When Human Rights are not Enough: A “Failure” of Multiculturalism in Indonesia?
(A Preliminary Hypothesis)

Joeni A. Kurniawan, PhD Candidate, University of Pisa, Italy and Lecturer at University of Airlangga, Indonesia

Abstract
As far as the judiciary is concerned, there have been quite a number of legal instruments created in Indonesia for the protection of human rights. These legal instruments include the Indonesian Constitution, which possess special articles pertaining to human rights: the Human Rights Act (the Law Number 39 of 1999), the National Commission for Human Rights, etc. Thus, normatively, all of these legal instruments should be adequate to protect human rights in Indonesia, including the protection of the minority groups. However, the reality does not seem in line with these expectations. There have been a number of cases in Indonesia that have brought into serious question the county’s ability to protect the rights of minority groups. The persecution of the Ahmadiyah and Shia sects, the rejection of the establishment of non-Muslim places of worship, and, the most recent case, the imprisonment of Jakarta’s governor Basuki Tjahaja Purnama, are just a few of the distressing incidences which show how Indonesia’s poor performance in the protection of minority groups. Identity politics, and even a sentiment of racism, are re-emerging in Indonesia, a fact which seems to be affirmed by the findings presented by the Wahid Foundation, which show that 59.9% of 1520 respondents from 34 provinces in Indonesia said that they harbor hatred towards some groups of their fellow citizens, such as those who are non-Muslims, of Chinese-descent, communists, etc. (Hakim 2016). Among this 59.9%, 92.2% of them reported that they are strongly opposed to a person from one of the aforementioned groups taking office as a leader in the government, and 82.4% even reported that they don’t want to have a neighbor who belongs to one of those groups (Hakim 2016). Such re-emergence of identity politics and racism, as well as the frightening degree of hatred displayed among the population, give rise to questions about why all of the human rights instruments which already exist within Indonesia’s legal framework seem to fail in preventing the prevailing modern sentiment and incidences of abuses. In this article I will present my hypothesis that all that the tragedies regarding the mistreatment of and negative sentiments towards minority groups in Indonesian are due to the failure of the ‘multiculturalist’ approach implemented in Indonesia so far. I will also propose that an ‘interculturalist’ approach be implemented in Indonesia as means to critique and refine the failed multiculturalist approach in dealing with Indonesia’s multicultural society, and in dealing with the protection of minority groups in particular.

Keywords: Multiculturalism, Interculturalism, Human Rights, Indonesia
I. INTRODUCTION

“Bhinneka Tunggal Ika,” or “Unity in Diversity.” This is the official national motto of the Republic of Indonesia. It is a motto which delivers a message that Indonesia is a diverse nation which embraces and defends its diversity.

Indeed, Indonesia is in fact an inherently pluralist nation. Its cultural diversity is an inseparable element of the country’s makeup. According to the Statistics Center Bureau of Indonesia (Badan Pusat Statistik / BPS), Indonesia has at least 1,340 different tribes/ethnic groups.\(^1\) Such diversity of ethnic groups has existing for centuries, even before the nation state known as Indonesia was established. There are also those referred to as indigenous people or masyarakat adat, social groups in Indonesia which use adat laws (the Indonesian customary laws) as the basis of their social groupings. According to Aliansi Masyarakat Adat Nusantara or AMAN (the Indigenous People Alliance of the Archipelago), as the most important organization currently working on indigenous people’s issues in Indonesia, there are 2,332 indigenous communities in Indonesia which are constituted as members of this organization.\(^2\) In terms of religion, in addition to the many traditional religions of the aforementioned indigenous people, there are six major religions adhered to by the people of Indonesia: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.

Realizing that such inherent cultural plurality brings with it both enormous potential and significant challenges, and also aspiring to be free from colonialist powers, a meeting of youths from different islands in the Indonesia Archipelago was held in October, 1928, and became known as the 2\(^{nd}\) Youth Congress.\(^3\) Through this congress, these youth, most of whom would later go on to become the founding fathers of Indonesia, made a joint declaration which is now famously known as Sumpah Pemuda (the Youth Pledge). Through Sumpah Pemuda, these youths declared their intent to build one nation and one country, Indonesia.

After a long struggle against various colonial powers, the independent and sovereign state now known as Indonesia was established on 17th August of 1945 as one united country built upon pre-existing cultural diversity. Enshrining the spirit and aspirations outlined in Sumpah Pemuda, when formulating the Indonesian constitution, the founding fathers of Indonesia agreed to abolish the seven words previously stipulated in the Jakarta Charter of 1945 (an earlier iteration of the constitution) which concerned “implementing the sharia law for all Muslims in Indonesia”. This decision is used to support the argument that, even though Indonesia is a Muslim-majority country, Indonesia is not a country based on any one religion. Instead, Indonesia is a country of “one for all and all for one,” a concept which is manifested in the official national motto of “Bhinneka Tunggal Ika.” The choice of such a motto, makes it clear that the

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1 Subdirektorat Statistik Politik dan Keamanan, Statistik Politik 2016 (Jakarta, Indonesia: Badan Pusat Statistik, 2016) at 165.

2 See: http://www.aman.or.id/

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founding fathers of Indonesia possessed an awareness of, and also emphasized that, Indonesia is a culturally and religiously diverse country and that it should always be so.

Being a pluralist nation is a good thing surely, but maintaining it, however, is no easy task. In the early years of Indonesia’s independence, under the presidency of Soekarno, Indonesia experienced several periods of serious social and political unrest, including attempts at uprisings. A communist revolt famously known as *Pemberontakan Madiun* (the Madiun Affair) which occurred in September 1948, and the Islamic rebellions led by the Islamic political organization *Darul Islam/Negara Indonesia Islam* (DI/NII), which aimed to establish Islamic State of Indonesia in 1950s, are some examples of such socio-political unrests which were the result of ideological and or cultural differences among the Indonesian population.4

During the period of Indonesia’s second president, Indonesia was ruled by a military dictatorship regime controlled by General Soeharto. While dissatisfaction and disputes related to cultural difference still existed during this period, they were generally suppressed by military force which, in itself, led to various human rights violations. The regions of Aceh and Papua in particular experienced the brunt of such human rights violation and suppression.

The period after the downfall of Soeharto, famously referred to as the *Reformation Era*, as the moment of Indonesia’s re-democratization should therefore have ushered in a period of better socio-political governance regarding Indonesia’s cultural plurality. The amendment of the Indonesian Constitution in order to adopt human rights principles, as well as the enactment of the Human Rights Act (the Law 39/1999), should have been enough to ensure that the spirit of plurality which had been emphasized by Indonesia’s founding fathers be embraced and defended.

However, developments since the downfall of Soeharto till the present seems to indicate that the wonderful idea manifested in the official motto of “*Bhinneka Tunggal Ika*” is still far from being realized, even taking into consideration the democratic and human rights law instruments which already exist in Indonesia. The trend of escalating tensions based on cultural, ethnicity, racial, and religious differences, which are often combined with political motives and interests of Indonesia’s elites, pose a serious challenge to both democracy and human rights in Indonesia in the post-authoritarian period.

Therefore, this paper will present a number of cases which indicate that Indonesia, though in a post-authoritarian period, still has serious problems regarding its religious and cultural diversity. This paper then tries to examine why these issues persist, even though various democratic and human rights law instruments have been created in Indonesia. Finally, through a hypothetical analysis this paper will conclude that these issues are due to the failure of the ‘multiculturalist’ approach which has been implemented by Indonesia in the past, and that the approach needs to be altered or replaced by an ‘interculturalist’ approach.

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II. THE PROLONGED PROBLEMS REGARDING CULTURAL PLURALITY IN THE PERIOD OF POST-AUTHORITARIAN REGIME IN INDONESIA

Though it has been almost 20 years since the downfall of the authoritarian regime under General Soeharto, there are still many incidents which call into question the efficacy of Indonesia being a truly ‘multicultural’ country. For example, in contrast with the wishes of Indonesia’s founding fathers in constituting Indonesia as a country of “one for all and all for one,” which can be seen in their decision to abolish the seven words of Jakarta Charter in the Preamble of the Indonesian constitution, there is a law explicitly establishing a Sharia court, as well as the implementation of Sharia law, in the special province of Nanggroe Aceh Darussalam.5

The problem associated with the existence of sharia law and sharia courts is that they have jurisdiction which not only pertains to family law matters such as marriage or inheritance, but also penal laws. Under Sharia law there are even crimes which are punishable by what would be considered today as ‘medieval’ punishments like public whipping, even if those sentences have not committed crimes according to the national laws. One example of this is the ban on (unmarried) cohabitation. (Unmarried) Cohabitation is regulated as a crime in Nanggroe Aceh Darussalam because it is considered as a form of zina (adultery) according to Sharia. Thus, those who are caught engaging in cohabitation - even though it is a private matter which is not regulated at the national level - will be sentenced to punishment by public whipping. Cohabitation, of course, also includes homosexual cohabitation. The latest example of such sentences of punishment was carried out against a homosexual couple on May 17, 2017, which was ironically the same date as the International Day Against Homophobia, Transphobia, and Biphobia (IDAHO).6

What has happened in Nanggroe Aceh Darussalam has set a kind of “precedence” for the other provinces and regencies, especially those which are led by a governor or regent who represents an Islamic party. These provinces and regencies have enacted some local regulations (Indonesian: Peraturan Daerah / Perda) which are highly influenced by Sharia law, and are popularly known as Perda Sharia. As recorded by Muhtada, by mid-2013, there had been at least 422 Perda Sharia enacted by 29 provinces and 174 regencies, which, according to Muhtada, resulted from a “marriage” between the demands of the local people and the elite’s interest in obtaining political support from Muslim constituents.7

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5 It is regulated by the Law Number 18 of 2001 granting the Province of Nanggroe Aceh Darussalam a status of special autonomy having capacity to establish the sharia court and to implement sharia law for the Muslims in this province as part of such autonomy. A brief explanation about this can be seen in Jon Emont, “As Shariah Experiment Becomes a Model, Indonesia’s Secular Face Slips”, N Y Times (20 January 2018), online: <https://www.nytimes.com/2017/01/12/world/asia/indonesia-sharia-aceh.html>.


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This trend of “Islamization” through local regulations reflects the reemergence of identity politics in Indonesia in the post-authoritarian period. In addition to concerns about the actual need for religious based law in Indonesian society, the implementation of such Perda Sharia has caused a number of problems. One of the most serious of these problems is the continued discrimination against women since some of these Perda regulate how women should dress and prohibit women from engaging in certain activities during the night, regulations which do not apply to men.8

Furthermore, this return of identity politics has corresponded with the rising trend of intolerance within Indonesian society. According to a survey conducted by the Wahid Foundation and the Indonesian Survey Circle (Lingkaran Survey Indonesia / LSI), among 1520 respondents from 34 provinces in Indonesia, 59.9% of the respondents expressed hatred towards certain groups of their fellow citizen, such as those who are non-Muslims, people of Chinese descent, communists, etc.9 Among these 59.9%, 92.2% said that they highly oppose a person from those groups becoming a governmental leader, and 82.4% responded that they don’t want to have a neighbor from those groups.10 Further findings from this survey show that 7.7% of respondents admitted that they are willing to take radical actions against these groups, such as attacking places of worship of other religions, as well as targeting the locations or activities which go against sharia (such as night clubs, bars, stores selling alcoholic drinks, etc.).11 According to Yenny Wahid who is the chairperson of the Wahid Foundation, though 7.7% is a relatively small number, it reflects a population of 11 million of Muslims in Indonesia and knowing that 11 million of Muslims in Indonesia are willing to commit such radical acts is truly frightening.12

It is not difficult to take the results of this survey seriously, as there have been a number of serious incidents which indicate that Indonesia is under a serious threat of radicalism. Several terror attacks have occurred in Indonesia, in most of which were religiously motivated. The cases of persecution of members of the Ahmadiyah and Shia sects are also examples of how radicalism and intolerance have been escalating among the Indonesian people. There have also been frequent incidents of radical Muslim groups fighting against the establishment or construction of worship places of other faiths, especially churches. According to the Indonesian Committee of Religions for Peace, just in one year, from 2009 until 2010, at least 17 churches were brutally targeted by Muslims fundamentalists, sometimes with the support of local authorities, for various reasons.13 The most recent of these incidents involves a case which occurred on March

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8 Ibid at 7.
10 Ibid.
11 Ibid.
12 Ibid.
2017 at the St. Clara church in Bekasi Regency, West Java, where a group of radical Muslims known as the Forum for Bekasi Muslims Friendship (Majelis Silaturahmi Umat Islam Bekasi) publicly protested to demand a halt to the church’s construction. The protests quickly became a riot, which resulted in clashes with the police.  

In the political sphere there has also been a recent case which reflects the frightening trend towards intolerance fueled by identity politics. This involves the case of Jakarta’s gubernatorial elections and the movement conducted by radical Muslims groups to oppose Basuki Tjahaja Purnama, popularly known by his nickname Ahok, the incumbent governor, who is of Christian Chinese-descent. This resulted in a number of rallies in Jakarta, in which a huge number (hundreds of thousands) of Muslims took part. Though it was claimed that these rallies were not politically motivated and simply a call for Ahok to be tried for alleged blasphemy, there were clear political motives reflected by some of the speeches given during the rallies which encouraged Jakarta’s Muslims to only vote for Muslim candidates.

The cases presented above clearly show that there is currently a powerful and growing trend towards intolerance and identity politics based on religious (as part of cultural) sentiment in Indonesia. As an inherently multicultural country, where various kinds of religions and beliefs have long existed, such a shift is clearly a serious, if ironic, problem. The founding fathers of Indonesia were keenly aware of the multicultural nature of Indonesia, an awareness manifested in the joint declaration of the Youth Pledge, roughly two decades prior to the declaration of independence. The official motto of Indonesia, “Bhinneka Tunggal Ika,” which means “unity in diversity”, should serve as a strong reminder to the Indonesian people that their country is multicultural and that such its diversity should be defended and maintained. Since the downfall of Soeharto, Indonesia has entered a new era of re-democratization, strengthened by the amendment of the constitution and the establishment of several human rights instruments such as the Human Rights Act and the National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia / Komnas HAM). However, these instruments do not seem to be enough to prevent the escalating trend of radicalism and intolerance among the Indonesian people. This leads one to ask just what has gone wrong?

III. MULTICULTURALISM AND INTERCULTURALISM WITHIN INDONESIA

In Indonesia, there are many minority groups which have formed and coalesced around distinct cultural identities among the Indonesian people. Given such a stratified and diverse society, there is a need to recognize these minority groups according to their

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cultural identities, a need which is often epitomized as the “challenge of multiculturalism”.

To elaborate on this challenge, Kymlicka proposed a theory which he called the “politics of multiculturalism,” in which he differentiated between the two main forms of cultural diversity, the “multination state”, which leads to the existence of national minorities, and the “polyethnic state”, which leads to the existence of ethnic groups. The so-called multination state is a country where there is more than one nation, where the term “nation” refers to a historical community, more or less institutionally complete, occupying a given territory or homeland, and sharing a distinct language and culture. Meanwhile, the so-called polyethnic state is a country which becomes culturally plural due to individual and familial immigration.

According to those two forms of cultural diversity above, Kymlicka then explained further that there are three forms of group-differentiated rights deriving from either multination state or polyethnic state or combination of both, as special group-specific measures for accommodating national and ethnic/religious difference. First, the right to self-government, as a means to ensure the full and free development of the culture and the best interest of the national minorities in a multination state. Second, polyethnic rights, as the rights to freely express the particularity of an ethnic group without fear of prejudice or discrimination in the mainstream society. Third, special representation rights, as a means to enable the minority groups either the national minorities, the ethnic groups, or another non-ethnic social group, to have representation in the political institutions since the existing political process may fail to reflect the diversity of the population.

Article 18B section (2) of the Indonesian Constitution is considered the instrument which provided for the self-governance rights of indigenous people or masyarakat adat in Indonesia. Furthermore, Articles 28E and 28I, as well as Article 29 section (2) of the Constitution, can be considered the instrument which fulfill the population’s polyethnic rights. These articles are also expanded upon in the Human Rights Act (the Law 39/1999) as the general framework for human rights protection in Indonesia.

However, this framework seems not to be enough to prevent the escalating trend towards greater intolerance among the Indonesian people. In my opinion, this is to some extent due to two factors: first, the inappropriate manner in which policies of multiculturalism have been implemented and, second, problems with the multiculturalist model itself which have led to the emergence of a new approach, interculturalism.

Regarding the implementation, we can take for example in the issues related to the implementation of Perda Sharia. It is true that according to the model of multiculturalism, as well as to human rights principles, the freedom of religious expression is a fundamental right that must be recognized by the state in order to

17 Ibid at 6.
18 Ibid at 11.
19 Ibid at 6.
20 Ibid at 27–33.
protect and accommodate cultural differences. In the sense of multiculturalism, this can be considered a component of polyethnic rights. However, as stressed by Kymlicka, any fulfillment of the rights of cultural group must not mean giving such group a capacity for “internal restriction”, or the capacity to oppress member of their own group for the sake of solidarity, religious orthodoxy, or cultural purity.\(^\text{21}\) Granting this capacity as a cultural right is violation of individual autonomy and a restriction of basic civil and political liberties.\(^\text{22}\) So, the establishment of sharia courts with a power to hand down penal punishment in the name of religion, as has been the case in Nanggroe, Aceh Darussalam, is an infringement upon the principles of multiculturalism instead of the implementation of them.

Regarding the principles themselves, there has been serious debated regarding whether or not the multiculturalism approach is sufficient to address the need for cultural accommodation in multicultural society. Multiculturalism has been critiqued by Caravantes and Lennon, who claim that it tends to create a fragmentation of society, minority segregation, and cultural relativism within the public sphere, thereby generating more negative effects than the positive ones.\(^\text{23}\)

In support of this argument, Cantle points to the “failure” of the multiculturalist approach in dealing with the development of multicultural societies, as seen in western countries which are dealing with the effects of migration.\(^\text{24}\) One of the most serious failures is that, as seen in so-called “defensive multiculturalism”, efforts to prevent conflict in a multicultural society take the form of policies of separation as a means to avoid contact and conflict, thereby reinforcing differences and promoting separate development.\(^\text{25}\) As a result, this model ultimately offers limited opportunities for people from different backgrounds to learn about each other and to disconfirm stereotypes and myths.\(^\text{26}\)

Problems with the multiculturalist model have resulted in the development of a new concept, a sort of critique and refinement of multiculturalism, known as interculturalism. In a brief, interculturalism can be defined as a more relational approach that implies a kind of dialogical method as its main feature.\(^\text{27}\) It is an approach which goes beyond simply ensuring coexistence and is geared towards interaction and dialogue. It is less “groupist,” and committed to a stronger sense of a whole in terms of societal cohesion and national citizenship.\(^\text{28}\)

In the interculturalist approach, communication is the most essential element. As pointed out by Wood:

\(^{21}\) Kymlicka, supra note 16.  
\(^{22}\) Ibid at 8.  
\(^{23}\) P Consorti, “Multiculturalist Conflict and Intercultural Law”.  
\(^{26}\) Ibid at 57.  
\(^{27}\) Consorti, supra note 25.  
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Communication is the defining characteristic, and the central means through which an intercultural approach aims to facilitate dialogue, exchange and reciprocal understanding between people of different backgrounds.\(^29\)

Wood elaborates further that:

Multiculturalism has been founded on the belief in tolerance between cultures but it is not always the case that multicultural places are open places. Interculturalism on the other hand requires openness as a perquisite and, while openness is not the guarantee of interculturalism, it provides the setting for interculturalism to develop.\(^30\)

If we return to an Indonesian context, in my opinion, the emergence of intolerance and hatred based on cultural and religious differences, is based on the lack of openness, inter-cultural dialogue, and interaction between different religious and cultural groups. In other words, the state has only paid attention through legal and human rights instruments to the simple coexistence of different cultural and religious groups by guaranteeing the rights of such group to exist and maintain their cultural identities. However, the state through the existing legal and human rights instrument has not done enough to establish \textit{obligatory} communication between cultural and religious groups and to build a common understanding under a broader socio-cultural framework.

This is evident in the absence of any legal instrument in Indonesia which establish an \textit{obligation} for cultural (and religious) groups to form a common institution through which they can build a common mutual interest while still retaining their own cultural rights according to their distinct cultural identities.

The obligatory nature of this model is important in that for interculturalism to succeed the cultural difference among various cultural groups must be accommodated, while at the same time these groups must be actively encouraged to establish a broader common identity as a means to build a cohesive society.\(^31\)

The government of Indonesia, nevertheless, has established an institution known as the Forum for Inter-Religious Harmony (\textit{Forum Kerukunan Antar Umat Bergama} / FKUB) through a Joint Ministerial Regulation between the Ministry of Internal Affairs and the Ministry of Religion (Regulation Number 8/9 of 2006). This institution, however, has only limited capacity and can be seen simply as a consultancy forum. Therefore, it does not possess the power to facilitate obligatory communication and constructive cooperation amongst different religious groups in order to help build a more integrated and cohesive society, as required by the interculturalist approach. Moreover, the efficacy of such a forum regarding the facilitation of dialogue between different religions can be called into question since it has been proven to possess no any power to prevent the increasing intolerance and recent religious conflicts in Indonesia.

Given this point of view, I argue that it urgent for Indonesia to alter its approach from one based on multiculturalism to one based on interculturalism, as a means to


\(^{30}\) \textit{Ibid} at 183.

\(^{31}\) Meer & Modood, \textit{supra} note 30 at 187.
provide for better accommodation and protection of cultural rights, especially for the minorities, and at the same time to strengthen social cohesion.

IV. CONCLUDING REMARKS

Though a multicultural country, Indonesia is struggling to maintain its problem regarding the need to maintain its multiculturalism. This problem stems from the fact that a ‘multiculturalist’ approach towards ensuring that all parties, religions, cultures, beliefs, etc., are respected and represented has been poorly implemented and lacks certain necessary aspects.

Regarding these lacking aspects, the main problem associated with the legal and human rights protection instruments which already exist in Indonesia is that these instruments still focus only on protecting and maintaining mere coexistence among the different cultural groups, and not on building/facilitating communication and dialogue among said cultural groups in order to build a common understanding and stronger sense of societal cohesion, which is, in fact, exactly what is promoted by the ‘interculturalist’ approach. This is why there is an urgent need for Indonesia to switch its attention from the classical multiculturalist approach to a new approach based on said interculturalism. If it is done properly, the spirit enlivened by Indonesia’s founding fathers in the Youth Pledge of 1928, a spirit of togetherness and a sense of a whole in spite of the myriad cultural difference, will be actualized once again.

Though the ‘interculturalist’ approach is derived from the critiques of multiculturalism, it doesn’t mean, however, that multiculturalism is in itself wrong. Instead, the multiculturalist approach is still important to maintaining multiculturalism in a culturally diverse country. Interculturalism is a new approach indeed, but it can’t be separated from multiculturalism since the basis of the concept of interculturalism is multiculturalism. In fact, according to some, interculturalism and multiculturalism is not two separate ideas, and one is simply a refinement of the other.32

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Joeni Arianto Kurniawan is a lecturer as well as the Director of Center for Legal Pluralism Studies (CLEP) at Faculty of Law University of Airlangga, Surabaya, Indonesia. He obtained his Bachelor Degree in Law (S.H.) from Faculty of Law University of Airlangga, and Master of Arts (M.A.) in Sociology of Law from International Institute for the Sociology of Law, Onati, Spain. At the moment, he is currently pursuing Ph.D. in Law, Religion, and Culture at University of Pisa, Italy.