such as the outbreak of communal violence between Muslims and Christians in Ambon, ongoing violence against Ahmadis, and the explosion of bombs in separate incidents at a mosque and a church in Java. This suggests that judgments such as the Blasphemy Law case only provide further justification for the vigilante actions of hard-line Islamic groups. This casts a bleak outlook for so-called “deviant” groups, leaving religious minorities vulnerable to convictions for blasphemy and the risk of violence in the future.

Melissa Crouch is Research Fellow at the University of Melbourne Law School and recently completed her Ph.D on the topic of legal disputes between Muslims and Christians in West Java, Indonesia. She can be contacted via email at [m.crouch@unimelb.edu.au](mailto:m.crouch@unimelb.edu.au).