



THE INCEPTION OF SKB IN AHMADIYYA: FROM STATE OF POWER TO STATE OF LAW

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Abstract: The product of the law on Ahmadiyya, known as the SKB (Surat Keputusan Bersama) or Joint Ministerial Decree, which bans them from conducting religious activities, has provoked a polemic and controversy. This article examines the socio-political process of the SKB and criticizes the essence of the state of the law by proposing the concept of limitation of power. Ahmadiyya adherents in Manislor, Kuningan, have become role models in responding to the dynamics of the SKB. Using a qualitative approach to deeply understand the local voices and experiences, the data were based on fieldwork and collected through observations, interviews, and documentation. This article found that (1) the SKB is a controversial political product since the birth of SKB was influenced by various political powers consisting of internal and external parties; (2) the current social situation of Ahmadiyya adherents in Manislor who fervidly initiated to overcome the conflict affected the dynamics of social actors in supporting the process of social integration within society; and (3) the limitation of the power of the government and state apparatus is crucial to avoid abuse of power in dealing with minorities. The limitation of local and national government power is required to obey the law, human rights, and other noble values originating from religious, moral, and ethical norms.

Produk hukum tentang Ahmadiyah yang dikenal dengan SKB (Surat Keputusan Bersama) yang membatasi mereka melakukan kegiatan keagamaan telah menimbulkan polemik dan kontroversi. Artikel ini mengkaji proses sosial politik di balik penerbitan SKB dan mengkritik posisi negara hukum dengan mengajukan konsep pembatasan kekuasaan. Jemaat Ahmadiyah di Manislor, Kuningan dapat menjadi model dalam menyikapi

dinamika SKB. Penelitian ini menggunakan pendekatan kualitatif untuk memahami pengalaman langsung aktor lokal secara mendalam, data dikumpulkan dikumpulkan melalui observasi, wawancara, dan dokumentasi. Artikel ini menemukan bahwa (1) SKB merupakan produk politik yang kontroversial karena lahirnya SKB dipengaruhi oleh berbagai kekuatan politik baik dari pihak internal maupun eksternal; (2) situasi sosial umat Ahmadiyah di Manislor saat ini yang dengan gigih berinisiatif mengatasi konflik tersebut mempengaruhi dinamika aktor-aktor sosial dalam mendukung proses integrasi sosial dalam masyarakat; dan (3) pembatasan kekuasaan bagi pemerintah dan aparatur negara sangat penting untuk menghindari penyalahgunaan kekuasaan dalam menghadapi kelompok minoritas. Pembatasan kekuasaan pemerintah daerah dan nasional dituntut untuk menaati hukum, hak asasi manusia, dan nilai-nilai luhur lainnya yang bersumber dari norma agama, moral, dan etika.

Keywords: Politic of law; Ahmadiyya; SKB; Limitation of power

INTRODUCTION

Joint Ministerial Decree (SKB) of the Minister of Religion, The Office of the Attorney General of the Republic of Indonesia, and the Minister of Home Affairs registered. Number 03/2008 issued No. KEP-033/A/JA/6/2008 and No.199 of 2008 on the warnings and orders to adherents of the Indonesian Ahmadiyya Congregation (JAI). It consists of seven crucial points to “freeze” the Ahmadiyya activities, which simultaneously sparked polemics in the country. People who oppose the SKB consider that the SKB is not following the constitutional mandate which guarantees freedom of religion and belief.¹ Meanwhile, the public, who had not understood the purpose of the SKB enough, thought that it was legitimate to ban Ahmadiyya in Indonesia, which inspired many people to attack the Ahmadiyya adherents in Sintang.² The forms of rejection of the Ahmadiyya adherents in various regions in Indonesia by accusing them of heretical and misleading teaching of Islam were massive in which the fatwa of the Indonesian Ulema Council (MUI) issued in 2005 has become chiefly their reference.

However, the Ministry of Religion's Research and Development and Training Agency was divided into two important points related to the SKB. Firstly, there is a prohibition for adherents and administrators of Ahmadiyya not to spread the teaching of Ahmadiyya's principles, which are considered a deviation from Islam's

¹ Delina Asriyani and Zuly Qodir, “Analisis Surat Keputusan Bersama Tiga Menteri Tentang Peringatan Dan Perintah Kepada Penganut, Anggota, Dan/Atau Pengurus Jemaat Ahmadiyah Indonesia,” *Journal of Governance and Public Policy* 3, no. 2 (2016): 241, <https://doi.org/10.18196/jgpp.2016.0057>.

² Abdul Jamil, “Structural And Cultural Conflict Resolution: Case Study Of The Vandalisme Of The Ahmadiyah House Of Worship In Sintang KALBAR,” *Jurnal Harmoni* 20, no. 2 (2021): 188-208.

primary teachings. Secondly, a prohibition for the people not to commit unlawful acts against Ahmadiyya adherents. The controversy over the tenets and teachings of Ahmadiyya has been essential to be highlighted as the main problem for a long time. Still, at the same time, the Indonesian constitution protects rights and freedoms, including religious preference.³

The experiences of severe conflict affecting Ahmadiyya adherents massively occurred during the Susilo Bambang Yudhoyono Administration (2004-2014) with various cases of intolerant acts in many regions in Indonesia, for instance, the religious minorities such as Ahmadiyya and Shia.⁴ The acts of intolerance and violence in the name of religion showed an increasing trend in that era, in which West Java became an area prone to conflict and violence.⁵

Furthermore, the problem of Ahmadiyya generally has not dealt merely with the SKB, but the social and political context has directly affected the situation of Ahmadiyya in Indonesia. Even though the main problem of Ahmadiyya is related to theological interpretation, the other triggers mostly happened due to the changing factors such as politics, economics, and competition between religious organizations.⁶ Tempo reported that at least 15 cases of violence significantly caused material and human casualties, for instance, the devastation of places of worship and the death toll. The condition has not decreased since, according to the same report, in 2020, there were 213 cases against the Ahmadiyya adherents.⁷

It's generally stated that the SKB continues to be a burden for democratization and human rights in Indonesia. Those with interests, particularly power and politics, will always utilize the vulnerable group like Ahmadiyya.⁸ Ideally, Indonesian law and constitution should guarantee the freedom of religion to accommodate the

³ Yuki Shiozaki, "The Historical Origins of Control over Deviant Groups in Malaysia: Official Fatwá and Regulation of Interpretation," *Studia Islamika* 22, no. 2 (2015): 205-32, <https://doi.org/10.15408/sdi.v22i2.1917>.

⁴ Aan Suryana, "Discrepancy in State Practices: The Cases of Violence against Ahmadiyah and Shi'a Minority Communities during the Presidency of Susilo Bambang Yudhoyono," *Al-Jami'ah* 55, no. 1 (2017): 71-104, <https://doi.org/10.14421/ajis.2017.551.71-104>.

⁵ Zainal abidin Bagir, Rahayu Mustaghfiroh, and Marthen Tahun, *Laporan Tahunan Kehidupan Beragama Di Indonesia 2011* (Yogyakarta: Program Studi Agama dan Lintas Budaya Center For Religious and Cross-Cultural Studies (CRCS) Univers, 2011).

⁶ Mardian Sulistyati, "The Dynamics Of Social Religious Relationship Between Indonesian Ahmadiyya Community And Non-Ahmadiyya Community," *Jurnal Masyarakat & Budaya* 19, no. 1 (2017): 84.

⁷ Eko Siswono Tuyudho, "Pemerintah Diminta Perhatikan Jemaah Ahmadiyah NTB Saat Lebaran - Nasional Tempo.Co," *Tempo*, February 7, 2011, <https://nasional.tempo.co/read/1096131/pemerintah-diminta-perhatikan-jemaah-ahmadiyah-ntb-saat-lebaran>.

⁸ Bernhard Platzdasch and Johan Saravanamuttu, eds., "Religious Diversity in Muslim-Majority States in Southeast Asia," in *Religious Diversity in Muslim-Majority States in Southeast Asia* (Pasir Panjang: ISEAS Publishing, 2014), <https://doi.org/10.1355/9789814519656>.

Ahmadiyya cases. Interestingly, on the one hand, several organizations or Islamic groups which opposed Ahmadiyya use the term “blasphemy” against the Islam they follow, while on the other hand, the Ahmadiyya adherents and those who supported them imply the use of a legal term called "religious freedom" to be such defense.⁹

The Ahmadiyya adherents in Manislor have faced multiple harmful impacts, mainly after the SKB was issued. They lived under pressure and discrimination, such as a lack of civil rights support and political pressure at the same time from the local government. However, the Ahmadiyya adherents have consistently worked together to get out of any pressure. This article, in particular, enclosed the experience of the Ahmadiyya adherents in Manislor regarding the dynamics of the SKB and how they adapt it by changing the approach to interacting with society.

The previous research analyzing the SKB conducted by Fachruddin focused on the factors of the ineffectiveness of the SKB in Gereneng village, East Lombok. It highlighted the position and the role of *Tuan Guru* as a central figure in Lombok who has not been maximized in the socialization process to educate non-Ahmadi communities in the local understand the SKB sufficiently.¹⁰ At some points, research by Asriyani and Qodir¹¹ offered a broad discussion on the SKB by underlining the people’s understanding of the SKB, which unavoidably created tension between the Ahmadiyya adherents and the Islamic Community Front (FUI) in Yogyakarta in 2012. The pros and cons showed that SKB is weak in content and substance. However, this article does not discuss weaknesses from a legal perspective much.

Furthermore, there is an article written by Rahmat, Salmon, and Raharjo. It also addressed the pattern of conflict in the context of Ahmadiyya. There were three patterns of Ahmadiyya conflict: the existence of Ahmadiyya itself, the SKB, and the MUI fatwa. These three patterns continuously haunted Ahmadiyya, emphasizing the state and government's failure to manage conflict regarding Ahmadiyya. It also highlighted several policies imposed by the state that seemed weak and biased since top-down conflict resolution with a regulatory approach from the state has never

⁹ Andi Muhammad Irawan, “‘They Are Not Muslims’: A Critical Discourse Analysis of the Ahmadiyya Sect Issue in Indonesia,” *Discourse and Society* 28, no. 2 (2017): 162-81, <https://doi.org/10.1177/0957926516685462>.

¹⁰ Abdul Jamil Wahab and Fakhruddin Fakhruddin, “Menakar Efektivitas Skb Tentang Ahmadiyah: Studi Kasus Konflik Ahmadiyah Di Desa Gereneng Lombok Timur,” *Harmoni* 18, no. 1 (2019): 443-59, <https://doi.org/10.32488/harmoni.v18i1.356>.

¹¹ Asriyani and Qodir, “Analisis Surat Keputusan Bersama Tiga Menteri Tentang Peringatan Dan Perintah Kepada Penganut, Anggota, Dan/Atau Pengurus Jemaah Ahmadiyah Indonesia.”

been effective. Thus, deliberative policies from the bottom have been valued as essential elements of the community.¹²

Based on previous studies, this article focuses on the legal politics of the SKB and its dynamics in Manislor by proposing an argument for the need to limit state power and the government. Using a legal politics approach, the research questions are how was the process of issuing the SKB, what factors encouraged it, and how were the response and dynamics of the SKB in Manislor? These two questions are then broadened with what steps have already been conducted by the Ahmadiyya adherents in Manislor in addressing the SKB's polemic?

As a qualitative approach, the data of this article were collected through observation, focus group discussion (FGD), and interviews during fieldwork in Manislor. Observation is a method of collecting data and information by observing how Ahmadiyya adherents interact with people and naturally shape their daily life,¹³ factually and in detail.¹⁴ Several essential figures and stakeholders conducted the interviews in Kuningan to find out information about the dynamics and responses of Ahmadiyya adherents on the existence of the SKB. They are both key persons, for instance, the Manislor's Ahmadiyya, the preacher of internal Ahmadiyya, the village head (*Kuwu*) of Manislor, the Head of the Ministry of Religion, Kuningan's branch, the Chairman of the Kuningan's Indonesian Ulema Council (MUI), the Chairman of the Kuningan Religious Harmony Forum (FKUB), the Chairman of Nahdlatul Ulama (NU), Kuningan's branch, and the Chairman of the Muhammadiyah of Kuningan Regency.

THE POLITICS OF LAW

The term "politics of law" was initially taken from Dutch *Rechtspolitiek*, which Bellefroid first coined.¹⁵ Meanwhile, for the first time, Lemaire introduced the term in Indonesia in 1955 in his book *Het Recht*.¹⁶ Mahfud emphasized that the politics of law is a legal policy or an official policy on a law that will be enforced either by making new laws or by replacing old ones to achieve state goals. The assumption is

¹² Ihsan Rahmat, Indra Pratama Putra Salmon, and Amrih Setyo Raharjo, "Can Deliberative Policy Reconcile Religious Conflict? A Construction from the Insight of Jamaah Ahmadiyah Indonesia," *NALAR: Jurnal Peradaban Dan Pemikiran Islam* 5, no. 1 (2021): 1-13, <https://doi.org/10.23971/njppi.v5i1.2445>.

¹³ W Gulo, *Metodologi Penelitian*, 1st ed. (Jakarta: Grasindo, 2005).

¹⁴ Husaini Usman and Purnomo Setiady Akbar, *Metodologi Penelitian Sosial* (Jakarta: Bumi Aksara, 2006).

¹⁵ J.H.P Bellefroid, *Inleiding Tot De Rechtswetenschap In Nederland*, 7th ed. (Utrecht: Dekker & Van De Vegt N.V, 1952).

¹⁶ W.L.G Lemaire, *Het Recht in Indonesia* (Bandung: W. Van Hoeve - Gravenhage, 1955).

based on the understanding that law is a political product or is influenced by politics. Agreeing with Mahfud, Latif, who is also based on Bellefroid's opinion, stated that the politics of law is a legal policy that will be implemented by the government, including an understanding of how politics affects the law by looking at the configuration of power behind the making of the law.¹⁷

As a product of government policy, the SKB has legal and sociological consequences. The most worrying aspect of the SKB was when it became a tool of hegemony and silencing the expression of the Ahmadiyya adherents in Indonesia.¹⁸ Assuming that the SKB is a political product could be positioned as a tool of the state to achieve its goals. Following this context, politics of law was a fundamental aspect of the birth of the SKB by analyzing the configuration of power behind it. This research pointed out political power as an urgent aspect that affected the birth of the SKB. The explanation of the politics of law in the context of the SKB can be seen in the image below:

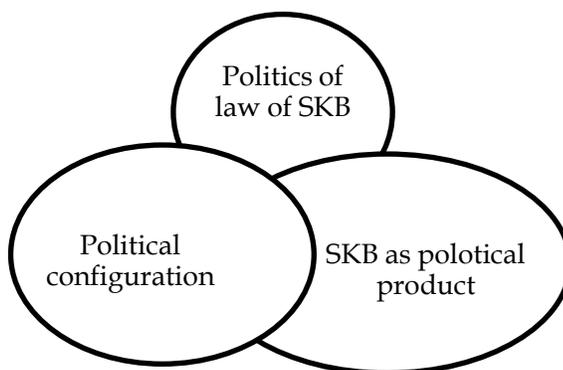


Figure 1: The SK B's scheme on the politic of law perspective

To expand the discussion, this article outlines two influencing factors behind the birth of the SKB, namely internal and external factors. These two factors, to some extent, have become a sociopolitical configuration influencing a lot on the process of the SKB. Politics and its elements have been a determinant of the law's product, SKB.

1. Internal Factors

The internal factor imposing the political strength behind the inception of the SKB is the government, which was directly addressed to the president. Using its authority as a state institution to issue the SKB, particularly the Ministry of Religion,

¹⁷ Abdul Latif and Hasbi Ali, *Politik Hukum* (Jakarta: Sinar Grafika, 2010).

¹⁸ Asriyani and Qodir, "Analisis Surat Keputusan Bersama Tiga Menteri Tentang Peringatan Dan Perintah Kepada Penganut, Anggota, Dan/ Atau Pengurus Jemaah Ahmadiyah Indonesia," 228.

the Ministry of Home Affairs, and the Attorney General's Office, the state's position has been fundamental to address. The three institutions are an extension of the president as the head of state and head of government and the holder of the highest power at the executive level. As explained in Law No. 39 of 2008 on State Ministries, the positions, duties, and functions of the ministries are directly responsible to the president. The SKB process cannot be separated from the political element because the ministry as a government agency is under the president's control.

In this context, the position of president is a political position accommodating specific political interests, mandates, and aspirations. In such conditions, the government faced the reality of a more diverse constituency regarding religion and belief. Consequently, the government faces social and political pressure from various interested parties.¹⁹ The most challenging aspect of issuing the SKB is that the state can control national stability and security so that a minority like Ahmadiyya is positioned as a victim of political contestation among elites.

2. External Factors

The external factors here came from the strength of civil society and religious organizations such as the Islamic Defenders Front (FPI), Hizbut Tahrir Indonesia (HTI), the Islamic Community Forum (FUI), the Indonesian Mujahidin Council (MMI). Such socio-religious organizations, from the beginning, were very adamant in opposing the existence of Ahmadiyya in Indonesia, which mainly were expressed into claims of blasphemy, misdirection, vandalism, provocative acts, and violence.²⁰ The second factor was then argued as a shadow threat over political configuration among elites and made SKB's inception easier to issue to accommodate the majority who stood against Ahmadiyya. The situation was along with a strong denial and intimidation showed by two organizations of, MUI and FKUB, in which the branches were massively connected from local to a regional level around Indonesia. At the same time, MUI supported the immediate issuance of the SKB based on their fatwa in 2005. It declared Ahmadiyya as a deviant and misleading sect. In addition, the series of cases of persecution and attacks by FPI against the Ahmadiyya adherents in various places urged the government to issue regulations prohibiting Ahmadiyya's religious activities from preventing further violence and conflict.²¹

¹⁹ Suryana, "Discrepancy in State Practices: The Cases of Violence against Ahmadiyah and Shi'a Minority Communities during the Presidency of Susilo Bambang Yudhoyono."

²⁰ Irawan, "'They Are Not Muslims': A Critical Discourse Analysis of the Ahmadiyya Sect Issue in Indonesia."

²¹ Khoiron Mahbib, "Negara Vis-À-Vis Jemaah Ahmadiyah: Dominasi Yang Tak Konstan," *Jurnal Socius: Journal of Sociology Research and Education* 5, no. 2 (2018): 67, <https://doi.org/https://doi.org/10.24036/scs.v5i2.124>.

However, the emergence of socioreligious groups after the Reformation Era has weakened the state authorities, which in Olle's terms called a period of the rise of authoritarian Islam. The involvement of political forces in the birth of the SKB has accelerated discrimination and social tension over Ahmadiyya in several places.²² It has also happened to the Ahmadiyya adherents in Manislor, Kuningan. Based on our fieldwork observations, the involvement of several mass organizations that provoked and acted against them has become a daily threat for many years. The context of the rejection of the Ahmadiyya adherents was carried out by several mass organizations accommodated and carried out ahead by the practical political momentum. According to one of the administrators of Manislor's Ahmadiyya, the Ahmadiyya conflict in Manislor was drawn into the political realm by a force of a political commodity and its interest facilitated by the regional government. About 73 mass organizations participated in the joint signing of the rejection of Ahmadiyya in Manislor.²³ Furthermore, the attack on the Ahmadiyya adherents in Manislor was carried out by several local and national mass organizations, such as the Kuningan Anti-Ahmadiyya Movement (GERAH), Al-Huda Mosque Youth (RUDAL), Kuningan People's Front (BARAK), FUI, FPI, and others. Massive rejection of the Ahmadiyya congregation in Manislor was carried out before and after the issuance of SKB.²⁴

The involvement of Kuningan's branch of MUI and FKUB was confirmed in the statement by the chairman of the FKUB, who previously served as the chairman of the MUI Kuningan.

"There was a dialogue facilitated by the Kuningan Regional Government to address the Ahmadiyya adherents in Manislor. I knew dialogue at that time would not solve the problem, but I wanted the Ahmadiyya officials to attend so they could see the main problem themselves and why they were rejected. Finally, the prosecutor's representative spoke and saw that Ahmadiyya's teachings had significantly deviated. We then made a report to the national

²² Olle John, "The Majelis Ulama Indonesia versus 'Heresy': The Resurgence of Authoritarian Islam," in *State of Authority The State in Society in Indonesia*, ed. Gerry van Klinken and Barker Joshua (New York: Cornell Southeast Asia Program, 2009), 230.

²³ Interview with YA, A head of Ahmadiyya of Manislor, Kuningan. 16 October 2021

²⁴ Interview with RS, Kuwu or A chairman of Manislor Village, 16 October, 2021

officials by providing many findings in a 700-pages report. Based on the report, the SKB was then issued.²⁵

THE DYNAMICS OF THE SKB IN MANISLOR

As a suburban village with a potential agricultural landscape in Kuningan, 80% of Manislors' residents are Ahmadi. ²⁶ From data from the management of the Ahmadiyya Community in Manislors, in 2019, there were 3270 members out of a total of 4551 residents of Manislors. Quantitatively, the Ahmadiyya adherents in Manislors belong to the majority with various professional backgrounds. This differs from the Ahmadiyya in other areas classified as minorities. This majority number later became the dynamic factor of the SKB in Manislors.

In addition to the majority factor, the moderate perspective of several Kuningan's stakeholders, including religious leaders and mass organizations, as well as policymakers, regarding the existence of the Ahmadiyya adherents has become a key factor. There are at least three points regarding Ahmadiyya. First, the group accepts the existence of Ahmadiyya. This group is based on the freedom of religion guaranteed by the constitution. Second, the group that opposes the existence of Ahmadiyya. This group is based on the MUI fatwa, which declares Ahmadiyya heretical. Third, the group accepts the existence of Ahmadiyya as long as they comply with SKB.²⁷ These three perspectives apply to the responses of several stakeholders in Kuningan.

An exciting stance was associated with the chairman of MUI Kuningan for 2020-2025. It is known from the beginning that MUI was firmly against the existence of Ahmadiyya adherents. However, as part of the social process in grassroots, the experiences of MUI Kuningan for the period 2020-2025 have been different. This was conveyed by the chairman of MUI Kuningan when he was met at his residence.

"The MUI's fatwa has been around for a long time, or even past. Let's talk about it now. What is the reality now? Calm down if it's good and harmonious. There's no more tension. What happened in the past, the most important thing now is how we pursue a good future together, respect each

²⁵ Interview with AN, a chairman of FKUB Kuningan, who previously was a chairman of MUI Kuningan. 18 October, 2021

²⁶ Arip Budiman, "Sekularisasi Dalam Pertarungan Simbolik: Studi Konflik Keagamaan Jemaat Ahmadiyah Di Manislors Kuningan," *Jurnal Tashwirul Afkar* 38, no. 1 (2020): 11-57.

²⁷ Wahab and Fakhruddin, "Menakar Efektivitas Skb Tentang Ahmadiyah: Studi Kasus Konflik Ahmadiyah Di Desa Gereneng Lombok Timur," 445.

other, and maintain harmony. That's better. Regarding the differences between our religion and Ahmadiyya, yes, we will have a good dialogue."²⁸

Visited on different occasions, the former head of the Kuningan Regency Ministry of Religion (2018-2019) stated their position regarding the Ahmadiyya adherents in Manislor and the SKB. He then said:

"In 2018, when I served as Head of the Kuningan Regency Ministry of Religion, things started to calm down. At that time, I invited local stakeholders, including the representative of the regional government, which the deputy regent attended, and the chief of police, elements of the military, the Attorney General's Office, and Religious Courts, all of whom I invited to the Ministry of Religion office around July 2018. At that time, I conveyed the issue of religion in Kuningan to maintain Kuningan conducive and stable. Indeed, in the past, there was a rejection of marriage at the Kuningan marriage official. The point is that at that time, there was a clause prohibiting the marriage of Ahmadiyya adherents. Then it was strengthened by the Head of the Office of the Religious Courts 2003, who emphasized that there is a prohibition on carrying out marriage registration at the office."²⁹

Regarding the SKB, he emphasized the need for an evaluation and review in the context of now because the situation has changed. According to him, the most important thing is maintaining mutual conduciveness, harmony, and respect. If there are frictions and differences in religious understanding, they could be resolved through a peaceful approach, dialogue, and mutual understanding.³⁰

In a legal context, the Ahmadiyya adherents have legal and proper citizenship status. But, in practice, they often encounter obstacles regarding public services.³¹ In such a situation, the Ahmadiyya adherents in Manislor persisted despite the prohibition from related parties.³² However, since 2018, the Ahmadiyya adherents in Manislor have gradually begun receiving electronic identification cards (e-KTP) and can register their marriages at the Jalaksana's marriage official. To be precise,

²⁸ Interview with DSH, a chairman of MUI Kuningan. 17 October, 2021

²⁹ Interview with YC, a head of Kemenag Kuningan (2018-2019). 17 October, 2021

³⁰ Interview with YC, *ibid.*

³¹ Flavius Floris Andries and Mohtar Maso, "Identitas Jemaah Ahmadiyah Indonesia Dalam Konteks Multikultural," *Humaniora* 26, no. 2 (2014): 117-33.

³² Interview with YA, a chairman of Ahmadiyya in Manislor, 16 October, 2021

the first time the Ahmadiyya congregation's marriage was recorded in Manislor began on June 25, 2018.³³

A different stance came up from the leaders of religious organizations such as NU and Muhammadiyah in responding to the SKB. The views of NU figures in Kuningan are based on the perspective of religious freedom guaranteed by the state's constitution. In addition, NU's attitude towards Ahmadiyya is based on universal values or known as the *ukhuwah* (friendship), such as the value of brotherhood among Muslims (*ukhuwah Islamiyah*), ties of brotherhood among human beings (*ukhuwah basyariah*), and ties of brotherhood among the people of a nation (*ukhuwah wathaniyah*). It is based on the principles of NU's struggle being believed so far, such as the principles of tolerance (*tasamuh*), moderation (*tawassut*), justice (*ta'adul*), and balance (*tawazun*).³⁴ He further emphasized the defense of the Ahmadiyya adherents in Manislor:

In the context of e-KTP, they get the same rights, so I supported them in resisting in one demonstration, and then I was called by the Chief of Police and asked to meet them. I faced and explained to them loudly. I told the demonstrators at that time, "Let Ahmadiyya get their ID cards because that's their right, and regarding your accusations of being heretical, I'll be the one to staunch them if necessary." I say that because I know that the Ahmadiyya principle is the same as ours, there is no difference. Regarding other differences, it's their right, and I can't force certain beliefs on them.³⁵

However, in some instances, NU's attitude also considers the situation, especially regarding the existence of the SKB. He asserted that Ahmadiyya must also understand not to be vulgar, like marching and showing a parade around the city using specific symbols, since there are still under the SKB. They should not hold a big event using specific symbols that would trigger other groups to act against them.³⁶

Meanwhile, the attitude of Muhammadiyah was quite normative, as stated by the Chairman of the Kuningan Regency of Muhammadiyah. He asserted that Ahmadiyya needed to be cautious in acting. The most important thing for Muhammadiyah in the context of Ahmadiyya is to maintain the bonds of

³³ Interview with IM, a preacher of Ahmadiyya in Manislor, 16 October, 2021

³⁴ Interview with AA, a chairman of PC NU Kuningan, 17 October, 2021

³⁵ Interview with AA, a chairman of PC NU Kuningan, 17 October, 2021

³⁶ Interview with AA, a chairman of PC NU Kuningan, 17 October, 2021

brotherhood among human beings (*ukhuwah basyariah*). As for differences in the interpretation of particular worship and beliefs, Muhammadiyah's attitude emphasizes mutual respect and honor, not vilifying each other, conflict, and violence.³⁷ Another stance is emphasized as follows:

"From the beginning, we did not want to be involved in any conflict. So, we are administrators and members of the Muhammadiyah *sami'na wa atho'na* to the national decision. And Muhammadiyah has never commented on our brothers, the Ahmadiyya adherents. Because our attitude at the beginning was clear, we didn't want to be involved in a conflict, but if there was a conflict, we wanted to mediate with the abilities we had. We leave it to the authorities because that is their job, especially when there is a conflict in the field."³⁸

In line with the previous context, there are two ways to respond existence of Ahmadiyya in Manisor, expressed by the largest socio-religious organization such as NU and Muhammadiyah. First, NU Kuningan, in a particular context, accepts Ahmadiyya in Manisor and is even involved in advocating them in certain cases, for instance, constitutional rights. However, NU also asked Ahmadiyya not to be too vulgar about the controversial subject because of considering the existence of the SKB. Second, Muhammadiyah's attitude is almost the same regarding addressing religious freedom. However, Muhammadiyah is more impressed to practically keep its distance from Ahmadiyya cases. In some cases, NU and Muhammadiyah accept the Ahmadiyya adherents in Manisor with the consideration of the SKB.

LIMITATION OF POWER

Generally speaking, there are two models of limiting power between the state and society in a modern legal state. First, there is a limitation on the power of state forces by law, which implies the context of anticipating abuse of power by the state and officials. Second, the limitation of state activities by human rights assumes that power comes from human rights and freedoms.³⁹ Every human right must principally be protected and fulfilled by the state, but in practice, not all rights can be protected and fulfilled but must be limited.⁴⁰

³⁷ Interview with W, a chairman of Muhammadiyah Kuningan, 18 October, 2021

³⁸ Interview with W, *ibid*.

³⁹ Galina S. Belyaeva et al., "Basic Ideas of State Power Limitation in Political and Legal Doctrine," *Journal of Politics and Law* 10, no. 4 (2017): 197, <https://doi.org/10.5539/jpl.v10n4p197>.

⁴⁰ Marli Candra, Tigor Einstein, and Muhammad Ishar Helmi, "Limitation and Reduction of Human Rights in Indonesia Through Substitute Governmental Regulations," *Jurnal Cita Hukum* 7, no. 2 (2019): 2013-15.

Furthermore, regarding the limitation of rights in the context of freedom of religion and belief, Mill, as referred to by Muhshi, used the harm principle that a person's right to freedom is limited by not violating the rights of others. Restrictions on rights in religion and belief are divided into two context areas. Regarding the context of freedom of thought, choosing one's religion and belief in a particular person is called the *forum internum* with unlimited rights. At the same time, the context of manifestation, expression, and practice of teachings from one's religion and belief are the realm of *forum eksternum*.⁴¹

The SKB, moreover, is used as a tool to regulate restrictions on the Ahmadiyya through the law, which could be put in the context of *forum eksternum*. The forum eksternum concerns the freedom of religion and belief regarding expression, manifestation, activity, the practice of teachings, and so on. What needs to be underlined in implementing *forum eksternum* is its limitation, namely, as long as it does not interfere with the rights of other people's beliefs. However, *forum eksternum* arrangements through laws carried out by the government so far in the context of the SKB are appropriate. They have limiting parameters so that it can be ascertained that rights have been violated.

Two models of limitation of power, both limitations imposed by law and restrictions on state activities with human rights, must be carried out simultaneously. Limitation of power by law, for example, the SKB, which is believed to be a government policy, must not conflict with the laws and regulations before it, which is known as the legal principle of *lex superior derogate legi inferiori*. In addition, as a policy product, it must have a clear basis in the statutory regulations. Based on Law No. 12 of 2011 on the Establishment of Legislation, SKB is not included in a hierarchy of types of regulations (*refiling*).⁴² However, it is included in the category of the type of determination (*beschikking*) in the form of a decree, and juridically its position is weak.

Concerning another aspect of limitations with human rights, the government and its officials must have clear parameters or roadmaps regarding the protection of human rights before issuing policies guaranteed by the constitution, Article 28 of the

⁴¹ Belardo Prasetya Mega Jaya, Nurikah, and Ahadi Fajrin Prasetya, "Limitation in The Right to Freedom of Thought, Conscience, and Religion (Forum Externum): Study of Ahmadiyya Muslim Community Case," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 55, no. 1 (March 2021): 75-94, <https://doi.org/10.14421/AJISH.2021.55.1.75-94>.

⁴² Based on Articles 7 and 8 of Law No. 12 of 2011, that the Joint Decree is not included in the category of regulations (*regiling*). As for what is meant in Article 8, the diction is in the form of a Ministerial Regulation, not a Decree.

1945 Constitution. Apart from the limitations on power that have been determined based on law and human rights, the government and its officials, in carrying out their authority, must be limited by limitations originating from noble values such as religious, moral, and ethical norms. Accordingly, a limitation of the government and its officials is essential since it has important functions, namely public service and public policy. Public services are provided to the general public as their rights of legal citizens. In contrast, the public policy essentially has two different sides, on the one hand as a solution to a problem and, on the other hand, as triggers potentially arising other problems produced by the policy.⁴³

Both public service and public policy involve the same interests. The SKB's public policy aims to protect the state's interests in general but must ensure that no citizen's rights are ignored and discriminated against. So far, the impact of the SKB has been felt, especially by Ahmadiyya adherents, both regarding public services and public policies. Thus, the existence of the SKB has not accommodated all three elements of interest (individual, public, state). The state's position prioritizes the public interest with the assumption that groups opposing Ahmadiyya can be controlled by limiting the existence of Ahmadiyya in practicing their activities. In addition, the state ignores the rights of *forum eksternum* elements in the context of freedom of religion and belief guaranteed by the constitution.

THE DEMOCRACY TRAP

Being active and continuous, the SKB could trap democracy in any chance and form and is potentially used as an abuse of power for those who have interests.⁴⁴ Accordingly, there are two reasons to review and re-evaluate SKB. First, the process of issuing SKB was political when it was seen in politics of law, in which the involvement of the configuration of political power is quite dominant. Politically, the inception of SKB was a result of pressure from certain groups. On the other hand, there were also considerations of maintaining national security at that time. Second, 2008 was an entry of a "political year" and the second period of the Susilo Bambang Yudhoyono (SBY) administration in which the SKB was used to legitimize attacks (both discursive and violent) against Ahmadiis.⁴⁵ In this context, the government issued the decree as a "bitter pill" to accommodate aspirations and reduce the

⁴³ Rahmat, Salmon, and Raharjo, "Can Deliberative Policy Reconcile Religious Conflict? A Construction from the Insight of Jamaah Ahmadiyah Indonesia."

⁴⁴ Interview with YA, A head of Ahmadiyya of Manislor, Kuningan. 16 October 2021

⁴⁵ Platzdasch and Saravanamuttu, "Relig. Divers. Muslim-Majority States Southeast Asia."

turmoil of intolerant groups taking further action in the country so that limiting the activities of the Ahmadiyya was the easiest path to do.

Third, considering that the situation is relatively conducive at local and national, particularly in Manislor Village, the need to review the existence of SKB could be initiated to build peace and harmony. As mentioned above, the existence of SKB from time to time becomes a trap for democracy in which intolerant groups acts unlawfully toward Ahmadiyya by borrowing SKB's existence. Such a case has recently happened, for instance, the destruction of the place of worship of the Ahmadiyya adherents in Sintang, West Kalimantan.

CONCLUSION

The discourse on SKB has become essential to Indonesia's religious, social, and political context. The latest developments regarding the SKB and explicitly focusing on Manislor, Kuningan, have not been considered a principal path in building peace and harmony in Indonesia. Based on the research data analyzed, this study found three significant findings: (1) based on the theory of legal politics, as a policy product, SKB is assumed to be a political interest since several political power configurations influenced the process of the inception of SKB. The process that affects the issuance of the SKB is two factors, internal and external. (2) the current political dynamics of SKB in Manislor, Kuningan, are much different from a few years ago. The involvement of several local stakeholders with moderate religious views drives this. MUI, Ministry of Religion, NU, and Muhammadiyah of Kuningan Regency expressed their commitment to building peace together, especially with the Ahmadiyya adherent in Manislor. And (3) to prevent conflictual incidents and violence, it is necessary to limit the power/authority of the government and its officials in carrying out their functions on minorities. Limitation of power is carried out to avoid abuse of power in the context of belief and religious harmony in Indonesia. Parameters of limitation of power or authority include limitations by law, human rights, and noble values originating from religious, moral, and ethical norms.

The three findings above show that the current position of SKB is weak and inconsistent. A commitment to serving Indonesian people the same before the law and protecting the rights of the majority and minorities must be the same. The state must not compromise with groups that use political identity to achieve their goals using violence. Resolving conflicts between religious harmony does not always use a policy perspective (top-down). Still, a civil society approach will be much more

effective by conducting deliberation, dialogue, and commitment to building harmony, like in Manislor.

Using SKB to reduce the conflict between Ahmadiyya and non-Ahmadiyya has failed in many contexts. The importance of law product, however, is the position of becoming an accommodative arena to support political sovereignty. Therefore, the final proposal of this article is the need to re-evaluate the existence of SKB and openly talk about it.

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