

# Islam and Minority in Indonesia: Muslim's Intolerant to the Heterodox Sects

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***Abstract---** Religious-based violence and intolerance are of the issues that have made religious life dynamic and peculiar in post-reform Indonesia. Some small groups sects considered as a heterodox become victims of violence. Although religious communities in Indonesia are generally tolerant, they tend to be intolerant of heterodox sects accused of heresy. This paper aims to investigate the factors that have led Muslims to be intolerant to heterodox sect groups. By tracing the data of intolerance and violence against heterodox sects, investigating religious fat was and some court decisions against heterodox denominations in Indonesia and deploying political approach, this paper argues that Islamic intellectualism from the earlier was less amiable to the heterodox group that met with a new outgrowth of the theocratic constitutionalism in different parts of the world. This paper also argues that the attitude is a continuation of the pattern of sect relations in Islam that is more colored by hostility and mutual disregard and is not merely because of differences in interpreting Islamic orthodoxy, but also of political competition.*

***Keywords---** Minority, Orthodox, Heterodox, Theocracy Constitutionalism, and Intolerant.*

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## I. INTRODUCTION

One of the important phenomena of religious life in Indonesia after the reformation is the increasing number of cases of violence based on religion and belief. Interfaith tensions due to issues of places of worship appear in various places.

Likewise, conflicts and violence experienced by small sects that are considered to deviate from the mainstream also occur in various regions.

Expulsion from residence, persecution and even murder of followers of heterodox minority sects became a common symptom in society. There is even a tendency that people are more able to tolerate people who are not religious, rather than to tolerate religious groups that are considered heretical.

Before the reformation, in general these heterodox groups already existed. Although some people disagree with and dislike heterodox groups, they do not experience unpleasant treatment. The Ahmadiyah sect, for example, which has existed in Indonesia since 1925, has not experienced expulsion, persecution and death threats.

Likewise experienced by the Shia sect, Ahmadi are also relatively able to live side by side with no significant interference from different groups. But the situation changed, especially in the early 2000s.

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The religious life report issued by the Wahid Institute (now changed to the Wahid Foundation) in the last ten years shows the symptoms of increasingly severe threats experienced by heterodox groups.<sup>2</sup> In addition to the pressure experienced by Ahmadiyah and Shia, the sect and a number of people accused of spreading cults and desecrating Islam have also been convicted of blasphemy.<sup>3</sup>

Some studies try to explain what has been actually happening in Indonesia. The most common explanation says that these developments are a product of democratization and decentralization where vigilante organizations such as the Islamic Defender Front (*Front Pembela Islam*[FPI]) and Hizbut Tahrir Indonesia (HTI) take the opportunity. Since 2005 when there were direct regional head elections, both at the provincial and district / city levels, they influenced local leaders [1]. The lively regulation of religious nuances in a number of regions is also often referred to as strong evidence of the influence of conservatives in influencing local policies [2].

Martin van Bruinessen [3] called this phenomenon a conservative turn, by which he meant the the strengthening of conservative forces in various layers of community power. Martin made general observations on various social organizations that were increasingly dominating. In the observations of Martin, NU and Muhammadiyah as moderate Islamic forces in Indonesia increasingly controlled by conservatives. Likewise, other social spaces, including the mass media, are increasingly dominated by conservatism. In Martin's view, the turning point for the strengthening of conservatism was marked by the issuance of a fatwa from the MUI in 2005 which forbade liberalism, secularism and pluralism. Since then, conservative forces like getting fresh air to control public space. Through a conservative turn explanation, Martin indirectly asserted that so far conservative forces can be marginalized and now begin to dominate and control public space. The problem is whether conservatism is the original face of Indonesia or is it an anomaly of Indonesian Islam that does not get satisfactory discussion.

Noorhaidi Hasan [4] explain that the strengthening of intolerant groups that commit violence to minority groups cannot be separated from the failure of the government in managing plurality and diversity in the community. The existence of blasphemy law [5] is used as an excuse for intolerant groups in committing acts of violence against small sects which are considered heretical and committing religious blasphemy. Similar to Noorhaidi Hasan, Melissa Crouch [6] have argue that Inter-religious and internal religious conflicts cannot be separated from the government's failure to manage pluralism and diversity. According to her, this is inseparable from the consolidation process that is happening in Indonesia where there is politicization of religion in various regions which results in the discrimination of minority groups. The interaction between religion and the state is strongly influenced by relations between religious groups in the transition process. She also emphasized, the problem of managing diversity is not typical in Indonesia, but also occurs in various other parts of the world.

In contrast to Martin, Noorhaidi, and Melissa Crouch, Jeremy Menchick (2014) explains the rise of intolerance is related to the roots of Indonesian nationalism, which from the beginning emphasized the divine aspect, which he called godly nationalism. In contrast to nationalism which developed in other parts of the

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<sup>2</sup>The Wahid Foundation has issued a Report on Religious Life in Indonesia since 2008. Some of its reports can be accessed via <http://wahidfoundation.org/index.php/publication/index/report> page

<sup>3</sup>The results of the Setara Institute study (2017) stated that during 1965-2017 there were 97 cases of blasphemy. The case of alleged blasphemy has increased since the Orde Baru regime collapsed. Before the reformation there were only nine cases of blasphemy, but after the reform the number of cases swelled to 88. Of the 97 cases of blasphemy, 76 cases were settled through trial proceedings and the remainder were outside the trial or non-justice. In these cases, Islam became the most desecrated religion, 88 cases. Whereas Christian 4 cases, Catholic 3 cases and Hindu 2 cases.

world, Indonesian nationalism is very thick with the spirit of divinity. Godly nationalism is a form of nationalism that lies between religious nationalism and secular nationalism, making religious orthodoxy the main ingredient in the formation of nationalism. Menchick defines godly nationalism '...as an imagined community bound by a common, orthodox theism and mobilized through the state in cooperation with religious organizations in society.' Thus, divine nationalism is nationalism where a nation is bound by orthodox theism and mobilized through a country that cooperates with religious organizations in the community.

Menchik explained that the principle of 'Ketuhanan Yang Maha Esa' requires the Indonesian people not only to have God, but also to have religion. When these demands are revealed to the question of "what belief system or religion should be chosen," Indonesia falls on the choice of divine nationalism, where orthodox religion becomes an important part that binds it. The state provides active support for religious life, but expressly rejects various possibilities that could drag Indonesia into a religion state. This spirit of godly nationalism is used as the basis of various religious regulations, including regulations regarding blasphemy and the prohibition of the existence of religious sects which are considered heretical.

Through the eyes of godly nationalism, Menchik answered the questions that were often raised by various parties, why moderate religious organizations, such as NU and Muhammadiyah, seemed passive — even in some cases involved — when violence against religious groups / non-mainstream beliefs occurred. In fact, even law enforcement officials seem to have no firmness in attitude. From Menchik's perspective, non-mainstream beliefs cannot be tolerated within the limits of the ideology of divine nationalism. That is why law enforcement officials and mainstream religious groups are in a line to get rid of groups of beliefs that are considered heretical. Thus, in Menchick's view, intolerance is not just a matter of the failure of the government to manage diversity, as stated by Noorhaidi Hasan, but is embedded in the nationalism and ideology of the Indonesian nation.

Unlike Jeremy Menchick, Ahmad Zainul Hamdi [7] proposed different argument. He said that the government's attitude to heterodox sect is depend on the political situation. Heterodox groups such as Ahmadiyah and Shia can live peacefully in a long time in Indonesia. The state also does not take any action against them. Thus, the ideological perspective of godly nationalism that is used to legitimize acts of intolerance and violence is not entirely true, but it depends on political and social situation.

With a political-sociological approach, this paper argues that Muslim intolerance to heterodox groups is not merely a matter of the consequences of democratation and decentralization, the government's failure to manage diversity, and conservative turn, or godly nationalism, but continuation of islamic intellectualism from the beginning was indeed less friendly to groups that were considered heterodox. This unfriendly discourse on Islam met with a new flow of strengthening theocratic constitutionalism that had become prevalent in various parts of the world.

After discussing the discourse on Islam and minorities, which emphasized the dynamics of relations between orthodox versus heterodox groups in Indonesian Islamic history, the author, the paper will explore the data of violence experienced by heterodox groups issued by a number of institutions that monitor the situation of religious life in Indonesia. The data issued by the Wahid Foundation and the Setara Institute will be referred to to obtain a picture of threats and persecution experienced by heterodox groups. The number of fatwas from

Majlis Ulama Indonesia (MUI, the council of Indonesia ulama), Nahdlatul Ulama (NU) and Muhammadiyah, and also court decisions, will be used as a material of analyses.

## II. ORTODOX VERSUS HETERODOX IN ISLAMIC HISTORY

The position of minority groups in Islam cannot be separated from the surrounding socio-political situation. Kamal Said Habib [8] reviews how the political authority of the early days of Islam until the Ottoman period treated minorities, both Muslim and non-Muslim minorities. The treatment of non-Islamic minorities, the standard is guided by Islamic normative documents or the practice of Muslim rulers standardized in the *zimmah* system which assumes that Islam is the holder of political authority and even becomes the basis of the state. In this system, non-Muslims are positioned as a group that must be protected even though their position is not equal to that of Muslims. More problematic and complex is precisely the treatment of the internal minority of Islam, which Kamal Said defined as those who emerged from the mainstream consensus of the *ummah* (*al-farq al-khârijah 'an ijmâ 'al-ummah*). Kamal Said pointed out that in the history of Islamic politics, those who were labeled as a splinter or devian position were very dependent on the definition of a group or sect in power. Therefore, devian, splinter and minority groups can change treatment from one political regime to another.

Kamal Said further sorted out a number of categories of a regime's attitude towards minority groups of Islamic sects. According to him, there are three categories of a regime's attitude. First, the attitude towards heterodox groups is largely determined by the strategic interests of political authorities, not solely based on the heretical or not religious beliefs adopted, but the extent of profits and losses in favor of the minority. If politically the bias towards the minority does not bring benefits, it can even be detrimental, the minority does not receive adequate political protection. Second, the attitudes of political authorities are also determined to determine the level of their threats to strategic interests of political sovereignty. If it is considered a threat to the authorities, the group will get political pressure. Third, if a minority group is considered to threaten the country, the threat aspect is still divided into two: 1) threats to the identity and legality of the state that are latent, so that they are not acted repressively; 2) a real threat to the level of stability and social security, where political authorities usually take concrete and repressive actions. They are categorized as rebels (*bughat*), dissidents, or separatist groups whose threats to the state have shifted from latent to manifest.

The heterodox sects are a common symptom that appears in all religions, and is not a typical of Islam. This appears as a consequence of differences in interpreting religious teachings on the one hand, and differences in responding to social developments that occur. The orthodox is assumed to be a person or group that adheres to the official teachings of the religion adhered to by the majority, while heterodox people are those who adhere to different ideologies with the understanding of many people or deviating from official understanding. Orthodox and heterodox determinations cannot be separated from the seizure of religious authorities which sometimes coincide with political power.

The history of heterodoxy in Islam has been recognized since the time of the Prophet Muhammad was still alive. Ten years after hijrah to Madinah, Prophet Muhammad faced the recognition of Musailamah bin Habib, a figure from the Bani Hanifah who controlled the Yamamah region (now around Riyadh). As told by a historian Ibn Jarir a-Tabari (838-923 AD), [9, pp. 137-138] Musailamah claiming himself to be a prophet. Musailamah is not a stranger to the Prophet Muhammad. A few months before sending a letter to the Prophet Muhammad and claiming to be a prophet, Musailamah participated in a delegation from Yamamah who met the Prophet

Muhamamd in Medina and testified to his apostleship. Receiving a letter from Musailamah who claimed to be a prophet, the Prophet Muhammad did not immediately get angry, fight and force him out of Islam, but enough to reply to letters and call Musailamah a liar (*al-kazzab*). [10]

But after the Prophet Muhammad died (632 AD), Abu Bakr as caliph (632-634 AD) took a different step. He chose to fight Musailamah and some people who claimed to be prophets such as al-Aswad from Yemen and Tulaikhah bin Khuwailid from Banu As'ad, who were considered dangerous, not only because he claimed to be a prophet but also claimed to separate himself from the Islamic community under the leadership of Abu Bakr . They also refused to pay zakat handed over to Islam under the leadership of Abu Bakr, so Abu Bakr launched a military expedition to quell the apostasy movement by the false prophets, who according to him had undermined the sovereignty of the Caliph and endangered the unity of the Ummah. This Abu Bakr war was known as the war against apostasy (*hurub al-ridda*). [11, pp. 27-32]

In subsequent times, persecution of people who were deemed to develop deviant teachings was experienced by a number of philosophical Sufi figures, such as Abu Yazid al-Bustami (d. 947 AD) who have doctrine of *ittihad* (a feeling of a Sufi who is united with God). Husein Ibn Mansur al- Hallaj (d. 922 AD) who developed the notion of *hulul* (understood that God descended to unite with the chosen human body) and Ibn al-'Arabi (d. 1240 AD) who developed the understanding of *wihdat al-wujud* (the union of God with beings) also persecuted by orthodox ulama. Among the three, al-Hallaj accepted the most tragic fate because he had to be executed by the Abbasid rulers because his teachings were deemed deviant. The statement of *ana al-Haq* (I am the Truth) is considered to deviate from the Islamic faith.

Persecution because of differences in theological understanding also occurred during the reign of the Abbasids (750-1250 AD), namely in the period of the Caliph al-Makmun (813-833 AD). Caliph al-Makmun applied the Mu'tazilah notion as the standard of truth of Islamic orthodoxy, especially related to the conquest of the Koran because there was no *qadim* (eternal) other than Allah. The notion that deviates from the Mu'tazilah is considered an error that must be rectified. Caliph al-Makmun ordered that the clerics be gathered and interrogated whether they thought the Koran was qadim or creature. Who answers the Koran is a creature, he survives. But if on the contrary, he will be tortured until he acknowledges that the Koran is a creature. One of the great scholars who fell victim to al-Makmun's policy was Imam Ahmad bin Hanbal (780-855 AD) who did not want to follow Mu'tazilah's understanding even though he was at risk of being imprisoned and tortured.

### **III. ISLAMIC HETERODOX SECTS IN EARLY OF INDONESIAN HISTORY**

The history of Islamization in the archipelago also kept the eradication of heterodox believers who were considered heretical. Oman Fathurrahman [12] conducted a very good mapping study of the history of marginalization of the bearers and followers of religious teachings that were deemed deviant — especially in philosophical Sufism — in sixteenth-century Malays and Javanese to XIX. From this study it appears that the process of Islamization in Indonesia has been wrapped up in heterodoxy as happened in the Middle East as the center of the development of Islam.

In the history of Islam in Malays and Javanese, heterodoxy has afflicted many figures who adhere to the concept of Wihdatul Wujud or Manunggaling Kawula Gusti subjects. In Aceh in the 17th century there was a tense orthodox represented by Nuruddin ar-Raniri (d. 1658) with Sufism followers wujudiyah Hamzah Fansuri

(d. 1590) and Syamsuddin Sumatrani (d. 630 AD). This manifestation of the rejection of Wujudiyah not only at the level of ideas, but also extreme actions that led to repressive actions.

More or less the same thing happened in Java. Syaikh Siti Jenar was one of the figures who was considered to have practiced heterodox Sufism so that he was judged during the reign of Sultan Demak Raden Patah, for Walisongo's blessing as a representative of the guards of orthodoxy on Java. Syaikh Siti Jenar was accused of having developed a deviant religious understanding because he followed al-Hallaj's *wihdatul form*. It is said, one of Walisongo, namely Sunan Giri, asked why Syaikh Siti Jenar had never been present at the mosque for Friday prayers, he replied that in essence there was no Friday, there was no mosque, and there was nothing, other than the Absolute Form of God. This answer makes Syaikh Siti Jenar considered a Javanese al-Hallaj who endangers the faith.

The same fate was accepted by Haji Ahmad Mutamakin, a cleric from Kajen Pati, whose teachings were considered heterodox, but did not get sentenced to death even though Ketib Anom Kudus proposed to Raja Kartasura Pakubuwana II so that Ahmad Mutamakin was sentenced to death [13]. Orthodox clerics together with the ruler of the Kingdom of Kartasura united to guard orthodoxy by controlling religious teachings so as to "not deviate". In contrast to Ahmad Mutamakkin who was forgiven and was not sentenced to death, Sunan Panggung, son of Sunan Kalijaga, who lived in the 16th century was accused of being an infidel and killed because he was accused of following deviant teachings from Islamic law. Because of his love for God, Sunan Panggung is told not to see anything around him except God. Sunan Panggung is also told to keep two dogs named 'Faith' and 'Tawhid' which are always brought into the mosque.

This understanding and behavior made the Walisongo scholars, except Sunan Kalijaga, consider Sunan Panggung to damage Islamic law and endanger the community. The story of envy and the punishment of Syaikh Siti Jenar and Sunan Panggung clearly have the same motives. The difference is, if Syaikh Siti Jenar's life ends with beheading law, then Sunan Panggung lives on the coals with his two pet dogs. The infidelity and punishment of heterodox teachings in Java was also carried out against Ki Bebeluk in the period of the Kingdom of Pajang and Syaikh Among Raga in the Kingdom of Mataram. Both are considered to adhere to mystical teachings that conflict with Shari'a orthodoxy so that they are sentenced to death by drowning in the ocean. [12]

Based on this description, it is clear that Islamic orthodoxy, among others, is enforced by suppressing and punishing - even punishing death - people who develop heterodox ideology. This was done with the motive to maintain religious purity from heterodox ideology. In many cases, the act of eradicating heterodoxy was carried out jointly by ulema guards of orthodoxy with political authorities.

#### **IV. AGAINTS MINORITY: THE INTOLERANT ATTITUDE THROUGH FATWA AND COURT DECISIONS**

The issue of heterodox groups in the contemporary development of Islam in Indonesia does not decline. After the reform era 1998 persecution of heterodox groups actually increased. In contrast to the heterodoxy in the early days of the development of Islam and in the process of Islamization in the archipelago in the XV-XIX century which was much related to the problem of philosophical Sufism, heterodoxy in contemporary Indonesia was not associated with Sufism, but more related to the relations of religious schools. Some are continuations of conflict in the middle east, and some other are concerned about local religious schools. The pattern of attitudes

towards heterodox groups is more or less the same as in the past even with adjustments involving the community, religious organizations and state apparatus. In some cases there were mass riots, expulsion of heterodox groups from their hometowns, burning and destruction of property, and even murder. Religious organizations, especially the Indonesian Ulema Council - both central and regional levels - provided fatwa for the group's error, and some of them were sentenced by the court to blasphemy.

The suppression of heterodox groups that are considered heretical in Indonesia after the reform took place mainly in the range of 2004-2014 when President Susilo Bambang Yudhoyono (SBY) came to power. This can not be separated from the speech delivered by SBY during the opening of the 7th MUI National Conference in mid-2005. On this occasion President SBY wanted the MUI to become a central role in the Islamic faith. *"Thus, it will be clear the difference between which is the government area and everywhere should the state or government listen to the views of the MUI and the ulama"*. The statement indicated the inferiority of the SBY government under the superiority of the MUI. Therefore it is not surprising that at this time the position of the MUI related to heterodox groups was very powerful. Enforcement of small groups accused of being heterodox is always traces of MUI in various levels. The action of government officials and law enforcers on heterodox groups is always based on the MUI fatwa. This fact is the argument that the excessive action against minorities is associated with the government's failure to manage plurality and diversity. [4]

Misdirection of the religious understanding of Ardhi Husein in Probolinggo who led the Padepokan Yayasan Kanker-Narkoba Cahaya Alam (YKNCA) was the aftermath of the MUI Fatwa Probolinggo (2005). Likewise, the misdirection of Yusman Roy's two-language salat (prayer) in Malang (2006), followers of Losarang Dayak (2007), Majelis Dzikir Asmaul Husna in Garut (2007), tarekat Wahidiyah in Tasikmalaya (2007), recitation group Life Behind Life in Cirebon (2010), the Robbani Pole in Sukabumi (2005), Shiite heresy [14] and so on cannot be separated from the involvement of the local MUI. The Central MUI also issued a number of heretical fatwas against several groups such as fatwas against followers of the Salamullah religion led by Lia Eden who had been issued in 1997, Qiyadah Islamiyah (2007)[15] Fajar Nusantara Movement (Gafatar) 2016 community [16], and Ahmadiyah (1980 and 2005). A number of the fatwas make MUI an important actor - although not the only one - intolerance and acts of violence against heterodox groups, even though the MUI has always refused if the fatwas are associated with acts of violence against heterodox groups. All of the fatwas for deception are based on claims to protect the faith of Muslims.

The Indonesian Ahmadiyya Community (JAI) can be appointed as a group that accepts discrimination, intimidation and assault in various regions. Since early 2005, the intensity of attacks experienced by JAI has increased. In addition to the closure of the JAI head office in Parung Bogor, one of the saddest events was the attack to the killing of JAI followers in Cikeusik, Pandeglang, Banten. [6] In Manis Lor Kuningan, West Java, Ahmadiis were repeatedly intimidated, even thousands of JAI residents there could not get e-KTPs. After getting pressure from various parties, the Kuningan Regency Government only gave ID cards to thousands of residents of JAI Manis Lor in early 2018. Although Ahmadiyya has been in Indonesia since 1925, pressure began to be felt since 1980 when the Indonesian Ulema Council issued a fatwa that JAI was a cult, because it acknowledges the existence of the Prophet After the Prophet Muhammad, namely Mirza Ghulam Ahmad who was also the founder of Ahmadiyah. The fatwa was reinforced in 2005.

Since the 2005 MUI fatwa and anti-Ahmadiyya movements have emerged in various places, in 2008 the central government issued a Joint Decree (SKB) of the Minister of Religion, the Attorney General (Jaksa Agung) and the Minister of Home Affairs (Menteri Dalam Negeri) which essentially gave warnings and ordered followers, members, and / or members of the Jama'at Ahmadiyah Indonesia (JAI), as long as they claim to be Muslim, to stop the spread of interpretations and activities that deviate from the teachings of Islam. This decree was then followed by regional governments, both at the provincial and district / city levels, making regulations that were more or less the same. East Java Governor issued Decree No. 188/94 / KPTS / 013/2011 which prohibits JAI activities that can trigger and cause disruption to the orderliness of the East Java community. The same thing was done by the Governor of Banten by issuing Governor Regulation No. 5 of 2011 which also prohibits JAI activities in the Banten region. The Governor of West Java also issued Governor Regulation No. 12 of 2011 which also prohibits JAI activities in the West Java region. At present the pressure on JAI is indeed much reduced even though small events still occur, as happened in East Lombok. [17] Ahmadiyya residents who took refuge in Transito for 12 years have also not been resolved completely even though various efforts have been made. [18]

More or less the same was experienced by the Shia community, although the persecution experienced was not as intense as JAI. Pressure on the Shia community began to strengthen in 2007 with the emergence of small events in several areas such as at the Yapi Islamic Boarding School (*Pondok Pesantren*) in Bangil Pasuruan which were considered to instill Shia understanding. Anti-Shiite groups held a large-scale demonstration in the Pasuruan square which voiced that the Shia were cults and had to be dissolved. [19] The same thing also happened at Ampenan Mataram where the commemoration of the Ashura incident by the Shia community was dissolved (13/1/2008). The most alarming Shia events took place in Sampang Madura (08/26/2012) where dozens of Shiite families were evicted from their hometowns, their homes were burned, and some were killed. Until now dozens of Shia residents still live in refugee camps in Sidoarjo. Although there are a number of circles that simplify this conflict as a family problem, even competition between siblings to fight over a woman. It cannot be ignored that the Shia Sampang issue is far more complex than just a family problem, starting from the issue of local conflict, the history of Shiite-Sunni relations in Islamic history to the global political issues of Saudi Arabia and Iran's competition. [20]

The Shiite conflict in Sampang Madura is inevitably a public concern. The main stream that emerged was directing the Shia as a cult. The Minister of Religion at the time, Suryadarma Ali, stated that the Shia were heretical and not Islamic [21] even though on other occasions he avoided using the word "heretical". [22] Likewise, the East Java MUI made a fatwa that Shia is a heresy, [23] and even NU Sampang, which is usually tolerant, also made the Shia statement a cult. [24] The culmination of this development was the guilty verdict of blasphemy against Tajul Muluk - the Shia leader of Sampang - by the Sampang District Court, which was tested in the East Java High Court and appealed to the Supreme Court, with 4 (four) years in prison. [25]

This Shiite deception is an important shift in viewing minority groups such as Shia. The issue of Shia has indeed been a conversation in Indonesia since the 1980s, but no one has reached the level of accusing heresy. In the MUI National Working Meeting (Rakernas) on March 7, 1984 in Jakarta, for example, it was recommended that Indonesian Muslims need to be aware of the infiltration of Shiites because their teachings differed from the Sunni majority in Indonesia. In addition, the Executive Board of Nadhlatul Ulama (PBNU) issued an official

letter No.724 / A.II.03 / 101997, dated October 14, 1997, signed by Rais Am, M Ilyas Ruchiyat and Katib KH. Drs. Dawam Anwar, who reminded the Indonesian people not to be fooled by Shiite propaganda and the need for Indonesian Muslims to understand the different principles of Shi'ism with Islam. A rather strange statement was actually passed on by the Ministry of Religion which issued circular letter No. D / BA.01 / 4865/1983 dated December 5, 1983 concerning matters concerning the Shia group, declaring Shia not suitable and even contrary to Islamic teachings. Although the tone of dislike of the Shiites has emerged since the 1980s, in general they still recognize that the Shia are part of Islam, not a cult.

The passion for controlling religious minorities has intensified with the emergence of the MUI fatwa which provides guidance for detecting cults. In the 2007 National Working Meeting (Rakernas), the MUI issued 10 criteria for cults that must be observed:

- 1) The group rejects one of the six foundations of Islamic belief (rukun iman) and one and the five of foundations of Islam (rukun Islam).
- 2) The group believes in and follows a faith that is not in line with the teaching of the Qur'an and Sunna.
- 3) The group believes in the presence of revelation after the Qur'an.
- 4) The group rejects the authenticity of the Qur'an's content.
- 5) The group interprets the text of the Qur'an without referring to the principal foundation of the science of exegesis.
- 6) The group refuses the position of hadith (Muhammad's saying) as the source of Islam.
- 7) The group humiliates, harasses, and denigrates the dignity of Muhammad.
- 8) The group rejects that Muhammad was the last prophet in Islam.
- 9) The group changes, adds to, or reduces any fundamental part of worship as determined by Sharia, such as asserting that the hajj is not to Mecca, or that five-time-daily prayer is not compulsory for Muslims.
- 10) The group pronounces other Muslims as kāfir (unbelievers) without presenting a strong argument based on Sharia. [26]

The guide inevitably raises additional energy for certain groups to pursue the existence of heretical groups. The effect that later arose was the strengthening of social pressure on the Ahmadiyya and Shia sects, as well as other small groups accused of being heretical, even committing blasphemy. During this period, many small groups were accused of being heretical and some were brought to court. [27]

Such a trend continues to occur and not all problems can be resolved completely. The Sampang Shiite community is still driven from its hometown and lives in refugee camps in Sidoarjo, as well as the Ahmadiyya community in Mataram. They are also still experiencing social pressure even though the scale has diminished considerably.

## **V. HETERODOX SECT AND THE RISE OF THEOCRATIC CONSTITUTIONALISM IN INDONESIA**

The description above gives a fairly clear picture that heterodox groups or groups that deviate from mainstream Islam are phenomena that always appear in every historical period. The emergence of groups like this always raises debate in religious life, both related to relations between groups in society and related to state policy towards heterodox groups. The increasingly democratic order of life of people and countries is increasingly open to heterodox groups. Conversely, society and an increasingly authoritarian government will be

increasingly closed to heterodox groups. The act of expulsion and imprisonment of heterodox groups is a form of authoritarianism and closed society.

On that basis, the atmosphere of social political life largely determines the pattern of attitudes towards heterodox groups. In a political situation where religious groups tend to dominate the public sphere and the government is less courageous in taking a stand, the government's attitude will be driven by radical groups. As a result, heterodox groups will get strong pressure from the community on the one hand, and the government through law enforcement officials will criminalize them.

Some researchers who pay attention to Indonesian Islam, as mentioned in the early part of this paper, conduct studies on the symptoms of marginalization, even the destruction of heterodox groups. This explanation is generally associated with ideological issues of nationality and the government's ability to manage diversity. These analyzes can certainly be used to understand why this happened. Jeremy Menchick's explanation, for example, mentions the existence of peculiarities in Indonesia and plays a role in producing intolerance towards heterodox groups which are called godly nationalism, namely the type of nationalism in which the Godhead aspect is so closely embedded. The first pillar of Pancasila, "*Ketuhanan Yang Maha Esa*" born of struggle in the early days of Indonesian independence and interpreted as a supporter of theological orthodoxy legitimizes the intolerant actions of heterodox groups.

The point of view that tends to be ignored in seeing this problem is the global trend where religious orthodoxy has strengthened in almost all countries in the world. By looking at issues from a global perspective, it can be seen that intolerance to heterodoxy is not typical of Indonesia but a general trend in countries with symptoms that Ran Hirschl (2010) calls is a symptom of the development of constitutional theocracy. By carrying out a sophisticated and comprehensive analysis of the relationship between religion, constitution and judiciary in various countries in the world, Ran Hirschl concludes that the world is currently moving where the forces of religion and beliefs are increasingly dominant in the constitutionalism of the state. The principles of theocratic government in various variations spread to various parts of the world. Religious considerations, through their characters, are decisive in various policies taken by the government.

Hirschl (2010: 2-3) defines constitutional theocracies as characterized by simultaneous adherence to modern constitutional principles, including the core distinction between political and religious authority, and religious principles. The latter aspect entails constitutional sanctioning of a "state religion" and religious law as a or the main source of legislation.

Hirschl summarizes that there are four main features of the constitutional theocracy state model:

1. Adherence to some or all core between political authority and the existence of some form of active judicial review;
2. The presence of a single religion or religious denomination that is formally endorsed by the state, akin to a "state religion";
3. The constitutional enshrining of the religion and its texts, directives, and interpretation as a or the main source of legislation and judicial interpretation of laws—essentially, laws may not infringe on injunctions of the state—endorse religion; and

4. A nexus of religious bodies and tribunals that often not only carry tremendous symbolic weight but are also granted official jurisdictional status on either regional or a substantive basis and operate in lieu of, or in uneasy tandem with civil court system.

Hirschl's description simply illustrates that Indonesia's constitutionalism contained aspects of theocracy. Indonesian constitutionalism has never been completely separated from religion. This can be seen, among others, from the laws and regulations in Indonesia, where religion has always been an important consideration. In the preparation of legislation and judicial reviews always invite representatives of religious leaders to hear their opinions. The opinions of religious leaders are usually an important consideration for lawmakers and judges in deciding a problem. [28] Likewise, the policies taken by the government cannot ignore the opinions of religious leaders, especially the majority who dominate the public sphere. The attitude and policy of the Indonesian government towards heterodox groups is strongly influenced by the groups associated as the majority.

It's also holds true for the case of position of religions. Although the Indonesian constitution does not recognize the term official religion, in evolutionary implementation of legislation the term "official religion" is known.<sup>4</sup> The term official religion is also not attached to one religion, but six religions which - not only their existence is recognized, but also receive service from the government. Although there is no one official religion, the dominance of Islam as a religion adhered to by the majority of Indonesians cannot be denied. Formal government institutions, judicial institutions and law enforcement apparatuses have very strong links with religious forces, especially Islam as a religion that is embraced by the majority of Indonesian people. In fact, in the handling of certain cases, formal government institutions are controlled by religious leaders.

Debate on Islam and constitutionalism in Indonesia stated by Nadirsyah Hosen(2007) in his dissertation "Sharia and Constitutional Reform in Indonesia". This study focuses on constitutional reform in Indonesia (1999-2002) from the perspective of *shari'a*. Since the end of Soeharto's New Order government in 1998, Indonesia has amended the 1945 Constitution four times. Soeharto's new order departure also opened the way for several Muslim groups and political parties to propose the introduction of *shari'a* into the Constitution. Hosen poses the crucial question implicit in the amendments to the 1945 Constitution: can *shari'a* and democratic constitutionalism be fused without compromising on human rights, the rule of law, and religious liberty? The contributions of Islamic political parties in Indonesia to the process and the outcome of the amendments, by adopting a substantive *shari'a* approach, reflect the ability to deal with a modern constitution without abandoning the principles and the objectives of *shari'a*. The study reveals one possible picture of how Islam and constitutionalism can co-exist in the same vision, not without risk of tension, but with the possibility of success. [29] Hosen's argumentation stated that theocracy principals and religious orthodoxy working through the constitutional democracy mechanism.

The constitutional theocracy in it always takes sides with orthodoxy and tends to marginalize and even fight against heterodoxy. Intolerant actions towards heterodox groups are seen as legal by intolerant groups. In its development, all countries put religious orthodoxy as a handle and execute heterodox groups. This is not typical of Indonesian Islam, but has been regarded as a common phenomenon in almost all religions. The establishment of Protestantism in Christianity, for example, is a battle of orthodoxy represented by Catholics versus

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<sup>4</sup>In Indonesian laws and regulations, the use of the term "official religion" only appears explicitly in Law No. 24 of 2013 concerning Population Administration. Previously, in Law No.1 / PNPS / 1965 concerning the Prevention of Abuse and / or Blasphemy of Religion, it was only known as the term "religion that lives in Indonesia", which slowly developed into the term "official religion".

heterodoxy. [30] Heterodox groups are usually accused of deviating from the points of religious teachings, and even are considered to have committed blasphemy. To maintain the purity of religious teachings, heterodox groups are or have often been forced to abandon their heterodox beliefs.

Orthodoxy is always controlled by parties who have power, both political power, knowledge power and a combination of both. This is seen in the practice of handling heterodox minority groups in Indonesia as shown in the beginning of this paper. Religious fatwas issued by MUI to convict the religious sect or group are a form of knowledge power. MUI is considered as the holder of religious authority that can determine the status of a religious group. The government responded to the fatwa of Ahmadiyah deception by issuing a Joint Decree of the Minister (Surat Keputusan Bersama Menteri, SKB) of Religion, Attorney General and Minister of Home Affairs of the Republic of Indonesia No. 3 of 2008; KEP-033 / A / JA / 6/2008; and 199 of 2008 concerning the Government's Warning to Adherents, Members and / or Management Members of the Indonesian Ahmadiyah Community (JAI) and Citizens. The core of the SKB is a prohibition on JAI to spread its beliefs on the basis of maintaining security and public order.

The fatwa of the MUI and SKB was also used as the basis by the Kuningan Regency Government not to give an Electronic Identity Card (KTP el) to 1772 Ahmadiis in Manislor Kuningan. Not only were they attacked by intolerant groups several times because they were considered followers of cults and desecrated Islam, but they also could not get an electronic Identity Card (KTP el) for a long time even though identity recording had been done. In this case it was very clear that there was collaboration between religious authorities and political authorities in treating the Ahmadiyya community. Such a pattern occurs almost in all the handling of groups accused of heresy such as Shia, Gafatar, Qiyadah Islamiyah and so on. The religious fatwa issued by the MUI concerning the status of religious minority groups is always a reference for the government and law enforcement agencies in taking steps.

However, it is not a standard pattern of steps taken by the government in dealing with issues of minority groups who are heretical. There are three categories and steps of which were being undertaken by the government and law enforcement after MUI issued a heretical fatwa of a group. First, the MUI fatwa was followed up by the government by dissolving the group and its conviction was charged to the court on charges of blasphemy. This was done by the government towards Gafatar (Gerakan Fajar Nusantara) and Qiyadah Islamiyah, both of which were led by Muhammad Mosadeq.

Secondly, the MUI fatwa was followed up by the government by issuing regulations that prohibit or limit the activities of these groups. This is done by the government against the Ahmadiyya group. Even though the MUI stated that Ahmadiyya was a heretical group, but until now there is no trial in court as perpetrators of blasphemy. Third, the fatwa of the MUI was used as the basis for convicting a group or its leadership, but the existence of the group was not dissolved. This is for example done by the Shia community of Sampang Madura and the Salamullah Congregation led by Lia Eden. The Shia Leader of Sampang, Tajul Muluk was sentenced to 4 years by the East Java High Court with blasphemy charges (2012), as well as Lia Eden, even twice going to jail with the same charges.

Therefore, the attitude of the state towards groups accused of being heterodox always starts with the attitude of orthodox groups that are able to urge and influence the preparation of regulations and attitudes towards heterodox groups. In countries that apply the strict principle of secularism or countries that have maturity in

democracy, they are usually not affected by the religious attitudes of orthodox groups. Nonetheless, countries that are included in the flow of constitutional theocracy or countries that are immature in democracy tend to follow the will of orthodox groups. Thus, authoritarian orthodox groups can influence the authoritarianism of a constitutional theocratic state. This is not only related to minority groups that are deemed heretical, but also related to the regulation of marriage which fully refers to the marriage law determined by religion. In fact, in marriage law, constitutional theocracy is much stronger. In marriage law in Indonesia, "God's law" is the main standard for accepting or rejecting a legal provision. [28]

## VI. CONCLUSION

Although heterodox sects are symptoms that have emerged since the beginning of Islamic history, treatment of heterodox groups is not always the same. In addition to historical factors where heterodox groups are always marginalized, state repression against heterodox groups that occur in Indonesia cannot be separated from the social and political atmosphere. The social atmosphere referred to here is the strengthening of the Islamization process in Indonesia in a symbolic and puritanical form. Symbolic-puritan Islamization provides wider space for intolerance, especially for heterodox groups. Political atmosphere is a mere continuation of the social situation that has been formed. This can explain the misdirection of heterodox groups not much in the new order era, including the application of blasphemy articles in the Criminal Code (Article 156a) which is very little [31] compared to after the reform period.

The intolerant attitude towards heterodox groups that occur in Indonesia is a common symptom that occurs in various religions, not only in Indonesia but also in other countries. Not just the truth in interpreting religious orthodoxy, political issues and power really determine the position of the heterodox group. The more mature is a country in term of level of democracy, the more intolerant it is toward heterodox groups. The strengthening of the flow of constitutional theocracy in various countries which usually affirms religious orthodoxy will increasingly complicate the position of heterodox groups.

The constitutional theocracy is not always synonymous with the state of religion. Religion does not have to formally form the basis of a country. However, religious leaders - usually from heterodox groups - will always strive for the aspirations to be accommodated by the government in its policies. To what extent does religious accommodation in theocratic constitutionalism occur? This question can be an advanced research theme which is important to look at the boundaries of the accommodation.

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