

Islam and Democracy

(Guarantee of the Right to Freedom of Opinion in the Principle of Religious Moderation)

Imam Sukadi^{1,*}, Mila Rahayu Ningsih²

¹ Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

² Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

* Corresponding author. Email: imam.sukadi@gmail.com

ABSTRACT

The principle of democracy upholds the rights of every citizen in terms of freedom of expression. Muslim has rights and even has to think and argue. The right to freedom of expression should not violate the rights of other people because basically, every citizen has the right to freedom of opinion which has the same position. Freedom of opinion must also prioritize unity because the Indonesian nation is a nation that is diverse and rich in culture. This freedom of opinion must be used to spread good, and not for spreading evil and injustice. A person may express their opinion freely, as long as they do not violate the law, such as blasphemy, slander, against the truth, insulting other people's beliefs, or by following their own will. The understanding of freedom of opinion in religious moderation must be understood contextually because Indonesia has many cultures, and customs. Moderate in Islamic thought is to promote a tolerant attitude towards differences and openness to accept diversity.

Keywords: Rights, Freedom, Opinion, Moderation, Religious

1. INTRODUCTION

The character of Islamic widely understood by people is inclusive and democratic. This doctrine requires actualization in concrete life in society. The reality of Islamic history that there was an authoritarian government wrapped in Islamic symbol, as was the practice of some of Abbasiyyah and Umayyah rulers. This is not a reason to legitimize that Islam is an undemocratic religion, because before that there were also experiments in democratization in Islamic history, namely during the time of the Prophet and Khulafaur rasyidin. Every society has a leader and is led, rulers and people, and the emerge of different social stratifications [1].

Democracy and freedom are often assumed to be two things in one inseparable package. The presence of a democratic system also presents freedom. In fact the essence of democracy cannot guarantee the existence of absolute freedom, there are a needs to have a commitment to build a tradition of freedom that is manifested in the formation and enforcement of a firm law that every citizen has the right to express their opinion. On the other hand,

even though our country constitution has guaranteed the right to convey an opinion for all citizen, democracy and the right to freedom of expression often face many obstacles in their implementation [2].

The principle of democracy upholds the rights of every citizen in terms of freedom of expression, to embrace a certain religion, and respect every opinion expressed by everyone [3]. The meaning of democracy itself requires everyone to avoid ethnocentrism. The democratic system provides opportunities and guarantees space for everyone to have and enjoy the freedom they have proportionally because their freedom is limited by the freedom of others [4].

According to Fahmi Huwaidi, democracy is very close to Islam and substantially in line with Islam. The arguments presented by Fahmi Huwaidi are; *First*, several hadith show that Islam wants a government that is approved by its people. *Second*, Islam rejection of the dictatorship. *Third*, in Islam, elections are the testimony of the adult people for the eligibility of a candidate. *Fourth*, democracy is an effort to restore the Khulafaur Rasyidin system which gave the rights of freedom to the people who

were lost when the Islamic system of power was transferred to the royal system. *Fifth*, an Islamic state is a state of justice and human equality before the law. The majority vote is not synonymous with digression, kufr, and ungratefulness. *Sixth*, legislation in parliament does not mean opposition to divine legislation [5].

Muhammad Husein Heikal argued that freedom, brotherhood and equality which are the watchwords of today's democracy are also among the main principles of Islam. The principles established by current democracy are also Islamic principles [6].

Islam as a religion that contains detailed laws, obligations and human rights also provides the right to freedom in the realm of expressing opinions in the context of *amar ma'ruf nahi munkar*. The most basic human potential that must be nurtured is the potential to give an opinion and it's clear that the development of this potential requires freedom in the form of no obstacles in expressing and conveying it.

Muslim has rights and even has to think and argue. Even the verses in the Quran call on people to think, argue, and contemplate the creation of the universe. Humans are required with the power and potential of their minds to know everything beneficial and detrimental to themselves. We are required to be free from all deviations and need to move forward to continue to spread virtue.

Indonesia as a country that using a democracy based on Pancasila also recognizes and protects the right to freedom of expression for all citizen. The fourth precept of Pancasila contains basic values, namely that every problem is resolved through consensus. The Indonesian nation upholds the consensus reached by deliberation as a form of the application of people's sovereignty or democracy in all aspects of the life of the nation and state.

2. ISLAM AND DEMOCRACY: THE RIGHT TO FREEDOM OF OPINION

Freedom of expression is one of the most important elements in the development of democracy and public participation in exercising their rights effectively in process to making a public policy. If people do not have the freedom to express their opinions or channel their aspirations, it can be said that the democratic process in a country is not going well and can lead to an authoritarian government [2].

Although the international law that binds the countries in the world that are members of the United Nations has guaranteed freedom of opinion and expression, this right still has limitations in its implementation. In Article 29 paragraph (2) of the Universal Declaration of Human Rights it is emphasized that: *"In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose*

of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

Normatively, Indonesia has adopted a state structure that accommodates the enactment of democratic principles such as freedom of opinion, freedom of religion, freedom to vote politically [7]. These kinds of freedoms have been mandated by the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) which is strengthened by Law no. 9 of 1998 on Freedom of Expressing Opinions in Public. Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms freedom of expression: *"Everyone has the right to freedom of association, assembly, and expression."* Meanwhile, Article 2 paragraph (1) of Law no. 9 of 1998 states that *"Every citizen, individually or in groups, is free to express opinions as a manifestation of the rights and responsibilities of democracy in the life of society, nation, and state."*

The concept of freedom of opinion must comply with Pancasila democracy, especially in the 4th precept. If there are violations committed either by certain individuals or by certain person, then all such violations will bring harm to other citizens of the country who feel pressured and hindered from their faith. The Indonesian Constitution has stipulated that freedom of opinion immediately gives not only the right to express opinions according to conscience, but also need to pay attention to social aspects and must not interfere with, or even eliminate the rights and interests of other citizens as a unity of the people who are intact and subject to Pancasila. If the mechanism for freedom of opinion that has been regulated in the constitution is violated, it is the same as disrespecting the noble values of Pancasila as the basis and soul of all sources of law in Indonesia.

The right to freedom of expression must not violate the rights of other people because basically, every citizen has the right to freedom of opinion which has the same position. To exercise the right to express the opinions adopted by our country, we must uphold the principles of freedom and responsibility. Free means that all ideas, thoughts, or opinions can be expressed freely without any pressure from anyone while being responsible means that these ideas, thoughts, or opinions must be based on common sense, goodwill, and applicable norms [2]. For that reason, every society must be able to filter incoming information and news and find out the truth. This is a form of balancing and neutralizing the flow of information that is so swift behind the challenges of Indonesia's democratic conditions. The efforts were also made to maintain the unity and integrity of the Indonesian nation, which could not be easily divided by the presence of persons who spread false information [8].

Freedom of thought and opinion is highly valued according to Islamic teachings. This can be seen from the

historical journey of early Islam at the time of the Prophet and his companions, or from the teachings of Islam itself. Freedom to think and express opinions is the freedom of each individual to think independently about everything around him, phenomena that cross his mind, and hold on to the results of his thoughts, and express them in various forms [9].

Then freedom of expression (*hurriyyat al-ra'y*) is the most important aspect of free speech [10]. Freedom of opinion in Islamic governance is the right of the individual which leads to his interests and conscience which the state cannot reduce or be abandoned by individuals. This is important for the condition of thought and humanity of each individual, so that a Muslim can carry out his Islamic obligations. These obligations include doing *amar ma'ruf nahi munkar*, which requires the ability to express opinions freely.

According to Nurcholish Madjid, freedom of thought and opinion, as individual activities is distinguished between worship and non-worship activities. If its a non-worship, a Muslim is free to think and argue based on the rules of *fiqhiyyah al-ashl fi ghayr 'ibadah al-ibâhah illâ idzâ mâ dall al-dalîl' alâ khilâfih* (as long as it is outside of worship it is permissible, unless there are religious arguments forbid it). This shows that it is not right to prohibit something if Allah allows it, and it is not right to allow something if Allah forbids it. Freedom of thought and opinion can be exercised with a high level of freedom of expression [11].

Freedom of opinion in the manifestation of improving the quality of democracy that operates in a country can also be seen from empirical measures. One of the measurement tools for evaluating the performance of a country's democracy is by looking at the democracy index. One measure of the democracy index is carried out by the Economist Intelligence Unit which evaluates the condition of democracy in 167 countries. The index is based on 60 indicators which are grouped into five categories. Among the aspects of democracy that are measured are pluralism, civil liberties, and political culture. The measure classifies the countries measured into four main groups: full democracies [score 8,0-10]; flawed democracies [score 6,0-7,9]; hybrid regimes [score 4,0-5,9], and authoritarian regimes [score 0-3,9] [12].

Indonesia is ranked 64th out of 167 countries in the list of democracy index in 2019. According to data released by The Economist Intelligence Unit (EIU), Indonesia recorded a score of 6.48 points on a scale of 0-10. The score for Indonesia's democracy index this year is relatively low when compared to the previous year. Indonesia was ranked 48th with a score of 6.79 in 2016 and fell in 2017 to rank 68. In the Asia and Australia region, Indonesia's democracy index in 2019 is lost to neighbor countries such as Malaysia (ranked 43rd) and Timor Leste (ranked 41st) [12].

The parameters of democracy can be used as a benchmark in seeing the ups and downs of democracy in Indonesia. In any case, our country is quite supportive of the growth and development of democracy. According to Robert Hefner, Indonesia does not have "civilizational irregularities" (civilizational malady) that can hinder the growth of democracy [13]. The religious factor (especially Islam) as widely assumed by the incompatibility thesis group, does not prove to be an obstacle to democratic life [14]. On the other hand, religious factors contribute significantly to the application of democracy in the life of the nation and state. Through mass organizations that carry a moderate Islamic base such as NU and Muhammadiyah, religious values such as tolerance, openness, respect for human values, justice, and equality can be maintained properly and can foster a democratic spirit in this republic.

3. GUARANTEE OF THE RIGHT TO FREEDOM OF OPINION IN RELIGIOUS MODERATION IN INDONESIA

The guarantee of freedom of expression has been stated in the Indonesian Constitution. Article 28 of the 1945 Constitution of the Republic of Indonesia states that "*The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law.*" The guarantee of freedom of opinion is also regulated in Article 28 E paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "*Everyone has the right to freedom to belief, to express thoughts and attitudes, according to their conscience, and Article 28 E paragraph (3) which states that every people have the right to freedom of association, assembly and expression of opinions.*", as well as Article 28 F of the 1945 Constitution of the Republic of Indonesia which states that "*Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.*"

Apart from guarantees in the constitution, various laws also regulate and guarantee that freedom of expression is a human right. This can be seen in Article 2 paragraph (1) of Law no. 9 of 1998 concerning Freedom of Expressing Opinions in Public, which states that *every citizen, individually or in groups, is free to express opinions as a manifestation of democratic rights and responsibilities in the life of society, nation and state.* Likewise, Article 23 paragraph (2) Law no. 39 of 1999 concerning Human Rights states that *everyone is free to have, issue and disseminate opinions according to their conscience, orally and or in writing through print and electronic media with due regard to religious values, morality, order, public interest, and the integrity of the State.*

However, in expressing his opinion, someone must respect the rights of others and comply with the applicable law. This is as stated in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that “*In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.*”

Everyone has the right to express their opinion in public and to realize what is their conscience. A person with a Pancasila spirit and a Godhead will not sell God's name for the sake of the group and degrade the beliefs of others. Because basically, the concept of God Almighty emphasizes the appreciation of the universal image of God and does not refer to God of a particular belief and religion. Divinity is the belief in one God, who is compassionate, preserver, and creator of the universe. Then, freedom of opinion based on a just, civilized humanity means obeying and protecting the natural rights of humans, such as not expressing opinions that can threaten the right to life, as well as other basic rights regulated in the Indonesian constitution [15].

Freedom of opinion must also emphasize unity, and always remember that Indonesia is a diverse and culturally rich nation. However, let those differences become a cultivator of a sense of unity and belonging, not as a stumbling block to become divided. The delivery of freedom of opinion must also uphold democracy, where all differences of opinion will be resolved by consensus in the public interest, and finally freedom of opinion that prioritizes social justice, which does not interfere with the rights of any party, whether the majority or minority groups are guaranteed and cared for. If the freedom of opinion follows the mechanisms and limitations based on Pancasila, a democratic constitutional state will be achieved.

Indonesia as a country that has the largest Muslim population in the world is an important spotlight in terms of religious moderation. Islam as the majority religion of the Indonesian nation is moderate Islam. Moderate Islam is a religious understanding that is very relevant in the context of diversity in all aspects, including religion, customs, ethnicity, and the nation itself. The understanding of religious moderation must be understood contextually, not textually. The way of understanding religion must be moderate because Indonesia has many cultures, and customs. Islamic moderation can answer various problems in religion and global civilization and moderate Muslims can respond loudly with peaceful actions [16].

Moderate in Islamic thought is to promote tolerance in terms of differences and openness to accept diversity (inclusivism). Differences do not prevent us from cooperating, on a human basis. Believing in the truest

religion of Islam does not mean that you have to insult the other religion so that there will be brotherhood and unity between religions, as happened in Medina under the command of the Prophet Muhammad [17].

Islam and Muslims today face at least two challenges; *First*, the tendency of some Muslim circles to be extreme and strict in understanding religious texts and try to impose this method in Muslim society, even in some cases using violence. *Second*, another extreme tendency by being loose in religion and submitting to negative behavior and thoughts originating from other cultures and civilizations. They cite religious texts (Al-Qur'an and Hadith) and works of classical scholars (*turats*) as a foundation and framework of thought, but by understanding them textually and regardless of historical context [16].

Moderate Islam or what is also referred to as *Wasathiyyah Islam* comes from two words namely Islam and *wasathiyyah*. Islam as it is known is a religion that is full of blessings, and the religion brought by the Prophet Muhammad. Islam is the majority religion in Indonesia with the largest population in the world today. The word moderation in Arabic means *al-wasathiyyah*. *Al-wasathiyyah* comes from the word *wasath*. Al-Asfahaniy defines *wasathan* with *sawa'un* which is the middle between two boundaries, or with justice, which is middle or standard or mediocre. *Wasathan* also means guarding against being uncompromising and even leaving the line of religious truth [16].

The moderation of Islamic teachings *following rahmatan lil 'alamin's* mission requires an anti-violence attitude in society, understanding the differences that may occur, prioritizing contextualization in interpreting divine verses, using *istinbath* to apply the latest laws, and using scientific and technological approaches to justify and address the dynamics of problems in Indonesian society. It is fitting that differences in attitudes become a dynamic of social life which is part of civil society. The existence of moderate Islam is sufficient to guard the consistency of Islam that has been brought by Rasulullah *Shallallahu 'Alaihi Wasallam*. To restore the true image of Islam, moderation is needed so that other adherents can feel the truth of the teachings of Islam that *rahmatan lil 'alamin*.

According to Masdar Hilmy, in the Indonesian context, the attitude of moderate Islam can be reflected in the following characters; 1) dissemination of Islamic teachings through non-violent ideology, 2) adopting a modern way of life with all its derivations, including technology, democracy, human rights, and the like, 3) using rational thinking, 4) understanding Islam with a contextual approach, and 5) using *ijtihad* in finding solutions to problems that are not found justification in the Quran and hadith [18].

Moderate Islamic teachings in the context of religious moderation are also relevant to the right to freedom of expression. Freedom of opinion is the right of an individual

which leads to his interests and conscience which the state cannot reduce or be abandoned by individuals. This is important for the condition of thought and humanity of each individual, so that a Muslim can carry out his Islamic obligations. Among these obligations is to do *amar ma'ruf nahi munkar*, which requires and requires the ability to express opinions freely [19].

This freedom of opinion must be used for the purpose of spreading good, and not for spreading evil and injustice. A person may express their opinion freely, provided that they do not violate the law regarding blasphemy, slander, against the truth, insulting other people's beliefs or by following their own will. Islam teaches that under any circumstances it will not allow evil and abominations, nor does it give anyone the right to use abusive or derogatory language in the name of criticism [20]. Freedom of opinion must be in accordance with the general principles of Islamic law, namely obliging every human being to uphold and implement what is right, erase and avoid what is wrong [21].

4. CONCLUSION

Indonesia as a democratic country, freedom of opinion does not have to be merely free to express opinions but must be responsible and ethical in expressing opinions. Determining the parameters of the ideal ethical values in arguing is very difficult. Any attempt to determine the boundaries of ethical values of opinion will be punished as castration of opinion. Ethics of opinion need not be in accordance with Eastern custom ethics or politeness ethics. Expressing an opinion must be in accordance with actual facts without having to justify facts that are still unclear. That is, in freedom of opinion, it is not permissible to reverse the existing facts, this is in accordance with the teachings of Islam which is *rahmatan lil alamin*.

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