

## **ANALISIS PUTUSAN MAHKAMAH KONSTITUSI NOMOR 140/PUU-VII/2009 TERHADAP KRITERIA PENODAAN AGAMA**

**Oleh :**

**Andi Puji Lestari<sup>1</sup> dan Mahaarum Kusuma Pertiwi<sup>2</sup>**

### **INTISARI**

Tujuan penelitian ini ialah menjawab dan melakukan kajian atas dasar pertimbangan pemohon untuk mengajukan *judicial review* atas Undang-Undang Nomor 1/PNPS Tahun 1965 dan bagaimana Putusan Mahkamah Konstitusi Nomor 140/PUU-VII/2009 melihat kriteria penodaan agama.

Penulisan ini memakai model penelitian hukum normatif, dengan teknik pengumpulan bahan hukum seperti dokumentasi dan kepustakaan dari buku, jurnal, perundang-undangan, putusan hakim, hingga teori hukum menyangkut permasalahan yang hendak dijawab. Adapun metode pendekatan yang dipakai yakni pendekatan undang-undang dan kasus. Selanjutnya, bahan hukum penelitian tersebut disajikan secara deskriptif dan dianalisis secara kualitatif.

Kesimpulannya, *judicial review* diperlukan untuk menegaskan dan mengukur kriteria penodaan agama agar tidak didefenisikan secara liar demi menjaga hak atas kebebasan beragama tidak diganggu atas nama penodaan agama. Putusan Mahkamah Konstitusi Nomor 140/PUU-VII/2009 telah berimplikasi pada kriteria penodaan agama yang cenderung menjadi spekulatif dan membawa semangat anti perbedaan pandangan karena ditentukan oleh tafsir mayoritas. Ukuran atau kriteria penodaan agama yang spekulatif tersebut berbahaya bagi praktik penegakan hukum yang berkeadilan khususnya bagi kaum minoritas, dan terutama minoritas aliran atau mazhab agama yang cenderung tidak dianggap resmi oleh penganut mazhab besar yang ada dalam suatu agama. Sehingga Undang-Undang Nomor 1/PNPS Tahun 1965 cenderung hanya mengakomodasi hak konstitusional bagi kelompok agama mayoritas.

**Kata Kunci : Mahkamah Konstitusi, Judicial Review, Kriteria Penodaan Agama, Kebebasan Beragama**

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1 Mahasiswa Magister Ilmu Hukum, Universitas Gadjah Mada Yogyakarta

2 Dosen Fakultas Hukum, Universitas Gadjah Mada Yogyakarta

**ANALYSIS OF THE IMPLICATIONS OF THE CONSTITUTIONAL COURT IN  
DECISION NUMBER 140/PUU-VII/2009 ON LAW NUMBER 1/PNPS OF 1965  
AGAINST THE CRITERIA FOR BLASPHEMY OF RELIGION**

by :

**Andi Puji Lestari<sup>3</sup> dan Mahaarum Kusuma Pertiwi<sup>4</sup>**

**ABSTRACT**

The purpose of this research is to find out and examine the basis of the applicant's considerations for filing a judicial review of law number 1/PNPS 1965 concerning the prevention of abuse and/or blasphemy of religion and what are the juridical implications of the constitutional court's decision number 140/PUU-VII/2009 on law number 1/PNPS 1965 against the criteria for blasphemy of religion.

This writing uses a normative legal research model, with the technique of collecting legal materials such as documentation and literature from books, journals, legislation, judge's decisions, to legal theory regarding the issues to be answered. The approach method used is the law and case approach. Furthermore, the research legal materials are presented descriptively and analyzed qualitatively.

In conclusion, a judicial review is needed to confirm and measure the criteria for blasphemy so that it is not defined wildly in order to protect the right to freedom of religion from being disturbed in the name of blasphemy. The constitutional court in decision number 140/PUU-VII/2009 has implications for the criterion of blasphemy which tends to be speculative and carries a spirit of anti-difference because it is determined by the interpretation of the majority. This speculative criterion for blasphemy is dangerous for fair law enforcement practices, especially for minorities, and especially religious sects or sects who tend not to be considered official by adherents of major sects within a religion. So that Law Number 1/PNPS of 1965 tended to only accommodate constitutional rights for the majority religious group.

**Key Words : Constitutional Court, Judicial Review, Blasphemy Criteria,  
Religious Freedom**

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<sup>3</sup> Mahasiswa Magister Ilmu Hukum, Universitas Gadjah Mada Yogyakarta

<sup>4</sup> Dosen Fakultas Hukum, Universitas Gadjah Mada Yogyakarta