

SUING THE HOUSE OF GOD: THE CASE OF CHURCH ESTABLISHMENT IN PANGKEP REGENCY

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A. Arrangement of House of Worship Establishment: A Starting Point

Although Indonesia is in fact not a theocracy state, in certain cases the state does participate in regulating the nations' religious life. In this fashion, it is perceptible that Indonesia also does not adopt a secular ideology (Mohammad Faiz, 2012).¹ The most noticeable instance for this situation is the issue of religious harmony, which has been a serious concern of the state since early on. In this case the Ministry of Religious Affairs is entrusted with responsibilities. Therefore, in the Regulation of the Minister of Religious Affairs of the Republic of Indonesia in 2010 concerning the Strategic Plan of the Ministry of Religious

¹Countries with major Muslim populations, according to Tad Stahnke and Robert C. Bittitt, are classified to be: 1. Those who declare themselves as Islamic States: Saudi Arabia, Iran, Afghanistan, 2. Countries that proclaim Islam as the official religion of the State: Iraq, Malaysia, Egypt. 3. Countries that declares themselves secular: Turkey, Senegal, Tajikistan. 4. Those who do not declare anything in their constitutions; Indonesia, Sudan and Syria.

Affairs (MORA) for years 2010-2014, MORA is in charge for establishing five major programs in conducting religious development. Two of them are: 1) improving the quality of religious life, 2) improving religious harmony.

The implementation of this religious life arrangement is visible in a number of decrees of the Ministry of Religious Affairs as well as in some joint decrees with other Ministries. Among these are such as: the decree of the Ministry of Religious Affairs No.70 / 1978 on Guidelines for Religious Broadcasting, Joint decree of the Ministry of Religious Affairs and the Ministry of Domestic Affairs No.1 / 1979 on Religious Broadcasting and Foreign Aids. What is new now being the joint regulation of the Minister of Religious Affairs and the Minister of Domestic Affairs No.9 and 8 year 2006 on Guidelines for the Duty of the Regent in Maintaining Religious Harmony and in Empowering FKUB (the Forum of Religious Harmony).

The last one, PBM (joint regulation of Ministers) 9 and 8/2006, makes an interesting issue to explore further. In addition to its major application in the implementation of religious life arrangement, this regulation also currently invites a lot of polemics. Many people perceive it to be fitting in accommodating and managing the issue of religious harmony in various regions, but not a few who see it to be in itself problematic and hence is potential in triggering religious conflicts. Those who support PBM 9 and 8 assume that with the implementation of PBM the establishment of house of worships can be better controlled, and this

management will minimize horizontal conflict. The proponents of PBM have surely affirmed earlier that in certain cases (relating to derogable rights), for the benefit of religious life stability, can be regulated by the state. For those who are against the regulation, including freedom of religion activists, academics, and also from among religious communities themselves, this regulation is considered to be limiting the establishment of house of worship rather than functioning as a regulation that seeks to manage the diversity (Rumadi, 2005). Some adherents of religion even criticize and perceive the existing regulation as discriminatory rules against their religious existence. In addition to this, the regulation is considered to limit the freedom of religion, which makes the basic right of all human beings and has been affirmed in article 22 of Law No.39 / 1999 on Human Rights.

The Ministry of Religious Affairs offices in several places reported that after the issue of PBM no 9 and 8 the establishment of houses of worship was in fact rapidly growing, especially churches as and houses of worships other than mosques.

The dilemma or the pros and cons concerning PBM no 9 and 8 does not only happen on the matter of substance, that is, whether the rule is necessary or not. In certain areas the implementations are also problematic. Institutions are expected to implement this PBM properly, but in fact there are many parties who politicize it in such a way.

In Pangkep regency, South Sulawesi, wherein this study was conducted, initial observations for this research indicated that the implementation of the regulation was to some extent problematic. A case of controlling over a church in the center of the city took place in this area. Even more, the church was not only controlled by the local government but also had to bear a protest and demonstration by a group of people who call themselves Forum Bersama Umat Islam (Joint Forum of Muslim Community). This group sealed the building being prepared to function as a church.

In this context both the Christians constructing the church and the Muslims rejecting the establishment have not fully understood the PBM, especially the article that regulates church establishment. This proves that the level of field implementation of this PBM has not run optimally. The socialization is also not being carried out properly. Above all, despite the existence of this PBM as a regulation recognized by certain religious adherents as well as law experts in this area, there surely is a gap.

This makes an interesting point to explore further, that is, to investigate the issue of the establishment of house of worship after the implementation of PBM no. 9 and 8 / 2006. This is to be examined by looking at the development of prayer house establishment after the issuing of PBM no. 9 and 8 of 2006 in Pangkep regency. Furthermore, other aspects to be investigated comprise implementation of the services provided by the government, the ministry of

religious affairs, and FKUB with regards to the establishment of place of worship.

B. An Overview of Pangkep Regency.

Pangkep is a regency in South Sulawesi that comprises a number of small islands in addition to its central region on the main island of Sulawesi. Its archipelago spreads to distant areas. Some of these islands are even located at points that are closer to Bali and Surabaya. Of the 13 districts, 4 are within the archipelago and 9 are on the main land. These districts comprise: Liukang Tangaya, Liukang Kalmas, Liukang Tupabbiring, Liukang Tupabbiring Utara, Pangkajene, Minasatene, Balocci, Tondong Tallasa, Bungoro, Labakkang, Ma'rang, Segeri and Mandalle. The first four of these districts are located within the Archipelago.

The regency of Pangkep comprises land area of 112,29 km² as well as an ocean zone of 17,100 km. There has been a lot of improvement accomplished in this region to establish regional autonomy since the enactment of Law 22 year 1998. Looking back at the long history of this area, however, it was obvious that the implementation of regional autonomy has been established long before the regional autonomy was confirmed by the government in early 2000. It is revealed in the history that around the 12th century, Pangkep has become an autonomous territory. Historical record shows that Pangkep was a kingdom with an accomplished capacity to take care of its own territory as

well as an established power with full support from its people.

As a territory comprising an archipelago, Pangkep is not an easy area to explore thoroughly. The area is located 51 km away from Makassar, and its furthest island, the island of Kapoposang Bali, is located very close to Bali. Its nearest island is Saugi Island, and a trip to this point takes about an hour. It is this geographical problem that sometimes causes some areas in Pangkep to be somewhat behind schedule in terms of getting services, including those relating to religious affairs.

The population of Pangkep regency, which at present is numbered 326.357, is fairly heterogeneous. This is particularly true in terms of ethnicity and language. In this regency, the ethnics of Java, Batak, Toraja, and Mandar, in addition to of course Bugis and Makassar, can be easily found. This for sure is greatly influence by industrial development taking place in this regency. This industrial development has significantly attracted people from different places.

The portrait of religious life in this area at recent time is quite heterogeneous and varied. There are five religions existing in this regency: Islam, Christianity, Catholicism, Hinduism and Buddhism. The number of adherents of each religion comprise Islam: 351,300, Christianity: 1651, Catholicism: 305, Hinduism: 20 and Buddhism: 23. This plurality applies not only in the existence of different religions but also within the internal affair of Islam itself. In

addition to its two major organizations, NU and Muhammadiyah, Islam in this regency also consist of other groups such as Wahdah Islamiyah, KPPSI, FPI and a newly established Islamic Community Forum of Pangkep. These variants enrich the diversity of the Muslim community itself.

A brief look at the past will show that the heterogeneity of religious understanding in Pangkep regency has actually occurred since early time. In the time of the Siam kingdom, in 1542, Islam was already in this kingdom. This was evidenced by the dialogue of a missionary Antonio de Veipa with the king of Siam at that time. In the dialogue it was stated that Muslims have existed since 50 years ago, that is, around the year 1498 (Leonard Andaya, 2004). In this dialogue with the king of Siam, Antonio uttered his aspiration to introduce Christianity to the kingdom of Siam. At that time the king had no objection to the proposal, and hence Christianity was brought into the kingdom of Siam. Later on, however, the Bissu, the spiritual figures of Bugis religion disagree with the situation as they felt that the coming of Christianity intruded upon their authority. This is why Christianity does not develop the way Islam has developed. (Interview with A. Makkuraga, 2014).

This fact shows that Christianity has also been recognized for a long time in Pangkep, that is, since the time of the kingdom of Siam. At that point of time people have even acknowledged three beliefs that were interacting within the society. These are Islam, Christianity and ancient Bugis beliefs, *lagaligo*, which was developed by the Bissu.

The term Bissu in Bugis language is defined as a saint or a holy figure, as it is rooted in the word “*bessi*”, which means holy. A Bissu is said to be sacred because the figure does not experience menstruation and does not have breasts. A French anthropologist, Matthes, describes a Bissu as being originated from the King of Luwu, Batara Guru, the eldest son of the Great King in *Kayangan* (heaven), who descended down to earth (*Tumanurung*). (RA. Kern, 1989)

Bissu communities have survived up to the present time in the district of Segeri in Pangkep. The existence of Bissu was initially told in a folk tale developed in Bone regency and in Sigeri. It was narrated that the King of Bone once grieved as the sacred plow of Bone, the symbol of the greatness of Bone Kingdom, suddenly disappeared. This mysterious disappearance was believed to be a sign indicating that a famine will befall on the kingdom of Bone. The king immediately ordered 40 Bissu to look for the sacred plow. He ordered them not to return without bringing home the heritage. It turned out that the sacred plow was found in Segeri. Unfortunately, the local community did not allow it to be brought back to Bone. Out fear of returning to Bone empty handed, the Bissu chose to settle in Segeri with the intention of providing their loyal guardians upon the sacred plow, which up to the present time is regarded as the *Arajang* (sacred symbol of greatness) of Segeri. Another source relates that the *Arajang* and the Bissu, along with their dances, have been in Segeri since Abdul Wahab Latenri Sessu Petta Loloe 'ri Segeri ruled as

the king of Segeri in 1805 - 1835. La Tenri Sessu was the son of La Tenri Leleang, the 14th King of Tanete. The *Arajang* in the shape of a plow was replaced and the replacement was taken from Mount Lateangoro in Segeri. From this point of time on the *Arajang* of Segeri was maintained by Bissu and placed in a special house called *Bola Arajang* (Arajang House). Rules and budget of maintenance was set by the king Segeri and carried on by his descendants (Halilintar Latief, 2002).

A Bissu is a Muslim, but of course with a strong nuance of local wisdom. This is the facet of Islam that has experienced a process of encountering with Bugis values. In addition to Bissu community, this regency also comprises what is called Bawakaraeng Hajj community.

Although the majority of the populations are Muslims, the religious context in this area is quite tolerant. This tolerance is influenced by the long struggle with local communities such as Bissu and Bawakaraeng Hajj communities. This provides an explanation for the fact that Bissu community still exists within Pangkep society whereas in other places its existence has gradually disappeared.

In the 80s and 90s eras, the development of Christianity was more noticeable around the mining areas. Nowadays, the development has also taken place in Pangkajene city, the capital of Pangkep regency. In the early days of its development the presence of Christians was not disputed by the local people. In certain areas they were even welcome to build churches, one of these is GKSS (South

Sulawesi Christian Church) on Mauraga Street. It was much later on that people began to have disputes on this worship place.

Succeeding the Reformation, there was a trend of discussions on the discourse of Islamic law in some places in South Sulawesi. The famous one was Bulukumba Regency, followed by Pangkep. Accordingly, a Congress of Islamic Community, which was initiated by KPPSI, was once carried out in Pangkep around 2007. From that moment on, Islamic groups supporting the Enforcement of Islamic Law program in Pangkep continues popping up, comprising such as KPPSI, and, the most recently established, the Islamic Community Forum of Pangkep. In addition, Islamic organizations holding up the ideology of formalization of religion and Islamic Government also developed in Pangkep. Hizbut-Tahrir and the Front Defenders of Islam are some instances.

The development of these Islamic groups adds a little something to the religious atmosphere, especially within the Muslim community. On the other hand, however, it is irrefutable that since the emergence of these groups, the existence of local communities began to shake. The movements and development of other religions, such as Christianity, became objects of inspections from such groups. Since then also actions and demonstrations from the part of these Muslim groups, questioning the activities of other religious communities, more frequently occurred in Pangkep.

In the context of Pangkep, changes in religious patterns have undergone a kind of shift. Key Deaux and Shaun Wiley in Gail Moloney once mentioned the incidence of moving people and shifting representation (Moloney & Ian Walker, 2007). In that circumstance, Deaux and Wiley emphasized that the movement of a group of people to a certain place will result in a change of population in one place, and this eventually leads to a shift in representation. Woodward stated that moving people and shifting representation also gave birth to a new ideological movement, especially religious understanding, in a particular place, (Woodward, 2007). This is the aspect that can prompt a shift in the way people represent themselves, and this ultimately changes the way people look at others.

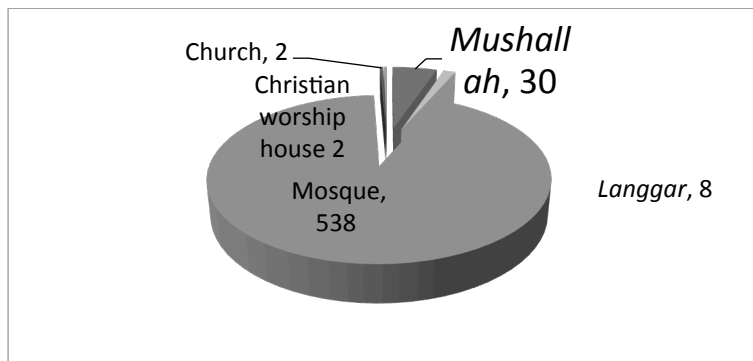
C. Development of House of Worship in Pangkep Post PBM No.9 and 8

As a comparatively diverse area, the development of house of worships in this area was quite rapid. Unfortunately, this only happened before the issuance of PBM no 9 and 8. Prior to issuing of this rule, official record shows that Pangkep had 568 mosques, 41 *mushallah* and *langgar*, and 2 churches. Other places of worship for Christians were not considered churches, for they still functioned as temporary houses of worship. The two churches mentioned, are precisely located at the residential location of Tonasa I and II employees. These two churches are used interchangeably between Christians and Catholics.

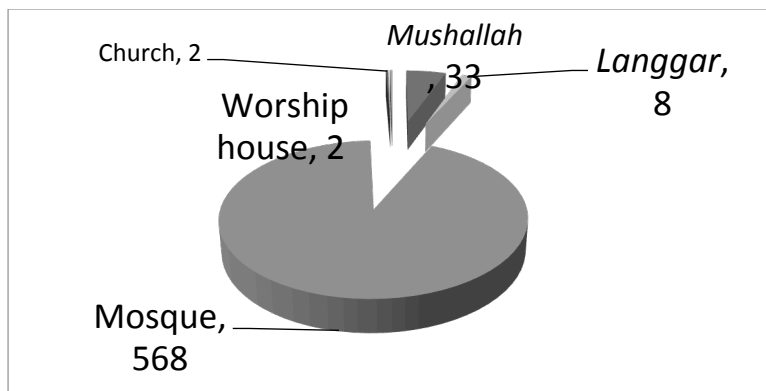
After the issuance of PBM rules 9 and 8, 30 mosques and 3 *mushallah* were established while no church was built, although the number of Christian adherents has exceeded one thousand. In the same way, there has been no church for the Catholics. A temporary house of worship which was planned to be developed into a church cannot be realized as it was banned by the local government on the assumption that the community did not approve it.

This is well pictured in the graphs below:

Graph 1; House of Worship before PBM



Graph 2; House of Worship After PBM



D. Regulating the Establishment of House of Worship; the Problem of State and Religion Relationship.

So far, there are two main patterns of relationships between state and religion in the world; First, the integralistic pattern, wherein the state is combined or even merged with religion. This model is commonly referred to as a theocracy model. The second pattern is the secular pattern, wherein a clear separation between religion and state applies. Religious affairs are regarded as individual concerns that should not be interfered by the state. In a secular state, the system and norms of positive law are separated from the values and norms of Religion. The legal norms are determined by agreement and not on the basis of Religion or the words of God, and these norms might be contrary to those of Religion. Despite the separation between Religion and the State, it is common for a secular state to give freedom to its citizens to follow whatever religion they believe in. The state normally does not interfere with this matter.

The question to put forward at this point is: Which model is actually applied in Indonesia? This has been the polemic so far, questioning whether Indonesia takes a secular or an integral model. In recent development, there seems to be a tendency toward an integral model. Although this effort does not fully succeed, the trend on the way to the discourse indicates that Indonesia has not clearly labeled the relationship model of its state and Religion.

However, the current situation actually shows that although Indonesia does not adopt a theocracy system, it does not apply a secular system either. The relationship built is in essence a symbiotic bond. Therefore, it should not come as a surprise when some rules are colored by a religious nuance, or conversely some subjects related to religious life are regulated by the state.

Among the aspects highlighted in this religious life arrangement is the establishment of house of worship. This is noticeable in the fact that in 1969 there was an issuance of Joint Decree between the Minister of Religious Affairs and the Minister of Domestic Affairs No. 01 / BER / MDN-MAG / 1969 on the Implementation of the Tasks of the Government Apparatus in Ensuring Order and the effectiveness of the implementation of religious development and worship by its adherents. The Joint Decree serves as reference of rules relating to establishment of house of worship as well as practice of worship for all religious adherents in Indonesia. This is one of the rules that clearly show the real situation that in Indonesia, the State does not leave religion as a private subject of the citizens.

In 2006, KBM No. 1/1969 was cancelled and replaced with the Joint Regulation of Ministers No. 9 and 8 of 2006 (PBM no.9 & 8/2006). This PBM regulates the duties of the local government in maintaining harmony and empowering FKUB, and also regulates the establishment of houses of worship. The issuance of PBM no 9 and 8 affirms that it is

necessary for the government to be involved in regulating religious life

This circumstance surely provokes disputes. Some strictly believe that religious affairs are among the essential rights of every religious community. This is preserved in the 1945 Constitution of article 28e. Moreover, Indonesia has also ratified the Covenant on Civil and Political Rights Article 18 in Law No 12/2005 which talks about freedom of religion and belief. Law No. 39/1999 on Human Rights, Articles 4, 12 and 22 also mentions the right to follow religion as well as freedom to practice religion and beliefs, and the state is obliged to guarantee and protect such rights. It is a commonsense that the implementation of religious freedom cannot be postponed as it is a non derogable right. (Wahid Institute Report, 2012). In the Human Rights Rules Articles 18, 20, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR-1996), wherein freedom of religion is emphasized as an unquestionable aspect. The ICCPR itself has been ratified by Indonesia through RI Law No.12 of 2005 on Ratification of the International Covenant on Civil and Political Rights.

A view that criticizes regulations upon religious practices such as contained in the PBM considers that the regulation merely shows excessive intervention of the government upon the religious affairs of its citizens. This is considered to be disturbing and limiting the religious freedom of the citizens. This regulation is even thought to be actually contradictive with the abovementioned 1945

Constitution article 28e and with Law No. 39/1999 as well as Law No. 12/2005.

In PBM Nos. 9 and 8, the regulations concerning establishment of house of worship is stated only in a few chapters. This is presented in Chapters IV and V of the regulation. A careful reading of some chapters of the PBM will show that there is actually no content of restrictions on religious freedom. In fact, the content is about arrangements for the establishment of house of worship. In some passages in PBM 9 and 8, for example it is stated: “The establishment of a house of worship must meet the administrative requirements and the requirements for the building construction” (article 14, paragraph 1). (PBM No. 9 & 8/2006, 2006). In addition, there is also a special requirement, which is the presence of religious followers as many as 90 individuals, as evidenced by photo copies of their KTP, their id card. (Article 14 paragraph 2.a). Besides, there is support or approval from around 60 people from the surrounding area (Article 14 paragraph 2.b). (*Ibid*).

So if we go back to the context of the debate whether or not the state can regulate the religious affairs of its citizens, in this case it is specifically related to the issue of the establishment of a house of worship, we must see whether these rights fall into the context of derogable or non derogable right.

If we look at the context of freedom of religion or belief in Human Rights, it is in essence covers two areas. The first one is the *Forum Internum*, that is, an internal

freedom that contains freedom of conscience to believe, follow, and convert religion as well as the right not to be forced to follow or not follow a religion or belief. The freedoms covered in this *Forum Internum* comprise those of the absolute, unlimited, or non-derogable rights. Even in a state of war and public emergency, the state is obliged not to interfere with this *Forum Internum*, as regulated in Article 28I (paragraph 1), Article 4 (paragraph 2) of the Covenant on Civil and Political Rights and articles 74 and 74 of Law no. 39/1999 on Human Rights. (Wahid, 2012).

The second area is *Forum Eksternum*, that is, an external freedom to reveal religion and belief in the form of worship (individually or collectively, behind closed doors or openly), freedom to establish places of worship, freedom to apply religious symbols, freedom to celebrate religious festivals, freedom to determine religious leaders, freedom to teach and spread religious teachings, rights of parents to provide religious education for their children, and rights to establish and organize religious groups. It is within this territory of *Forum Eksternum* (religious manifestation) that some restrictions of religious freedom may apply when Human Right principles are taken into account. At formal layer, the restrictions have been arranged in the 1945 Constitution article 28J and article 18 (paragraph 3) of the Covenant on Civil and Political Rights. In article 28J of the 1945 Constitution, it asserted that restrictions on religious practice can only apply through constitutions with the intention of protecting the rights and freedom of other

individuals, to fulfill the requirement of justice in accordance with morality, religious values, security and social order in a democratic society. In articles 18 and 3 of the Covenant on Civil and Political Rights, it is asserted that restrictions can apply on the basis of law, and where necessary to preserve security, order, health, social morality, or rights and freedom of other individuals. (Setara Institute, 2008).

Based on the abovementioned two forms of religious freedoms, the issue of the establishment of house of worship falls into the category *offorum eksternum*, thus restrictions or arrangements on this matter are possible. The main consideration of these restrictive and regulatory requirements is to protect the rights preserved by the Covenant, including the right to equality and non-discrimination in any field, not to violate rights. Such restrictions or arrangements to be applied without violation of the rights preserved in article 18. The regulation of freedom of religion also not be applied for purposes and manners that are discriminatory. The freedom to practice religion or belief for the purpose of preserving morality should be based on principles taken not from one tradition only.

Hence, in the context of Human Rights, regulations designed to restrict and regulate freedom of religion are possible. The implementation of PBM 9 and 8, when it follows the path as in the above description, does not violate the law of Human Rights, although of course it might raise questions as it is not part of the constitution. However, there

surely some issues regarding its articles that cannot be ignored. These should be the points to consider and to look at more critically. Accordingly, the point should not be rejecting the rule that is seen as limiting freedom of religion and confronting Human Rights.

E. The Collapse of the Roof of the Church; the Case of a House of Worship Establishment.

Wednesday afternoon. It was December 4th, 2013. The BBM that I put on the table seemed to vibrate, the light blinking green. This is a sign of a message coming in my BBM. I ignored it at first, but my BBM kept vibrating, a sign of more messages coming in. I was curious and decided to check it One of the messages was from my friend, an activist of Freedom of Religion NGO: “The church in Pangkep has been torn down by a mass”. Other messages were from other friends with almost the same content. Then there was another message explaining about the attack based on the explanation of Qasim Mathar, a professor of UIN. This message reached my friend by means of chain messages spreading through BBM. The message read; “Today a group of masses came tearing down the church roof on Mauraga street and sealing it. Yet according to the explanation of a Christian friend, (it did not explain who the Christian friend was), previously there has already been a dialogue with the Regent and it has been approved.

The next day I met some friends from Pangkep School of Democracy. They explained the chronology of the

incident committed by a group of people who called themselves Forum Bersama Umat Islam Pangkep (Joint Forum of Muslim Community of Pangkep). Yet the explanation I got from this meeting was not in detail, it was more or less similar to the messages I received in my BBM.

A few days later, about a week after the incident, I happened to visit Pangkep. Here I found more explanations, and this time it was more complete and with varied versions. Some said that the flattening was conducted by the local government for the reason that the construction has not been approved. There was an explanation that the mass took out the roof and sealed the church. There was also information explaining that Pangkep people do not approve the establishment of a church in the city, as there were already several churches around Tonasa area. I was also informed that my friends from the LBH (Law Assistance Institution) were involved in assisting the church in dealing with this case.

At that time, I did not think about participating in mediating or advocating this case, as I often did in such situation. Despite the fact that there had been an institution involved, I also felt that my position can no longer allow me to be involved in that field. What came to my mind at the time was just thinking of conducting further research on the case. I thought the circumstance was interesting since similar case also occurred in some other places after the implementation of PBM 9 and 8 of 2006.

The opportunity to research finally came. The Research and Development office of the Ministry of Religious Affairs of Makassar, wherein I work, chose the issue of House of Worship Establishment after the issuance of PBM no 9 and 8/2006 as its research theme. I picked a location in Pangkep regent of South Sulawesi, wherein incident such as described above took place. It was during this research that I obtained a clearer picture about the case of removal of the church's roof.

“That afternoon was Wednesday December 4th 2013,” Acho started his story. (Interview with Acho, 2014). Noon prayer has just been performed at the central mosque in Pangkep. Dozens of people appeared to gather in front of the mosque. From the flags, banners and megaphones they carried, the community group calling itself Forum Bersama Umat Islam (FBUI) of Pangkep was obviously prepared to start an action. This crowd then marched to Mauraga street. They were heading to a place commonly served as a prayer house for Christians from the South Sulawesi Christian Church Synod. The FBUI apparently did not agree with the renovation constructed by the manager of the House of Worship. Acho explained that the manager of the House of Worship raised the roof passing through the height of the fence. This became quite eye catching when viewed from the outside, whereas according to FBUI there had not obtained legal permission to establish a church. With such a noticeable high roof the building had become a church. The FBUI did not tear down the roof of the church, but it was

the local government who took the roof out and lowered it this action of protest. One of the FPI (Front Defender of Islam) activists in Pangkep stated that there was really no intention to prevent people from worshipping and establishing their House of Worship. The Muslim society in Pangkep took action because the establishment was not in accordance with the rules of establishment of House of Worship (Interview with Syahrul, 2014). This statement was confirmed by Acho.

Along these lines, is it factual that the Christian group from this GKSS Synod construct a church without following regulations, especially those of the PBM no 9 and 8 /2006? Priest Jasmi Mainak told that this house of worship had existed Pangkep since 1985 (Interview with Jasmi Mainak, 2014).

In the beginning the building functioned as a residential house and also a place of education of children. As for worship, Christians usually used the pattern space in the regent's office. Later on they were finally allowed to worship in the house, which then renovated to make a place of worship. Chairs are set for the people who come to worship and there is also a podium for the priests to preach.

From this time on, the place has served as house of worship for Christians from the GKKS Synod. Of course, sometimes the service was also attended by Christians of the same denomination and under the same synod from Tonasa or from faraway such as from Maros regency or from other places in Pangkep. At the beginning everything was running

well. As stated by Priest Jasmi Manik, the Christians got along quite well with the surrounding society. The Church also often helped the surrounding people. Even more, the Priest admits, and this is confirmed by the Vice Regent of Pangkep, that it was the people from the church who restore the pathways around the church. (Interview with Rahmana Assegaf, 2014).

Unfortunately, the incident of taking out the roof of the church ultimately took place on 5 December 2013. This was carried out after a meeting attended by the Regent, Muspida, and components of the society on Sunday, 2 December 2013. The reason for the removal of the roof was the absence of IMB (Building Construction Permit). This is printed in the notice of removal from the head of the Public Works Department, Ir.H. Sunandar, no 600/562/PUTR.

It follows that FKUB arranged dialogues and meetings to discuss the issue of the House of Worship on Mauraga street. FKUB Chair person, H.Waqi Murtala, did not say how many meeting had been held, he only explained that it was frequent. (Interview with Waqi Murtala, 2014). Data from the transcripts show that FKUB and the local government had held at least three meetings to discuss about this incident, these are dated on 2 December 2014, 5 December 2014, and 7 December 2014. The record also shows that the meeting discussing the renovation of the House of Worship was also held on 11 August 2011 and 18 August 2011. In the meeting in 2011, the agenda was not

only on the issue of renovation of Christian house of worship on Mauraga street but there was also an agenda for an explanation of every single article of PBM no 9 and 8/2006. In the report submitted to the Regent, however, it was clearly stated that the agenda was a meeting between FKUB and the Church construction committee (Draft of Local Government Report, 2014)

Unfortunately, the meetings arranged by FKUB after the incident seemed to have no end. The committee of the House of Worship renovation felt that restoring the House of Worship is among the rights of every citizen. More importantly, they were not establishing a new church, they just wanted to renovate the old building of their own. On the other hand, the Muslim groups, especially the members of FBUI, insisted on disapproving the reconstruction for the reason that it violated the rules and in fact the construction was without an IMB (Construction Development Permit). Correspondingly, the FKUB and the Public Works Department pointed out similar opinion to that of FBUI that the renovation committee of the House of worship was against the rules. In several meetings the committee of renovation of the Christian House of worship, represented by its legal counsel Sameul SH, had repeatedly stated that worshipping was the right of every religious people in Indonesia. Barring the establishment and let alone just the renovation of the House of worship would mean preventing people from worshipping. This point was raised in various mass media both printed and on line. However, the FKUB

and FBUI also insisted that there were rules on establishment of house of worship and these were not fulfilled by the renovation committee.

Because the dialogues were as if banging against a rock, and the Christian house of worship reconstruction committee also felt as if the wall blocking their way was too thick and too high, the committee finally brought the issue as a complaint to the Ombudsman of South Sulawesi. The Ombudsman was then involved, as it was reported that the Christians' right to worship was not fulfilled by the regency government of Pangkep. A mediation process was conducted by the Ombudsman on March 20, 2014. Both parties met again. This mediation process was attended by the Vice Regent of Pangkep, Chair person of FKUB, Police representatives, representatives of Kesbang, Christian House of worship Construction Committee, and representatives from Islamic organizations. The mediation went on quite well, and agreement was finally reached by both parties. Among these points of agreement are:

First; That related to the issuance of building permit for building a house of worship, the Public Works Department of Pangkep Regency cannot process the issuance of the license due to the fact that the application does not meet the requirements as set in PBM no 9 and 8 of 2006.

Second; That the building of the house of worship being processed for construction permit was already built by GKSS Pangkajene on Mauraga street of Pangkep Regency

by modifying the shape of the original building. The letter has been published by the Public Works Department of Pangkep in accordance with the existing building violations.

Third; The party of GKKS Pangkajene of Pangkep regency was willing to be relocated from the current place used as house of worship on Mauraga street, and the government of Pangkep regency will provide location for constructing a house of worship.

Fourth; The party of GKSS Pangkajene asked the Public Works Department and the government of Pangkep regency to reinstall the roof that had been removed to resume the original form for the efficiency and comfort of worship activities awaiting the completion of the relocation process, and the Public Works Office of Pangkep regency did not make objections to the request.

Fifth; With regards to the relocation of the House of Worship Building, GKSS Pangkajene should coordinate with the government of Pangkep regency.

After the mediation process carried out by the Ombudsman, the polemic of founding of the house of worship on Mauraga street was cooling down for a while, although the problem was completely finish yet. This is because FBUI and some community leaders consider that the Christians should no longer perform worship at the worship place on Mauraga Street. In addition, up to now the local government has not decided a definite location for building the house of worship. The difficulty is because there is a potential that the community around the location

of the church construction will react and complain, given that there is no place in this city of Pangkajene wherein Christians reside together in one location. Christians are scattered around the city of Pangkajene in particular and within Pangkep regency in general. The only place wherein Christians live relatively in a cluster is around Tonasa 2 housing, and there is already a church in this place.

E. Ten Mosque Towers, One IMB

Up to the present time there are 568 mosques in Pangkep regency. In addition to this, there are also 33 *Mushallah* and 3 *Langgar*. As for the Christian worship place, there are 2 churches and 2 temporary houses of worship. The two churches located in Tonasa I and II do not completely function. Tonasa I is rarely used anymore, because the residents resettled in that area have mostly moved to Tonasa II (Interview with Badauni, 2014), whereas the church located in Tonasa II is not considered as a real church by the Christians. They just count it as a place of collective worship. According to Onggu Sitindoan's explanation, an FKUB member and a Christian figure in Tonasa II area, a church has to be under the management of a synod. Tonasa II is only a place of worship prepared for all Christians. So the place is used as a place of worship not only by Christians of various denominations but also by Catholics. In view of such function, according to him, the building in Tonasa II is a place of worship to accommodate the necessity of worship of both Christians and Catholics

(Interview with Onggu Situndoan, 2014). If this opinion is taken into account, it would be acceptable to conclude that there actually hasn't been a church in Pangkep regency.

Since the issuance of PBM no 9 and 8/2006, the development of house of worship establishment has been insignificant. The number of mosque built is only 33 and only 3 new *Musallah* have been developed so far. As for the case of church and temporary place of worship for Christians and Catholics, there has been no increase at all. An interesting point to look at is the establishment of the mosques. Of the 33 new mosques developed, as per the ministry of religious affairs office report, many of them were founded without fulfilling the requirements set in PBM no 9 and 8. According to the head of the Ministry of Religious Affairs office in Pangkep regency, Jamaluddin S. Ag, M.Ag, his department has sent letters asking for fulfillment of the requirements to some of these new mosques, but only a few responded (Interview with Jamaluddin, 2014). As indicated by the FKUB record, currently only one mosque, the one that is from LDII, that completes the requirements for the construction of houses of worship as contained in PBM. Waqi Murtala (Leader of FKUB) explained further that the committee of the establishment of this LDII mosque has submitted files required, and the FKUB itself responded it by giving a recommendation.

LDII itself finds it not easy to establish a mosque, as its presence among the public is still questionable. A lot of people suspect the organization to be among the disputed

mainstreams. Therefore, in the establishment of its mosque, LDII does its best to follow the rules set in the PBM. This is to strengthen the legality of the mosque founded.

Other new mosques have not managed to accomplish the requirements necessitated for their establishment. This situation has become a specific issue in the case of house of worship establishment, whereas the society, more specifically the rural communities, never questions the establishment of mosques. To the society's view, this is acceptable as the constructions are within Muslim surroundings. (Interview with Safruddin, 2014). Nevertheless, in the PBM regulation, there is point mentioning that if the community does not question, it does not have to obtain an IMB and recommendation from FKUB. Accordingly, all mosques built after 2006 should follow the rules of PBM 9 and 8

Some people argue that if the society does not question it, the establishment of a place of worship does not have to follow the PBM regulation. This is particularly acceptable if the local community has its own mechanism based on local wisdom. (interview with Jasmi Mainak, 2014). Such point of view can possibly be considered, but this fact also indicates that the PBM itself has not been effectively implemented in Pangkep regency. This is specifically visible when the construction of the worship place is related to the groups of the majority.

F. The Joint Regulation of Ministers (PBM) N0 9 and 8/2006 and the Dilemma of Establishing Houses of Worship

1. PBM No. 9 and 8/2006 and Its Uncertain Implementation

This government Regulation no.9 and 8 of 2006 serves as reference in controlling the construction of worship place, hence its consistent implementation is necessary. At the regional level the implementation of PBM should be stimulated by local government, FKUB and religious leaders. Consequently, these three parties are required not only understand the rules of the PBM but also to be consistent and obedient to the legal aspect in implementing it. Most importantly, the lower level implementers, namely the local government and FKUB, should understand how to apply a rule intended to regulate and or to limit freedom of religion.

So how about the local government, FKUB and the religious leaders of Pangkep regency in implementing this PBM?

That afternoon, an activist of FBUI of Pangkep, Acho Parenrengi, enthusiastically explained why they should have a demonstration for the house of worship of GKSS Pangkajene on Mauraga street. “We don’t want to restrict people to worship, we just want to enforce the rules of the PBM”. “What is revealed in the media that we are getting in the way of other religion’s worship is not true, again we just enforce the rules”. He continues breathlessly. Acho’s phrase in one side attempts to set aside the law suit of GKSS

Pangkajene and on the other to show that his group consistently implements the PBM. In different occasion the chair person of FKUB, Waqi Murtala, gave almost similar explanation. According to him, FKUB only wants to consistently apply the rules of PBM no 9 and 8, that is, upon building a worship place, there should be a recommendation from FKUB and the requirement for the recommendation is approval of around 60 people (Interview Waqi Murtala, 2014).

As soon as we listen to the explanation, what appears to the surface is that the action committed by FKUB and some groups of Muslims in Pangkep is actually an effort to run the PBM consistently. But let's have a look at some stories. Syahrul is a member of FPI Pangkep who also rejects the establishment of the church. In 2012 he had been in a demo to the local government demanding to close the place that is often used for worship by GKSS of Pangkajene. He said that at that time GKSS of Pangkajene often performed worship services by bringing pilgrims from various places in Pangkep and also from Maros regency. The streets were jammed and the Christians sang, which he found quite disturbing.

Meanwhile, Sirajam, an FKUB member living in the GKSS worship place neighborhood and strongly refused the renovation of the house of worship said that he had been disturbed by the existence of the house of worship for a long time. The Christians had services and singing quite frequently, not only on Sundays. Sometimes this was even

performed simultaneously with the Muslim prayer time (Interview with Sirajam, 2014).

Acho Parenrengi also told the same story. According to him the GKSS worship place had been problematic since long time because it had been provided with a podium and arranged seats for the pilgrims attending the service. Such a well equipped place, in Acho's opinion, was not just a temporary house of worship but a permanent church. This is become problematic given that there was already a church in Tonasa.

The information obtained from some religious leaders and even members of FKUB implies a contradiction between the consistent desire for the PBM enforcement and the interest to not giving a worship space for people of different religions. Taking into consideration the history that the place has functioned as a temporary worship place since the 80's, it wouldn't be natural to have disputes on various activities conducted by the church at the current point of time. There is an impression that the rules of PBM are only used to legitimize the restrictions on the worship of other religious groups (especially the minorities). This is certainly contradictory to the requirement of the rules to restrict religious freedom, as described earlier in article 28 j of the 1945 Constitution. In Article 19 of the Memorandum of Indonesia Criminal and Civil Defamation Provisions it is clearly stated that the limitation of the freedom of religion of the derogable right category must pass through a three-part test. This means that the restriction must be provided by

law, for the purpose of safeguarding a legitimate interest, and the restrictions are really needed to protect those legitimate interests. This is outlined in article 19 of the International Covenant on Civil and Political Rights. (Article 19, 2004 & Hendrayana, 2007). Thus, the regulation for worship place also cannot deny such requirements as a commitment to our desire to ratify Human Rights.

If this develops further, it tends to be a politicization of PBM for the sake of restricting the expressions of certain religions. The House of worship of GKSS Pangkajene, which has existed and functioned as a worship place before 2006, with its shape as a place of worship, begins to be questioned. According to Syahrul, there has been an intention to protest the house of worship, there was no momentum. When the GKSS began renovating and raising the roof of the church, whereas according to the Public Works Department the IMB was only given on the condition that the roof of the building should not exceed the height of the fence, it became a fitting momentum.

This becomes more obvious when we look at the second case, in which some mosques were established without following the provisions of the PBM. Although it was acknowledged that a letter has been sent by the Ministry of Religious Affairs, no similar action has been taken. The reason could be because in the case of the establishment of the mosques there is no protest from the residents, while for the renovation of GKSS Pangkajene house of worship there is a protest. Of course if people wish to consistently enforce

the PBM all must be treated the same (with principle of impartiality).

In addition to the implementation problem that tends to make use of the name of PBM for certain interests, the real problem relating to the implementation of the PBM is socialization. The socialization that has quantitatively carried out by the FKUB should be appreciated. As stated by the chair person of the FKUB, the socialization has described about the regulation chapter by chapter. However, in this socialization the basic points in running the rules to limit freedom of religion are not explained in more depth. The explanation, as clarified by the GKSS, has much more emphasis on how to limit and regulate the establishment of house of worship, not on the explanation of religious freedom and restrictions that can only be carried out in the context justified by the Law or other Regulations.

Besides, the socialization also did not provide further clarification about the house of worship existing before 2006, whether it followed the PBM or not. There seems to be differences in the perspectives of GKSS Pangkajene and the FKUB on the case of the establishment of GKSS house of worship in Pangkep. The FKUB views the renovation, by raising the roof higher exceeding that of the fence, as a construction of a new church. This is the reason why the procedure must follow the rules in the PBM². On the other

²This is noticeable in the record of the meeting for renovation of the church Mauraga Street on Monday, 02 December 2013. The record also notes the history of the house of worship since 1989. It was

hand, GKSS Pangkajene considers that the place has been established before the PBM, with its original form as residential house, which then adjusted to make a place of worship in 2011. GKSS just want to renovate the roof to set it higher. Therefore, in this assumption, the renovation does not need to follow the PBM. Meanwhile, according to the Public Works Department, the reason behind the removal of the roof was lack of IMB for new construction³.

The points of clarifying and defining a temporary house of worship and church, and how to organize them, are the aspects that were missing in the socialization. This situation brings about different understanding about GKSS Pangkajene. Besides, if this is also regarded as a temporary place of worship, GKSS Pangkajene should also obtain permission, which should be renewed every two years. This means there is no understanding in the context of the temporary worship place on the part of the GKSS. In this case GKSS ultimately committed an offense, but it was probably due to the unclear socialization.

originally a residential building. Since the building was renovated and changed to make a new construction in 2011, it is regarded as violating the PBM no 9 and 8/2006, as it did not meet the condition regarding the composition of the population.

³ Previously the Department of Public Works has sent a letter of demolition no 600/562 / PUTR dated December 4, 2013, signed by the Head of the office, H. Sunandar

2. The Problem of the PBM Substance: a Chance for Adding Patches on Some Articles

That afternoon Qasim Mathar, a professor at UIN, had just tested a graduate student. Yet he remained enthusiastic when explaining about the dilemma of the house of worship establishment, taking the incident that occurred in Pangkep as a comparison. “The establishment of a house of worship,” such he began his explanation, “is not just problematic in terms of implementation of rules, but the rules themselves are problematic.” Then he stated that there were some chapters that make the minority groups psychologically feel depressed. Although he did not memorize the exact chapter, he mentioned the point of the need for approval from the surrounding population. This point is contained in the PBM article 14, paragraph 2.b⁴. In his opinion, this requirement causes minority groups to be psychologically depressed from the beginning. He then described about some information he heard relating to the incident in Pangkep. He said when the Christians were presented with the rule to ask for approval from the surrounding community, they could not fulfill it. The minority had already found it difficult from the beginning before distributing the list for collecting signatures. Much worse than the need to ask for signatures for the approval of the church establishment, sometimes their presence in the

⁴Socialization of PBM & Question and Answer. Department of Research and Development & Education and Training of MORA RI, 2008

surrounding community is also an issue.

The points expressed by Qasim Mathar, was reaffirmed by the Priest Untung, chair of GKSS South Sulawesi. According to him, some Christians even prefer to pay the local government, RT, RW in order to get signatures from local residents. They choose this way because they feel it will be difficult to proceed by them to collect signatures, as they still feel unwelcomed.

In addition to the views highlighting article 14 paragraph 2.b, there is also another viewpoint revealed by Andreas, a Catholic figure. To him, another difficulty is because the PBM does not provide a space or explanation about the possibility of using the local wisdom system in establishing a house of worship (Interview with Andreas, 2014). In his opinion, it is possible that the local wisdom in each area can be more effective in arranging the establishment of the houses of worship. Priest Jasmi Mainak even mentioned some samples of the process of building house of worship using local wisdom in Tanah Toraja. According to this Pastor, up to the present time this practice is still applies well and this allows various religions to build their house of worship.

In the incident occurred in Pangkep regency, it seems that Article 14 Paragraph 2.b sometimes serves as the basis that can be used by certain groups that do not welcome the establishment of a house of worship for a particular religion. As clarified by Priest Jasmi Mainak, actually the people around the church never questioned the house of worship.

When they were asked in person about the presence of the house of worship, they say they did not mind at all. In fact the rejection comes from the community outside of Mauraga street environment. They are the people who join as members of the FBUI of Pangkep. Due to the rejection declared by this Forum, the people around the church are ultimately afraid to give autographs for approval.

If we look back to the rules of *forum eksterum* in terms of religious freedom, the rules that limit and regulate freedom of a religion are not intended to obstruct the religious rights of any individuals, or to be discriminatory upon certain groups (minority groups). The limitations set forth in the 1945 Constitution of article 28J mention that limitation on religious manifestations can only apply through the Law in order to maintain security and public order, morals, religious values and to respect the rights and freedom of others. While in Article 18 paragraph 3 of the Covenant on Civil and Political Rights, it is affirmed that restrictions or arrangements can only be made under the law, and which are necessary to protect the security, order, health, public morals, or the fundamental rights and freedom of others.

Provided with this article 14, it is possible that the PBM is used by certain circles with the aim of blocking and limiting certain groups in practicing their religions, especially those of the minorities. Therefore, article 14, which allows civil society to participate in determining house of worship establishment, should be reconsidered.

The Vice Regent of Pangkep, Abd Rahman Assegaf, even stated that arrangement for worship place is necessary, but it should adjust to the arrangement of City Planning within an area. This is necessary in order to avoid excessive construction of house of worship in one place and to adjust to the existing city planning. Although the arrangement based on the City Planning involves religious figures when discussing places for the establishment of worship places (interview with Rahim Assegaf, 2014).

G. Concluding Remarks and Recommendations

Broadly put, the role of the state in regulating religious life seems to remain important. Therefore, the regulations for houses of worship are not perceived by society as an intervention of the state on the religious freedom of its citizens. House of worship establishment belongs to the territory of the *forum eksternum*; therefore, it is potential for some restrictions.

From the above brief description based on a research conducted in Pangkep some points can be highlighted:

First; If all this time it is presumed that the issuance of PBM encourages increasing establishment of house of worship, in reality that is not the case in Pangkep. There is no significant development of the house of worship after the PBM no 9 and 8. The only development occurring is the establishment of 30 mosques and 3 *Mushallah*, and such development is of course not significant compared to the growing number of population in this regency.

Second; religious adherents still have different perspectives in looking at the PBM. This is certainly due to inadequate socialization, or socializations have been carried out, in the case of Pangkep it is even frequent, but they do not deal properly with the substance the PBM issuance. In the case of Pangkep, these different perspectives appear to be striking in interpreting the PBM with regards to the renovation of places of worship. For FKUB, the renovation of the house of worship in Pangkep violates the PBM. For the house of worship construction committee, renovating the roof does not violate the PBM because the place has existed before 2006. Worship places established before 2006 do not have to follow the PBM.

Third; the case of the establishment of the house of worship in Pangkep reflects a picture of the existence of certain groups who disagree with the development of other religions besides their own. They try to find justification for their disagreement by using the PBM as the basis for restricting others

Fourth; this case also shows that some component of the FKUB as well as some local religious and government figures only understand the PBM as a regulation that limits the establishment of worship places, they do not understand how the restrictions should proceed.

Fifth; Some academics and religious leaders consider that the PBM is not only problematic at the level of implementation, but also there are problems in its very substance. Some of these problems are such as that PBM

does not provide explanation pertaining to local mechanism or local wisdom used to build house of worship. Similarly, article 14 paragraph 2 is also criticized as it is considered leaving some space for the public to participate in determining whether or not the establishment of a house of worship can proceed.

What has been elaborated here should not be kept as merely a writing. It is more important to take further actions, especially with regards to the relationship of religious adherents and the presence of the state in ensuring the religious freedom of its citizens. Therefore, for the completion of this elaboration, some further implementations and improvements are strongly recommended:

First; FKUB at the city level (especially in Pangkep) should be firm in making sure that every worship place established since 2006 follows the PBM regulations in proceeding construction. Second: FKUB and local government officials need to have trainings or workshops related to Human Rights, especially in the subject of religious freedom and the conditions of its restrictions. Third; The socialization of PBM should emphasize not only on the quantity of its conduct but also on the thorough explanation of each article. Above all, the socialization should also be able to provide the community with good understanding of the substance of the PBM issuance and how it relates to the issue of religious freedom. Fourth; There should be some revisions pertaining to PBM Nos. 9

and 8, particularly in relation to the article that allows some space for citizens to determine whether or not the establishment of houses of worship is possible.

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