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AGREED TO DISAGREE

Freedom of Expression and Diversity

ABSTRACT

Kebebasan berekspresi di perlukan agar semua warga dapat dirangkul. Terutama kaum minoritas perlu diberi peluang agar mereka dimungkinkan pula mengekspresikan dirinya di depan umum. Untuk itu dibutuhkan suatu kesepakatan terutama untuk menyikapi ketidaksepakatan. Maka netralitas Negara dan keutamaan toleransi adalah hal-hal yang layak dipertahankan dan dipahami ulang.

Key Words:

*Freedom of expression • freedom of religion • equal right to freedom
• citizenship • respect for separateness • democracy • civil society •
state neutrality • civil tolerance*

"[W]e are afraid. And censorship is an institutionalization of that fear. [P]eople who think that as there is one accepted Truth, it follows that all potential diversity must be whipped out. Pluralism is not important, it is a nuisance, brings problems, frustrates, and so on. It is the one Truth with a capital 'T' that must be promulgated."²

Goenawan Mohamad, June 25th 1983

Freedom of expression in a pluralistic society can be very problematic;³ from all over the world there are examples. Recently, by example, MUI ('Majelis Ulama Indonesia', Indonesian Ulama Council) issued a fatwa (authoritative opinion based on Islamic law) declaring pluralism 'haram' (i.e. Forbidden). The fatwa outlaws pluralism because, as MUI claims, religions cannot be equally valid and pluralism justifies other religions.⁴ In this essay I explore the meaning of freedom of expression and its multifold problems in a pluralistic society in general and in Indonesia in particular. I deal with many examples in this essay. I hope to add something interesting to an ongoing debate in Indonesia; a debate that refers to a situation that is at best 'belum stabil'. The title, though, is optimistic in nature: if we have only disagreements and no shared agreements, if we disagree about how to deal with disagreements, we will end up in civil strife and life will be nasty, brutish, and short.

Pluralism and rational disagreement about the truth are common features in today's societies.⁵ And in a genuine democracy citizens should be allowed to express their values, and not just because we do not want to overburden the state apparatus with a Ministry of Truth ordering us what to think and not to think. In a genuine democracy the state ought to guarantee its citizens equal right to freedom. The state should guarantee everybody's equal right to freedom by refraining its own actions, but, sometimes, also by limiting the actions of some citizens against other citizens. I understand freedom of expression as the freedom to form and revise an opinion; the freedom to organize and gather; the freedom to write, print and publish; the freedom to film and broadcast. Freedom also includes, satire, i.e. the freedom to ridicule and mock (even religion).⁶ Freedom of expression means that we can have a (negative) opinion about someone else's values. Freedom of expression is more than freedom of conscience: "the right to think as one pleases so long as one obeys as one must."⁷ Limiting freedom of expression to freedom of conscience has the danger that one will be locked up in an inner citadel. When we say Kant's 'Sapere aude!' in mind that one should think for oneself, one should also be allowed to express

what one thinks. Freedom of expression also includes the freedom to purchase and collect information; the freedom of expression does not make sense without having the opportunity to speak for an audience, i.e. the freedom for one to speak means for another the freedom to hear.

According to Reporters Without Borders the press in Indonesia is "one of the freest in South-East Asia."⁸ Indonesia climbed a few places on the Worldwide Press Freedom Index and is now 102nd.⁹ Freedom of expression in Indonesia is, to the least, contested. The reporter Elyuddin Telaumbanua of 'Berita Sore' went missing on August 22nd, it is feared that he is dead. PT Tempo Inti Media Harian company survived the New Order, but is now under attack by Tomy Winata, criminal law is used instead of the press law, Tempo is accused of libel and inciting disorder.¹⁰ Two editors from the tabloid 'Koridor' Darwin Ruslinur (chief editor) and Budiono Saputro (managing editor) were sentenced nine months to jail last May for criminal defamation.¹¹ Below I give two examples in more detail.

My first example is Retno Listyarti's book, titled 'Pendidikan Kewarganegaraan SMA' (Senior High School Civics), which is published by PT Erlangga.¹² In the second chapter of this book Listyarti writes about transparency and Akbar Tandjung's role in a food relief program. Akbar Tandjung was tried for an Rp 40 billion graft allegation, but the Supreme Court acquitted him. In Listyarti's book students can read the dissenting opinion by then Supreme Court justice Abdul Rahman Saleh (currently he is General Attorney). Abdurrahman Saleh was allowed by presiding judge Paulus Effendy Lotulung to express in court his dissenting argument. Akbar Tandjung first filled a criminal suit against Listyarti and the publisher, which was dropped, but then he filled a civil lawsuit. He demands Rp 10 billion from the writer and the publisher, because the writing is insulting and has a psychological impact on him and his family. In libel suits we can see a subjective component, Akbar Tandjung claims that the writing is insulting and that therefore his pride is hurt. Listyarti claims not to have had a malicious intent. Libel means that it must be proven that the defendant had the intention of injuring a reputation. And this intent should be proven illegitimate. If, by example, a politician says that politicians should live modestly, but does not live this life himself, he should be named in the media. In general, politicians should accept criticism from the general public as part of their job. The public should demand from politicians a higher degree of tolerance towards criticism.¹³ It will not only bankrupt a writer and a publisher, if Akbar Tandjung would win this case,¹⁴ it damages freedom of expression in general and academic freedom in particular. But

Akbar Tandjung suddenly dropped the lawsuit and he accepted Listyarti's offer to revise the book; Listyarti will add a note that students are required to find out why Akbar Tandjung was acquitted.¹⁵

The second example is FPI's ('Front Pembela Islam', Front for the Defense of Islam)¹⁶ critique of artist Agus Suwage and photographer Davy Linggar's work at last CP-Biennale in Jakarta. The artwork 'Pink Swing Park' depicts celebrities Anjasmara and Isabel Yahya in the nude, displaying them as Adam and Eve. FPI claims that portraying Adam and Eve in the nude insults Islam.¹⁷ Chief curator Jim Supangkat decided to meet the demands of FPI by making the artwork less visible, other artists responded by removing their work and the Biennale came to a halt. And Anjasmara, accompanied by FPI-members, aired his apologies on television.¹⁸ Art critic Carla Bianpoen says that all this is the consequence of confusing art with religion.¹⁹ This is a prelude on what can happen when the anti-pornography law will be implemented. The legal expert and former justice minister Muladi chairs the committee that is making a draft of the anti-pornography law and he said that this law is needed to curb an "alarming increase in pornography."²⁰ Muladi states that the draft "is based on prevailing community standards." But he concludes that the actual implementation of the law "will look different in each region." First he claims that the draft is based on existing traditions in Indonesia like an overlapping consensus and then he concludes that the law will be implemented differently from region to region because of differences in traditions. And how should this proposed law be implemented in a highly pluralistic megalopolis? This can lead to more legal uncertainty. Conservatives will state that the law is the law and should be implemented accordingly. But the question remains what pornography is. Criminal law is not the best means to codify a taboo.²¹

In the last example mobs like the FPI play a significant role. For various reasons the FPI is allowed to take the law in its own hand. After Soeharto stepped down at May 21st 1998 many formulate freedom as in opposition to the state and identified freedom with civil society. "[M]ost professionals, NGO activists, and interested students presuppose that politics is fundamentally dangerous, amoral, corrupting, and well worth avoiding."²² Freedom, though, does not mean that the state is absent in society, which could lead to a situation where life might not be solitary, but it will be nasty, brutish, and short to paraphrase Thomas Hobbes. The state has to guarantee every one's freedom, thus when some members of society do not want to be civilized by threatening the freedom of some others, the state has a duty to protect and prosecute. Even when something unlawful occurs it

should be the state's monopoly to act upon it and guarantee a fair trial. The excuse FPI sometimes uses is that no violence is used, but when protests take the form of making someone else's actions impossible we can speak of violence; to obstruct someone from expressing is violent.

Religion is a sensitive issue in Indonesia (and elsewhere). But some (not all) problems can be avoided if the state institutionalizes its position vis-à-vis religion as clearly as possible. The problem is not so much with the Constitution, which states that citizens are "free to profess their religion and in accordance with their religion."²³ And an article in the next chapter states: "The State guarantees all persons freedom of religion and freedom to worship according to their religion and belief."²⁴ With the following addition: "The State shall be based upon the One and Only."²⁵ Indonesians are free to have a religion as long as they have a religion; and only five religions are recognized: Islam, Protestantism, Catholicism, Buddhism, and Hinduism.²⁶ The danger as the attacks on Ahmadiyah and forced closure of Christian houses of worship lately show is that the state is dragged into discussions of theology and has to decide what is and what is not a religious practice. Din Syamsuddin, chairman of Muhammadiyah and deputy chairman of MUI, urges the government to supervise and assist those who are "blasphemous and misleading."²⁷ But according to the Islamic jurisprudence scholar Siti Musdah Mulia the state violates the Constitution. Siti Musdah Mulia claims: "As long as any religious group does not commit violence or force others to follow their precepts, the government should let them free. The state should even protect them."²⁸ Thus by recognizing only five religions the state discriminates, citizens do not have the freedom to choose any belief, without the danger being screened as deviant by the state. Indonesian citizens are also not free to have no religion. Atheism is perceived as immoral. In response to the cruel beheading of three Christian girls in Poso, Central Sulawesi, Din Syamsuddin condemned the killers as "atheists."²⁹

Another obstacle to freedom of religion as promised in the Constitution is the 1969 ministerial decree on houses of worship. The decree requires that all houses of worship be built with the explicit consent of local administration heads and residents of the surrounding area. West Java police admitted helping Muslim hard-liners to close houses of worship; spokesman Sr. Comr. Muryan Faisal claimed that the police backed the closure of 'illegal churches', because these cause uneasiness among residents.³⁰ Syamsir Siregar, chief of the National Intelligence Agency (BIN), denied the closure of churches, because these houses did not obtain

the required permits and could therefore not be churches,³¹ but that is mere semantics. Chief of the Constitutional Court Jimly Asshidiqie said that the 1969 ministerial decree on houses of worship violates Chapters 28 and 29 of the Amended 1945 Constitution on freedom of religion and assemble; thus a judicial review is possible.³²

Freedom of religion means, as in many countries, that religious institutions get involved in education. Beside public schools there are many education institutions in Indonesians with an Islamic signature, some of them state funded, e.g. 'Universitas Islam Negeri (UIN)'. But there are also many education institutions with a Christian signature. Since the new law on education, institutions are required to provide students with religious teaching in the religion of the student. The conflict is the following: a school with its own most likely Christian signature wants to protect its identity, but students want to be taught their own religion. Both schools and students claim freedom of religion. Students, though, could choose to go to a school that is closer to their identity if that is so important to them. Benny Susetyo asks: "Where are the students being led when education is reduced to unclear religious interests?"³³

If the relation state and religion is not well institutionalized the danger is that the state can be manipulated to privilege some and exclude others. The state should be protected from religions. And religions should be protected from the state. The secular state is a separation of institutions.³⁴ Neither protection is absolute, e.g. in most European countries there are Christian political parties. And religious opinions should not be excluded from the political sphere; Martin Luther King is a good example, he criticized racism by using moral and religious arguments based on equality, and he spoke about the ideal of full inclusion.³⁵

Of course not all problems will be solved when the state institutionalizes its position vis-à-vis religion as clearly as possible. One problem could be the personnel of the state: when civil servants do not use new tools but in stead use old ones out of ignorance or discrimination. By example Chinese Indonesians were obliged to proof that they were born in Indonesia, the so-called SBKRI, but the SBKRI has been revoked. Many civil servants still ask for it to extort extra money, since the Chinese are perceived as rich.

The state ought to guarantee everybody's equal right to freedom. The legal philosopher H.L.A. Hart defines the equal right to freedom in a five-decade-old essay. He writes that if there are any natural rights, "there is at least one natural right, the equal right of all men to be free. [...] [A]ny adult

human being capable of choice (1) has the right to forbearance on the part of all others from the use of coercion or restraint against him save to hinder coercion or restraint and (2) is at liberty to do [...] any action which is not one coercing or restraining or designed to injure other persons." And Hart continues: "This right is one which all men have [...] qua men and not only if they are members of some society or stand in special relation to each other."³⁶

Hart echoes John Stuart Mill's harm principle as formulated in 'On Liberty'. Mill's harm principle says that if we perceive something as improper and we want the law to do something about it, we have to be the identifiable wronged party. By example an orthodox Christian can perceive homosexuality as improper, but he cannot conclude that homosexuality is illegal since he is not harmed in any sense. The law can be separated from other categories, such as morality, aesthetic criticism, etiquette, tradition, or convention. What should be regulated by universal rules codified in the law ought to be limited to guarantee everyone's equal right to freedom.

According to Mill "there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered."³⁷ And when he writes 'the fullest' he means 'the fullest': "If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind."³⁸ Coercing a minority results in prejudice and intolerance, and, according to Mill, "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."³⁹

The harm principle can be summed up in the following way: it must be very likely that harm has necessary occurred and not accidental; there must exist a causal relationship between the expression and the harm; and it is unlikely that the expression can be counterattacked by other expressions.⁴⁰

Recently the MUI renewed its fatwa declaring Ahmadiyah a heretical sect. Following the renewed fatwa Ahmadiyah property has been attacked by angry mobs and the MUI has been blamed for these attacks. Abdul Moqsih Ghazali, by example, writes that the Supreme Court should review this particular fatwa.⁴¹ But incitement, as a causal relationship between an expression and actions by others, is very difficult to proof. Ghazali is correct, though, that the government should declare MUI as one among many other Islamic organizations in society; the relationship between government and MUI is at present unclear. The general public can deal with

the MUI fatwa, while, at the same time, the government has to deal with the Ahmadiyah attackers.

A problem with the harm principle is that the threshold is very high. Joel Feinberg designed the offense principle to deal with this problem. Offense is less serious than harm; therefore penalties for offense should be less heavy. When something is easily avoidable, it ought to be allowed; if we do not add this, everything is in danger of being prohibited, because many are overly sensitive and therefore easily offended. It is less serious if one is offended just by having the knowledge that books of by example Nabokov are widely available than when one cannot avoid his books, when one is forced to read his 'Lolita' at school.

With the offense principle it is justified that one is not allowed to walk around naked in a mall like Plaza Indonesia. But the offense principle would not allow the management of Plaza Indonesia to reject the poor of entering the mall (and a mall is a public space). The law, especially criminal law, should not be used to protect the ones who are over-sensitive. If we are only allowed to express something when we are sure that no one gets offended there will be not much left to express.

There is another problem with Mill's theory: the link between freedom of expression and truth. According to Mill it is in society's utility to allow 'the fullest' freedom of expression. A society, though, is perhaps not a 'marketplace of ideas.'⁴² Mill claims that any opinion can be the truth or contain some truth; to suppress this particular opinion might cost us an opportunity to get to know the truth. The collision of contrasting perspectives can challenge us into self-critique and defense. When an opinion is false, e.g. founded on prejudice, it will be discovered in this clash of perspectives. Even education institutes do not hold such an extensive freedom of expression, because it makes education impossible. Schools are no debating clubs where teachers and students are on equal footing.

The Millian citizen ought to be skeptic about his values. But a devote citizen, by example, will ask what sense his religion makes when it is not necessarily connected with the Truth. A devote citizen does not want to be skeptic about religious truth, this kind of truth, he will reply, does not need any questioning. The problem is when a devote citizen claims that his religion has a monopoly on the Truth and that other religions are false. When this devote citizen has many fellow devote citizens adhering to the same religion, and when they are the majority in society, he can claim that his religion should have political power "based on a majority-minority structure."⁴³ This is a misunderstanding of democracy. Democracy ought to

be for all citizens. The majority rule is often applied because it is pragmatic, seeking a consensus is time-consuming, but the majority rule ought not to go against the fundamental rights of a citizen if the polity is to be a genuine democracy. This misunderstanding, by example, has been translated in the implementation of parts of the Sharia in Aceh since 2003. In this province every woman going out in public has to wear a headscarf, also non-Muslim and non-practicing Muslim women.

Listen to the wise words of Sir Berlin: "Few things have done more harm than the belief on the part of individuals or groups (or tribes or states or churches) that he or she or they are in a sole possession of the truth: especially about how to live, what to be and do and that those who differ from them are not merely mistaken, but wicked or mad: and need restraining or suppressing. It is a terrible and dangerous arrogance to believe that you alone are right: have a magical eye which sees the truth: and that others cannot be right if they disagree. This makes one certain that there is one goal and one only for one's nation or church or the whole of humanity, and that it is worth any amount of suffering [...]."⁴⁴

The state ought to be neutral on matters of conceptions of the good life, not because these are not important, but because these are so important in our lives that we cannot agree to settle these issues once and for all by means of political force. "The state should not seek to promote any particular conception of the good life because of its presumed intrinsic superiority that is, because it is supposedly a truer conception."⁴⁵ For public decisions we need public arguments, and these public decisions are part of what Rawls calls an overlapping consensus.⁴⁶ Only by making laws mutually justifiable, laws will become mutually binding, i.e. Reciprocity.⁴⁷ State neutrality and freedom of expression are necessary if citizens are to be able to see themselves as self-legislating and self-governing citizens and not mere subjects of the state or a majority in society.

The state ought to be neutral if we do not want our disagreements to lead to civil strife. Intolerance will increase when a state is not neutral or when there is not enough state. State neutrality goes necessarily together with every one's obligation to act upon the virtue of tolerance. Montesquieu emphasized the constitutive link between neutrality and the virtue of tolerance: "As soon as the laws of a land have come to terms with permitting several religions, [citizens] must oblige [the laws] to show tolerance also to another."⁴⁸

Freedom of expression makes the civil virtue of tolerance necessary. Tolerance directs a person towards something he perceives in a negative

light. The person makes a negative judgment and prefers that the thing he has a negative judgment about would be negated, but he decides to tolerate and refrain from negation. To solve this paradox we have to make a distinction between first-order judgments and second-order moral commitments.⁴⁹ First-order judgments include emotional reactions and other practical judgments that focus on concrete and particular attitudes and behaviors. The second-order moral commitment is the link to the Kantian categorical imperative;⁵⁰ it aims beyond emotion and particularity toward rational universal moral principles. The second-order commitment outweighs the first-order judgment, we have moral reasons to refrain ourselves from following through our initial negative judgment.

Tolerance means that we have to refrain ourselves from certain actions, i.e. those actions that intent to prosecute others and their opinions. Tolerance means that we have to show respect to others and others have to show respect to us, i.e. reciprocity. Tolerance does not mean that we have to refrain ourselves into private space and make public space into a neutral arena. By example in France religion is seen as a private matter that has to be kept out from the public domain. By example any religious symbol is ruled out from public schools. The students, though, are no representatives of the government. France overstates neutrality.⁵¹ Tolerance, on the other hand, is limited. We cannot tolerate the intolerant, but our intolerance with the intolerant must not harm our ideal of democracy.

Freedom of expression is a right citizens hold as citizens. The equal opportunity to freedom of expression is a right of special importance for minorities; members of minorities are protected by this right against the majority. The law should protect the vulnerable, but otherwise disagreement should be voiced in the public sphere and not in the courtroom. State neutrality and civil tolerance combined with the equal right to freedom of expression guarantee that all citizens are included, because they can participate in public life.

Freedom of expression does not mean that we can express whatever we want. I mentioned the harm and offense principle, but we also should not confuse a right with a reason. We ought to have equal opportunity to expression, but when we use our right we still need a reason. The reason comes before the right. To justify an expression it is not enough to refer to a right, we also ought to have a reason to express ourselves. And the right enables the reason to be expressed. By example, one is Buddhist and one has the need to pray in the temple before the right of freedom of expression.

A healthy democracy can handle discontent (with the exception of

those who see democracy as illegitimate). Individuals can value and criticize the institutions they live in. And critics should not be condemned as heretic or blasphemous, as libelous or defamatory, as violating social or national integrity. If we want our democracy to be healthy we should be careful to use the law to limit expressions. That not many expressions fall under the vanguard of the law does not need to mean that we can express nearly everything: out of respect for our fellow citizen. My fellow citizen can use his equal right to freedom of expression. And I demand the same in return: my fellow citizen has to restraint himself to tolerate me (he can be agitated by my expressions as long as he respects me as a person).

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End Notes:

1. I can be contacted at royvoragen@hotmail.com. I thank Prof. Dr. Ignatius Bambang Sugiharto for the opportunity to present this essay as a general lecture at Universitas Parahyangan, Bandung, November 11th 2005.
2. See p97, Mohamad, G., *Sidelines: Writings from Tempo*, translated by Lindsay, J., foreword by Grant, B., Melbourne: Hyland House, 1994.
3. I will not use the word multiculturalism, some writers use it as a descriptive notion and some others as prescriptive, which makes its use confusing, see pp22-3, Barry, B., *Culture and Equality, An Egalitarian Critique of Multiculturalism*, Cambridge: Harvard University Press, 2002.
4. But Uzma Mazhar claims "Islam not only accepts the legitimacy of religious pluralism but also considers it quite central to its code for a just and harmonious coexistence." See Mazhar, U., 'Living in Harmony with Religious Diversity: Islamic Perspective', http://www.crescentlife.com/spirituality/religious_diversity_islamic_perspective.htm.
5. It would not be rational to disagree about something we actually agree about, neither would it be rational to agree about something we actually disagree about; see pp50-1, Larmore, C.E., *Patterns of Moral Complexity*, Cambridge: Cambridge University Press, 1997.

6. If we see it as illegitimate to mock and ridicule religion, we indirectly legitimate the fatwa to murder Salman Rushdie for his book 'The Satanic Verses', see p31, Barry, Culture and Equality. Salman Rushdie: "The moment you declare a set of ideas to be immune from criticism, satire, derision, or contempt, freedom of thought becomes impossible." See Rushdie, S., 'Defend the Right to be Offended', www.openDemocracy.net (February 7th 2005). After the murder of Theo van Gogh, November 2nd 2004, Dutch Minister of Justice Donner, of the biggest Christian party CDA, said that it should be made easier to make blasphemy punishable, but parliament member Van der Laan responded that it is difficult to make a difference between blasphemy and other insulting offenses.
7. See p307, Foucault, M., 'What is Enlightenment?', in: Ethics, Essential Works of Foucault 1954-1984, edited by Rabinow, P., London: Penguin Books, 1997.
8. See http://www.rsf.org/country-50.php3?id_mot=259&Valider=OK.
9. According to The Jakarta Post 105th, but The Jakarta Post continues numbering while countries received the same rating, the first place is shared by 7 countries, among others the Netherlands, see 'Press Freedom in Indonesia improving: Watchdog', in: *The Jakarta Post*, 24-10-2005, p2. If a ranking is a comparison between countries, Indonesia should be higher on that ranking, see Chuan, O.H., 'How free is Indonesian press?', in: *The Jakarta Post*, 9-11-2005, p6.
10. See pp271-82, Steele, J., Wars Within, The Story of Tempo, an Independent Magazine in Soeharto's Indonesia, Jakarta: Equinox Publishing, 2005; and see pp36-7 Voragen, R., 'As if We all are Free: Socrates and Nietzsche on Moral Freedom', in: *Melintas, Jurnal Filsafat dan Teologi Universitas Katolik Parahyangan*, Vol.21, no.64 (April-August 2005): pp35-46.
11. These examples come from www.cjp.org.
12. Listyarti, R., Pendidikan Kewarganegaraan SMA, Untuk Kelas XI, Jakarta: PT Erlangga, 2005.
13. "A politician is certainly entitled to have his reputation protected, even when he is not acting in his private capacity, but the requirements of that protection have to be weighed against the interests of the open discussion of political issues." See European Court of Human Rights, Unabhangige Initiative Informationsvielfalt vs. Austria, 26 February 2002, par.36.
14. September 2003 former chief editor Karim Paputangan of the daily 'Rakyat Merdeka' was sentenced by Central Jakarta District Court to five months, suspended for ten months, for insulting Akbar Tandjung by publishing a caricature.
15. See 'Akbar, teacher make peace', in: *The Jakarta Post*, 10-11-2005, p4.
16. Van Bruinessen claims that FPI is "more like a racket of mobs for hire than a genuine Islamic movement." See Bruinessen, M. van, 'Genealogies of Islamic Radicalism in post-Suharto Indonesia', http://www.let.uu.nl/~martin.vanbruinessen/personal/publications/genealogies_islamic_radicalism.htm. The problem of calling groups like FPI 'mobs for hire' is that then the question arises who is ordering their services and who is paying them.
17. If one googles 'adam eve' one will find many pictures depicting Adam and Eve in the nude.
18. September 17th 2005 at SCTV.
19. See Bianpoen, C., 'Sad, tragic demise of CP Biennale', in: *The Jakarta Post*, 23-10-2005, p16.
20. See Diani, H., 'Draft criminal code seen as threat to artistic freedom', in: *The Jakarta Post*, 19-5-2005, p3.
21. See Mohamad, G., 'Porn', in: *Tempo Magazine*, 10-10-2005, p58.
22. See p88, Lev, D.S., 'Law and State in Indonesia', in: *Jentera Jurnal Hukum*, Vol.8, no.3 (March 2005): pp63-102. On the same page Lev claims that this is the reason that "there is no bridge between political power and reform activism."
23. See Chapter X, Article 28E.
24. See Chapter XI, Article 29.2.
25. See Chapter XI, Article 29.1, see also the Preamble. All translations are made by Helen Pausacker, Rohan Gould and Tim Lindsey, Asian Law Centre, University of Melbourne; and can be downloaded from: www.law.unimelb.edu.au/alc. The emphasizes on 'the One and Only' "is a matter of the establishment of correspondences between seemingly disparate phenomena in order to demonstrate the sameness of all phenomena. Such thought therefore always tends toward theology and the promulgation of a 'grand design'. In diversity is unity; all phenomena are miniaturizations of the essential features of the universe." See p128, Stewart, S., On Longing: Narratives of the miniature, the gigantic, the souvenir, the collection, Baltimore: The Johns Hopkins University Press, 1984. This can also be seen in the state ideology 'Pancasila': the belief in one God Almighty, humanity that is just and civilized, 'bhinneka tunggal ika' (unity in diversity), democracy guided by the wisdom of representative deliberation, social justice for all.
26. This restriction on the freedom of religion is based on Decision no.XXVII/1966 of the Provisional People's Consultative Assembly. Buddhism and Hinduism are not monotheistic. In 1978 mysticism was proposed as a sixth religion, but due to criticism by the Islamic party PPP it did not materialize. During the short administration of president Abdurrahman 'Gus Dur' Wahid Confucianism was proposed as a sixth religion, because the existing regulation is obviously discriminatory against the Chinese minority.
27. Din Syamsuddin is actually talking about the Mahdi sect, from Central Sulawesi, but he also could have been talking about the Ahmadiyah, the MUI just renewed a 1980 fatwa declaring the Ahmadiyah a deviant sect. See Diani, H., and Susanto, S., 'Govt called on to deal with religious sects 'wisely'', in: *The Jakarta Post*, 29-10-2005, p3.
28. See idem.
29. See Siboro, T., 'Religious leaders call for calm', in: *The Jakarta Post*, 31-10-2005, p1.
30. See Suwarni, Y.T., 'WJava police back closure of churches', in: *The Jakarta Post*, 26-8-2005, p4.
31. See Hotland, T., 'MUI condemns action against Christian houses of worship', in: *The Jakarta Post*, 1-9-2005, p4.

32. See Sijabat, R.M., 'Suspicion keeps Muslim-Christian tension intact', in: *The Jakarta Post*, 11-11-5, p4.
33. See Susetyo, B., 'Will Galileo tragedy be repeated in education bill', in: *The Jakarta Post*, 9-6-2003, p3.
34. Secularization is the process that less and less people intend to view themselves as part of a religion. And that they do not view themselves as part of a religion does not necessarily mean they are atheists. We can define religion as an institutionalized belief system. See ch10, Walzer, M., *Spheres of Justice, A Defense of Pluralism and Equality*, New York: Basic Books, 1983.
35. See p190, Gutmann, A., *Identity in Democracy*, Princeton: Princeton University Press, 2003.
36. See p175-6, Hart, H.L.A., 'Are there any Natural Rights?', in: *The Philosophical Review*, Vol.65, no.2 (April 1955): pp175-91.
37. See p15, Mill, J.S., *On Liberty*, Indianapolis: Hackett Publishing Press, 1978.
38. See p16, idem.
39. See p9, idem.
40. See 283, Feinberg, J., *Offense to Others: The Moral Limits of the Criminal Law*, New York: Oxford University Press, 1985; from the reprint in: Adams, D.M. (ed.), *Philosophical Problems in the Law*, Belmont: Wadsworth Publishing, 1992; see also p213, Scanlon, T., 'A Theory of Freedom of Expression', in: *Philosophy and Public Affairs*, Vol.1, no.2 (Winter 1972): pp204-26.
41. See Ghazali, A.M., 'Oligarchy in the Interpretation of Religion', <http://www.wahidinstitute.org/english/content/view/135/52/>.
42. See Kendall, W., 'The "Open Society" and its Fallacies', in: *American Political Science Review*, Vol.54 (1960): pp972-9; see also section 9.3, Williams, B., *Truth and Truthfulness, An Essay in Genealogy*, Princeton: Princeton University Press, 2002.
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44. See p345, Berlin, I., *Liberty*, edited by Hardy, H., Oxford: Oxford University press, 2002.
45. See p43, Larmore, *Patterns of Moral Complexity*.
46. See p36, Neuhaus, R.J., *The Naked Public Square: Religion and democracy in America*, Grand Rapids: William B. Eerdmans, 1984; see also pp133-72, Rawls, J., *Political Liberalism*, New York: Columbia University Press, 1996.
47. See p156, Gutmann, *Identity and Democracy*.
48. Quoted from p6, Habermas, J., 'Religious Tolerance, The Pacemaker for Cultural Rights', in: *Philosophy*, Vol.79, no.1 (2004): pp5-18.
49. For this distinction and elaboration see section 4 in Andrew Fiala's article on toleration at <http://www.iep.utm.edu/t/tolerati.htm>.
50. See p156-7, Kant, I., *On the Foundation of Morality*, translated and commented by Liddell, B.E.A., Bloomington: Indiana University Press, 1970.
51. See p15, Habermas, 'Religious Tolerance'; see also Voragen, R., 'How to be tolerant, in the right way', in: *The Jakarta Post*, 17-7-2004, p7.