

## **Blasphemy from a Contextual Perspective of Criminal Law**

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### **ABSTRACT**

Cases of blasphemy have occurred in various media throughout history. Initially, cases of blasphemy in the media happened through print media, beginning during the Dutch colonial era and the New Order. With technological advances, the internet surpassed print and electronic media. Cases of blasphemy that initially took place in print media then spread to the internet. This article discusses the case of blasphemy committed by former Minister of Sports Roy Suryo against the Borobudur Temple stupa. The method used is descriptive-normative, which involves an overview of the object being studied through data or samples that have been collected and analyzed to reach a conclusion.

**Keywords:** Blasphemy, Media, Tolerance.

### **INTRODUCTION**

Blasphemy is a sensitive issue that often sparks controversy in various countries, including Indonesia. Cases of blasphemy often involve actions or statements that are considered degrading, insulting, or abusive to a particular religion and can trigger strong reactions from people who feel offended. This phenomenon not only affects social life and interfaith harmony, but also often has implications for legal aspects and freedom of expression.

In Indonesia, blasphemy is regulated in Article 156a of the Criminal Code and its relation to the dissemination of blasphemy through electronic media as regulated in Article 28 paragraph 2 in conjunction with Article 45 A of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 on Electronic Information and Transactions. This article regulates criminal sanctions for individuals who deliberately make statements or commit acts that are hostile, abusive, or blasphemous towards a religion practiced in Indonesia. Although this law aims to maintain religious harmony, its implementation often causes debate, especially regarding the limits of freedom of expression and religion.<sup>1</sup>

This study is intended to explore various cases of blasphemy in Indonesia, identify the factors that trigger these cases, and analyze their impact on society and the legal system in Indonesia. By understanding the dynamics and complexity of blasphemy cases, it is expected that more effective solutions can be found to address this issue without sacrificing human rights, particularly freedom of expression and religion.

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<sup>1</sup> Ibid

This study will use a descriptive-normative approach by describing facts or phenomena and assessing them based on existing norms in society. The data used in this study comes from various sources, including legal documents, media reports, and interviews with experts and community leaders. The results of this study are expected to provide deeper insights into blasphemy in Indonesia and how society and the government can deal with this issue wisely and fairly.

## **METHOD**

This study uses a normative descriptive method, which combines descriptive and normative approaches to obtain a comprehensive picture of the phenomenon under study. By using a normative descriptive method, this study aims not only to understand the phenomenon factually, but also to provide assessments and recommendations that can be used to formulate more effective and fair policies or actions.

## **RESULTS AND DISCUSSION**

Cases of blasphemy are always a sensitive issue in Indonesia, a country with great religious and cultural diversity. One case that has attracted public attention involves Roy Suryo, a public figure and former Minister of Youth and Sports. The allegations against Roy Suryo regarding blasphemy have sparked various reactions in society and sparked debate about the limits of freedom of expression and the legal implications of such actions.<sup>2</sup> This study aims to analyze the blasphemy case involving Roy Suryo, focusing on the factors that triggered this case, public reactions, and its impact on law and society in Indonesia.

In general, people tend to interpret religious offenses in the same way as discussed in the first criminal act, excluding the second criminal act, so that religious offenses can be interpreted in a narrow sense. Meanwhile, religious offenses in a broad sense covers both the first and second criminal acts, which in this case are referred to as criminal acts against religious interests or religious criminal acts. Criminal acts directed against religion are regulated in the provisions of Articles 156, 156a, and 157 of the Criminal Code.<sup>3</sup>

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<sup>2</sup> Penetapan Presiden Republik Indonesia Nomor 1/Pnps Tahun 1965. (N.D.).

<sup>3</sup> Mulya Mantri, Y. (2020). Kasus Penistaan Agama pada Berbagai Era dan Media di Indonesia. Definisi: Jurnal Agama dan Sosial Humaniora. 1, 123–138. <https://doi.org/10.1557/djash.v1i3.19582>

In addition, criminal acts against religion are also regulated in Law Number 1 of 1965 concerning the Prevention of Abuse and/or Blasphemy of Religion. The background to the enactment of this law is that the regulation of religious relations contains three elements, namely:<sup>4</sup>

- 1) There are religious values inherent in the practice of religious teachings;
- 2) The state has an obligation to regulate social affairs while protecting the religions practiced by the community. Religions included in this perspective are those recognized by the state, such as Islam, Catholicism, Protestantism, Hinduism, Buddhism, and Confucianism. Harmony among religious communities must be maintained by building tolerance among religious communities. Religious awareness also needs to promote the values of tolerance, mutual understanding, mutual respect, respect for equality in the practice of religious teachings, and cooperation in social, national, and state life in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. The existence of various religions in Indonesia requires maturity and awareness from the community in creating harmony among religious communities.

Blasphemy is divided into two types: verbal and non-verbal. Verbal blasphemy is often found in print, electronic, and social media. This type of blasphemy can take the form of mockery, sarcasm, accusations, ridicule, insults, and inappropriate jokes.

Non-verbal blasphemy is blasphemy that is committed without using spoken or written words. This type of blasphemy uses actions, behavior, or views, such as openly burning holy books, putting holy books in the toilet, and other acts of blasphemy. In addition, this type of blasphemy can be committed through body language that aims to criticize or mock certain religious teachings or symbols.<sup>5</sup>

Roy Suryo was officially reported to the Metro Jaya Regional Police on June 20, 2022, in a case of verbal blasphemy. He was reported in connection with a Borobudur Temple meme that was considered offensive to Buddhists. Roy Suryo was reported for alleged violations of Article 45 paragraph 2 in conjunction with Article 28 paragraph 2 of Law Number 19 of 2016 concerning ITE and/or Article 156a of the Criminal Code. Roy was reported for alleged blasphemy against Buddhism. The prosecutor asked Roy Suryo if he regretted posting the stupa

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<sup>4</sup> Ibid

<sup>5</sup> 1945 Constitution of the Republic of Indonesia

meme, to which Roy replied that he felt he had been treated unfairly. In addition to being reported to the Jakarta Metropolitan Police, the former Minister of Youth and Sports (Menpora) was also reported to the Criminal Investigation Department of the Indonesian National Police. The report against Roy Suryo at the Criminal Investigation Department of the Indonesian National Police was filed by the Buddhist organization Dharmapala Nusantara. Roy was reported for alleged hate speech containing SARA (ethnic, religious, and intergroup) elements.<sup>6</sup>

Finally, on December 28, 2022, the West Jakarta District Court declared that the defendant Roy Suryo had been proven legally and convincingly guilty of deliberately and without rights spreading information intended to spread hatred or hostility among individuals and/or certain community groups based on ethnicity, religion, race, and intergroup relations (SARA). The West Jakarta District Court sentenced the defendant Roy Suryo to 9 months in prison.<sup>7</sup>

Cases of blasphemy in the media cause turmoil in society. The spread of information varies in each era; some are slow and some are fast. Even in today's social media era, the spread of information is very fast. Although the rate of dissemination varies, there is one thing that is the same, namely large-scale mass mobilization. Cases of blasphemy involving national figures will have an impact on large mass movements. The larger the crowd gathered, the greater the potential for friction and riots.<sup>8</sup>

Indonesia is the world's largest archipelago, known for its diversity of ethnicities, cultures, and religions.<sup>9</sup> As home to more than 270 million people who adhere to various religions such as Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism, religious tolerance is an important foundation for maintaining social harmony and national

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<sup>6</sup> Permana, R. H. (2022, Desember 15). Jejak Kasus Meme Stupa: Roy Suryo Lapor, Dipolisikan, Dituntut 1,5 Tahun Bui. Retrieved from DetikNews: <https://news.detik.com/berita/d-6463178/jejak-kasus-meme-stupa-roy-suryo-lapor-dipolisikan-dituntut-1-5-tahun-bui/2>

<sup>7</sup> Farih Maulana Sidik, Roy Suryo Bebas Usai Jalani Vonis 9 Bulan Bui di Kasus Meme Stupa, Selasa, 25 Juli 2023. <https://news.detik.com/berita/d-6840934/roy-suryo-bebas-usai-jalani-vonis-9-bulan-bui-di-kasus-meme-stupa#:~:text=Roy%20Suryo%20bebas%20setelah%20menjalani,bebas%20setelah%20putusan%20kasusnya%20diketok>.

<sup>8</sup> Yaya Mulya Mantri, Kasus Penistaan Agama pada Berbagai Era dan Media di Indonesia, Politeknik Pajajaran Insan Cinta Bangsa Bandung [yaya.mulyamantri@poljan.ac.id](mailto:yaya.mulyamantri@poljan.ac.id)

<sup>9</sup> Priskila Ginting, Y., Atara, I., Cygnusia Liemanjaya, L., Theodora Simatupang, M., Terangta Tarigan, M., Enron, M., Aqil Baihaqi Haksoro, R., Tiara Muthi, P., Rizky Asihatka, ah, & Zhazqia Apsari, T. (2024). Sosialisasi Perbandingan Penegakan Tindak Pidana Penistaan Agama yang Terjadi di Indonesia dan Pakistan. In Jurnal Pengabdian West Science (Vol. 03, Issue 03)

unity.<sup>10</sup>

Indonesia also faces challenges in maintaining religious tolerance. Cases of intolerance, discrimination, and even religious-based violence still occur in some areas. Factors such as fanaticism, identity politics, and misinterpretation of religious teachings often trigger tensions between religious communities.

To overcome these challenges, the government and society continue to strive to strengthen religious tolerance through various means:

- a. Multicultural Education: Integrating values of tolerance and diversity into the educational curriculum to shape a younger generation that better understands and appreciates differences.
- b. Interfaith Dialogue: Promoting dialogue and cooperation among religious communities through discussion forums, seminars, and joint activities aimed at strengthening mutual understanding and collaboration

Law Enforcement: Strengthening law enforcement against acts of intolerance and discrimination, while providing enhanced protection for religious minority groups.  
Strengthening the Role of the Media: Utilizing the media as a tool to disseminate messages of tolerance, peace, and respect for diversity.

## CONCLUSION

Religious tolerance is one of the main pillars that maintains unity and harmony in Indonesia. Despite facing various challenges, the Indonesian people's commitment to continuing to strengthen tolerance and respect for diversity remains strong. With cooperation between the government, the community, and various institutions, Indonesia can continue to be an example to the world in terms of religious tolerance and harmony.

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<sup>10</sup> Mastuki, **Menjadi Muslim, Menjadi Indonesia (Kilas Balik Indonesia Menjadi Bangsa Muslim Terbesar)**, <https://kemenag.go.id/opini/menjadi-muslim-menjadi-indonesia-kilas-balik-indonesia-menjadi-bangsa-muslim-terbesar-03w0yt>, Thursday, 11 June 2020 · 05:50 WIB



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